

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

I. P. K. VIDLER,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 1 December, 1971.*

## **New South Wales**



ANNO VICESIMO

## **ELIZABETHÆ II REGINÆ**

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**Act No. , 1971.**

An Act to vary the rates of stamp duty on certain instruments; to make provisions with respect to the reduction of death duty upon estates of certain deceased persons; to specify a basis for the valuation of certain debts; for these and other purposes to amend the Stamp Duties Act, 1920; and for purposes connected therewith.

BE

*Stamp Duties (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1971".

Short title  
and com-  
mencement.

(2) This section and sections two and three of this Act commence on the day upon which this Act receives the Royal assent.

(3) Sections four, five and six of this Act commence on the first day of January, one thousand nine hundred and seventy-two.

2. The Stamp Duties Act, 1920, is amended—

Amendment  
of Act No.  
47, 1920.

(a) (i) by omitting from the matter relating to Division 1 of Part IV in section one the figures and letter "112A" and by inserting in lieu thereof the figures and letter "112F";

Sec. 1.  
(Short  
title and  
division.)

(ii) by inserting in the same section next after the matter relating to Division 1 of Part IV the following new matter :—

DIVISION 1A.—*Primary producers*—ss.  
112G–112L.

(iii) by omitting from the matter relating to Part V in the same section the figures "144" and by inserting in lieu thereof the figures "145";

(b)



*Stamp Duties (Amendment).*

(b) by inserting next after Division 1 of Part IV the following new Division :—

**DIVISION 1A.—Primary producers.**

5 112G. (1) Except to the extent that the context Interpretation.  
or subject-matter otherwise indicates or requires, in  
this Division—

“Animals” includes poultry and bees but does not include animals maintained for the purpose of selling them as domestic pets.

10 “Family company” in relation to a person and a time means a corporation that, at that time—

15 (a) was a proprietary company incorporated under the Companies Act, 1961; or

(b) was a proprietary company incorporated under the law of another State,

20 being a corporation in which a person other than the first-mentioned person, or a relative of that person, did not beneficially own at that time shares that carried between them the right to receive more than five per centum of any distribution of capital of the corporation in the event of the winding up, or of a reduction in the capital, of the corporation.

25 “Farm produce” means produce resulting directly from the cultivation of land or the maintenance of animals and includes timber.

30 “Gross income” in relation to a person for a period means the aggregate of—

35 (a) the total income (without deduction of any expenses incurred in deriving that income) derived by the person during that period (otherwise than by



*Stamp Duties (Amendment).*

5 by reason of the carrying on of a  
business by a partnership of which  
the person is a member) directly  
or indirectly from all sources  
whether in or out of Australia;  
and

10 (b) where the person is a member of a  
partnership—the amount that bears  
to the amount that would, in accord-  
ance with paragraph (a) of this  
definition, be the gross income of  
the partnership in relation to that  
15 period if the partnership were a  
single person the same proportion  
as the amount of the interest of  
that person in the net income of  
the partnership for that period (or,  
where the partnership suffered a  
20 net loss for that period, the amount  
of the liability of that person in  
respect of the loss) bears to the net  
income or, as the case may be, the  
net loss, of the partnership for that  
period,

25 but does not include income received by that  
person as a trustee or income derived by  
him by virtue of any limited interest.

“Gross property” in respect of a deceased person  
means—

30 (a) the dutiable estate of that  
person (other than non-aggregated  
property);

35 (b) real property situate outside New  
South Wales in which that person  
had a beneficial interest at the date  
of death;

(c)



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(c) real property so situate over which that person had a general power of appointment at that date; and

5 (d) the beneficial interest held by that person immediately prior to his death in a joint tenancy or joint ownership with another person or persons in real property situate outside New South Wales.

10 "Gross property (non-aggregated)" in respect of a deceased person means—

(a) the non-aggregated property included in the dutiable estate of that person; and

15 (b) property, whether real or personal, which was situate outside New South Wales at the date of death of that person which, if it had been situate in New South Wales at that date would have formed part of the dutiable estate of that person by virtue of subparagraph (g) of paragraph (2) of section one hundred and two of this Act.

25 "Partnership" includes an association of persons in receipt of income jointly but does not include a body corporate.

"Primary production" means production resulting directly from—

30 (a) the cultivation of land;  
(b) the planting or tending in a plantation or forest of trees intended for felling; or

35 (c) the maintenance of animals, for the purpose of selling them or their bodily produce, including natural increase.

"Relative"

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*Stamp Duties (Amendment).*

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“Relative” in relation to a person means—

- (a) the spouse of the person;
- 5 (b) a parent, step-parent or other lineal ancestor of the person or of the spouse of the person;
- (c) a child or other lineal descendant of the person, or of the spouse of the person;
- 10 (d) a brother or sister (including a half-brother or half-sister) of the person or of the spouse of the person;
- (e) a child of a person to whom paragraph (d) of this definition applies; or
- 15 (f) the spouse of a person to whom paragraph (c), (d) or (e) of this definition applies,

20 whether or not that person or any person referred to in paragraph (a), (b), (c), (d), (e) or (f) of this definition is illegitimate or adopted or traces a relationship so referred to through a person who is illegitimate or adopted.

25 “Relevant period” in respect of a deceased person means the period comprising—

- (a) the year of income of the person that ended during the period of one year that ended on the date of his death; and
- 30 (b) the four years of income immediately preceding that year of income.

