

STAMP DUTIES (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 75, 1975.

An Act to make further provisions with respect to exemptions from, and concessional rates applicable to, death duties; to make provisions with respect to the reduction of death duty upon estates of certain persons; to vary the rates, and the manner of payment, of stamp duty on certain instruments; and for these and other purposes to amend the Stamp Duties Act, 1920. [Assented to, 1st December, 1975.]

BE

Stamp Duties (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 75, 1975
 and with the advice and consent of the Legislative
 Council and Legislative Assembly of New South Wales in
 Parliament assembled, and by the authority of the same, as
 follows :—

1. This Act may be cited as the "Stamp Duties Short title.
 (Amendment) Act, 1975".

2. (1) Except as provided in subsection (2), this Act Commence-
ment.
 shall commence on the date of assent to this Act.

(2) Sections 5 (a) and 8 shall commence on 1st
 January, 1976.

3. The Stamp Duties Act, 1920, is, in this Act, referred Principal
Act.
 to as the Principal Act.

4. The Principal Act is amended—

Amend-
ment of Act
No. 47,
1920.

(a) by inserting after section 101D (4A) the following Sec. 101D.
 subsection :—
(Death
duty—local
domicile—
estates of
certain
persons.)

(4B) This section shall, in the case of every
 person who dies on or after the date of assent to the
 Stamp Duties (Amendment) Act, 1975, whether

in

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in New South Wales or elsewhere and who was at the date of his death domiciled in New South Wales, be read and construed as if—

(a) the reference in paragraph (a) of subparagraph (viii) of paragraph (c) of subsection (4) of this section to the prescribed amount is a reference—

(i) except as provided in subparagraph (ii) of this paragraph, to sixty thousand dollars; or

(ii) where the deceased leaves surviving two or more persons, being the widow or widower of the deceased, or a child of the deceased who, at the time of death of the deceased, was under the age of twenty-one years or was a wholly dependent adult child, or the wholly dependent widower father, or the wholly dependent widowed mother, of the deceased, to the aggregate of sixty thousand dollars and the difference between—

(a) the product obtained by multiplying four thousand dollars by the number of such persons; and

(b) four thousand dollars; and

(b) subsection (4A) of this section were omitted therefrom.

(b)

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- (b) by inserting after section 112C (3F) the following **No. 75, 1975** subsection :—

(3G) This section shall, in the case of every person who dies on or after the date of assent to the Stamp Duties (Amendment) Act, 1975, be read and construed as if—

Sec. 112c.
(Abatement
in favour
of widow,
etc., in
certain
cases.)

- (a) the words “seven thousand five hundred pounds” wherever occurring in subsections (1) and (2) of this section were omitted therefrom and the words “seventy-eight thousand dollars” were inserted instead;
- (b) in subsections (1) and (2) of this section there were inserted after the words “twenty-one years” wherever occurring the words “or wholly dependent adult children, or to the wholly dependent widower father or the wholly dependent widowed mother”;
- (c) subsection (3) of this section were omitted therefrom and the following subsections were inserted instead :—

(3) The proportions referred to in subsections (1) and (2) of this section shall be as follows :—

Where the value of that portion of the final balance referred to in subsection (1) of this section or the value of the property passing to the persons referred to in subsection (2) of this section does not exceed \$62,000, one-tenth prescribed rate.

Exceeds \$62,000 but does not exceed \$64,000, two-tenths prescribed rate.

Exceeds

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Exceeds \$64,000 but does not exceed \$66,000, three-tenths prescribed rate.

Exceeds \$66,000 but does not exceed \$68,000, four-tenths prescribed rate.

Exceeds \$68,000 but does not exceed \$70,000, five-tenths prescribed rate.

Exceeds \$70,000 but does not exceed \$72,000, six-tenths prescribed rate.

Exceeds \$72,000 but does not exceed \$74,000, seven-tenths prescribed rate.

Exceeds \$74,000 but does not exceed \$76,000, eight-tenths prescribed rate.

Exceeds \$76,000 but does not exceed \$78,000, nine-tenths prescribed rate.

(3AA) Notwithstanding the provisions of subsections (1), (2) and (3) of this section, each amount of money specified in those subsections shall, where the deceased leaves surviving two or more persons, being the widow or widower of the deceased, or a child of the deceased who, at the time of the death of the deceased, was under the age of twenty-one years or was a wholly dependent adult child, or the wholly dependent widower father, or the wholly dependent widowed mother, of the deceased, be increased by the difference between—

(a) the product obtained by multiplying four thousand dollars by the number of such persons; and

(b) four thousand dollars; and

(d) subsections (3A), (3B), (3C), (3D), (3E) and (3F) of this section were omitted therefrom.

(c)

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- (c) by inserting after section 112D (7) the following subsection :—

Sec. 112D.
(Non-aggregated property—exemption from duty in certain cases.)

