



## CHAPTER 17

### An Act to amend the Quebec Succession Duties' Act

[Assented to, the 22nd of March, 1928]

**H**IS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** The Quebec Succession Duties Act (Revised Statutes, 1925, chapter 29) is amended by inserting therein, after section 3 thereof, the following section:

**"3a.** Notwithstanding any provision of this act, whenever the property is transmitted by death to one of the persons mentioned in paragraph 1 of section 3 of this act and the deceased leaves more than five children living or represented, the exemption of the amount of fifteen thousand dollars in value, established by Division I of this act, shall be increased by one thousand dollars in value per child after the fifth child."

**2.** Section 6 of the said act is amended by replacing the word: "three", in the seventh line of the first paragraph thereof, by the word: "five".

**3.** The said act is amended by inserting therein, after section 6 thereof, the following section:

**"6a. 1.** For the purposes of this division, the ownership, usufruct or enjoyment of any property shall also be held to be transmitted owing to death whenever the disposition has taken effect more than five years before the death of the person who has made it and whenever such person has reserved to himself, in whole or in part, the control, administration, ownership or enjoyment of such property or part thereof, until his death or until a period after his death."

Application  
of section.

2. This section shall apply also whenever the person making the disposition has reserved to himself, in whole or in part, the control, administration, ownership or enjoyment of such property or part thereof, until his death or until a period after his death, in each of the following cases:

*a.* Whenever the reserve is made as a charge in favour of the person making the disposition, either alone or jointly with another person;

*b.* Whenever the reserve is made or the control is exercised by a deposit of titles, securities, sums of money or valuable objects in a safe place or in the hands of an intermediary;

*c.* Whenever the control or administration is exercised through a fiduciary or an interposed person;

*d.* Whenever the disposition is by onerous title, but entailing a donation made in contemplation of the death of the person who made the disposition, provided in such case that the value of such donation shall alone be subject to duty.

Where not  
applicable.

3. This section shall not apply to a donation *inter vivos* in which the donor reserves to himself, in whole or in part, the control, administration, ownership or enjoyment of the property given or part thereof, until his death or until a period after his death:

*a.* Whenever such donation *inter vivos* is made in a marriage contract; or

*b.* Whenever such donation *inter vivos* is made in favour of the same donee of one or more moveable or immoveable properties not exceeding in all one thousand dollars; or

*c.* Whenever such donation *inter vivos* consists of agricultural property made by a farmer to another farmer and the value of such agricultural property does not exceed ten thousand dollars; and, if such value exceeds ten thousand dollars, the excess shall alone be subject to duty.

Validity not  
affected by  
non-pay-  
ment.

4. The validity of a disposition coming within the purview of this section, and the subsequent transfers or transmissions of the property constituting the object thereof, shall not be affected by non-payment of the duties imposed by this division."

R. S., c. 29,  
s. 13, am.

4. Section 13 of the said act is amended by replacing the word and figure: "section 6", in the fourth line of the first paragraph thereof, by the words and figures: "sections 6 and 6a".

Id., s. 14,  
am.

5. Section 14 of the said act is amended:

*a.* By replacing the word and figure: "section 6", in the

fourth line of subsection 1 thereof, by the words and figures: "sections 6 and 6a";

b. By replacing the word and figure: "section 6", in the fourth line of subsection 2 thereof, by the words and figures: "sections 6 and 6a";

c. By replacing the word and figure: "section 6", in the third line of subsection 3 thereof, by the words and figures: "sections 6 and 6a";

d. By inserting therein, after subsection 7 thereof, the following subsection:

"7a. Every donation in trust shall be declared by the trustee within sixty days of his learning of the death of the constituent of the trust. Such declaration shall be made by a notice to the collector of provincial revenue, at Montreal, if the succession devolved in the revenue district of Montreal, or to the collector of succession duties, at Quebec, if the succession devolved elsewhere. Such notice shall be in the form established by the collector of succession duties, at Quebec. If the donation in trust is not made by notarial deed, the declaration must be made by the filing of a certified copy of the deed of trust with one of the collectors mentioned in this subsection.

Declaration of donation in trust by trustee.

Every person violating this subsection shall be liable to a fine equal to twice the amount of the duty, when any duty is exigible, or to a fine of not more than one thousand dollars when no duty is exigible, and, on failure to pay such fine in either case, the offender—and if the latter be a corporation, its manager or president—shall be liable to imprisonment for not more than one month, and the amount of the fine may be levied on his personal property."

Offence and penalty.

6. Section 22 of the said act is replaced by the following:

R. S., c. 29, s. 22, replaced.

"22. The collector of succession duties or collector of provincial revenue, as the case may be, shall not give any information nor furnish any document, obtained in connection with the administration of this act, save upon an order of the Court. This section shall apply also to every other revenue officer.

No information to be given.

Exception.

Such officers may, nevertheless, without an order, state whether a will or a declaration has been received or not at their office, or whether a property is included or not in a declaration."

