



# Finance (1909-10) Act 1910

## 1910 CHAPTER 8

### PART III

#### DEATH DUTIES.

**54 Amended rates of estate duty and settlement estate duty.**

The scale set out in the Second Schedule to this Act shall, in the case of persons dying on or after the thirtieth day of April nineteen hundred and nine, be substituted for the scale set out in the First Schedule to the Finance Act, 1907, as the scale of rates of estate duty, and two per cent. shall be substituted for one per cent. in section seventeen of the Finance Act, 1894 (in this Part of this Act referred to as the principal Act), as the rate of settlement estate duty.

**55 Limitation of relief from estate duty in respect of settled property.**

For the purpose of any claim to relief from estate duty under subsection (2) of section five or subsection (1) of section twenty-one of the principal Act, in the case of persons dying on or after the thirtieth day of April nineteen hundred and nine, payment of or liability to duty, whether the payment was made or the liability attached before, on, or after that date, shall not be deemed to be a payment of or liability to duty in respect of settled property if the payment was made or the liability attached in respect of an interest in expectancy in any property on the death of a person other than the settlor.

**56 Power to transfer land in satisfaction of estate duty, settlement estate duty, or succession duty.**

- (1) The Commissioners may, if they think fit, on the application of any person liable to pay estate duty or settlement estate duty or succession duty in respect of any real (including leasehold) property, accept in satisfaction of the whole or any part of such duty, such part of the property as may be agreed upon between the Commissioners and that person.

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- (2) No stamp duty shall be payable on any conveyance or transfer of land to the Commissioners under this section.
- (3) The Commissioners may hold any property transferred to them under this section and shall deal with it in such manner as Parliament may hereafter determine.

**57 Limitation on debts deductible from value of estate.**

Where a debt or incumbrance has been incurred or created in whole or in part for the purpose of or in consideration for the purchase or acquisition or extinction, whether by operation of law or otherwise, of any interest in expectancy within the meaning of the principal Act in any property passing or deemed to pass on the death of a person dying after the passing of this Act, and any person whose interest in expectancy is so purchased, acquired, or extinguished becomes (under any disposition made by, or through devolution of law from, or under the intestacy of, the deceased) entitled to any interest in that property, then in determining the value of the estate of the deceased for the purpose of estate duty no allowance shall be made in respect of such debt or incumbrance, and any property charged with any such debt or incumbrance shall be deemed to pass freed from that debt or incumbrance :

Provided that—

- (a) If part only of such debt or incumbrance was incurred or created for such purpose or as such consideration as aforesaid, this provision shall apply to that part of such debt or incumbrance only; and
- (b) If a person whose interest in expectancy in the property so purchased, acquired, or extinguished becomes entitled to an interest in part only of that property, this provision shall apply only to such part of the debt or incumbrance as bears the same proportion to the whole debt or incumbrance as the value of the part of the property to an interest in which he becomes entitled bears to the value of the whole of that property.

**58 Amendment of rates of legacy duty and succession duty.**

- (1) Any legacy or succession duty which under the Stamp Act, 1815, or the Succession Duty Act, 1853, or any other Act, is payable at the rate of three per cent shall be payable at the rate of five per cent and any legacy or succession duty which under the said Acts is payable at the rate of five per cent or six per cent shall be payable at the rate of ten per cent on the amount or value of the legacy or succession.
- (2) The legacy and succession duty payable at the rate of one per cent. on the amount or value of any legacy or succession under the Stamp Act, 1815, and the Succession Duty Act, 1853, or any other Act, shall be levied and paid notwithstanding any repeal effected by or anything contained in the principal Act (except subsection (3) of section sixteen thereof) or any other Act, and the duty shall also be levied and paid in cases where the person taking the legacy or succession is the husband or wife of the testator, intestate, or predecessor as in cases where the person taking the legacy or succession is a lineal ancestor or descendant of the testator, intestate, or predecessor:

Provided that the duty shall not be levied—

- (a) Where the principal value of the property passing on the death of the deceased in respect of which estate duty is payable (other than property in which the deceased never had an interest, and property of which the deceased never was competent to dispose and which on his death passes to persons other than the

