

Application
of this act.

2. This act shall apply to all property hereafter transmitted by death, and to all property heretofore so transmitted, in respect of which the taxes mentioned in the provisions repealed by this act, have remained unpaid in whole or in part. Nevertheless the delays granted for the payment of any sum of money or the performance of any duty required to be paid or performed in virtue of this act, may be extended by the Provincial Treasurer, but such extension shall in no case exceed six months.

Coming into
force.

3. This act shall come into force on the day of its sanction.

CHAP. 10

An act respecting Succession Duties upon the transmission of certain moveable property of persons dying domiciled within the Province.

[Assented to 19th February, 1914]

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

R. S. 1387b
to 1387i
enacted.

1. The following section is inserted in the Revised Statutes, 1909, after section twentieth of chapter fifth of title fourth thereof:

“ SECTION XXa.

“ DUTIES ON THE TRANSMISSION OF CERTAIN MOVEABLE PROPERTY

Tax upon
transmission
owing to
death of pro-
perty situ-
ated out-
side the
Province.

“**1387b.** All transmissions within the Province, owing to the death of a person domiciled therein, of moveable property locally situate outside the Province at the time of such death, shall be liable to the following taxes calculated upon the value of the property so transmitted, after deducting debts and charges as hereinafter mentioned:

Direct line.

1. In the direct line, ascending or descending; between consorts; between father- or mother-in-law and son- or daughter-in-law;

Where the total value of such moveable property, after deducting such debts and charges:

a. Does not exceed fifteen thousand dollars, no tax shall be exigible.

- b. Exceeds fifteen thousand dollars, but does not exceed fifty thousand dollars, on every hundred dollars of value over five thousand dollars..... $1\frac{1}{4}\%$
- c. Exceeds fifty thousand dollars, but does not exceed seventy-five thousand dollars, on every hundred dollars of value over five thousand dollars..... $1\frac{1}{2}\%$
- d. Exceeds seventy-five thousand dollars, but does not exceed one hundred thousand dollars, on every hundred dollars of value over five thousand dollars..... 2%
- e. Exceeds one hundred thousand dollars, but does not exceed one hundred and fifty thousand dollars, on every hundred dollars of value over five thousand dollars..... 3%
- f. Exceeds one hundred and fifty thousand dollars, but does not exceed two hundred thousand dollars, on every hundred dollars of value over five thousand dollars..... 4%
- g. Exceeds two hundred thousand dollars, on every hundred dollars of value over five thousand dollars..... 5%

For the purposes of clauses *b*, *c*, *d*, *e*, *f*, and *g*, the sum of five thousand dollars, therein mentioned, is to be deducted out of the whole of the property transmitted in virtue of this section, and not out of the share of each beneficiary. Deduction to be out of whole, and not out of each share.

Provided that, in the case of a transmission in the direct line, ascending or descending, between consorts, between father- or mother-in-law and son- or daughter-in-law, when the amount transmitted to any one person exceeds one hundred thousand dollars, a further duty—in addition to the rate hereinabove mentioned—shall be paid on the amount so passing, as follows: Tax payable on certain transmissions of over \$100,000.

Where the whole amount so passing to one person:

- a. Exceeds one hundred thousand dollars, but does not exceed two hundred thousand dollars..... 1%
- b. Exceeds two hundred thousand dollars, but does not exceed four hundred thousand dollars..... $1\frac{1}{2}\%$
- c. Exceeds four hundred thousand dollars, but does not exceed six hundred thousand dollars..... 2%
- d. Exceeds six hundred thousand dollars, but does not exceed eight hundred thousand dollars..... $2\frac{1}{2}\%$
- e. Exceeds eight hundred thousand dollars..... 3%

Collateral
line.