“Rural



*Stamp Duties (Amendment).*

“Rural property” in relation to a deceased person means property or an interest in property, in Australia, consisting of—

- 5 (a) land that, at the time of the death of the person, was used wholly and exclusively for the purpose of carrying on a business of primary production;
- (b) animals or farm produce—
  - 10 (i) used, or held for use, at the time of the death of the person in a business of primary production; or
  - 15 (ii) raised or produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- 20 (c) a right to income other than income that is included in the gross income of the person in relation to the relevant period, being a right arising from the delivery to any person of farm produce produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- 25 (d) shares in a rural society registered under the Co-operation Act, 1923, or exempted from registration by the Registrar under that Act; or

(e)

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*Stamp Duties (Amendment).*

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- (e) plant, machinery, goods or articles that, at the time of the death of the person were used, or held for use, in a business of primary production,
- 5 but does not include non-aggregated property or property that consists of—
- (f) motor vehicles designed primarily and principally for the transport of persons;
- 10 (g) household furniture, furnishings or appliances;
- (h) wireless receivers or transmitters or television receivers or antennae.
- 15 “Rural property (non-aggregated)” in relation to a deceased person means non-aggregated property that would be rural property—
- (a) if it were not non-aggregated property; and
- 20 (b) if a reference in the definition of “Rural property” in this subsection to the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member included a refer-
- 25 ence to the carrying on of such a business by a trustee.
- “Year of income” in relation to a person means—
- (a) where the person has adopted an accounting period under the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth, or any Act amending or replacing that Act, being a year ending on a day that is not the thirtieth day of
- 30 June—that accounting period; or
- 35

(b)



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(b) in any other case, the year ending on the thirtieth day of June.

(2) For the purposes of this Division, the gross farm income of a deceased person for a period is the aggregate of—

(a) so much of the gross income of that person for that period as was derived by that person (otherwise than as a member of a partnership or as a beneficiary in a trust estate) directly from the carrying on by him of a business of primary production in Australia;

(b) where that person during that period derived income from a partnership of which he was a member—the amount ascertained in respect of each such partnership in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income of the partnership for that period as was derived directly from the carrying on by the partnership of a business of primary production in Australia;

“b” represents the amount of the interest of that person in the net income of the partnership for that period or, where the partnership suffered a net loss for that period, the amount of the liability of that person in respect of the loss;

“c” represents the net income or, as the case may be, the net loss, of the partnership for that period; and

(c)

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*Stamp Duties (Amendment).*

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- 5 (c) where that person, during that period derived income from a trust estate in which he was a beneficiary—the amount ascertained in respect of each such trust estate in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

- 10 “x” represents that amount;  
“a” represents so much of the gross income of the trust estate for that period as was derived directly from the carrying on by the trustees of  
15 the trust estate of a business of primary production in Australia;  
“b” represents the gross income of that person for that period as a beneficiary in the trust estate;  
20 “c” represents the gross income of the trust estate for that period,

but does not include any gross farm income (limited interest) of that person for that period.

- 25 (3) For the purposes of this Division, the gross farm income (limited interest) of a deceased person for a period is the aggregate of—

- 30 (a) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to the whole of the income or benefits of that property—so much of the gross income from that property for that period as was attributable to the carrying on of a business of primary production in Australia; and  
35 (b) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to less than the whole



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*Stamp Duties (Amendment).*

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whole of the income or benefits of that property—the amount ascertained in respect of each such limited interest in accordance with the formula—

5

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

10 “a” represents so much of the gross income represented by “c” as was attributable to the carrying on of a business of primary production in Australia;

15 “b” represents the gross income (limited interest) of that person for that period;

20 “c” represents the total income (without deduction of any expenses incurred in deriving that income) from that property for that period.

(4) For the purposes of paragraph (b) of subsection three of this section, the gross income (limited interest) for a period of a person who had a limited interest in gross property (non-aggregated) that extended to less than the whole of the income or benefits of that property is—

25 (a) where the limited interest provided for an income of a fixed amount—the amount of that income in respect of that period; or

30 (b) in any other case—such amount as bears to the total income (without deduction of any expenses incurred in deriving that income) from that property for that period the same proportion as the amount of the interest of that person in the net income from that property for that period bears to that net income for that period.

(5)

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5 (5) For the purposes of this Division, the expression "limited interest" shall be deemed to extend to property referred to in paragraph (b) of the definition of "Gross property (non-aggregated)" in subsection one of this section as if the property so referred to were non-aggregated property.

10 (6) For the purposes of the definition of "Family company" in subsection one of this section, shares in a corporation shall be treated as having been beneficially owned by a person at the time of his death if the shares are included in his dutiable estate.

(7) Where—

15 (a) income consisting of dividends, salary, wages, bonuses or directors' fees is derived from a corporation by a person (other than a corporation);

20 (b) the person was, at the time when he derived the income, the beneficial owner of one or more shares in the corporation;

(c) the corporation was a family company of the person at all times during—

25 (i) the year of income of the corporation during which the income was derived by the person; or

(ii) if the person died during that year of income—the part of that year of income that ended on the date of his death; and

30 (d) the gross farm income of the corporation for that year of income constituted more than one-half of the gross income of the corporation for that year of income,

the



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*Stamp Duties (Amendment).*

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the income so derived by the person shall be deemed for the purposes of this Division to be income derived by the person directly from the carrying on by the person of a business of primary production in Australia.

(8) For the purposes of this Division, rural property of a family company of a person is property that would be rural property if the company were that person.

112H. (1) Where any rural property is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

Reduction of  
death duty—  
rural  
property.

(a) that, as at the death, the rural property was vested in, or, on the death, the rural property passed to or devolved upon, the widow, widower, child, parent, brother or sister of the deceased; and

(b) that, as at the death the person, in whom the rural property was vested or to or upon whom the rural property passed or devolved—

(i) was wholly or mainly dependent for support on the deceased;

(ii) was ordinarily employed by the deceased in the business of primary production to which the rural property relates; or

(iii) was wholly or mainly dependent for his livelihood on income derived from the rural property or, where an election has been made under section 112K of this Act, was so

dependent



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5 dependent on income derived from the family company to which the election relates, whether the income was derived as an employee, a shareholder or otherwise,

the amount of death duty payable on the death of the deceased in respect of the rural property shall, subject to this section, be reduced as provided by subsections two and three of this section.

