

Nru. 47

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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Joseph Cassar, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament, u moqri għall-Ewwel darba fis-Seduta tat-3 ta' Ottubru, 1977.

A BILL introduced by the Honourable Joseph Cassar, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs, and read the First time at the Sitting of the 3rd October, 1977.

ATT biex ikompli jemenda l-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni.

AN ACT further to amend the Death and Donation Duty Act, 1973.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

C. MIFSUD

Clerk to the House of Representatives

ABBOZZ TA' LIĠI

msejjah

ATT biex ikompli jemenda l-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

Titolu fil-qosor
u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1977 li jemenda l-Att dwar it-Taxxa tal-Mewt u tad-Donazzjoni, u għandu jinqara u jif-tiehem haġa waħda ma' l-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jibdew isehħu kif ġej:

(a) id-disposizzjonijiet ta' l-artikoli 2 u 7 għandhom jit-qiesu li bdew isehħu mill-bidu fis-sehh ta' l-Att prinċipali;

(b) id-disposizzjonijiet ta' l-artikolu 8 għandhom jibdew isehħu minnufih iżda ma japplikawx għal appelli ipprezentati quddiem il-Bord qabel ma jgħaddu hmistax-il jum wara l-bidu fis-sehh ta' l-imsemmi artikolu;

(c) id-disposizzjonijiet ta' l-artikoli ta' dan l-Att barra minn dawk imsemmija fil-paragrafi (a) u (b) ta' dan is-subartikolu għandhom jibdew isehħu minnufih.

Emenda ta'
l-artikolu 9
ta' l-Att
prinċipali.

2. Is-subartikolu (1) ta' l-artikolu 9 ta' l-Att prinċipali għandu jiġi emendat biż-zieda tal-paragrafu ġdid li ġej (f) minnufih wara l-paragrafu (e) tiegħu:

"(f) kull pensjoni li xort'ohra tkun suġġetta għat-taxxa skond is-sub-paragrafu (iv) tal-paragrafu (a) tas-sub-artikolu (1) ta' l-artikolu 6 ta' dan l-Att, meta dik il-pensjoni tkun dovuta lill-armla jew lill-ulied, jew lit-tnejn, jew lill-qarib dipendenti tal-mejjet u jkollha tithallas —

(i) taht xi ligi li tkun issehh f'Malta jew f'xi stat jew territorju iehor; jew

(ii) taht xi skema approvata mill-Ministru ghall-finijiet ta' dan il-paragrafu; jew

(iii) taht xi skema ta' pensjoni, tifold jew provvidenza approvata ghall-finijiet tas-sub-paragrafu (ii) tal-paragrafu (d) tas-subartikolu (1) ta' l-artikolu 22 ta' l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*, jew ta' xi ligi li tissostitwixxi dak l-Att:

Izda meta l-pensjoni jkollha tithallas taht xi skema ta' pensjoni, tifold jew provvidenza kif intqal qabel, dan il-paragrafu ma japplikax meta —

(i) l-approvazzjoni moghtija taht l-imsemmi-ja disposizzjoni ta' l-Att dwar it-Taxxa fuq l-*Income* ghal xi skema kif intqal qabel teskludi lill-mejjet jew lill-klassi ta' persuni li minnha jkun jaghmel parti mit-thaddim ta' l-iskema ghall-finijiet tat-taxxa fuq l-*income*; jew

(ii) il-hlas jirrapprezenta xi ammont garantit dovut lill-werrieta tal-mejjet dwar xi pensjoni li qabel hu jkun jircievi; jew

(iii) meta l-principali li ghalih gew moghtija s-servizzi li dwarhom tkun inghatat il-pensjoni ma jkunx residenti f'Malta u l-imsemmija servizzi ma kenux, principalmment, moghtija f'Malta.”.

3. Fis-sub-paragrafu (ii) tal-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 10 ta' l-Att principali, il-kliem “mmexxi f'Malta” ghandhom jithassru.