(8) Subsection (1) of this section shall, in the case of every person who dies on or after the date of assent to the Stamp Duties (Amendment) Act, 1975, be read and construed as if—

- (a) the words “seven thousand five hundred pounds” were omitted therefrom and the words “seventy-eight thousand dollars” were inserted instead ; and
- (b) the words “or grandchildren” were omitted therefrom and the words “grandchildren, wholly dependent widower father or wholly dependent widowed mother” were inserted instead.

- (d) by inserting after section 112H (2B) the following subsection :—

Sec. 112H.
(Reduction of death duty—rural property.)

(2C) This section shall, in the case of every person who dies on or after the date of assent to the Stamp Duties (Amendment) Act, 1975, be read and construed as if the words “thirty”, “twenty-five”, “twenty”, “fifteen”, “ten” and “five” in subsection (2) of this section were omitted therefrom and the words “one hundred”, “eighty-three and one-third”, “sixty-six and two-thirds”, “fifty”, “thirty-three and one-third” and “sixteen and two-thirds” were respectively inserted instead.

(b)

(e)

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Sec. 112i.
(Reduction
of death
duty—rural
property
(non-
aggre-
gated).)

(e) by inserting after section 112i (2B) the following subsection :—

(2C) This section shall, in the case of every person who dies on or after the date of assent to the Stamp Duties (Amendment) Act, 1975, be read and construed as if the words “thirty”, “twenty-five”, “twenty”, “fifteen”, “ten” and “five” in subsection (2) of this section were omitted therefrom and the words “one hundred”, “eighty-three and one-third”, “sixty-six and two-thirds”, “fifty”, “thirty-three and one-third” and “sixteen and two-thirds” were respectively inserted instead.

Further
amendment
of Act No.
47, 1920.
Second
Schedule.

5. The Second Schedule to the Principal Act is amended—

Bill of
Exchange,
Promissory
Note and
Cheque.

(a) by omitting from the matter opposite paragraphs (1), (2) and (3) appearing under the heading “Bill of Exchange, Promissory Note and Cheque—” the matter “0.08” wherever occurring and by inserting instead the matter “0.10”;

Lease or
Promise
of or
Agreement
for Lease
or Hire
of any
Property.

(b) (i) by inserting in paragraph (10) appearing under the heading “Lease or Promise of or Agreement for Lease or Hire of any Property not being a Ship or Vessel—” after the words “Lord Howe Island Act, 1953,” the words “National Parks and Wildlife Act, 1974,”;

(ii) by inserting in the matter relating to exemptions appearing under the same heading after the words “Lord Howe Island Act, 1953,” the words “National Parks and Wildlife Act, 1974,”;

(c)

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- (c) by omitting from the matter appearing under the heading "Motor Vehicle Certificate of Registration—" the matter "0.50" and by inserting instead the matter "2.00".

No. 75, 1975
—
Motor
Vehicle
Certificate
of Regis-
tration.

6. The Principal Act is further amended—

Further
amend-
ment of
Act No. 47,
1920.

- (a) by inserting after section 38B the following section :—

Sec. 38c.

38c. (1) Any person liable to the payment of stamp duty under the provisions of this Act may apply to the Commissioner in a form approved by him for approval to pay duty in respect of any class of instruments in accordance with the provisions of this section.

Payment
of duty
by
return in
certain
cases.

(2) The Commissioner may approve or refuse an application made under subsection (1) of this section but shall not approve of such an application if the instruments of the class in respect of which it is made are instruments in respect of which the Commissioner may, under any other provision of this Act, grant the applicant an approval to pay duty as an approved person under that provision.

(3) Where the Commissioner approves an application made under subsection (1) of this section, he shall in the approval specify the date upon which the approval comes into force and the class of instruments to which the approval relates.

(4)

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(4) A person whose application under subsection (1) of this section has been approved by the Commissioner is, while the approval is in force, an approved person for the purposes of this section.

(5) Except as provided in this section, an approved person is not liable to pay duty in respect of any instrument of a class to which his approval relates.

(6) An approved person shall make a record at such times and of such particulars relating to an instrument of a class to which his approval relates as the Commissioner may, by notice in writing given to him, require.

(7) An approved person shall—

- (a) lodge with the Commissioner a return in respect of any instrument of a class to which his approval relates at such times, in respect of such periods, in such form and containing such particulars as may be notified to him in writing by the Commissioner; and
- (b) when he lodges that return, pay to the Commissioner as stamp duty an amount equal to the amount of stamp duty that would, but for the provisions of subsection (5) of this section, have been payable in respect of each instrument to which the return relates.

(8) An approved person shall endorse on any instrument of a class to which his approval relates the words "Stamp Duty" followed by the serial number of the notice of approval issued to him by the Commissioner under this section.

(9) An instrument endorsed in accordance with subsection (8) of this section shall be deemed to be duly stamped.

(10)

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(10) A person making any record in accordance with subsection (6) of this section shall retain the record for a period of 2 years. No. 75, 1975

(11) A person who contravenes subsection (6), (7) or (10) of this section is liable to a fine not exceeding \$500.