10 (2) Subject to subsection three of this section, the extent of the reduction of death duty referred to in subsection one of this section is—

15 (a) where the value of the gross property of the deceased does not exceed \$150,000—thirty per centum;

(b) where the value of the gross property of the deceased exceeds \$150,000 but does not exceed \$160,000—twenty-five per centum;

20 (c) where the value of the gross property of the deceased exceeds \$160,000 but does not exceed \$170,000—twenty per centum;

(d) where the value of the gross property of the deceased exceeds \$170,000 but does not exceed \$180,000—fifteen per centum;

25 (e) where the value of the gross property of the deceased exceeds \$180,000 but does not exceed \$190,000—ten per centum;

30 (f) where the value of the gross property of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

(3)



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*Stamp Duties (Amendment).*

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5 (3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

10 (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which, but for this subsection, would be applicable; and

15 (b) by subtracting from the amount so calculated the amount by which the value of the gross property of the deceased exceeds the maximum value of gross property to which that next higher rate per centum applies.

20 (4) For the purposes of subsections one and five of this section, where shares in a family company in respect of which an election is made under section 112K of this Act are included in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property of a value that bears to the value of those shares as determined under the provisions of section 25 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property of the company.

30 (5) Subsection one of this section does not apply unless—

(a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;

(b)

*Stamp Duties (Amendment).*

(b) the gross farm income of that person for the relevant period was more than one-half of his gross income for that period; and

(c) the value of the rural property included or deemed to be included in the dutiable estate of that person was more than one-half the value of his gross property.

112I. (1) Where any rural property (non-aggregated) is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

(a) that, as at the death, the rural property (non-aggregated) was vested in or, on or at a time determined by reference to the death, the rural property (non-aggregated) passed to, the widow, widower, child, parent, brother or sister of the person who created the limited interest; and

(b) that as at the death the person in whom the rural property (non-aggregated) was vested or to whom the rural property (non-aggregated) passed—

(i) was wholly or mainly dependent for support on the deceased;

(ii) was ordinarily employed by the deceased in the business of primary production to which the rural property (non-aggregated) relates; or

(iii) was wholly or mainly dependent for his livelihood on income derived from the rural property (non-aggregated) or, where an election has been made under section 112K

of



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of this Act, was so dependent on income derived from the family company to which the election relates whether the income was derived as an employee, a shareholder or otherwise,

the amount of death duty payable on the death of the deceased in respect of the rural property (non-aggregated) shall, subject to this section, be reduced as provided by subsections two and three of this section.

(2) Subject to subsection three of this section, the extent of the reduction of death duty referred to in subsection one of this section is—

- (a) where the value of the gross property (non-aggregated) of the deceased does not exceed \$150,000—thirty per centum;
- (b) where the value of the gross property (non-aggregated) of the deceased exceeds \$150,000 but does not exceed \$160,000—twenty-five per centum;
- (c) where the value of the gross property (non-aggregated) of the deceased exceeds \$160,000 but does not exceed \$170,000—twenty per centum;
- (d) where the value of the gross property (non-aggregated) of the deceased exceeds \$170,000 but does not exceed \$180,000—fifteen per centum;
- (e) where the value of the gross property (non-aggregated) of the deceased exceeds \$180,000 but does not exceed \$190,000—ten per centum;

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- (f) where the value of the gross property (non-aggregated) of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

5 (3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

10 (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which,  
15 but for this subsection, would be applicable; and

(b) by subtracting from the amount so calculated the amount by which the value of the gross property (non-aggregated) of the deceased exceeds the maximum value of  
20 gross property (non-aggregated) to which that next higher rate per centum applies.

(4) For the purposes of subsections one and five of this section, where shares in a family company in respect of which an election is made under section 112K of this Act are included as non-aggregated property in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property (non-aggregated) of a value that bears to the value of those shares as determined under the provisions of section 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property  
25 of the company.  
30  
35

(5)



*Stamp Duties (Amendment).*

(5) Subsection one of this section does not apply unless—

- 5 (a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;
- (b) the gross farm income (limited interest) of that person for the relevant period was more than one-half of his gross income (limited interest) for that period; and
- 10 (c) the value of the rural property (non-aggregated) included or deemed to be included in the dutiable estate of that person was more than one-half of the value of his gross property (non-aggregated).

15 112J. For the purposes of sections 112H and 112I of this Act the value of any property is—

Ascertainment of value of property.

- (a) in the case of property included in the dutiable estate of a deceased person, the value at which it is included therein; and
- 20 (b) in any other case, the value of the property as at the time of the death of the deceased person referred to in those sections.

112K. (1) Where—

Election with respect to rural property.

- 25 (a) the dutiable estate of a deceased person includes shares in a family company of that person;
- (b) the property of the family company at the date of death of the deceased included rural property; and
- 30 (c) the gross value of the rural property of the family company exceeded one-half of the gross value of the whole of the property of the family company,

the

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*Stamp Duties (Amendment).*

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the administrator of the estate or other person liable to the payment of death duty may elect to have the shares taken into account in determining the rural property included in the dutiable estate.

5                   (2) An election under subsection one of  
this section shall be in writing and shall be lodged  
with the Commissioner within sixty days after the  
affidavit of value referred to in subsection one of  
10                   section one hundred and seventeen, the application  
referred to in subsection five of section one hundred  
and seventeen, or the account referred to in subsection  
two of section one hundred and twenty, of this  
Act, as the case may be, is received by the Commissioner,  
or within such further time as the  
15                   Commissioner allows.

                  (3) An election under subsection one of  
this section may be withdrawn by the person who  
made the election by notice in writing lodged with  
the Commissioner at any time prior to the assessment  
20                   of duty or within sixty days after notice of  
the assessment has been given to the administrator  
or other person liable to the payment of duty or  
within sixty days after the determination of an  
appeal under section one hundred and twenty-four  
25                   of this Act, whereupon the provisions of this Act  
shall have effect as if the election had not been  
made.