Emenda ta' l-artikolu 10 ta' l-Att principali.

4. Is-subartikolu (4) ta' l-artikolu 13 ta' l-Att principali ghandu jigi emendat kif gej:

Emenda ta' l-artikolu 13 ta' l-Att principali.

(a) minflok il-paragrafi (a) u (b) tieghu ghandu jidhol dan li gej:

“(a) meta l-uzufрутt ighaddi fuq diversi persuni flimkien jew wara xulxin, jew flimkien u wara xulxin, u d-disposizzjonijiet tal-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 11 u dawk ta' l-artikolu 52 ta' dan l-Att ikunu japplikaw, —

(i) meta l-uzufрутt ighaddi flimkien, jew flimkien u wara xulxin lill-istess persuni, kull persuna ghandha titqies li rceviet parti tal-valur ta' l-uzufрутt kalkolat skond l-imsemmija disposizzjonijiet li tkun daqs il-proporzjon li jinkiseb meta tiehu bhala denominatur is-somma tal-percentaggj li jidhru fit-tieni kolonna tat-Taqsima I ta' l-Ewwel Skeda li tinsab ma' dan l-Att li jkunu xierqa skond l-eta ta' kull beneficjarju fid-data rilevanti, u bhala numeratur il-percentaggj xieraq ghall-imsemmija persuna;

(ii) meta l-uzufрутt ighaddi successivament, l-ewwel beneficjarju tieghu jitqies li jkun l-uniku beneficjarju;

Iżda jekk xi benefiċjarju iehor ikun ta' età iżgħar mill-ewwel benefiċjarju fid-data rilevanti, iż-żewġ benefiċjarji u kull benefiċjarju iehor li jkun iżgħar minnu, għandhom jitqiesu bħala benefiċjarji, u l-parti tal-valur ta' l-użufrutt riċevuta mill-ewwel benefiċjarju tkun il-valur li jingħata fuqu taht it-Taqsima I ta' l-Ewwel Skeda li tinsab ma' dan l-Att, u l-parti tal-valur ta' l-użufrutt riċevuta minn kull benefiċjarju iehor għandha titqies li tkun dik il-parti tal-valur ta' l-użufrutt li tkun daqs il-valur li jingħata fuqu taht it-Taqsima I ta' l-Ewwel Skeda li tinsab ma' dan l-Att, nieqsa kull parti li hekk tingħata fuq kull benefiċjarju iehor ta' età ikbar li jibbenefika wkoll mill-imsemmi użufrutt;

(b) dwar il-konsolidazzjoni ta' xi użufrutt man-nuda *proprietatis* li tiġi mal-mewt ta' l-użufruttwarju, it-taxxa għandha tiġi mposta skond kemm jiġu minn qrib xulxin il-persuna li tkun holqot l-użufrutt u l-persuna li fiha ssir il-konsolidazzjoni:

Iżda, mal-konsolidazzjoni ta' tgawdija għal għomor stabblita bis-saħħa ta' l-Att ta' l-1950 dwar il-Helsien mill-Vinklu ta' Gid marbut bil-Fedekommess jew ta' l-Att ta' l-1969 dwar l-Estensjoni tal-Helsien mill-Vinklu ta' Gid marbut b'Fedekommess għal proprjetà miżmuma b'fewdu, it-taxxa għandha tiġi mposta skond kemm jiġu minn qrib xulxin id-detentur tat-tgawdija għall-għomor u l-persuna li fiha ssir il-konsolidazzjoni;"

(b) minnufih wara l-paragrafu (f) għandu jizdied il-paragrafu ġdid li ġej:

“(g) meta fid-data taż-żwieġ ta' żewġ persuni l-età tal-mara tkun ta' ħamsa u sittin sena jew iżjed, jew l-età tar-raġel tkun ħamsa u sebghin sena jew iżjed, u, fil-każ imsemmi l-ewwel ir-raġel ikun għoxrin sena jew iżjed iżgħar mill-mara, jew, fil-każ imsemmi t-tieni l-mara tkun ħamsa u tletin sena jew iżjed iżgħar mir-raġel, dawk il-persuni għandhom jitqiesu li m'humix miżżewġin u r-relazzjoni bejniet-hom tiġi stabbilita daqslikieku qatt ma żżewġu.”

Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

5. Fis-subartikolu (2) ta' l-artikolu 15 ta' l-Att prinċipali min-flok il-kliem “mposta fuq it-tieni mewt minħabba” għandhom jidhlu l-kliem “mposta fil-każ ta' xi mewt minnhom minħabba”.

Sostituzzjoni ta' l-artikolu 18 ta' l-Att prinċipali.

6. Minflok l-artikolu 18 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Helsien dwar taxxa tal-boll.

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18. It-taxxa mposta b'dan l-Att dwar rigali mogħtija b'disposizzjoni *inter vivos* titnaqqas bl-ammont ta' kull taxxa li tiġi ppruvata għas-sodisfazzjon tal-Kummissarju li tkun thallset taht id-disposizzjonijiet ta' l-Ordinanza dwar it-Taxxa tal-Boll, jew ta' xi liġi li tissostitwixxi dik l-Ordinanza, dwar xi att li jirreferi għall-imsemmija disposizzjonijiet.”

7. Minnufih wara l-artikolu 22 ta' l-Att prinċipali għandu jiż-
died l-artikolu ġdid li ġej:

Zieda ta'
artikolu ġdid
22A ma' l-Att
prinċipali.

"Thassir ta'
likwidaz-
zjonijiet.

22A. (1) Il-Kummissarju jista' għall-finijiet ta' dan
l-Att iħassar kull likwidazzjoni magħmula minnu, u dak it-
thassir ikun bla ħsara għall-egħmil ta' kull likwidazzjoni
ġdida li skond dan l-Att għandha ssir minflok il-likwidaz-
zjoni hekk imħassra li titqies li ma tkunx saret.

(2) Ebda haġa li tinsab f'dan l-artikolu ma
tagħti s-setgħa lill-Kummissarju li jħassar jew jagħmel xi
likwidazzjoni meta dak it-thassir jew l-egħmil ta' xi likwi-
dazzjoni jġib miegħu l-ftuħ ta' xi kwistjoni li tkun għet
deċiża wara appell."

8. L-artikolu 26 ta' l-Att prinċipali għandu jiġi emendat kif ġej:
(a) minnufih wara s-subartikolu (4) tiegħu għandu jidhöl
is-subartikolu ġdid li ġej:

Emenda ta'
l-artikolu 26
ta' l-Att
prinċipali.

"(4A) Il-Bord għandu sommarjament jiċhad kull
appell quddiemu u jikkonferma l-likwidazzjoni li dwarha
jkun sar l-ilment kemm-il darba ma tingiebx quddiemu
prova *prima facie* li, sad-data li fiha jkun sar l-appell, ikun
ġie ipprezentat il-prospett meħtieġ li jiġi pprezentat taħt
it-Taqsima VIII ta' dan l-Att dwar it-trasferiment taxxab-
bli relattiv, u l-Kummissarju jkollu jedd f'kull żmien matul
is-smieġh ta' l-appell jeħtieġ d.kjarazzjoni mingħand il-Bord
dwar jekk l-appell għandux jiġi miċhud u l-likwidazzjoni li
dwarha jkun sar l-ilment tiġi konfermata skond id-dispo-
sizzjonijiet ta' dan is-subartikolu."

(b) fis-subartikolu (5) tiegħu, minflok il-kliem "Il-Bord
għandu jikkonferma" għandhom jidhöl l-kliem "Bla ħsara għad-
disposizzjonijiet tas-subartikoli (3) u (4A) ta' dan l-artikolu, il-
Bord għandu jikkonferma".

