

GIFT DUTY ASSESSMENT.

No. 52 of 1941.

An Act to provide for the Imposition, Assessment and Collection of a Duty on Gifts.

[Assented to 3rd December, 1941.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Gift Duty Assessment Act* 1941.
- Commencement.** 2. This Act shall be deemed to have come into operation on the twenty-ninth day of October, One thousand nine hundred and forty-one.
- Parts.** 3. This Act is divided into Parts as follows :—
Part I.—Preliminary.
Part II.—Administration.
Part III.—Liability to Gift Duty.
Part IV.—Returns and Assessments.
Part V.—Collection and Recovery of Gift Duty.
Part VI.—Objections and Appeals.
Part VII.—Miscellaneous.
- Definitions.** 4. In this Act, unless the contrary intention appears—
“Board of Review” means a Board of Review constituted under the *Income Tax Assessment Act* 1936-1940 ;
“Deputy Commissioner” means any person who is a Deputy Commissioner for the purposes of either the *Estate Duty Assessment Act* 1914-1940 or the *Income Tax Assessment Act* 1936-1940 ;

“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

- (a) the allotment of shares in a company ;
- (b) the creation of a trust in property ;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property ;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property ;
- (e) the exercise of a general power of appointment of property (including any judgment or order of any Court made in default of the exercise of the power by the donee thereof) in favour of any person other than the donee of the power ; and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his own property and to increase the value of the property of any other person ;

“donee” means any person who acquires any interest in property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and beneficiary ;

“donor” means any person who makes a gift ;

“gift” means any disposition of property which is made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the disponent to the disponent, or with such consideration so passing if the consideration is not, or, in the opinion of the Commissioner, is not, fully adequate ;

“gift duty” means the gift duty assessed under this Act ;

“interest in property” means any estate, interest, right or power whatsoever, whether at law or in equity, in or over any property ;

“person” includes all bodies or associations, whether corporate or unincorporate ;

“property” includes real property and personal property and every interest in real property or personal property ;

“the Commissioner” means the person for the time being holding office as Commissioner of Taxation under the *Estate Duty Assessment Act 1914–1940* ;

“the Second Commissioner” means the person for the time being holding office as the Second Commissioner of Taxation under the *Estate Duty Assessment Act 1914–1940* ;

“Valuation Board” means a Valuation Board constituted under the *Land Tax Assessment Act 1910–1940*.

(2.) For the purposes of paragraph (d) of the definition of "disposition of property", a debt or interest in property shall be deemed to have been released or surrendered when it has become irrecoverable or unenforceable by action or other process through lapse of time, but if the amount of any such debt or interest so released or surrendered is subsequently liquidated in whole or in part by the debtor to the creditor, the amount of such liquidation payment shall not for any purposes of this Act be deemed to be a disposition of property or a gift.

PART II.—ADMINISTRATION.

Administration. 5. The Commissioner shall have the general administration of this Act.

Powers of Second Commissioner. 6.—(1.) Subject to this section, the Second Commissioner shall have and may exercise all the powers and functions of the Commissioner under this Act.

(2.) Where in this Act the exercise of any power or function by the Commissioner or the operation of any provision of this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power or function may be exercised by the Second Commissioner or that provision may operate (as the case may be) upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this section shall be deemed to confer upon the Second Commissioner any power or function of the Commissioner under section five, seven or nine of this Act, or to prevent the exercise of any power or function by the Commissioner under this Act, and the Commissioner shall have, in relation to any act of the Second Commissioner, the same power as if that act were done by himself.

Delegation by the Commissioner.

7.—(1.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to a Deputy Commissioner or other person all or any of his powers or functions under this Act (except this power of delegation) so that the delegated powers or functions may be exercised by the Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3.) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation, and the decision given upon any such review or alteration shall be deemed to be that of the Commissioner.

8. Any reference in this Act to the Commissioner shall be deemed to include—

Reference to
Commissioner.