(12) Any person, not being an approved person, who endorses on an instrument any words or numbers suggesting or implying that the instrument is duly stamped under the provisions of this section is liable to a fine not exceeding \$500.

(13) The Commissioner may, by a notice in writing, cancel any approval granted under this section—

(a) on application by the person to whom the approval was granted; or

(b) for any reason he deems sufficient,

and shall in any such notice specify the date on and from which the approval ceases to be in force.

(14) An approval so cancelled shall cease to be in force on and from the date specified in the notice by which the approval is cancelled.

(b) by omitting from section 82B (15) the matter “subsection (7)” and by inserting instead the matter “subsection (6), (7) or (14)”; Sec. 82D.
(Payment of duty on loans by return.)

(c) (i) by inserting in section 84B (2) after the words “primary loan security” where secondly occurring the words “or any other collateral security for the same moneys as are secured by that primary loan security”; Sec. 84B.
(Collateral security.)

(ii)

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(ii) by omitting from section 84B (3) the words "collateral security" where secondly occurring and by inserting instead the words "that collateral security or any other collateral security, executed before that firstmentioned collateral security was executed, for the same moneys as are secured by that primary loan security";

(iii) by inserting after section 84B (3) the following subsection :—

(3A) The provisions of subsections (2) and (3) of this section do not apply to or in respect of—

(a) a loan security which is issued or made in another State or Territory of the Commonwealth and which is collateral security for the same moneys as are secured by a foreign security, as defined in section 84F (1) of this Act, that is not chargeable with duty in New South Wales under section 84F (2) of this Act; and

(b) a collateral security in a form approved under the Real Property Act, 1900, which is executed in substitution for a mortgage executed before 1st January, 1975, in respect of land not under that Act and which charges the same land with the payment or repayment of the same moneys as are secured by that mortgage.

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7. (1) Part III of the Principal Act is amended by omitting the matter "84A. (1) For the purposes of this Act" and by inserting instead the matter "84G. (1) For the purposes of this Act".

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Further amendment of Act No. 47, 1920.

Sec. 84A. (Motor vehicle certificate of registration—Definition.)

(2) The Principal Act is further amended by omitting from section 22 (1) the matter "84A" and by inserting instead the matter "84G".

Further amendment of Act No. 47, 1920.

Sec. 22. (General direction as to the cancellation of adhesive stamps.)

8. (1) Cheque forms which have, before 1st January, 1976, been printed to the order of a bank under license issued under the provisions of the Principal Act, and are impressed with eight cents stamp duty and are either in the possession of the printer or of the bank on 1st January, 1976, and are unused, shall be deemed to be duly stamped with ten cents stamp duty.

Transitional provisions.

(2) A bank which, on 1st January, 1976, is in possession of cheque forms referred to in subsection (1) upon which stamp duty of eight cents on each such form has been paid shall, before 1st February, 1976, furnish to the Commissioner of Stamp Duties a statement in a form approved by him giving particulars and numbers of those forms and pay to the Commissioner additional duty of two cents on each such form.

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(3) A bank which, on 1st January, 1976, is in possession of cheque forms referred to in subsection (1) upon which no stamp duty has been paid shall, when making payment of the stamp duty on those forms in accordance with the provisions of the Principal Act and the regulations thereunder, pay to the Commissioner of Stamp Duties the amount of ten cents duty on each such form.

(4) Where cheque forms referred to in subsection (1) are, on 1st January, 1976, in the possession of a printer and are subsequently delivered to a bank, the bank shall, when making payment of the stamp duty on those forms in accordance with the provisions of the Principal Act and the regulations thereunder, pay to the Commissioner of Stamp Duties the amount of ten cents duty on each such form.

(5) Where, on or after 1st January, 1976, a cheque is drawn on an unused cheque form that, on that day, is in the possession of a person other than a bank or a printer referred to in this section, the cheque form shall be deemed to be duly stamped with ten cents stamp duty if it is impressed with eight cents stamp duty or is deemed, by the operation of the Stamp Duties (Amendment) Act, 1974, to be duly stamped with eight cents stamp duty and—

(a) the cheque form was one of more than three hundred such cheque forms in the possession of a person on 1st January, 1976, and that person, before the issue of the cheque form—

(i) furnished to the Commissioner of Stamp Duties, for the purposes of this subsection, a declaration in a form approved by the Commissioner giving the particulars and numbers of those cheque forms; and

(ii)

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- (ii) paid to the Commissioner a further amount No. 75, 1975 of duty equal to ten cents for each such form so in his possession, less the amount of stamp duty already paid thereon;
- (b) an adhesive duty stamp, sufficient in value to bring to ten cents the value of the stamps on the cheque form, is affixed to the cheque form and duly cancelled before the cheque form is issued; or
- (c) the cheque form is, before its issue, impressed at the Stamp Duties Office with such further amount of duty as is sufficient to bring to ten cents the value of the stamps on the cheque form.