2. In the collateral line:

- a. If the property is transmitted to the brother or sister, or descendant of the brother or sister of the deceased:
 If the value of the property transmitted does not exceed ten thousand dollars. . . 5 %
 If it exceeds ten thousand dollars. 5½%
- b. If the property is transmitted to the brother or sister, or descendant of a brother or sister of the father or mother of the deceased:
 If the value of the property transmitted does not exceed ten thousand dollars. . . 6 %
 If it exceeds ten thousand dollars. 6½%
- c. If the property is transmitted to the brother or sister or descendant of a brother or sister of the grand-parents of the deceased:
 If the value of the property transmitted does not exceed ten thousand dollars. . . 7 %
 If it exceeds ten thousand dollars. 7½%
- d. If the property is transmitted to any other collateral within the heritable degrees:
 If the value of the property transmitted does not exceed ten thousand dollars. . . 8 %
 If it exceeds ten thousand dollars. 9 %

Stranger.

3. If the property is transmitted to a stranger. . . . 10 %

Extra duty
if transmis-
sion is to
collateral
or stranger.

Provided that in the case of a transmission in the collateral line or to a stranger, where the amount passing to any one person exceeds fifty thousand dollars, a further duty—in addition to the rates hereinabove mentioned in clauses 2 and 3—shall be paid on the amount so passing, as follows:

Where the whole amount so passing to one person:

- a. Exceeds fifty thousand dollars, but does not exceed one hundred thousand dollars. 1 %
- b. Exceeds one hundred thousand dollars, but does not exceed one hundred and fifty thousand dollars. 1½%
- c. Exceeds one hundred and fifty thousand dollars, but does not exceed two hundred thousand dollars. 2 %
- d. Exceeds two hundred thousand dollars, but does not exceed two hundred and fifty thousand dollars. 2½%
- e. Exceeds two hundred and fifty thousand dollars, but does not exceed three hundred thousand dollars. 3 %
- f. Exceeds three hundred thousand dollars, but does not exceed three hundred and fifty thousand dollars. 3½%

- g. Exceeds three hundred and fifty thousand dollars, but does not exceed four hundred thousand dollars..... 4 %
- h. Exceeds four hundred thousand dollars, but does not exceed four hundred and fifty thousand dollars..... 4½%
- i. Exceeds four hundred and fifty thousand dollars..... 5 %

"1387c. All debts owing to the deceased at the time of his death, or which are payable by reason of his death, and which at the time of such death were payable outside the Province, are included in the moveable property taxable in virtue of this section. Debts owing to deceased payable outside the Province are included.

"1387d. The debts and charges to be deducted as mentioned in the first paragraph of article 1387b, shall be such proportion of the debts and charges existing at the date of the death, other than the debts and charges to be deducted under article 1377, as shall equal the proportion which the value of the moveable property situated outside the Province bears to the total value of the whole of the property of the deceased situate outside the Province. Deduction to be made proportionately.

"1387e. 1. Life insurance policies, effected or appropriated under the provisions of article 7378, shall be dutiable in the same manner as any other moveable property. Policies under R.S. 7378 dutiable.

2. All other sums due by an insurer by reason of the death of an insured person, shall be considered for the purposes of this section, when they devolve by gratuitous title, as forming part of the property of such insured person, and shall be subject to succession duties in the same manner as other property. Also other sums due by insurer which devolve by gratuitous title.

"1387f. No duty shall be leviable on property devised or bequeathed for religious, charitable or educational purposes, to be carried on by a corporation or person domiciled within the Province, but only to an amount not exceeding one thousand dollars in each case. Certain charitable bequests not dutiable.

"1387g. Every person to whom as heir, universal legatee, legatee by general or particular title, or donee under a gift in contemplation of death, moveable property situate outside the Province is transmitted, is personally liable for the duties due in respect of such property, and for no more. Every heir &c., is liable for his own share only.

In the case of property transmitted in usufruct or with By whom

duty to be paid in certain cases.

substitution, the tax shall be paid by the usufructuary or the institute, and shall not be exigible from any further beneficiary.

No personal liability in certain cases.