Statement authorized.

7. The said act is amended by inserting therein after section 24 thereof, the following section:

R. S., c. 29, s. 24a, added.

"24a. Notwithstanding any provision of this act, when-

Increase of exemption.

ever the transmission of the property takes effect in favour of one of the persons mentioned in paragraph 1 of section 24 of this act and the deceased leaves more than five children living or represented, the exemption of the amount of fifteen thousand dollars in value, established by Division II of this act, shall be increased by one thousand dollars in value per child after the fifth child."

R. S., c. 29,  
s. 27, am.

**8.** Section 27 of the said act is amended by replacing the word: "three", in the eighth line of the first paragraph thereof, by the word: "five".

Id., s. 27a,  
added.

**9.** The said act is amended by inserting therein, after section 27 thereof, the following section:

Transmis-  
sion of prop-  
erty.

"**27a.** 1. For the purposes of this division, any transmission within the Province, by a person domiciled therein, of moveable property locally situated outside the Province, shall also be held to be a transmission owing to death of such person whenever the disposition has taken effect more than five years before the death of the person who has made it and whenever such person has reserved to himself, in whole or in part, the control, administration, ownership or enjoyment of such property or part thereof, until his death or until a period after his death.

Application  
of section.

2. This section shall apply also whenever the person making the disposition has reserved to himself, in whole or in part, the control, administration, ownership or enjoyment of such property, or part thereof, until his death or until a period after his death, in each of the following cases:

a. Whenever the reserve is made as a charge in favour of the person making the disposition, either alone or jointly with another person;

b. Whenever the reserve is made or the control is exercised by a deposit of titles, securities, sums of money or valuable objects in a safe place or in the hands of an intermediary;

c. Whenever the control or administration is exercised through a fiduciary or an interposed person;

d. Whenever the disposition is by onerous title but entailing a donation made in contemplation of the death of the person who made the disposition, provided in such case that the value of such donation shall alone be subject to duty.

Where not  
applicable.

3. This section shall not apply to a donation *inter vivos* in which the donor reserves to himself, in whole or in part, the control, administration, ownership or enjoyment of the

property given or part thereof, until his death or until a period after his death:

a. When such donation *inter vivos* is made in a marriage contract; or

b. Whenever such donation *inter vivos* is made in favour of the same donee of one or more moveable or immoveable properties not exceeding in all one thousand dollars; or

c. Whenever such donation *inter vivos* consists of agricultural property made by a farmer to another farmer and the value of such agricultural property does not exceed ten thousand dollars; and, if such value exceeds ten thousand dollars, the excess shall alone be subject to duty.

4. The validity of a disposition coming within the purview of this section, and of the subsequent transfers or transmissions of the property constituting the object thereof, shall not be affected by non-payment of the duties imposed by this division.” Validity not affected by non-payment.

**10.** Section 32 of the said act is amended by replacing the word and figures: “section 27”, in the fifth line of the first paragraph thereof, by the words and figures: “sections 27 and 27a”. R. S., c. 29, s. 32, am.

**11.** Section 33 of the said act is amended:

a. By replacing the word and figures: “section 27”, in the fourth line of subsection 1 thereof, by the words and figures: “sections 27 and 27a”; Id., s. 33, am.

b. By replacing the word and figures: “section 27”, in the fourth line of subsection 2 thereof, by the words and figures: “sections 27 and 27a”;

c. By inserting therein after subsection 6 thereof, the following subsection:

“6a. Every donation in trust shall be declared by the trustee within sixty days of his learning of the death of the constituent of the trust. Such declaration shall be made by a notice to the collector of provincial revenue, at Montreal, if the succession devolved in the revenue district of Montreal, or to the collector of succession duties, at Quebec, if the succession devolved elsewhere. Such notice shall be in the form established by the collector of succession duties, at Quebec. If the donation in trust is not made by notarial deed, the declaration must be made by the filing of a certified copy of the deed of trust with one of the collectors mentioned in this subsection. Declaration of donation in trust by trustee.”

Every person violating this subsection shall be liable to a fine equal to twice the amount of the duty, when any is exigible, or to a fine of not more than one thousand dollars when no duty is exigible, and, on failure to pay such fine in Offence and penalty.

either case, the offender—and if the latter be a corporation, its manager or president—shall be liable to imprisonment for not more than one month, and the amount of the fine may be levied on his personal property”.

Certain donations *inter vivos* not affected. **12.** 1. The extension of the delay from three years to five years prescribed by sections 2 and 8 of this act shall not affect donations *inter vivos* made before the coming into force of this act.

Idem. 2. Sections 3, 4, 5, 9, 10 and 11 of this act shall not apply to donations *inter vivos* made before the coming into force of this act.

Application of certain sections. 3. Sections 1 and 7 of this act shall apply only to successions devolving after its coming into force.

Coming into force. **13.** This act shall be deemed to have come into force on the second day of March, one thousand nine hundred and twenty-eight.