- (a) in respect of matters as to which the Second Commissioner has exercised any power or function conferred upon him by this Act—a reference to the Second Commissioner; and
- (b) in respect of matters as to which a Deputy Commissioner has exercised any power or function conferred upon him by delegation under this Act—a reference to that Deputy Commissioner.

9.—(1.) The Commissioner shall furnish to the Treasurer annually, for presentation to the Parliament, a report on the working of this Act.

Report by the
Commissioner.

(2.) In the report the Commissioner shall draw attention to any breaches or evasions of this Act which have come under his notice.

10.—(1.) For the purposes of this section, “officer” means a person who is or has been appointed or employed by the Commonwealth, and who by reason of that appointment or employment, or in the course of that employment, may acquire or has acquired information respecting the affairs of any other person, disclosed or obtained under the provisions of this Act.

Officers to
observe secrecy.

(2.) Subject to this section, an officer shall not either directly or indirectly, except in the performance of any duty as an officer, and either while he is, or after he ceases to be an officer, make a record of, or divulge or communicate to any person, any such information so acquired by him.

(3.) An officer shall not be required to produce in Court any return, assessment or notice of assessment, or to divulge or communicate to any Court any matter or thing coming under his notice in the performance of his duties as an officer, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

(4.) Nothing in this section shall prevent the Commissioner, the Second Commissioner or a Deputy Commissioner, or any person thereto authorized in writing by the Commissioner, the Second Commissioner or a Deputy Commissioner, from communicating any information to—

- (a) any person performing, in pursuance of any appointment or employment by the Commonwealth or by a State, any duty arising under any Act administered by the Commissioner, for the purpose of enabling that person to carry out any such duty;
- (b) a Valuation Board or a Board of Review;
- (c) the Commissioner of Income Tax for any State, or the Authority administering any State Act relating to Stamp Duties or Succession Duties, if that Authority is authorized by law to afford similar information to the Commissioner; and

(d) the Commissioner of Pensions or the Repatriation Commission for the purpose of the administration of any law of the Commonwealth relating to pensions.

(5.) Any person to whom information is communicated under the last preceding sub-section, and any person or employee under his control, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities, under sub-sections (2.) and (3.) of this section as if he were an officer.

(6.) Any officer shall, if and when required by the Commissioner, Second Commissioner or a Deputy Commissioner so to do, make an oath or declaration in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

Penalty: Two hundred and fifty pounds or imprisonment for twelve months.

PART III.—LIABILITY TO GIFT DUTY.

Liability to
pay gift duty.

11. Subject to this Act, gift duty at rates declared by the Parliament, shall be levied and paid in respect of every gift made on or after the date of the commencement of this Act—

- (a) by a person (not being a body corporate) who is domiciled in Australia, or by a body corporate which is incorporated under the law of any State or Territory which is part of the Commonwealth—of any property wherever situated ;
or
- (b) by any other person—of any property which is situated in Australia at the time when the gift is made.

When gift
deemed to be
made.

12.—(1.) A disposition of property made or taking effect in pursuance of or in performance or satisfaction, whether wholly or in part, of a contract or agreement entered into (whether before or after the commencement of this Act and whether with or without an instrument in writing) without adequate consideration in money or money's worth, shall, for the purposes of this Act, be deemed to be a gift so soon and so far as the disposition has affected the property or any of the property to which the contract or agreement relates.

(2.) For the purposes of this Act, a gift shall be deemed to be made after the commencement of this Act when the disposition of property comprised in the gift is made or takes effect after the commencement of this Act, notwithstanding that a contract or agreement or instrument of title which relates to the property or any part thereof was made or executed before the commencement of this Act.

(3.) When any gift is made in respect of property comprised in any instrument of gift requiring registration under any law (whether in Australia or elsewhere) and the instrument is not lodged for registration until after the commencement of this Act, the gift shall, for the purposes of this Act, be deemed to have been made after the

commencement of this Act notwithstanding that the instrument may have been stamped in accordance with any law relating to stamp duties prior to the commencement of this Act.