                  112L. Notwithstanding the provisions of section  
one hundred and twenty-seven of this Act, where  
30                   an administrator or other person has made an  
election under section 112K of this Act, the value  
of the shares in the family company to which the  
election relates shall, for the purposes of Parts IV  
and V of this Act, be the amount that the holder  
35                   of the shares would have received or been entitled  
to receive in respect of the shares if the company  
had been voluntarily wound up on the date upon  
which the value of the shares is to be ascertained

for



*Stamp Duties (Amendment).*

for the purposes of this Act, no account being taken of any costs that would have been incurred in the winding up of the company, or of any liability to income tax that would have been incurred by the company, by reason of the winding up.

- (c) by inserting next after section 125A the following new section :—

New sec.  
125AA.

125AA. (1) Subject to subsection two of this section, where it is necessary for the purpose of assessing death duty under this Act to ascertain the value of a debt (whether or not the debt is a debt which is, or the value of which is, included in the dutiable estate of a deceased person) the value shall be ascertained as if the amount thereof outstanding had become due and payable on the date on which the value of the debt is to be ascertained.

Ascertain-  
ment of  
value of  
debts.

(2) Subsection one of this section does not apply—

(a) to a marketable security that, on the date referred to in that subsection, is quoted in a stock or share market in or out of New South Wales; or

(b) where the terms on which the debt so referred to is repayable are such as would be expected in a normal commercial transaction and the Commissioner is satisfied that it would not be just and reasonable in the circumstances that the subsection should apply.

(3) In this section "debt" means a debt of any kind whatsoever, whether secured or unsecured and whether under seal or otherwise, and includes a bill of exchange or promissory note, whether negotiable or otherwise.

*Stamp Duties (Amendment).*

3. The Second Schedule to the Stamp Duties Act, 1920, is amended by omitting from the matter appearing in paragraph (1) under the heading "CONVEYANCES OF ANY PROPERTY" in the first column, and from the matter opposite thereto in the second column, the following matter :—

Further  
amendment  
of Act No.  
47, 1920.  
Second  
Schedule.

	Exceeds \$100 and does not exceed \$200 .. ..	2.50
	Exceeds \$200 but does not exceed \$14,000, for every \$200 and also for any remaining fractional part of \$200 of such amount .. ..	2.50
10	Exceeds \$14,000—For every \$200 of the first \$14,000 of such amount .. ..	2.50
	And in addition thereto, for every \$200 and also for any remaining fractional part of \$200 in excess of the first \$14,000 .. ..	3.00

- 15 and by inserting in lieu thereof the following matter :—

	Exceeds \$100 but does not exceed \$14,000—	
	For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..	1.25
	Exceeds \$14,000 but does not exceed \$30,000—	
20	For every \$100 of the first \$14,000 of such amount ..	1.25
	And in addition thereto for every \$100 and also for any remaining fractional part of \$100 in excess of the first \$14,000 .. ..	1.50
	Exceeds \$30,000 but does not exceed \$50,000—	
25	For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..	1.75
	Exceeds \$50,000 but does not exceed \$100,000—	
	For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..	2.00
30	Exceeds \$100,000 but does not exceed \$250,000—	
	For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..	2.25
	Exceeds \$250,000—	
35	For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..	2.50



*Stamp Duties (Amendment).*

4. (1) The Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920.

- (a) by omitting from paragraph (b) of subsection one of section 97AB the word "five" and by inserting in lieu thereof the word "seven"; Sec. 97AB.
- (b) by omitting from the same paragraph the word "twenty" and by inserting in lieu thereof the word "thirty".

(2) Notwithstanding the provisions of subsection one of this section, the amount payable as stamp duty under section 97AB of the Stamp Duties Act, 1920, in respect of sales and purchases made or deemed to have been made before the first day of January, one thousand nine hundred and seventy-two, shall be at the rate or rates payable under that section immediately before that day.

5. The Second Schedule to the Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920. Second Schedule.

- (a) by omitting from the second column the figures "0.05" opposite the word "Cheque" under the heading "BILL OF EXCHANGE, PROMISSORY NOTE AND CHEQUE—" in the first column and by inserting in lieu thereof the figures "0.06";
- (b) by omitting from the second column the figures "0.04" opposite paragraph (1) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figures "0.06";
- (c) by omitting the figure and letter "4c" from the matter in the second column opposite paragraph (4) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figure and letter "6c".

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*Stamp Duties (Amendment).*

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6. (1) Cheque forms which have before the first day of January, one thousand nine hundred and seventy-two, been printed to the order of a bank under license issued under the provisions of the Stamp Duties Act, 1920, and are impressed  
5 with five cents stamp duty and are either in the possession of the printer or of the bank upon the first day of January, one thousand nine hundred and seventy-two, and are unused shall be deemed to be duly stamped with six cents stamp duty.

(2) Any bank which upon the first day of January,  
10 one thousand nine hundred and seventy-two, is in possession of cheque forms referred to in subsection one of this section upon which stamp duty of five cents on each such form has been paid shall, within one month after that day, furnish to the Commissioner a statement in a form approved  
15 by him giving particulars and numbers of those forms and pay to the Commissioner additional duty of one cent on each such form.

(3) Any bank which upon the first day of January, one thousand nine hundred and seventy-two, is in possession  
20 of cheque forms referred to in subsection one of this section upon which no stamp duty has been paid shall, when making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six  
25 cents duty on each such form.

(4) Where cheque forms referred to in subsection one of this section are upon the first day of January, one thousand nine hundred and seventy-two, in the possession of a printer and are subsequently delivered to a bank, the bank shall, when  
30 making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six cents duty on each such form.