No notary, executor, trustee or administrator shall be personally liable for the duties imposed by this section. Nevertheless the executor, the trustee or the administrator may be required to pay such duties out of the property or money in his possession belonging or owing to the beneficiaries, and if he fails so to do may be sued for the amount thereof, but only in his representative capacity, and any judgment rendered against him in such capacity shall be executed against such property or money only.

Copy of will to be sent to collector within certain time after decease.

1387h. 1. Every heir, universal legatee, legatee by general or particular title, donee under a gift in contemplation of death, executor, trustee and administrator, or notary before whom a will or codicil to a will has been executed, shall, within thirty days after the death of the testator or intestate, forward to the collector of provincial revenue for the district wherein the testator died or the succession devolved, a copy of the testator's said will or codicil or of the said deed of gift.

Declaration as to value of estate.

2. Every heir, universal legatee, legatee by general or particular title, donee under a gift in contemplation of death, executor, trustee or administrator, shall, within three months after the date of the death of the testator or intestate, transmit to such collector of provincial revenue a declaration under oath, setting forth:

Contents.

a. The name, surname, residence, address and calling of the declarant and his relationship to the deceased, if any;

b. The name and surname of the testator or intestate, and the place of the domicile of the testator or intestate at the time of his death;

c. The description, situation and real value of all the property transmitted by the deceased;

d. The amounts in detail of the debts and charges of the succession, with the names, surnames, residences and callings of all the creditors thereof;

e. The names, surnames, residences, callings and relationship to the deceased (if any) of each and all the beneficiaries to which this section applies;

f. The nature and value of the share of the declarant in the property of the succession to which this section applies, after deducting the debts and charges mentioned in article 1387*d* which are payable by him, or which affect the property composing such share; and, in so far as the same

is known to him, the nature and value of the shares of each of the other beneficiaries to which this section applies, after making a like deduction as regards each of them.

Such declaration shall be in addition to and separate and distinct from the declaration to be made in virtue of article 1381.

A declaration duly made by one of the persons mentioned in paragraph 2 of this article, if it contain all the information necessary for ascertaining the amounts of all the duties payable in virtue of this section, shall relieve all the others from the necessity of making such declaration.

Declaration by one of parties relieves the others.

3. If, however, within the said three months, an interim declaration, under oath, is made by any of the beneficiaries, that it is impossible—within the said delay—to furnish the declaration mentioned in paragraph 2 of this article, the said collector may extend such delay for sixty days, and a further delay, not exceeding six months, may be granted by the Provincial Treasurer.

Interim declaration and delay.

4. On receipt of any declaration or declarations mentioned in paragraph 2 of this article, the said collector shall cause to be prepared a statement of the amount of the duty to be paid by each of the beneficiaries mentioned in such declaration, and by the executor, trustee or administrator (if any), in his representative capacity.

Statement of amount due by each beneficiary.

5. The said collector shall forward to each beneficiary, executor, trustee or administrator, the statement which relates to him, by registered letter mailed to his address, and shall notify him to pay the amount of the duty mentioned therein within thirty days after the notice is sent; and if the amount is not then paid to him on the day fixed, the said collector may sue for the recovery thereof before any court of competent jurisdiction of his own district.

Statement to be forwarded to each beneficiary.
Suit if amount not paid.

6. Subject to the provisions of article 1380, no transfer of the properties of any estate or succession shall be valid, nor shall any title vest in any person, if the taxes payable under this section have not been paid, and no executor, trustee, administrator, curator, heir, legatee or donee as aforesaid shall consent to any transfers or payments of legacies, unless the said duties have been paid, or unless a certificate has been delivered by the collector of provincial revenue to the effect that no duty is exigible. Any executor, trustee, administrator, curator, heir, legatee or donee as aforesaid violating the provisions of this paragraph is liable to a penalty equal to twice the amount of the duty.

Transfers invalid, &c., if duties not paid.
Penalty for violation.