(4.) Nothing in the foregoing provisions of this section shall be construed as limiting the meaning of the expression "gift which is made after the commencement of this Act", or any other like expression, in any case where the gift is in fact made after the commencement of this Act.

13. For the purposes of this Act—

- (a) property at sea in the course of transit to Australia, whether directly or indirectly, shall be deemed to be situated in Australia ;
- (b) the local situation of a debt payable under a bond, debenture or other deed shall in no case be determined by reference to the local situation of the bond, debenture or deed ;
- (c) a debt owing by a corporation, wherever incorporated, shall be deemed to be property situated in Australia if the debt was incurred or is payable in Australia, and the corporation has any office or place of business in Australia ;
- (d) a debt owing by any person or persons other than a corporation shall be deemed to be property situated in Australia if the debtor or any of the debtors is resident in Australia ;
- (e) a debt owing by the Commonwealth or any State (including any debentures, Treasury bills or any other form of Government stock or securities) shall be deemed to be property situated in Australia if it is incurred or payable in Australia ;
- (f) notwithstanding anything contained in the foregoing provisions of this section—

Where
property
deemed to be
situated.

- (i) a debt represented by an instrument which is negotiable in Australia shall be deemed to be property situated in the country in which the instrument is situated ; and
- (ii) a debt which is secured by mortgage, charge, lien or otherwise on any property situated or deemed to be situated in Australia shall itself be deemed to be property situated in Australia :

Provided that if the value of the security is less than the value of the debt, the debt shall not, by reason of the existence of that security, be deemed to be situated in Australia except to the extent of the value of the security ;

- (g) shares in a company incorporated under the law of any State or of any Territory which is part of the Commonwealth shall be deemed to be property situated in Australia whether such shares are recorded in a register kept in Australia or elsewhere ; and

- (h) shares in a company incorporated under the law of any country outside Australia shall be deemed to be property situated outside Australia except in the case of shares registered in a branch register of the company in Australia.

Exemptions.

14. Notwithstanding anything contained in this Act, gift duty shall not be payable in respect of—

- (a) contributions by an employer to a fund established for the purpose of providing retiring allowances or pensions for his employees, or any class or classes of his employees, or their dependants ;
- (b) payments made by an employer to an employee, or the dependants of an employee, in consequence of the retirement of that employee from the service of the employer or in consequence of his death, or any gratuity or bonus paid by an employer to an employee during the continuance of the employment if the Commissioner is satisfied that the gratuity or bonus is paid in recognition of special or faithful services rendered, or any salary, wages or allowances which the employer continues to pay during any period of illness or invalidity of the employee ;
- (c) any moneys paid by an employer to an employee who is a member of the Defence Force or of the naval, military or air force of any other part of His Majesty's dominions, for the purpose of augmenting the employee's pay as a member of any of those forces ;
- (d) any gift to an institution, organization or body of persons, whether corporate or unincorporate, not formed or carried on for the profit of any individuals ;
- (e) any gift to the Commonwealth or a State ;
- (f) any gift which is made in the course of carrying on a business, for the purpose of obtaining any commercial benefit or by way of the writing off of a debt which is irrecoverable, by—
 - (i) an incorporated company the shares or stock of which are or is quoted in the official list of any Stock Exchange ;
 - (ii) an incorporated company the shares or stock of which are not or is not quoted in the official list of any Stock Exchange, if the Commissioner is satisfied that the donee is not a director of the company or is not connected by ties of blood or marriage with any director of the company ; or
 - (iii) a firm or individual if the Commissioner is satisfied that the donee is not connected by ties of blood or marriage with any member of the firm or with the individual, as the case may be ;