(5)



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*Stamp Duties (Amendment).*

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- (5) Where on or after the first day of January, one thousand nine hundred and seventy-two, a cheque is drawn on an unused cheque form that, on that day, is in the possession of a person other than a bank or a printer referred to in this section, the cheque form shall be deemed to be duly stamped with six cents stamp duty if it is impressed with five cents stamp duty or is deemed, by the operation of the Stamp Duties (Amendment) Act, 1966, to be duly stamped with five cents stamp duty and—
- 10 (a) the cheque form was one of more than three hundred such cheque forms in the possession of a person on the first day of January, one thousand nine hundred and seventy-two, and that person, before the issue of the cheque form—
- 15 (i) furnished to the Commissioner, for the purposes of this subsection, a statutory declaration in a form approved by the Commissioner giving the particulars and numbers of those cheque forms; and
- 20 (ii) paid to the Commissioner a further amount of duty equal to six cents for each such form so in his possession, less the amount of stamp duty already paid thereon;
- 25 (b) an adhesive duty stamp, sufficient in value to bring to six cents the value of the stamps on the cheque form, is affixed to the cheque form and duly cancelled before the cheque form is issued; or
- 30 (c) the cheque form is, before its issue, impressed at the Stamp Duties Office with such further amount of duty as is sufficient to bring to six cents the value of the stamps on the cheque form.

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BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971  
[25c]



(1) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(2) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(3) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(4) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(5) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(6) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(7) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(8) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.

(9) Where any person is found to be in possession of any property which is the subject-matter of a writ of habeas corpus, the court may, if it thinks fit, order that the property be delivered to the person in whose favour the writ is granted.



No. , 1971.

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## A BILL

To vary the rates of stamp duty on certain instruments; to make provisions with respect to the reduction of death duty upon estates of certain deceased persons; to specify a basis for the valuation of certain debts; for these and other purposes to amend the Stamp Duties Act, 1920; and for purposes connected therewith.

[Mr FREUDENSTEIN—30 November, 1971.]

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BE

*Stamp Duties (Amendment).*

**B**E it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows :—

1. (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1971". Short title  
and com-  
mencement.

(2) This section and sections two and three of this  
Act commence on the day upon which this Act receives the  
10 Royal assent.

(3) Sections four, five and six of this Act commence  
on the first day of January, one thousand nine hundred and  
seventy-two.

2. The Stamp Duties Act, 1920, is amended—

Amendment  
of Act No.  
47, 1920.

15 (a) (i) by omitting from the matter relating to Division  
1 of Part IV in section one the figures and  
letter "112A" and by inserting in lieu thereof  
the figures and letter "112F"; Sec. 1.  
(Short  
title and  
division.)

20 (ii) by inserting in the same section next after the  
matter relating to Division 1 of Part IV the  
following new matter :—

DIVISION 1A.—*Primary producers—ss.*  
112G—112L.

25 (iii) by omitting from the matter relating to Part  
V in the same section the figures "144" and  
by inserting in lieu thereof the figures "145";

(b)



*Stamp Duties (Amendment).*

(b) by inserting next after Division 1 of Part IV the following new Division :—

*DIVISION 1A.—Primary producers.*

5 112G. (1) Except to the extent that the context Interpretation.  
or subject-matter otherwise indicates or requires, in  
this Division—

“Animals” includes poultry and bees but does not include animals maintained for the purpose of selling them as domestic pets.

10 “Family company” in relation to a person and a time means a corporation that, at that time—

(a) was a proprietary company incorporated under the Companies Act, 15 1961; or

(b) was a proprietary company incorporated under the law of another State,

20 being a corporation in which a person other than the first-mentioned person, or a relative of that person, did not beneficially own at that time shares that carried between them the right to receive more than five per centum of any distribution of capital of the corporation in the event of the winding up, 25 or of a reduction in the capital, of the corporation.

30 “Farm produce” means produce resulting directly from the cultivation of land or the maintenance of animals and includes timber.

“Gross income” in relation to a person for a period means the aggregate of—

35 (a) the total income (without deduction of any expenses incurred in deriving that income) derived by the person during that period (otherwise than by



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*Stamp Duties (Amendment).*

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by reason of the carrying on of a business by a partnership of which the person is a member) directly or indirectly from all sources whether in or out of Australia; and

- (b) where the person is a member of a partnership—the amount that bears to the amount that would, in accordance with paragraph (a) of this definition, be the gross income of the partnership in relation to that period if the partnership were a single person the same proportion as the amount of the interest of that person in the net income of the partnership for that period (or, where the partnership suffered a net loss for that period, the amount of the liability of that person in respect of the loss) bears to the net income or, as the case may be, the net loss, of the partnership for that period,

but does not include income received by that person as a trustee or income derived by him by virtue of any limited interest.

“Gross property” in respect of a deceased person means—

- (a) the dutiable estate of that person (other than non-aggregated property);

- (b) real property situate outside New South Wales in which that person had a beneficial interest at the date of death;

(c)



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*Stamp Duties (Amendment).*

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- (c) real property so situate over which that person had a general power of appointment at that date; and
- 5 (d) the beneficial interest held by that person immediately prior to his death in a joint tenancy or joint ownership with another person or persons in real property situate outside New South Wales.

10 "Gross property (non-aggregated)" in respect of a deceased person means—

- (a) the non-aggregated property included in the dutiable estate of that person; and
- 15 (b) property, whether real or personal, which was situate outside New South Wales at the date of death of that person which, if it had been situate in New South Wales at that date would have formed part of the dutiable estate of that person by virtue of subparagraph (g) of paragraph (2) of section one hundred and two of this Act.

25 "Partnership" includes an association of persons in receipt of income jointly but does not include a body corporate.

"Primary production" means production resulting directly from—

- 30 (a) the cultivation of land;
- (b) the planting or tending in a plantation or forest of trees intended for felling; or
- 35 (c) the maintenance of animals, for the purpose of selling them or their bodily produce, including natural increase.

"Relative"



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*Stamp Duties (Amendment).*

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“Relative” in relation to a person means—

- (a) the spouse of the person;
- 5 (b) a parent, step-parent or other lineal ancestor of the person or of the spouse of the person;
- (c) a child or other lineal descendant of the person, or of the spouse of the person;
- 10 (d) a brother or sister (including a half-brother or half-sister) of the person or of the spouse of the person;
- (e) a child of a person to whom paragraph (d) of this definition applies;  
or
- 15 (f) the spouse of a person to whom paragraph (c), (d) or (e) of this definition applies,

20 whether or not that person or any person referred to in paragraph (a), (b), (c), (d), (e) or (f) of this definition is illegitimate or adopted or traces a relationship so referred to through a person who is illegitimate or adopted.