9. Minflok il-proviso li hemm għas-subartikolu (2) ta' l-arti-
kolu 41 ta' l-Att prinċipali, għandu jidhöl dan li ġej:

Emenda ta'
l-artikolu 41
ta' l-Att
prinċipali.

"Iżda l-Kummissarju jista', bla ħsara għal dawk il-kondiz-
zjonijiet li jidhölru xierqa, jawtorizza lin-nutar biex jipproċedi
bl-att relattiv minkejja li t-taxxa tkun għadha ma tħallsix jew,
fil-każijiet fejn l-egħmil ta' likwidazzjoni jew likwidazzjoni addiz-
zjonali tkun preskritta taħt id-disposizzjonijiet tas-subartikolu
(3) ta' l-artikolu 22 ta' dan l-Att, li prospett komplet ma jkunx
ġie pprezentat dwar it-trasferiment taxxabli relattiv."

10. Minflok l-artikolu 63 ta' l-Att prinċipali għandu jidhöl dan
li ġej:

Sostituzzjoni ta'
l-artikolu 63
ta' l-Att
prinċipali.

"Disposiz-
zjonijiet
ġenerali
dwar reati.

63. Kull persuna li tikser jew tonqos mill-
j thares xi
wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regoli
magħmula bis-saħħa tiegħu tkun hatja ta' reat u, kemm-il
darba ma hemmx provduta piena oħra speċifika b'dan
l-Att, teħel meta tinsab hatja multa ta' mhux inqas minn
għoxrin lira u mhux iżjed minn mitt lira."

Sostituzzjoni ta' l-artikolu 67 ta' l-Att prinċipali.

II. Minflok l-artikolu 67 ta' l-Att prinċipali għandu jidhol dan li ġej:

"Piena għal reati kontra segretezza.

67. Kull persuna li, bhala li għandha jew li kellha xi dmir uffiċjali jew bhala mpjegata jew kienet impjegata fl-amministrazzjoni ta' dan l-Att, ikollha jew kellha aċċess għal, pussess ta', jew kontroll fuq xi dokumenti, informazzjoni, prospetti jew likwidazzjonijiet, relattivi għal dan l-Att, jew kopji tagħhom, u li, hliet kif provdut fl-artikolu 4 ta' dan l-Att, f'xi żmien tikkomunika jew tipprova tikkomunika xi informazzjoni bħal dik jew xi haġa li tkun tinsab f'dawk id-dokumenti, prospetti, likwidazzjonijiet jew kopji lil xi persuna, tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux inqas minn mitt lira u mhux iżjed minn elf lira jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien."

Għanijiet u Raġunijiet

L-Att ta' l-1973 dwar it-Taxxa tal-Mewt u tad-Donazzjoni qed jiġi emendat sabiex il-proċeduri amministrattivi tiegħu jingiebu jaqblu ma' l-Att dwar it-Taxxa fuq l-*Income* kif emendat bl-Att XXVI ta' l-1977. Ittiehdet ukoll l-okkażjoni sabiex jiġu eżentati bil-liġi ċerti pensjonijiet, li jiġu aġġustati d-disposizzjonijiet dwar suċċessjonijiet wieħed wara l-iehor u dwar il-helsien mit-taxxa tal-boll, sabiex tiġi regolata t-taxxa f'każijiet fejn ikun hemm differenzi kbar fl-etajiet ta' tnejn li jizzewġu, u sabiex isiru emendi żgħar oħra.

A BILL**entitled**

AN ACT further to amend the Death and Donation Duty Act, 1973.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Death and Donation Duty (Amendment) Act, 1977, and shall be read and construed as one with the Death and Donation Duty Act, 1973, hereinafter referred to as "the principal Act".

Short title and commencement.

(2) The provisions of this Act shall come into force as follows:

(a) the provisions of sections 2 and 7 shall be deemed to have come into force as from the commencement of the principal Act;

(b) the provisions of section 8 shall come into force forthwith but shall not apply to appeals filed before the Board before the expiration of fifteen days after the coming into force of the said section;

(c) the provisions of the sections of this Act other than those referred to in paragraphs (a) and (b) of this subsection shall come into force forthwith.

