

STATUTORY RULES.

1941. No. .

REGULATIONS UNDER THE ESTATE DUTY ASSESSMENT ACT 1914-1940.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Estate Duty Assessment Act 1914-1940*.

Dated this *Twenty Sixth*
day of *March*, 1941.

(SGD.) GOWRIE.

Governor-General.

By His Excellency's Command,

A. Tadden
Treasurer.

ESTATE DUTY REGULATIONS.

PART I.—PRELIMINARY.

1. These Regulations may be cited as the Estate Duty Regulations. Citation.
2. These Regulations are divided into Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—Returns.
 - Part III.—Collection and Recovery of Estate Duty.
 - Part IV.—Appeals.
 - Part V.—Miscellaneous.
3. Statutory Rules 1917, No. 267 and Statutory Rules 1929, No. 32 Repeal.
are repealed.
- 4.—(1.) In these Regulations, unless the contrary intention Definition.
appears—

“the Act” means the *Estate Duty Assessment Act 1914-1940*, and, when considered in relation to any time, means that Act, or, if it has been amended, that Act as amended as in force at that time.

(2.) For all the purposes of these Regulations—

- (a) the Australian Capital Territory shall be deemed to be part of the State of New South Wales; and
- (b) the Northern Territory shall be deemed to be a separate State.

PART II.—RETURNS.

5. Unless required in writing by the Commissioner, the Second Commissioner or a Deputy Commissioner so to do, it shall not be necessary for the administrator to furnish a return in accordance with section 10 of the Act in respect of an estate where the value of the estate (as defined in section 18A of the Act) does not exceed—

- (a) where the deceased person died on or after the twentieth day of May, One thousand nine hundred and forty, and the whole of the estate passes to his widow, children or grandchildren—Two thousand pounds; or
- (b) in any other case—One thousand pounds.

6. Where in any estate there is no administrator liable to furnish a return and the property of the deceased person liable to estate duty has been distributed at, or within twelve months prior to, the decease of the deceased person, each of the persons to whom the property has been distributed shall, within three months after the date of the death of the deceased person, furnish a full and complete return of all the property received by him from the deceased person and shall be liable for the payment of any estate duty assessable in respect of that property.

7. Subject to these Regulations, every return furnished in pursuance of sub-section (1.) of section 10 of the Act—

- (a) shall be in accordance with Form 1 in the Schedule to these Regulations; and
- (b) shall, within three months after the death of the deceased person in respect of whose estate it is required to be prepared and furnished, be furnished to the Commissioner at—
 - (i) if the estate in Australia of the deceased person is situated wholly within one State—the office of the Deputy Commissioner in that State; or
 - (ii) if the estate in Australia of the deceased person is situated within more than one State—at the office of the Deputy Commissioner, Central Office, Melbourne.

8. Every return required by the Commissioner shall be prepared and furnished in accordance with such form, and lodged at such office, within such time, as the Commissioner specifies in the requirement.

9. The Commissioner, Second Commissioner or a Deputy Commissioner may at any time accept a return in a form substantially similar to a prescribed form.

Exemption from furnishing returns.

Where whole estate distributed prior to death.

Furnishing of returns in pursuance of s. 10 (1.) of Act.

Furnishing of returns required by Commissioner.

Substantial compliance with form.

10. The Commissioner, Second Commissioner or a Deputy Commissioner may at any time, by notice in writing, grant an extension of the time for furnishing a return. Extension of time.

11. The administrator shall furnish with the return a certified copy of— Will and settlement to be furnished with return.

- (a) the will (if any) of the deceased person and all codicils thereto; and
- (b) every settlement made by the deceased person, either before or after the commencement of the Act.

12.—(1.) Subject to sub-regulation (2.) of this regulation, every return shall be signed by the administrator. Signature to returns.

(2.) Where the administrator is unable to write, the Commissioner, Second Commissioner or a Deputy Commissioner may accept a return, if otherwise in order, if—

- (a) the administrator affixes his mark thereto as a signature;
- (b) the mark is attested by a witness; and
- (c) the witness certifies on the return that the return was read over to the administrator and that the administrator fully understood and approved the contents thereof and freely and voluntarily affixed his mark thereto as a signature.

(3.) If there are more administrators than one in respect of an estate, the signature of one administrator to the return shall be sufficient.

13. A return shall not be deemed to have been duly furnished to the Commissioner unless and until— When return deemed to be furnished.