25 “Relevant period” in respect of a deceased person means the period comprising—

- (a) the year of income of the person that ended during the period of one year that ended on the date of his death;  
and
- 30 (b) the four years of income immediately preceding that year of income.

“Rural



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*Stamp Duties (Amendment).*

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“Rural property” in relation to a deceased person means property or an interest in property, in Australia, consisting of—

- 5 (a) land that, at the time of the death of the person, was used wholly and exclusively for the purpose of carrying on a business of primary production;
- (b) animals or farm produce—
- 10 (i) used, or held for use, at the time of the death of the person in a business of primary production; or
- 15 (ii) raised or produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- 20 (c) a right to income other than income that is included in the gross income of the person in relation to the relevant period, being a right arising from the delivery to any
- 25 person of farm produce produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- 30 (d) shares in a rural society registered under the Co-operation Act, 1923, or exempted from registration by the Registrar under that Act; or

(e)



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*Stamp Duties (Amendment).*

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- (e) plant, machinery, goods or articles that, at the time of the death of the person were used, or held for use, in a business of primary production,
- 5 but does not include non-aggregated property or property that consists of—
- (f) motor vehicles designed primarily and principally for the transport of persons;
- 10 (g) household furniture, furnishings or appliances;
- (h) wireless receivers or transmitters or television receivers or antennae.
- 15 “Rural property (non-aggregated)” in relation to a deceased person means non-aggregated property that would be rural property—
- (a) if it were not non-aggregated property; and
- 20 (b) if a reference in the definition of “Rural property” in this subsection to the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member included a reference to the carrying on of such a business by a trustee.
- 25 “Year of income” in relation to a person means—
- (a) where the person has adopted an accounting period under the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth, or any Act amending or replacing that Act, being a year ending on a day that is not the thirtieth day of
- 30 June—that accounting period; or
- 35

(b)



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*Stamp Duties (Amendment).*

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(b) in any other case, the year ending on the thirtieth day of June.

(2) For the purposes of this Division, the gross farm income of a deceased person for a period is the aggregate of—

(a) so much of the gross income of that person for that period as was derived by that person (otherwise than as a member of a partnership or as a beneficiary in a trust estate) directly from the carrying on by him of a business of primary production in Australia;

(b) where that person during that period derived income from a partnership of which he was a member—the amount ascertained in respect of each such partnership in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income of the partnership for that period as was derived directly from the carrying on by the partnership of a business of primary production in Australia;

“b” represents the amount of the interest of that person in the net income of the partnership for that period or, where the partnership suffered a net loss for that period, the amount of the liability of that person in respect of the loss;

“c” represents the net income or, as the case may be, the net loss, of the partnership for that period; and

(c)

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*Stamp Duties (Amendment).*

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- (c) where that person, during that period derived income from a trust estate in which he was a beneficiary—the amount ascertained in respect of each such trust estate in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income of the trust estate for that period as was derived directly from the carrying on by the trustees of the trust estate of a business of primary production in Australia;

“b” represents the gross income of that person for that period as a beneficiary in the trust estate;

“c” represents the gross income of the trust estate for that period,

but does not include any gross farm income (limited interest) of that person for that period.

(3) For the purposes of this Division, the gross farm income (limited interest) of a deceased person for a period is the aggregate of—

- (a) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to the whole of the income or benefits of that property—so much of the gross income from that property for that period as was attributable to the carrying on of a business of primary production in Australia; and

- (b) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to less than the whole



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*Stamp Duties (Amendment).*

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whole of the income or benefits of that property—the amount ascertained in respect of each such limited interest in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income represented by “c” as was attributable to the carrying on of a business of primary production in Australia;

“b” represents the gross income (limited interest) of that person for that period;

“c” represents the total income (without deduction of any expenses incurred in deriving that income) from that property for that period.

(4) For the purposes of paragraph (b) of subsection three of this section, the gross income (limited interest) for a period of a person who had a limited interest in gross property (non-aggregated) that extended to less than the whole of the income or benefits of that property is—

(a) where the limited interest provided for an income of a fixed amount—the amount of that income in respect of that period; or

(b) in any other case—such amount as bears to the total income (without deduction of any expenses incurred in deriving that income) from that property for that period the same proportion as the amount of the interest of that person in the net income from that property for that period bears to that net income for that period.

(5)

*Stamp Duties (Amendment).*

(5) For the purposes of this Division, the expression "limited interest" shall be deemed to extend to property referred to in paragraph (b) of the definition of "Gross property (non-aggregated)" in subsection one of this section as if the property so referred to were non-aggregated property.

(6) For the purposes of the definition of "Family company" in subsection one of this section, shares in a corporation shall be treated as having been beneficially owned by a person at the time of his death if the shares are included in his dutiable estate.

(7) Where—

(a) income consisting of dividends, salary, wages, bonuses or directors' fees is derived from a corporation by a person (other than a corporation);

(b) the person was, at the time when he derived the income, the beneficial owner of one or more shares in the corporation;

(c) the corporation was a family company of the person at all times during—

(i) the year of income of the corporation during which the income was derived by the person; or

(ii) if the person died during that year of income—the part of that year of income that ended on the date of his death; and

(d) the gross farm income of the corporation for that year of income constituted more than one-half of the gross income of the corporation for that year of income,

the



*Stamp Duties (Amendment).*

the income so derived by the person shall be deemed for the purposes of this Division to be income derived by the person directly from the carrying on by the person of a business of primary production in Australia.

(8) For the purposes of this Division, rural property of a family company of a person is property that would be rural property if the company were that person.

112H. (1) Where any rural property is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

Reduction of death duty—  
rural property.