2. Subsection (1) of section 9 of the principal Act shall be amended by the addition of the following new paragraph (f) immediately after paragraph (e) thereof:

Amendment of section 9 of the principal Act.

"(f) any pension otherwise liable to duty in accordance with sub-paragraph (iv) of paragraph (a) of subsection (1) of section 6 of this Act, when such pension is due to the widow or children, or both, or to a dependent relative of the deceased person and is payable —

(i) under any law in force in Malta or in any other state or territory; or

(ii) under a scheme approved by the Minister for the purposes of this paragraph; or

(iii) under any pension, saving or provident scheme approved for the purposes of sub-paragraph (ii) of paragraph (d) of subsection (1) of section 22 of the Income Tax Act, 1948, or of any enactment replacing that Act:

Provided that where the pension is payable under any pension, saving or provident scheme as aforesaid, this paragraph shall not apply where —

(i) the approval given under the aforesaid provision of the Income Tax Act to any such scheme as aforesaid excludes the deceased or the class of persons to which he belongs from the operation of the scheme for income tax purposes; or

(ii) the payment represents any guaranteed amount due to the estate of the deceased in respect of any pension formerly enjoyed by him; or

(iii) the employer for whom the services in respect of which the pension is granted were rendered is not resident in Malta and the said services were not, at least principally, performed in Malta.”.

Amendment of section 10 of the principal Act.

3. In sub-paragraph (ii) of paragraph (a) of subsection (1) of section 10 of the principal Act, the words “carried on in Malta” shall be deleted.

Amendment of section 13 of the principal Act.

4. Subsection (4) of section 13 of the principal Act shall be amended as follows:

(a) for paragraphs (a) and (b) thereof there shall be substituted the following:

“(a) where a usufruct devolves to several persons jointly or successively, or jointly and successively, and the provisions of paragraph (a) of subsection (3) of section 11 and those of section 52 of this Act apply, —

(i) where the usufruct devolves jointly, or jointly and successively to the same persons, each person shall be deemed to have received a portion of the value of the usufruct calculated in terms of the said provisions as is equal to the proportion obtained by taking as denominator the sum of the percentages appearing in the second column of Part I of the First Schedule to this Act as are appropriate to the age of each beneficiary on the relevant date, and as numerator the percentage appropriate to the said person;

(ii) where the usufruct devolves successively, the first beneficiary thereof shall be deemed to be the sole beneficiary:

Provided that if any other beneficiary is of a younger age than the first beneficiary on the relevant date, both the beneficiaries and any other beneficiary who is younger than him, shall be treated as beneficia-

ries, and the portion of the value of the usufruct received by the first beneficiary shall be the value attributable to him under Part I of the First Schedule to this Act, and the portion of the value of the usufruct received by any other beneficiary shall be deemed to be that portion of the value of the usufruct as is equivalent to the value attributable to him under Part I of the First Schedule to this Act, less any part so attributable to any other beneficiary of an older age also benefitting from the said usufruct;

(b) in respect of the consolidation of any usufruct with the *nuda proprietas* happening on the death of the usufructuary, the duty shall be charged according to the relationship between the person who constituted the usufruct and the person in whom consolidation takes place:

Provided that, on the consolidation of a life enjoyment established by operation of the Entailed Property (Disentailment) Act, 1950 or of the Disentailment of Property (Extension to Fiefs) Act, 1969, the duty shall be charged according to the relationship between the holder of the life enjoyment and the person in whom the consolidation takes place;"

(b) immediately after paragraph (f) there shall be added the following new paragraph:

"(g) where on the date of the marriage of two persons the age of the wife is sixty-five years or more, or the age of the husband is seventy-five years or more, and, in the first-mentioned case the husband is twenty years or more younger than the wife, or, in the second-mentioned case the wife is thirty-five years or more younger than the husband, such persons shall be treated as if they were not spouses and the relationship between them shall be determined as if they had never been married."