- (g) any premiums, not exceeding One hundred pounds per annum, paid by a person on a policy effected by him on his own life and expressed to be for the benefit of his wife or any of his children ;
- (h) any gift made in accordance with the terms of an agreement whereby a person carrying on a business, trade or calling has undertaken to pay part of the proceeds of his business, trade or calling to the trustees of a fund out of which payments may be made by the trustees to persons carrying on a similar business, trade or calling who are on war service ; or
- (i) any gift concerning which the Commissioner is satisfied—
 - (i) that the gift, together with all other gifts made by the same donor to the same donee, whether at the same time or within eighteen months previously (whether wholly or partly made before the commencement of this Act or not) or eighteen months subsequently does not exceed in the aggregate Fifty pounds in value and that the gift is made in good faith as part of the normal expenditure of the donor ; or
 - (ii) that the gift is made for or towards the maintenance, education or apprenticeship of any person, and is not excessive in amount, having regard to the legal and moral obligations of the donor to afford the maintenance, education or apprenticeship.

15. Where a gift of property is liable to gift duty and that property is also included in the estate of a deceased person for the purposes of the *Estate Duty Assessment Act 1914-1940*, the Commissioner may grant a rebate of the amount of gift duty payable in respect of that gift or so much of that gift duty as is equal to the amount by which the estate duty is increased by reason of the inclusion of that property, whichever is the lesser amount.

Rebate where estate duty payable.

16.—(1.) Where there is a disposition of property by any person to a person connected with him by ties of blood or marriage, and, in consideration or part consideration for that disposition, the donor retains any interest in that property or acquires any interest in any other property, by way of—

No deduction from gift in respect of benefit to donor.

- (a) mortgage or charge ;
- (b) any annuity or other future payment, whether periodical or not ;
- (c) any contract for the benefit of the donor ;
- (d) any condition or power of revocation or other disposition ; or
- (e) any similar interest,

no deduction shall be made in respect of that interest for the purpose of determining whether the disposition is a gift for the purposes of

this Act or in computing the value of the gift, and the gift shall be valued and gift duty shall be paid as if the disposition had been made without any such consideration.

(2.) Notwithstanding anything contained in the last preceding sub-section, where the disponor's interest is by way of mortgage or charge and the mortgage or charge is wholly or partly satisfied by payment within five years of the making of the disposition, the Commissioner shall treat that payment as part of the consideration for the disposition and shall reassess the gift duty payable and make any refund which is necessary in consequence of the re-assessment.

Value of gift where consideration inadequate.

17. Subject to the last preceding section, where any disposition of property is made and consideration in money or money's worth passes from the disponent to the disponent but the disposition constitutes a gift for the purposes of this Act by reason of the consideration not being, or, in the opinion of the Commissioner, not being, fully adequate, the value of the gift shall, for the purposes of this Act, be the extent of that inadequacy.

Value of gift.

18. For the purpose of computing the value of a gift—

- (a) no allowance shall be made in respect of any contingency affecting the interests of the donees or any of them ;
- (b) subject to this Act, the value of a gift shall be taken to be the value thereof at the time of the making of the gift ;
- (c) no deduction shall be allowed in respect of any mortgage, charge, encumbrance or liability affecting or incident to the property comprised in the gift existing at the time of the making of the gift, if and so far as the donee is entitled as against the donor or any other person or as against any other property to any right of indemnity or contribution in respect of that mortgage, charge, encumbrance or liability ; and
- (d) where a gift includes any shares or stock in any company the shares or stock of which are not or is not quoted in the official list of any Stock Exchange, the Commissioner may, in his discretion, adopt as the value of any such shares or stock such sum as the holder thereof would receive in the event of the company being voluntarily wound up on the date when the gift was made.

PART IV.—RETURNS AND ASSESSMENTS.

Returns by donor.