(a) that, as at the death, the rural property was vested in, or, on the death, the rural property passed to or devolved upon, the widow, widower, child, parent, brother or sister of the deceased; and

(b) that, as at the death the person, in whom the rural property was vested or to or upon whom the rural property passed or devolved—

(i) was wholly or mainly dependent for support on the deceased;

(ii) was ordinarily employed by the deceased in the business of primary production to which the rural property relates; or

(iii) was wholly or mainly dependent for his livelihood on income derived from the rural property or, where an election has been made under section 112K of this Act, was so

dependent

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*Stamp Duties (Amendment).*

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5 dependent on income derived from the family company to which the election relates, whether the income was derived as an employee, a shareholder or otherwise,

the amount of death duty payable on the death of the deceased in respect of the rural property shall, subject to this section, be reduced as provided by subsections two and three of this section.

10 (2) Subject to subsection three of this section, the extent of the reduction of death duty referred to in subsection one of this section is—

15 (a) where the value of the gross property of the deceased does not exceed \$150,000—thirty per centum;

(b) where the value of the gross property of the deceased exceeds \$150,000 but does not exceed \$160,000—twenty-five per centum;

20 (c) where the value of the gross property of the deceased exceeds \$160,000 but does not exceed \$170,000—twenty per centum;

(d) where the value of the gross property of the deceased exceeds \$170,000 but does not exceed \$180,000—fifteen per centum;

25 (e) where the value of the gross property of the deceased exceeds \$180,000 but does not exceed \$190,000—ten per centum;

30 (f) where the value of the gross property of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

(3)



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*Stamp Duties (Amendment).*

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5 (3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

10 (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which, but for this subsection, would be applicable; and

15 (b) by subtracting from the amount so calculated the amount by which the value of the gross property of the deceased exceeds the maximum value of gross property to which that next higher rate per centum applies.

20 (4) For the purposes of subsections one and five of this section, where shares in a family company in respect of which an election is made under section 112K of this Act are included in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property of a value that bears to the value of those shares as determined under the provisions of section 25 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property of the company.

30 (5) Subsection one of this section does not apply unless—

(a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;

(b)

*Stamp Duties (Amendment).*

- (b) the gross farm income of that person for the relevant period was more than one-half of his gross income for that period; and
- 5 (c) the value of the rural property included or deemed to be included in the dutiable estate of that person was more than one-half the value of his gross property.

10 112i. (1) Where any rural property (non-Reduction of death duty—rural property (non-aggregated). aggregated) is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

- 15 (a) that, as at the death, the rural property (non-aggregated) was vested in or, on or at a time determined by reference to the death, the rural property (non-aggregated) passed to, the widow, widower, child, parent, brother or sister of the person who created the limited interest; and
- 20 (b) that as at the death the person in whom the rural property (non-aggregated) was vested or to whom the rural property (non-aggregated) passed—
- 25 (i) was wholly or mainly dependent for support on the deceased;
- 30 (ii) was ordinarily employed by the deceased in the business of primary production to which the rural property (non-aggregated) relates; or
- 35 (iii) was wholly or mainly dependent for his livelihood on income derived from the rural property (non-aggregated) or, where an election has been made under section 112K of



*Stamp Duties (Amendment).*

5 of this Act, was so dependent on  
income derived from the family  
company to which the election  
relates whether the income was  
derived as an employee, a  
shareholder or otherwise,

10 the amount of death duty payable on the death of  
the deceased in respect of the rural property  
(non-aggregated) shall, subject to this section, be  
reduced as provided by subsections two and three  
of this section.

(2) Subject to subsection three of this  
section, the extent of the reduction of death duty  
referred to in subsection one of this section is—

- 15 (a) where the value of the gross property  
(non-aggregated) of the deceased does not  
exceed \$150,000—thirty per centum;
- 20 (b) where the value of the gross property (non-  
aggregated) of the deceased exceeds  
\$150,000 but does not exceed \$160,000—  
twenty-five per centum;
- 25 (c) where the value of the gross property (non-  
aggregated) of the deceased exceeds  
\$160,000 but does not exceed \$170,000—  
twenty per centum;
- (d) where the value of the gross property (non-  
aggregated) of the deceased exceeds  
\$170,000 but does not exceed \$180,000—  
fifteen per centum;
- 30 (e) where the value of the gross property (non-  
aggregated) of the deceased exceeds  
\$180,000 but does not exceed \$190,000—  
ten per centum;

*Stamp Duties (Amendment).*

(f) where the value of the gross property (non-aggregated) of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

5 (3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

10 (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which,  
15 but for this subsection, would be applicable; and

(b) by subtracting from the amount so calculated the amount by which the value of  
20 the gross property (non-aggregated) of the deceased exceeds the maximum value of gross property (non-aggregated) to which that next higher rate per centum applies.

(4) For the purposes of subsections one and five of this section, where shares in a family  
25 company in respect of which an election is made under section 112K of this Act are included as non-aggregated property in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property (non-  
30 aggregated) of a value that bears to the value of those shares as determined under the provisions of section 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property  
35 of the company.

(5)



*Stamp Duties (Amendment).*

(5) Subsection one of this section does not apply unless—

- 5 (a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;
- (b) the gross farm income (limited interest) of that person for the relevant period was more than one-half of his gross income (limited interest) for that period; and
- 10 (c) the value of the rural property (non-aggregated) included or deemed to be included in the dutiable estate of that person was more than one-half of the value of his gross property (non-aggregated).

15 112J. For the purposes of sections 112H and 112I of this Act the value of any property is—

Ascertainment of value of property.

- (a) in the case of property included in the dutiable estate of a deceased person, the value at which it is included therein; and
- 20 (b) in any other case, the value of the property as at the time of the death of the deceased person referred to in those sections.

112K. (1) Where—

Election with respect to rural property.

- 25 (a) the dutiable estate of a deceased person includes shares in a family company of that person;
- (b) the property of the family company at the date of death of the deceased included rural property; and
- 30 (c) the gross value of the rural property of the family company exceeded one-half of the gross value of the whole of the property of the family company,

the



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*Stamp Duties (Amendment).*

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the administrator of the estate or other person liable to the payment of death duty may elect to have the shares taken into account in determining the rural property included in the dutiable estate.

