

# GIFT DUTY ASSESSMENT.

No. 73 of 1963.

An Act to amend the *Gift Duty Assessment Act* 1941-1957.

[Assented to 31st October, 1963.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation

1.—(1.) This Act may be cited as the *Gift Duty Assessment Act* 1963.

(2.) The *Gift Duty Assessment Act* 1941-1957\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Gift Duty Assessment Act* 1941-1963.

Commence-  
ment.

2. This Act shall be deemed to have come into operation on the ninth day of May, One thousand nine hundred and sixty-three.

3. After section fourteen of the Principal Act the following sections are inserted:—

Gifts made by  
certain persons  
in Australia  
for purposes  
connected with  
projects of the  
United States  
Government.

“ 15.—(1.) In this section, unless the contrary intention appears—

‘ Australia ’ includes the Territories of the Commonwealth;

‘ civilian accompanying the United States Forces ’ means a

\* Act No. 52, 1941, as amended by No. 17, 1942; No. 14, 1947; No. 80, 1950; No. 1, 1953; and No. 57, 1957.

person (not being a member of the United States Forces, an Australian citizen or a person ordinarily resident in Australia) who—

(a) is an employee—

(i) of the United States Forces; or

(ii) of, or of a body conducting, a club or other facility established for the benefit or welfare of members of the United States Forces or of persons accompanying those Forces and which is recognized by the Government of the United States of America as a non-appropriated fund activity; or

(b) is serving with an organization that, with the approval of the Government of the Commonwealth, accompanies the United States Forces in Australia;

‘ dependant ’, in relation to a person, means—

(a) the spouse of that person; or

(b) a relative, other than the spouse, of that person who is wholly or partly dependent for support on that person,

but, in the case of a person who, immediately before becoming such a spouse or relative, was ordinarily resident in Australia, does not include that person so long as that person continues to be ordinarily resident in Australia;

‘ foreign contractor ’ means a person who is a party to a prescribed contract and is not—

(a) a company incorporated in Australia;

(b) an Australian citizen; or

(c) a person, other than a company, who is ordinarily resident in Australia;

‘ foreign employee ’ means a person who—

(a) is an employee of a foreign contractor; or

(b) is a director of a company that is a foreign contractor,

and is not an Australian citizen or ordinarily resident in Australia;

‘ personal property ’ does not include—

(a) property held as, or for the purpose of, an investment;

(b) copyright;

- (c) property arising out of the grant of letters patent for an invention, or the registration of a trade mark or an industrial design; or
- (d) property held in connexion with the carrying on of a business other than a business carried on for prescribed purposes;

‘ prescribed contract ’ means—

- (a) a contract to which the Government of the United States of America is a party in connexion with the establishment, maintenance or operation of the North West Cape naval communication station; or
- (b) a contract made for purposes connected with the performance of a contract referred to in the last preceding paragraph;

‘ prescribed purposes ’ means—

- (a) in relation to a foreign contractor or foreign employee—purposes relating to the performance of a prescribed contract; and
- (b) in relation to a member of the United States Forces or a civilian accompanying the United States Forces—purposes relating to the carrying on of activities agreed upon between the Government of the Commonwealth and the Government of the United States of America;

‘ the North West Cape naval communication station ’ means the naval communication station the establishment of which is provided for by the agreement approved by the *United States Naval Communication Station Agreement Act 1963*;

‘ the United States Forces ’ means the armed forces of the Government of the United States of America.

“(2.) For the purposes of this section, a foreign contractor or a foreign employee who is in Australia, or is carrying on business in Australia, solely for prescribed purposes does not cease to be in Australia solely for those purposes, or to be carrying on business in Australia solely for those purposes, by reason of anything undertaken or done by him in connexion with a project in Australia of the Government of the United States of America, other than the North West Cape naval communication station, agreed upon between the Government of the Commonwealth and the Government of the United States of America.

“ (3.) For the purposes of this Act, a person shall not be taken to have become domiciled in Australia at the commencement of, or during, any period in which that person was—

(a) a foreign contractor, a foreign employee, a member of the United States Forces or a civilian accompanying the United States Forces who was in Australia solely for prescribed purposes; or

(b) a dependant of such a contractor, employee, member or civilian,

except, in the case of a woman, by reason of marriage to a man domiciled in Australia.

“ (4.) The last preceding sub-section does not apply in respect of, or of a part of, a period in which a person was, or was a dependant of, a foreign contractor, a foreign employee or a civilian accompanying the United States Forces if the person was not a citizen of, and was not domiciled in, the United States of America during that period or that part of that period, as the case may be.

“ (5.) Gift duty is not payable in respect of a gift made by a person of personal property that, at the time of the making of the gift, was held by him in Australia solely by reason of his having been, at that time—

(a) a foreign contractor, a foreign employee, a member of the United States Forces or a civilian accompanying the United States Forces who was in Australia solely for prescribed purposes; or

(b) a dependant of such a contractor, employee, member or civilian,

if that gift is, or has been, subject to gift tax under the law of the United States of America.

“ 16. Where, by virtue of either of the last two preceding sections, gift duty is not payable in respect of a gift, the value of the gift shall not be taken into account in ascertaining whether gift duty is payable in respect of any other gift made by the same donor or in ascertaining the amount of any gift duty so payable.”

Exempt gifts not to be taken into account in ascertaining duty on other gifts.

4. Section nineteen of the Principal Act is amended by inserting in sub-section (4.), after the words “ section fourteen ”, the words “ or section fifteen ”.

Returns by donor.

5. The amendments made by this Act apply only in respect of gifts made after the commencement of this Act.

Application of amendments.