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- husband or wife or a lineal ancestor or descendant of the deceased) does not exceed fifteen thousand pounds, whatever may be the value of the legacy or succession ; or
- (b) Where the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate, or predecessor does not exceed one thousand pounds, whatever may be the principal value of such property; or
  - (c) Where the person taking the legacy or succession is the widow or a child under the age of twenty-one years of the testator, intestate, or predecessor, and the amount or value of the legacy or succession together with any other legacies or successions derived by the same person from the testator, intestate, or predecessor, does not exceed two thousand pounds, whatever may be the principal value of such property.
- (3) In this section, the expression " deceased " means, in the case of a legacy, the testator (including a person making a donation mortis causa) or intestate, and, in the case of a succession arising through devolution by law, the person on whose death the succession arises, and, in the case of a succession arising under a disposition, the person on whose death the first succession thereunder arises; and the expression " legacy " includes residue and share of residue.
- (4) This section shall take effect in the case of legacy duty only where the testator by whose will the legacy is given or the intestate on whose death the legacy duty is payable, dies on or after the thirtieth day of April nineteen hundred and nine, and, in the case of a succession arising through devolution by law, only where the succession arises on or after that date, and, in the case of a succession arising under a disposition, only if the first succession under the disposition arises on or after that date.

## **59 Provision, as to gifts and dispositions inter vivos.**

- (1) In the case of a person dying on or after the thirtieth day of April nineteen hundred and nine, the period preceding the death of the deceased before which a disposition purporting to operate as an immediate gift inter vivos must have been made, or a surrender, assurance, divesting, or disposition must have been made or effected, in order that the property taken under the disposition, or affected by the surrender, assurance, divesting or disposition, may not be included as property passing on the death of the deceased, shall be three years instead of twelve months before the death, and accordingly paragraph (a) of subsection (2) of section thirty-eight of the Customs and Inland Revenue Act, 1881 (as amended by section eleven of the Customs and Inland Revenue Act, 1889, and applied by paragraph (c) of subsection (1) of section two of the principal Act), subsection (3) of section two of the principal Act, and section eleven of the Finance Act, 1900, shall be read as if three years were substituted for twelve months:

Provided that this section shall not apply to any gift inter vivos, surrender, assurance, divesting, or disposition made or effected before the thirtieth day of April, nineteen hundred and eight, or made or effected for public or charitable purposes.

- (2) So much of paragraph (c) of subsection (1) of section two of the principal Act and this section as makes gifts inter vivos property which is deemed to pass on the death of the deceased, shall not apply to gifts which are made in consideration of marriage, or which are proved to the satisfaction of the Commissioners to have been part of the normal expenditure of the deceased, and to have been reasonable, having regard to the

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amount of his income, or to the circumstances, or which, in the case of any donee, do not exceed in the aggregate one hundred pounds in value or amount.

- (3) Where property taken under such a disposition or affected by such a surrender, assurance, divesting, or disposition as aforesaid is deemed to be property passing on the death of the deceased by reason only that the property was not, as from the date of the disposition, surrender, assurance, or divesting, retained to the entire exclusion of the deceased or a person who had an estate or interest limited to cease on the death of the deceased, and of any benefit to him by contract or otherwise, the property shall not be deemed to pass on the death of the deceased if subsequently, by means of the surrender of the benefit reserved or otherwise, it is enjoyed to the entire exclusion of the deceased or such other person as aforesaid, and of any benefit to him by contract or otherwise, for such period preceding the death of the deceased as is provided by this section.

## **60 Amendment as to value of property.**

- (1) In the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, the proviso to subsection (5) of section seven of the principal Act (which relates to the estimation of the principal value of property for the purposes of estate duty) shall cease to have effect.
- (2) In estimating the principal value of any property under subsection (5) of section seven of the principal Act, in the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, the Commissioners shall fix the price of the property according to the market price at the time of the death of the deceased, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time:

Provided that where it is proved to the Commissioners that the value of the property has been depreciated by reason of the death of the deceased, the Commissioners in fixing the price shall take such depreciation into account.

- (3) An appeal shall not lie under section ten of the principal Act, whether as originally enacted or as applied by any other enactment, where the question in dispute is a question of the value of any real (including leasehold) property, but, if any person is aggrieved by the decision of the Commissioners as to the value of any such property, he may appeal against the decision in manner prescribed by Part I. of this Act, and the provisions as to appeals under that Part of this Act shall apply accordingly.