19.—(1.) Any person who makes, and any person who receives, any gift the value of which, together with the value of all other gifts made by the same donor to the same or any other donee whether at the same time or within the immediately preceding eighteen months (whether wholly or partly made before the commencement of this Act or not) exceeds Two hundred and fifty pounds shall—

- (a) in the case of a gift made in Australia—within one month after making the gift ; or
- (b) in the case of a gift made out of Australia—within three months after making the gift,

or, where the gift is made on or after the twenty-ninth day of October, One thousand nine hundred and forty-one but prior to the date upon which this Act receives the Royal Assent, within one month or three months, as the case may be, after the date upon which this Act receives the Royal Assent, furnish to the Commissioner, in the prescribed form and in the prescribed manner, a return containing all such particulars with respect to the gift and—

- (i) in the case of the donor—all other such gifts made by him ; or
- (ii) in the case of the donee—all other such gifts made to him by the donor,

as are necessary to enable the Commissioner to determine whether the gift is liable to gift duty and to assess the gift duty (if any) thereon.

(2.) If any gift the particulars of which are contained in the return has been created, or is evidenced, by any written instrument, the person making the return shall furnish with the return a copy of that instrument.

(3.) Compliance by the donor with the provisions of this section shall release the donee from compliance therewith, but, in any proceeding against the donee, the onus of proving compliance by the donor shall be on the donee.

(4.) For the purposes of this section, "gift" shall not include any gift in respect of which gift duty is declared by section fourteen of this Act not to be payable.

20. Any person, whether a donor or donee or not, shall, if required by the Commissioner, furnish such returns or fuller or other returns for the purposes of this Act as the Commissioner requires.

Further
returns.

21. From the returns, and from any other information in his possession, or from any one or more of these sources, the Commissioner shall make an assessment of the amount of the gift duty payable in respect of any gift.

Assessments.

22.—(1.) The Commissioner may at any time amend any assessment by making such alterations therein or additions thereto as he thinks necessary, and any such amended assessment shall be an assessment for the purposes of this Act.

Amendment of
assessments.

(2.) Where by reason of any amendment of any assessment a person's liability is reduced, the Commissioner shall refund any gift duty overpaid.

23. If any donor or donee makes default in furnishing any return, document or information, or the Commissioner is not satisfied with any return, document or information furnished, he may cause an assessment to be made of the amount on which, in his judgment, gift duty ought to be levied, and the donor and donee shall be liable to pay gift duty thereon, except so far as the amount is, on appeal, shown to be excessive.

Default
assessments.

24. As soon as conveniently may be after any assessment is made the Commissioner shall serve notice thereof in writing, by post or otherwise, upon the donor.

Notice of
assessment.

PART V.—COLLECTION AND RECOVERY OF GIFT DUTY.

Liability for
gift duty.

25.—(1.) Gift duty shall be due and payable on the making of the gift, or, where the gift duty becomes payable, or further gift duty becomes payable, by reason of the making of a subsequent gift, the gift duty or further gift duty, as the case may be, shall be due and payable upon the making of that subsequent gift.

(2.) Gift duty shall constitute a debt jointly and severally due by the donor and donee to the King on behalf of the Commonwealth.

(3.) Gift duty shall also constitute a first charge on all property (other than money or negotiable instruments) comprised in the gift, but any such charge shall not affect the title of a *bona fide* purchaser for value without notice of the charge.

(4.) Where there is more than one donee under the same gift, each of them shall be liable only for the same proportion of the gift duty as the value of his interest bears to the total value of the gift.

(5.) Where the interest of a donee is a future interest, he shall not become personally liable until it becomes an interest in possession.

(6.) A trustee may raise such moneys as are necessary to pay gift duty by mortgage with or without power of sale of any property comprised in the gift held by him upon trust.

(7.) Where the donee is a trustee he shall not be personally liable for the payment of any gift duty in respect of any trust property unless the Commissioner, by notice in writing, advises him that gift duty is due and payable in respect of that trust property, and then only to the extent of the value of so much of that trust property as is held by him on the date upon which the notice is served upon him.

Extension of
time to pay
and payment
by instalments.

26. The Commissioner may in any case grant such extension of time for payment, or permit payment to be made by such instalments and within such time as he considers the circumstances warrant.

Penalty for
unpaid duty.