5. In subsection (2) of section 15 of the principal Act, for the words "chargeable on the second death in consequence" there shall be substituted the words "chargeable in the case of either death in consequence".

Amendment of section 15 of the principal Act.

6. For section 18 of the principal Act there shall be substituted the following:

"Relief in respect of stamp duty.

18. The duty chargeable under this Act in respect of gifts conferred by way of *inter vivos* disposition shall be abated by the amount of any duty proved to the satisfaction of the Commissioner to have been paid under the provisions of the Stamp Duties Ordinance, or of any enactment replacing that Ordinance, in respect of any instrument relating to the said dispositions."

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Substitution of section 18 of the principal Act.

7. Immediately after section 22 of the principal Act there shall be added the following new section:

"Cancellation of assessments.

22A.(1) The Commissioner may for the purposes of this Act cancel any assessment raised by him, and such cancellation shall be without prejudice to the raising of any new assessment required to be raised under this Act

Addition of new section 22A to the principal Act.

in replacement of the assessment so cancelled which shall be deemed not to have been raised.

(2) Nothing in this section contained shall empower the Commissioner to cancel or raise any assessment where such cancellation or raising of any assessment would involve the reopening of any matter which has been determined on appeal.”.

Amendment of section 26 of the principal Act.

8. Section 26 of the principal Act shall be amended as follows:

(a) immediately after subsection (4) thereof there shall be inserted the following new subsection:

“(4A) The Board shall summarily reject any appeal before it and confirm the assessment complained of unless *prima facie* evidence is brought before it that the return required to be filed under Part VIII of this Act in respect of the relative chargeable transmission has been filed by the date on which the appeal was entered, and the Commissioner shall be entitled at any time during the hearing of an appeal to require a declaration by the Board as to whether the appeal should be rejected and the assessment complained of confirmed in accordance with the provisions of this subsection.”;

(b) in subsection (5) thereof, for the words “The Board shall confirm” there shall be substituted the words “Subject to the provisions of subsections (3) and (4A) of this section, the Board shall confirm”.

Amendment of section 41 of the principal Act.

9. For the proviso to subsection (2) of section 41 of the principal Act, there shall be substituted the following:

“Provided that the Commissioner may, subject to such conditions as he may deem fit to impose, authorise the notary to proceed with the relative deed notwithstanding that the duty has not been paid or, in cases where the raising of an assessment or additional assessment is barred under the provisions of subsection (3) of section 22 of this Act, that a complete return has not been filed in respect of the relative chargeable transmission.”.

Substitution of section 63 of the principal Act.

10. Section 63 of the principal Act shall be substituted by the following:

“General provisions regarding offences.
63. Any person who contravenes or fails to comply with any of the provisions of this Act or of any rules made thereunder shall be guilty of an offence and, unless another punishment is specifically provided by this Act, he shall be liable on conviction to a fine (*multa*) of not less than twenty pounds and not exceeding one hundred pounds.”.

11. For section 67 of the principal Act there shall be substituted the following:

“Penalty for offences against secrecy.

67. Any person who, having or having had any official duty or being or having been employed in the administration of this Act, has or had access to, possession of or control over any documents, information, returns or assessments, relating to this Act, or copies thereof, and who, except as provided in section 4 of this Act, at any time communicates or attempts to communicate any such information or anything contained in such documents, returns, assessments or copies to any person, shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than one hundred pounds and not more than one thousand pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.”.

Substitution of section 67 of the principal Act.

Objects and Reasons

The Death and Donation Duty Act, 1973 is being amended to bring its administrative procedures into line with those of the Income Tax Act as amended by Act XXVI of 1977. The occasion is also being taken to exempt by law certain pensions, to adjust the provisions relating to quick succession and stamp duty relief, to regulate the rate of tax in cases of disproportionate differences in the ages of spouses, and to make other minor amendments.