- (a) the proper form in accordance with these Regulations, signed by the administrator, and containing a full, true and complete statement of all matters and things required to be stated therein by the Act, these Regulations, the Commissioner and the form itself; and
- (b) all documents and copies which, by the Act, these Regulations or the Commissioner, are required to be furnished with the return,

have, at the place where under these Regulations the return is to be furnished, been received by an officer authorized by the Commissioner to receive returns.

14. The administrator shall, in the return, give an address in Australia for service. Notice of address.

15. An administrator who changes his address shall, within one month after the change, give to the Commissioner, at the place where the return was furnished, notice in writing of his new address in Australia for service. Notice of change of address.

16. Any administrator who changes his address and fails to give to the Commissioner notice in writing of his new address in Australia for service shall not be permitted to plead that change of address as a defence in any proceedings (whether civil or criminal) instituted against him under the Act or these Regulations. Failure to notify change of address.

17.—(1.) The Commissioner may cause or permit his officers to make on any return such marks, figures and annotations as the Commissioner thinks fit. Annotations on returns.

(2.) The marks, figures and annotations shall be made in ink of a colour different from that of the ink used in the return.

PART III.—COLLECTION AND RECOVERY OF ESTATE DUTY.

18. Estate duty may be paid—

(a) by delivery of cash, bank notes or cheques at the office of the Commissioner or of any Deputy Commissioner;

(b) by remitting the duty to the Commissioner or any Deputy Commissioner by bank draft, cheque, postal money order, or postal note payable in the city to which the remittance is sent; or

(c) by depositing the net amount of the tax to the credit of the Commissioner or a Deputy Commissioner at any branch of the Commonwealth Bank of Australia.

How duty may be paid.

19. Where a remittance is posted by ~~a taxpayer~~ addressed to the Commissioner or a Deputy Commissioner, the Post Office shall be deemed to be the agent of the remitter, and payments shall not be deemed to have been made until the remittance has been received by the addressee. Post office to be agent of remitter. *an administrator*

20. Where a cheque has been delivered or remitted to the Commissioner or a Deputy Commissioner in payment of estate duty, the duty shall, notwithstanding any receipt given therefor, not be deemed to have been paid until the amount for which the cheque is drawn has been collected. Payment by cheque.

21. Receipts for estate duty shall be issued by such persons as the Commissioner, Second Commissioner or a Deputy Commissioner authorizes. Receipts to be issued.

22. Except with the express consent of the Commissioner, Second Commissioner or a Deputy Commissioner, no money shall be accepted on account or in part payment of estate duty. Part payment of estate duty.

23. The postage on every return, statement, communication, remittance, or other matter sent by post, addressed to the Commissioner, Second Commissioner or a Deputy Commissioner, shall be fully prepaid by the sender. Postage to be prepaid.

24. When any sum is received as payment of estate duty, the Commissioner or Deputy Commissioner, as the case may be, shall first deduct therefrom the amount of postage and surcharge (if any) paid upon any unstamped or insufficiently stamped matter received through the post from the administrator and shall credit in payment of duty only the net amount then remaining. Deficient postage.

AT

25. In any action against a person for the recovery of estate duty, a certificate in writing, signed by the Commissioner, the Second Commissioner or a Deputy Commissioner, certifying that— Certificate as to service of notice of assessment, &c.

- (a) the person named in the certificate is the administrator or other person liable under the Act to pay estate duty;
- (b) an assessment of estate duty was duly made against him in respect of the estate mentioned in the certificate;
- (c) the particulars of the assessment are as stated in the certificate;
- (d) notice of the assessment was duly served upon him;
- (e) the sum named in the certificate was, at the date of the certificate, due by him to the King on behalf of the Commonwealth in respect of estate duty,

shall be *prima facie* evidence of the facts stated in the certificate.

26. In any action for the recovery of estate duty, evidence may be given by affidavit, but the Court may require the deponent to attend for the purpose of being cross-examined. Evidence by affidavit.

PART IV.—APPEALS.

27. The notice of appeal referred to in sub-section (5.) of section 24 of the Act may be in accordance with Form 2 in the Schedule to these Regulations. Form of notice of appeal.

28.—(1.) The appellant shall set the appeal down for hearing at the first sitting of the Court to which the appeal is made to be held after the expiration of forty-two days from the date upon which notice of appeal is served on the Commissioner. Setting down of a hearing of appeal.

(2.) Notice of setting down shall be served on the Commissioner not less than twenty-one days before the date of the hearing.

(3.) If the appeal is not set down, or if notice of setting down is not served on the Commissioner within the time prescribed by this regulation, the Commissioner may, by motion upon notice to the appellant, apply to the Court for an order dismissing the appeal for want of prosecution.