## **61 Special provisions with respect to certain classes of property.**

- (1) Notwithstanding anything in the last preceding section, the proviso to subsection (5) of section seven of the principal Act shall continue to apply to the valuation of property consisting of a tenancy from year to year, including any tenancy which is, or is deemed to be, subject to' statutory conditions under the Land Law (Ireland) Acts, and for determining the gross value or the net value of property for the purpose of section sixteen of the principal Act.
- (2) Where it is claimed that a fixed duty is payable in respect of any property under subsection (1) of section sixteen of the principal Act as being property of a gross value not exceeding three hundred pounds or five hundred pounds, as the case may be, and such property includes property which is proved to the satisfaction of the

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Commissioners to be subject to a charge created for the purpose of securing unpaid purchase money, or money borrowed for the purpose of paying purchase money, or to be subject to or liable to, be made subject to a charge for securing an advance made or to be made for the purpose of the purchase thereof, the value thereof for the purpose of determining the gross value of the property under the said section shall be taken to be its value subject to such charge or liability as aforesaid.

- (3) Land subject to an annuity under the Land Purchase (Ireland) Acts shall be treated as real property for the purposes of subsection (8) of section six of the principal Act (relating to the payment of estate duty by instalments).
- (4) Where the property passing on the death of a person dying after the passing of this Act comprises the purchase money of land agreed to be sold under the Land Purchase (Ireland) Acts, but the purchase money has not been paid, the estate duty payable in respect of that purchase money may, at the option of the person liable to pay the same, be postponed until the purchase money is actually paid, and shall then become payable, but the person liable to pay the duty shall in the meantime pay annually interest on the amount of the duty payable at the rate of three per cent per annum.
- (5) Where an estate, in respect of which estate duty is payable on the death of a person dying after the passing of this Act, comprises land on which timber, trees, or wood are growing, the value of such timber, trees, or wood shall be aggregated with the other property passing on the death of the deceased for the purpose of determining the value of the estate and the rate of estate duty, but the estate duty which, but for this subsection, would be payable on the principal value of the timber, trees, or wood shall not be payable thereon, but shall, at the rate so ascertained, be payable on the net moneys (if any), after deducting all necessary outgoings since the death of the deceased, which may from time to time be received from the sale of the timber, trees, or wood, when felled, during the period which may elapse until the land on the death of some other person again becomes liable or would, but for this subsection, have become liable to estate duty, and the owners or trustees of such land shall account for and pay the same accordingly as and when such moneys are received, with interest at the rate of three per cent. per annum from the date when such moneys are received:

Provided that if at any time the timber, trees, or wood are sold, either with or apart from the land on which they are growing, the amount of estate duty on the principal value thereof which, but for this subsection, would have been payable on the death of the deceased, after deducting the amount (if any) of estate duty paid in respect of the timber, trees, or wood under this subsection since that date, shall become payable.

This subsection shall apply to succession duty payable in respect of woodlands in like manner as it applies to estate duty, except that nothing in this subsection shall affect the rate of succession duty.

## **62 Deduction of amount paid for increment value duty from value of estate for purposes of estate duty.**

Where increment value duty is to be collected on the occasion of the death of any person in respect of the fee simple of any land or any interest in land comprised in the property passing on the death of that person, allowance shall be made in determining the value of the estate for the purposes of estate duty under subsection (1) of section seven of the principal Act, for the amount of increment value duty so to be collected as if it were a debt.

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**63 Extension of exemption of objects of national, scientific, or historic interest.**

In the case of any person dying on or after the thirtieth day of April nineteen hundred and nine, section twenty of the Finance Act, 1896 (which gives an exemption for objects of national, scientific, or historic interest), shall be extended so as to give an exemption from legacy and succession duty as well as from estate duty, and as so extended shall take effect whether the property in respect of which the exemption is given is settled or not, and as if the reference therein to national, scientific, or historic interest included a reference to artistic interest, and duty shall only become chargeable when the property is sold, and then only in respect of the last death on which the property passed.

**64 Protection of purchasers and mortgagees of interests in expectancy.**

Where an interest in expectancy within the meaning of Part I. of the principal Act in any property has, before the thirtieth day of April nineteen hundred and nine, been bonâ fide sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.