27. If any gift duty remains unpaid longer than thirty days after the service of notice of assessment, additional gift duty shall thereupon become due and payable at the rate of Ten per centum per annum on the amount unpaid computed from the expiration of that time, or, where an extension of time has been granted under the last preceding section, from such date as the Commissioner determines, not being a date prior to the thirtieth day after the service of notice of assessment :

Provided that the Commissioner may, in any case, for reasons which he thinks sufficient, remit the additional duty or any part thereof.

Duty may be
sued for.

28. Any gift duty unpaid, including any additional duty, may be sued for and recovered in any Court of competent jurisdiction by the Commissioner, the Second Commissioner or a Deputy Commissioner suing in his official name.

Registration
of duty as a
charge.

29. The Commissioner may register so much of any gift duty assessed under this Act as is attributable to any real property comprised in a gift as a charge on that real property, after having certified in

writing that there are arrears of duty payable, and the Registrar-General or Registrar of Titles or other appropriate officer of a State or part of the Commonwealth shall register the charge accordingly, and give effect to it as if the certificate were an instrument of charge or encumbrance duly executed under the laws in force in that State or part of the Commonwealth.

30. No statute of limitation now or hereafter in force shall bar or affect any action, proceeding or remedy for recovery of gift duty. No limitation of action.

PART VI.—OBJECTIONS AND APPEALS.

31.—(1.) Any person required to pay gift duty who is dissatisfied with the assessment of the Commissioner may, within thirty days after the service of notice of assessment, post or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies. Objections and appeals.

(2.) The Commissioner shall, with all reasonable despatch, consider the objection and may either disallow it or allow it either wholly or in part.

(3.) The Commissioner shall give to the objector written notice of his decision on the objection.

(4.) If the objector is dissatisfied with the decision of the Commissioner he may, within thirty days after the service by post of notice of that decision—

(a) in writing, request the Commissioner—

(i) to refer so much of the decision as relates to the value assigned to any property included in the gift to a Valuation Board for review of that value ; or

(ii) to refer so much of the decision as does not relate to the value assigned to any property included in the gift to a Board of Review for a review of that decision ; or

(b) in writing, request the Commissioner to treat his objection as an appeal and to forward it to the High Court, or to the Supreme Court of a State or Territory of the Commonwealth.

32.—(1.) Where the objector has, in accordance with the last preceding section, requested the Commissioner to refer a decision to a Valuation Board, the Commissioner shall, if the objector's request is accompanied by a deposit of One pound, refer the decision to the Valuation Board not later than sixty days after the receipt of the request. Reference to Board.

(2.) The objector shall be limited on the review to the grounds which he has stated in his objection as being those upon which he objects to the value assigned to the property.

(3.) If the value assigned to the property included in the assessment has been reduced by the Commissioner after considering the objection, the reduced value shall be the value dealt with by the Valuation Board under the next succeeding sub-section.

(4.) Subject to the next succeeding sub-section, the Valuation Board shall give a decision and may either confirm the value assigned to the property in the assessment or reduce or increase that value.

(5.) In default of the appearance of the objector before the Valuation Board for the purpose of the review, the Valuation Board shall confirm the value assigned to the property in the assessment :

Provided that upon good cause shown, the Valuation Board may, within the prescribed time, re-open the matter and review the value assigned to the property in the assessment.

(6.) The objector may, within thirty days after the Valuation Board's decision, request the Commissioner, in writing, to refer his objection, so far as it relates to grounds not dealt with by the Valuation Board, to a Board of Review or to the High Court or the Supreme Court of a State or Territory of the Commonwealth.

(7.) The Commissioner or the objector may, within thirty days after the date of the Valuation Board's decision, appeal to the High Court from any decision of the Valuation Board in this connexion, which, in the opinion of the High Court, involves a question of law, and the Valuation Board shall refer to the High Court any question of law arising before the Valuation Board, and the decision of the High Court shall be final and conclusive.

Reference to
Board of
Review.