PART V.—MISCELLANEOUS.

29. Any notice or other communication by or on behalf of the Commissioner may be served upon any administrator or other person— Service of notices, &c.

- (a) by causing it to be served personally on him; or
- (b) by leaving it at his address for service; or
- (c) by posting it by prepaid letter post, addressed to him at his address for service,

and, in any case to which paragraph (c) of this regulation applies, unless the contrary is proved, service thereof shall be deemed to have been effected at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed.

30. Any notice to be given by the Commissioner may be given by any officer of the Commissioner duly authorized in that behalf, and any notice purporting to be signed by the authority of the Commissioner shall be as valid and effectual for all purposes as if signed by the Commissioner in person. Signatures.

31.—(1.) Any certificate, notice or other document bearing the written, stamped or printed signature of the Commissioner, the Second Commissioner or a Deputy Commissioner shall, until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to have been signed. Signature deemed to be duly signed.

(2.) Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds, or has held, the office of Commissioner, Second Commissioner or Deputy Commissioner, as the case may be.

32. In any proceedings against a person for failing or neglecting duly to furnish a return, a certificate in writing signed by the Commissioner, Second Commissioner or the Deputy Commissioner at whose office the return should have been furnished, certifying that no return has been received from that person by any officer authorized by the Commissioner to receive returns at the place where, under these Regulations, the return should have been furnished, shall be *prima facie* evidence that the defendant has failed or neglected duly to furnish a return. Onus of proof.

33. A writing certified by the Commissioner, the Second Commissioner or a Deputy Commissioner to be a true copy of, or a true extract from, any assessment, return, list, declaration, statement, book, document, or writing of any nature whatsoever in the custody of the Commissioner or of any officer of the Commissioner shall, for all purposes, be *prima facie* evidence of the original of which it purports to be a copy or extract, and shall be receivable in evidence to the same extent as the original. Copies or extracts certified by the Commissioner to be received in evidence.

34. Wherever the Commissioner, in the exercise of any power conferred upon him by the Act or these Regulations, requires any person to do any act, the requirement may specify the period (not being in any case less than seven days) within which the act shall be done. Commissioner may specify time in which acts to be done.

35. A prosecution under section 47 of the Act for failing or neglecting duly to furnish a return, or for knowingly and willfully making or delivering a false return, may, at the option of the prosecutor, be instituted in a court of summary jurisdiction having jurisdiction either at the place where under these Regulations the return is to be furnished or at the usual or last known place of business or abode of the defendant. Where prosecution may be instituted.

36. Any person required under section 45 of the Act to attend and give evidence shall be entitled to be reimbursed the sum (not exceeding in any case One pound per diem) actually and necessarily lost by him by reason of his attendance, and, in addition, if the person resides more than four miles from the place of hearing, such sum for travelling expenses (not exceeding the sum actually paid) as the person conducting the inquiry thinks reasonable. Expenses of witnesses.

37.—(1.) Wherever it is necessary for the purposes of the Act to calculate the value of a life interest or an interest for a period certain in an estate, the value shall be calculated in accordance with the appropriate value of One pound per annum shown in any standard set of tables for calculation of values on a four and one-half per centum basis.

(2.) The appropriate value based upon the same periods of rest between the payments as are specified in the instrument creating the interest in the estate shall be employed.

(3.) Where the instrument creating the interest does not specify any period of rest between payments, the appropriate value based upon annual payments shall be employed.

THE SCHEDULE.

Reg. 7.

FORM I.
File No.....



ESTATE DUTY ASSESSMENT ACT 1914-1940.

In the Estate of.....
late of.....
In the State of.....
deceased. { Testate.
 Intestate.*
Address for Service of Notices, &c.....

I,
of
in the State of.....do solemnly and sincerely declare:—

1. That I am the person liable under the *Estate Duty Assessment Act* 1914-1940 to make a return of the Estate of the above-mentioned deceased and to pay the duty thereon under the said Act.

2. That the deceased died on the.....day of.....19....
at
and was aged.....years.....months. ^{He} * ^{She} was at the time of
death†..... and had during life followed the occupation
of.....

3. That the annexed schedule contains a true statement of all and singular the real and personal estate of or to which the above-mentioned deceased was at the time of death possessed or entitled, or which is deemed to be part of his estate in accordance with the provisions of the Act, and that the values thereof as therein set forth are the true and full values of the several particulars therein mentioned respectively, and that the liabilities therein stated are justly due thereon.