7. If any declaration so required, is not made within the

Penalty if

declaration
&c., not
made.

prescribed delay, or within any extended delay that may have been granted, or if any false or incorrect statement is made in any such declaration, either as to the value or otherwise, every heir, legatee or donee as aforesaid so in default or offending shall be liable to a penalty equal to twice the amount of the duties which he would have had to pay if he had made a proper declaration within such delay, and every executor, trustee or administrator so in default or offending, shall be liable to a penalty of not more than one thousand dollars; and in default of the payment of such penalty in either case, the offender shall be liable to imprisonment for not more than one month, and the amount of the penalty may be levied out of his personal property.

Petition for
discovery of
books and
papers.

8. The provincial treasurer may, in his discretion, and upon such notice to the parties interested as the court or judge may prescribe, present a petition to the Superior Court of the domicile of any person having in his possession or under his control, any books or papers of a succession to which this section applies, or to a judge thereof, praying for an order commanding such person to produce such books or papers before the court or judge, within such delay as the court or judge may fix, for the inspection of the provincial treasurer or of any person appointed by the latter for that purpose. Such petition shall be accompanied by an affidavit of the comptroller of provincial revenue, or of the proper collector of provincial revenue, setting forth that the deponent has reason to believe and does believe that the declaration made with respect to such succession under this article, has omitted or undervalued assets of the succession liable to duty, and that access to such books or papers has been refused him, and the court or judge, after summarily hearing the parties present, shall, in its or his discretion, give or refuse the order.

Affidavit in
support.

Order of
Court.

Production
of books, &c.
and inspection
of same.

Upon such order having been duly served upon such person, the latter shall be bound, subject to all legal penalties in case of default so to do, to produce such books or papers as aforesaid; and upon the same having been so produced, the provincial treasurer or his representative, subject to the orders which the court or judge may give in that behalf, may take communication of such books or papers, and make copies of or extracts therefrom.

Costs.

The costs of such application and of the proceedings thereunder shall be in the discretion of the court or judge.

Interest on
past due
debts.

9. Legal interest is exigible upon all amounts payable to the Crown under this section, after four months from the date of the decease.

1387. The provisions of articles 1384 to 1387a Certain provisions to apply. inclusive, shall apply to this section".

2. This act shall apply to all future transmissions mentioned in section 1 thereof, and to all past transmissions in respect of which the taxes mentioned in the provisions repealed by the act 4 George V, chapter 9, have remained unpaid in whole or in part. Nevertheless the delays granted for the payment of any sum of money or for the performance of any duty required to be paid or performed in virtue of this act, may be extended by the Provincial Treasurer, but such extension shall in no case exceed six months. Application of the act.

3. This act shall come into force on the day of its sanction. Coming into force.

CHAP. 11

An Act respecting certain duties imposed on successions.

[Assented to 19th February, 1914]

WHEREAS, on the 22nd day of November, 1913, in a Preamble. cause wherein Charles S. Cotton and others were sup-
 pliants and appellants, and His Majesty, the King, in right of the Province of Quebec, was respondent, a judgment was rendered by the Judicial Committee of the Privy Council, in consequence of which doubts have arisen as to whether the taxes imposed by the Quebec Succession Duties Act, 6 Edward VII, chapter 11, then articles 1374 to 1387, both inclusive, of the Revised Statutes of Quebec, 1909, were direct taxes;

Whereas such doubts have arisen from the interpretation given to said act, by the said Judicial Committee, to the effect that it imposed the whole of the duties leviable in respect of any succession, upon the person making the declaration mentioned in paragraph 1 of article 1191g of the Revised Statutes, 1888, then article 1380 of the Revised Statutes, 1909, which person should have recovered the amount so paid from the persons interested in the succession;

Whereas, according to this judgment, among the persons who might make the said declaration, and who, by making the same, would become liable for the said duties, might be, and generally was, the notary before whom the will of the deceased was executed;