33.—(1.) Where the objector has, in accordance with section thirty-one of this Act, requested the Commissioner to refer a decision to a Board of Review, the Commissioner shall, if the objector's request is accompanied by a deposit of One pound, refer the decision to a Board of Review not later than sixty days after the receipt of the request.

(2.) The objector shall be limited on the review to the grounds which he has stated in his objection.

(3.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment dealt with by the Board of Review under the next succeeding sub-section.

(4.) Subject to the next succeeding sub-section, the Board of Review shall give a decision and may either confirm, reduce, increase or vary the assessment.

(5.) In default of the appearance of the objector before the Board of Review, for the purpose of review, the Board of Review shall confirm the assessment :

Provided that upon good cause shown, the Board of Review may, within the prescribed time, re-open the matter and review the assessment.

(6.) For the purposes of reviewing the assessment, a Board of Review shall have all the powers and functions of the Commissioner in making assessments, determinations and decisions under this Act, and such assessments, determinations and decisions of a Board of Review and its decisions upon review, shall for all purposes (except

for the purpose of objections thereto and review thereof and appeals therefrom) be deemed to be assessments, determinations or decisions of the Commissioner :

Provided that a Board of Review shall not reduce or increase any value assigned in the assessment to any property, but shall accept as final the value assigned to the property by the Commissioner, or, where the value has been reduced or increased by a Valuation Board, by the Valuation Board.

(7.) The objector may, within thirty days after the decision of the Board of Review, request the Commissioner, in writing, to refer his objection, so far as it relates to the value assigned to any property in the assessment, to a Valuation Board.

(8.) Where a Board of Review has reviewed any assessment and given any decision thereon and the value assigned to any property in that assessment is subsequently reduced or increased by a Valuation Board, the Commissioner shall vary the assessment to give effect to the decision of the Valuation Board.

(9.) The Commissioner or the objector may, within thirty days after the decision of a Board of Review, appeal to the High Court from any decision of the Board of Review in this connexion which, in the opinion of the High Court, involves a question of law, and the Board shall refer to the High Court any question of law arising before the Board of Review, and the decision of the High Court shall be final and conclusive.

34.—(1.) Where an objector has, in accordance with the provisions of this Part, requested the Commissioner to treat his objection as an appeal and to forward it to the High Court or a Supreme Court, the Commissioner shall forward it accordingly. Appeals to Court.

(2.) The appeal shall be heard by a single Justice or Judge of the Court.

(3.) The objector shall be limited, on the hearing of the appeal, to the grounds stated in his objection.

(4.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment to be dealt with on the appeal.

(5.) On the hearing of the appeal, the Court may make such order as it thinks fit, and may by such order confirm, reduce, increase or vary the assessment.

(6.) The order of the Court shall be final and conclusive except as hereinafter provided.

(7.) The costs of the appeal shall be in the discretion of the Court.

35.—(1.) The Court may, if it thinks fit, state a case in writing for the opinion of the Full Court of the High Court upon any question of law arising on the appeal. Case stated to High Court.

(2.) The High Court shall hear and determine the question, and remit the case, with its opinion, to the Court below and may make such order as to the costs of the case stated as it thinks fit.

Appeal to
High Court.

36. The Commissioner or the objector may appeal to the High Court in its appellate jurisdiction from any order made under subsection (5.) of section thirty-four of this Act.

Pending appeal
or reference
not to affect
assessment.

37. The fact that an appeal or reference is pending shall not in the meantime interfere with or affect the assessment the subject of the appeal or reference, and gift duty may be recovered on the assessment as if no appeal or reference were pending.

Adjustment of
duty after
appeal.

38. If the assessment is altered on the appeal or reference a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears.

PART VII.—MISCELLANEOUS.

Department
to obtain
information
and evidence

39.—(1.) The Commissioner may, by notice in writing, require any person, whether a donor or donee or not, including any officer employed in or in connexion with any Department of a Government or by any public authority—

- (a) to furnish him with such information as he requires ;
- (b) to attend and give evidence before him or before any officer authorized by him in that behalf concerning any matter on which the Commissioner requires information for the purposes of this Act, and may require him to produce all books, documents and other papers whatever in his custody or under his control relating thereto.