4. That the deceased did not within one year immediately preceding death make any gift *inter vivos* or settlement of any estate, real or personal, ‡ save and except those described and valued in Schedule No.....

(NOTE.—Bona fide sales to relatives by blood, marriage, or adoption come within the definition of "Gifts *inter vivos*.")

5. That the deceased had not an interest of any kind for his life in property comprised in a settlement (not being a settlement made by the deceased) which interest he surrendered to any other person within one year before his decease ‡ save and except ^{that} those described and valued in Schedule No.....

6. That the deceased had not during his lifetime made any settlement under which he had any interest of any kind for his life whether or not such interest had been surrendered by him at any time before his decease ‡ save and except ^{that} those described and valued in Schedule No.....

7. That the deceased had not immediately prior to his death any beneficial interest either as joint tenant or joint owner with other persons in any real or personal property ‡ save and except ^{that} those described and valued in Schedule No.....

8. That the deceased had not at the time of death a beneficial interest in property, which beneficial interest, by virtue of a settlement or agreement made by him, passed or accrued on or after his death to, or devolved on or after his death upon, any other person ‡ save and except ^{that} those described and valued in Schedule No.....

9. That the deceased was at the time of death domiciled§.....

10. That the estate of deceased is situated ¶.....

11. That the beneficiaries in the estate set out on the page of this statement are the persons or institutions beneficially entitled thereto.

I undertake, in the event of any additional assets, or any excess in any amount claimed as an allowable deduction, being discovered which would render further duty payable, to advise the Commissioner of Taxation, and to pay any further duty found to be payable by me.

And I make this solemn declaration by virtue of the *Statutory Declarations Act 1911-1922* conscientiously believing the statements therein to be true in every particular.

Administrator.....

Declared at.....

in the State of.....

this.....day of.....

Before me—

.....
(Title of person before whom
declaration is made.)¶

* Strike out whichever is unnecessary.
† State whether married, bachelor, spinster, widower, widow, or divorcee.
‡ Strike out the words " save and except ^{that} those described and valued in Schedule No..... " if not applicable.
§ State whether " in Australia " or " out of Australia."
¶ Name the State or States of the Commonwealth or the places outside the Commonwealth where the estate to be included in this return is situated.
¶ To be declared before a Police, Stipendiary or Special Magistrate, a Justice of the Peace, a Commissioner for Affidavits, a Commissioner for Declarations or a Notary Public.
NOTE. --Any person who wilfully makes a false statement in a statutory declaration is guilty of an indictable offence, and is liable to imprisonment, with or without hard labour, for four years.

STATEMENT OF ASSETS AND LIABILITIES.

This Statement is to include and separately describe any property, real or personal, which passed from the deceased by any gift *inter vivos* or by a settlement made before or after the commencement of this Act, within one year before his decease; property comprised in a settlement (not being a settlement made by the deceased) in which he had an interest of any kind for life, which interest he surrendered to any other person within one year before his decease; property comprised in a settlement made by the deceased under which he had any interest of any kind for his life whether or not that interest was surrendered by him at any time before his decease; property being the beneficial interest held by the deceased immediately prior to his death in a joint tenancy or joint ownership with other persons; and property being a beneficial interest in property which the deceased had at the time of his decease which beneficial interest by virtue of a settlement or agreement made by him passed or accrued on or after his decease to, or devolved on or after his decease upon, any other person.

ASSETS.	Total as shown in Schedule.		For Office use only. £ (to nearest £).	
	£	s. d.	£	s. d.
Real Estate as per Schedule No. (that in each State to be shown separately. References to Titles and full description should be supplied in respect of each parcel similar to details as furnished for Federal Land Tax purposes in order to facilitate identification and valuations). Particulars of real property being the beneficial interest held by the deceased immediately prior to his death, in a joint tenancy or joint ownership with other persons. The date of creation of the joint tenancy and the amount contributed by each joint tenant should be stated, as per Schedule No. <div style="text-align: right; padding-right: 20px;">TOTAL REAL ESTATE</div>	£	s. d.	£	s. d.
LIABILITIES.				
			Secured Debts (distinguish between mortgages and other secured debts)--- 	
			Unsecured Debts —(Where space provided is insufficient, debts should be set out in separate schedule) 	

Rents due or accrued at date of death, as per Schedule No.
 Life Insurance Policies and Bonuses, as per particulars in Schedule No.
 Money in hand or house
 Money in Bank on current account including accrued interest (state the Banks)
 " " fixed deposit (state the Banks)
 Accrued interest to date of death on fixed deposits (state dates and periods of deposits and rates of interest)
 Mortgages } as per Schedule No.
 " accrued interest }
 Debentures of all kinds, Treasury Bills, and other similar securities, and accrued interest, as per Schedule No.
 Debts due to the estate, as per Schedule No.
 Shares in Companies } as per Schedule No.
 Dividends on shares in } (those in each State to
 Companies uncollected at date of death } be shown separately)
 Furniture and household effects, as per Schedule No.
 Watches, Trinkets, Jewellery, Clothing, &c., as per Schedule No.
 Motor Cars, Carriages, Harness, and Saddlery, as per Schedule No.
 Crops, as per Schedule No.
 Number and Value of Bushels in Wheat Certificates held by deceased for each Pool, as per Schedule No.
 Live Stock, as per Schedule No.
 Farming implements, as per Schedule No.
 Plant, &c., as per Schedule No.
 Tools, as per Schedule No.
 Stock in shop or business, as per Schedule No.

Probate and Succession Duties payable under any State Act
 (These items will be ascertained and deducted by the Department)

STATEMENT OF ASSETS AND LIABILITIES—continued.

ASSETS.	Total as shown in Schedule.		For Office use only. £ (to nearest £).	LIABILITIES.	Total as shown in Schedule.		For Office use only. £ (to nearest £).
	£	s. d.			£	s. d.	
Personal Estate, etc—continued. Goodwill of trade or business. Details of valuation should be supplied Interest in a deceased person's estate, as per Schedule No. Total value of interests mentioned in paragraphs 4, 5, 6, and 8 of declaration, as per Schedule No. Interest in a partnership, as per balance-sheet and valuations, as per Schedule No. Particulars of personal property being the beneficial interest held by the deceased immediately prior to his death in a joint tenancy or joint ownership with other persons. The date of creation of the joint tenancy, and the amount contributed by each joint tenant, should be stated, as per Schedule No. Property over which testator had general power of appointment which was exercised by his Will, as per Schedule No. Personal property outside Australia, as per Schedule No. Other personal property not coming under any of the above headings, as per Schedule No. TOTAL PERSONAL ESTATE TOTAL REAL AND PERSONAL ESTATE				Other Lawful Deductions or Charges The Value of that Portion of the Estate (if any) devised, bequeathed or passing for purposes which, in pursuance of section 8 (5.) of the Estate Duty Assessment Act 1914-1940, exempt it from estate duty (see Schedule No.). TOTAL LIABILITIES AND EXEMPT ESTATE BALANCE FOR DUTY TOTAL REAL AND PERSONAL ESTATE			

BENEFICIARIES IN THE ESTATE.
AGES OF ANNUITANTS AND LIFE TENANTS MUST BE STATED.

Name.	Address.	Relation to Deceased.	Interest.		Value of Interest.
			Nature. (e.g., fractional share, annuity, legacy, &c.).*	How Derived. (e.g., by will, intestacy, settlement, gift, <i>inter vivos</i>).	
					£

* Where the interest of the beneficiary ceases on the death of the beneficiary state date of his or her birth; if it ceases on the death of another person, state the name, address, occupation, and date of birth of the last named person. If the interest is for a period certain, state the period.

Reg. 27.

FORM 2.

COMMONWEALTH OF AUSTRALIA.

In the High Court of Australia. In the matter of the *Estate Duty Act*
or 1914-1940 and the *Estate Duty*
In the Supreme Court of the State of Assessment Act 1914-1940.
.....in the Common-
wealth of Australia.

APPEAL.

In the matter of the Estate of.....late of.....
in the State of.....deceased.

Whereas.....Commissioner of Taxation, has, pursuant to the powers conferred upon him by section 15 of the *Estate Duty Assessment Act* 1914-1940, made an assessment of duty payable under the said Act on a dutiable value of £..... and has demanded payment of the sum of £.....as duty on the above-mentioned estate by notice of assessment dated.....:

And whereas I,, Administrator of the said estate, being dissatisfied with the assessment, did duly lodge with the Commissioner of Taxation an objection in writing against the assessment:

And whereas the said Commissioner of Taxation has considered the objection and has *.....:

And whereas I am dissatisfied with the decision of the Commissioner on my objection, I do now appeal to the.....Court at..... in the State of.....and do pray the Court to order that the assessment shall be made on a dutiable value of £.....

Dated atthis.....day of, 19

Administrator.....

* State "disallowed the objection," or "allowed the objection in part only," as the case requires.