(2.) The Commissioner may require the information or evidence to be given on oath and either verbally or in writing, and for that purpose he or the officer so authorized by him may administer an oath.

(3.) The Regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

S. 52A of
Commonwealth
Inscribed Stock
Act not to
apply.

40. The provisions of section fifty-two A of the *Commonwealth Inscribed Stock Act* 1911–1940 shall not apply to exempt from gift duty assessed under this Act the disposition of any property to which that section applies.

Rebate in case
of double gift
duty.

41. Where any disposition of property is subject to gift duty under this Act and also under the law of any country outside Australia, and the Commissioner is satisfied that the law of that country makes provision for the rebate of gift duty similar to the provision contained in this section, the Commissioner may allow a rebate of the gift duty payable under this Act of an amount equal to one-half of the gift duty payable under this Act or under the law of that country, whichever is the lesser amount.

Additional
duty in
certain cases.

42.—(1.) Any person who fails duly to furnish as and when required by this Act or the Regulations, or by the Commissioner, any return or other information in relation to any matter affecting either his liability to pay gift duty, or the amount of the gift duty, shall

be liable to pay as additional gift duty an amount equal to the gift duty assessable to him or the amount of One pound, whichever is the greater.

(2.) Any person who—

(a) fails or neglects to include in any return any particulars relating to a gift; or

(b) includes in any return or information a misstatement concerning any particulars relating to a gift,

which affects his liability to pay gift duty, or which would reduce the amount of gift duty payable by him if the return were accepted as correct, shall be liable to pay as additional gift duty an amount equal to double the difference between the gift duty properly payable by him and the gift duty that would be payable if it were assessed upon the basis of the return furnished by him, or the amount of One pound, whichever is the greater.

(3.) The Commissioner may in any case, for reasons which he thinks sufficient, and either before or after making any assessment, remit the additional gift duty or any part thereof.

(4.) If in any case in which a person is liable to pay additional gift duty under this section, a prosecution is instituted in respect of the same matter, the additional gift duty shall not be payable unless and until the prosecution is withdrawn.

43.—(1.) Any person who fails duly to furnish any return or information or comply with any requirement of the Commissioner as and when required by this Act or the regulations or by the Commissioner shall be guilty of an offence.

Failure to furnish returns and information, &c.

Penalty: Not less than Two pounds or more than One hundred pounds.

(2.) A prosecution for an offence against this section may be commenced at any time.

44. Any person who refuses or neglects duly to attend and give evidence when required by the Commissioner or any officer duly authorized by him, or truly and fully to answer any questions put to him by, or to produce any book or paper required of him by the Commissioner or any such officer, shall, unless just cause or excuse for the refusal is shown by him, be guilty of an offence.

Refusal to give evidence.

Penalty: Not less than Two pounds or more than One hundred pounds.

45.—(1.) Upon the conviction of any person for an offence against either of the last two preceding sections, the Court may order him within a time specified in the order to do the act which he has failed or refused or neglected to do, and any person who does not duly comply with such order shall be guilty of an offence.

Order to comply with requirement.

Penalty: Not less than Ten pounds or more than Five hundred pounds.

(2.) An order under this section may be made orally by the Court to the defendant, or may be served in the manner prescribed.

Offences.

46.—(1.) Any person who makes or delivers a return which is false in any particular, or makes a false answer whether orally or in writing to any question duly put to him by the Commissioner or any officer duly authorized by him, shall be guilty of an offence.

Penalty : Not less than Two pounds or more than One hundred pounds and, in addition, the Court may order the person to pay to the Commissioner a sum not exceeding double the amount of gift duty that would have been avoided if the return or answer had been accepted as correct.

(2.) A prosecution for an offence against this section may be commenced at any time.

Regulations.

47. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act, and for prescribing penalties not less than One pound or more than Twenty pounds for any breach of the regulations.