5           (2) An election under subsection one of this section shall be in writing and shall be lodged with the Commissioner within sixty days after the affidavit of value referred to in subsection one of section one hundred and seventeen, the application referred to in subsection five of section one hundred and seventeen, or the account referred to in subsection two of section one hundred and twenty, of this Act, as the case may be, is received by the Commissioner, or within such further time as the Commissioner allows.

15           (3) An election under subsection one of this section may be withdrawn by the person who made the election by notice in writing lodged with the Commissioner at any time prior to the assessment of duty or within sixty days after notice of the assessment has been given to the administrator or other person liable to the payment of duty or within sixty days after the determination of an appeal under section one hundred and twenty-four of this Act, whereupon the provisions of this Act shall have effect as if the election had not been made.

20           112L. Notwithstanding the provisions of section one hundred and twenty-seven of this Act, where an administrator or other person has made an election under section 112K of this Act, the value of the shares in the family company to which the election relates shall, for the purposes of Parts IV and V of this Act, be the amount that the holder of the shares would have received or been entitled to receive in respect of the shares if the company had been voluntarily wound up on the date upon which the value of the shares is to be ascertained

Valuation  
of shares  
in certain  
cases.

for



*Stamp Duties (Amendment).*

for the purposes of this Act, no account being taken of any costs that would have been incurred in the winding up of the company, or of any liability to income tax that would have been incurred by the company, by reason of the winding up.

- (c) by inserting next after section 125A the following new section : —

New sec.  
125AA.

125AA. (1) Subject to subsection two of this section, where it is necessary for the purpose of assessing death duty under this Act to ascertain the value of a debt (whether or not the debt is a debt which is, or the value of which is, included in the dutiable estate of a deceased person) the value shall be ascertained as if the amount thereof outstanding had become due and payable on the date on which the value of the debt is to be ascertained.

Ascertain-  
ment of  
value of  
debts.

(2) Subsection one of this section does not apply—

(a) to a marketable security that, on the date referred to in that subsection, is quoted in a stock or share market in or out of New South Wales; or

(b) where the terms on which the debt so referred to is repayable are such as would be expected in a normal commercial transaction and the Commissioner is satisfied that it would not be just and reasonable in the circumstances that the subsection should apply.

(3) In this section "debt" means a debt of any kind whatsoever, whether secured or unsecured and whether under seal or otherwise, and includes a bill of exchange or promissory note, whether negotiable or otherwise.

*Stamp Duties (Amendment).*

3. The Second Schedule to the Stamp Duties Act, 1920, is amended by omitting from the matter appearing in paragraph (1) under the heading "CONVEYANCES OF ANY PROPERTY" in the first column, and from the matter opposite thereto in the second column, the following matter :—

Further  
amendment  
of Act No.  
47, 1920.  
Second  
Schedule.

- |    |  |      |
|----|--|------|
|    | Exceeds \$100 and does not exceed \$200 .. ..  | 2.50 |
|    | Exceeds \$200 but does not exceed \$14,000, for every \$200 and also for any remaining fractional part of \$200 of such amount .. .. | 2.50 |
| 10 | Exceeds \$14,000—For every \$200 of the first \$14,000 of such amount .. ..  | 2.50 |
|    | And in addition thereto, for every \$200 and also for any remaining fractional part of \$200 in excess of the first \$14,000 .. ..   | 3.00 |
| 15 | and by inserting in lieu thereof the following matter :—   |      |
|    | Exceeds \$100 but does not exceed \$14,000—  |      |
|    | For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..   | 1.25 |
|    | Exceeds \$14,000 but does not exceed \$30,000—   |      |
| 20 | For every \$100 of the first \$14,000 of such amount ..  | 1.25 |
|    | And in addition thereto for every \$100 and also for any remaining fractional part of \$100 in excess of the first \$14,000 .. ..    | 1.50 |
|    | Exceeds \$30,000 but does not exceed \$50,000—   |      |
| 25 | For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..   | 1.75 |
|    | Exceeds \$50,000 but does not exceed \$100,000—  |      |
|    | For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..   | 2.00 |
| 30 | Exceeds \$100,000 but does not exceed \$250,000—   |      |
|    | For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..   | 2.25 |
|    | Exceeds \$250,000—   |      |
| 35 | For every \$100 and also for any remaining fractional part of \$100 of such amount .. ..   | 2.50 |



*Stamp Duties (Amendment).*

4. (1) The Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920.

- 5 (a) by omitting from paragraph (b) of subsection one of section 97AB the word "five" and by inserting in lieu thereof the word "seven"; Sec. 97AB.
- (b) by omitting from the same paragraph the word "twenty" and by inserting in lieu thereof the word "thirty".

10 (2) Notwithstanding the provisions of subsection one of this section, the amount payable as stamp duty under section 97AB of the Stamp Duties Act, 1920, in respect of sales and purchases made or deemed to have been made before the first day of January, one thousand nine hundred and seventy-two, shall be at the rate or rates payable under 15 that section immediately before that day.

5. The Second Schedule to the Stamp Duties Act, 1920, is further amended— Further amendment of Act No. 47, 1920. Second Schedule.

- 20 (a) by omitting from the second column the figures "0.05" opposite the word "Cheque" under the heading "BILL OF EXCHANGE, PROMISSORY NOTE AND CHEQUE—" in the first column and by inserting in lieu thereof the figures "0.06";
- 25 (b) by omitting from the second column the figures "0.04" opposite paragraph (1) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figures "0.06";
- 30 (c) by omitting the figure and letter "4C" from the matter in the second column opposite paragraph (4) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figure and letter "6C".

*Stamp Duties (Amendment).*

6. (1) Cheque forms which have before the first day of January, one thousand nine hundred and seventy-two, been printed to the order of a bank under license issued under the provisions of the Stamp Duties Act, 1920, and are impressed with five cents stamp duty and are either in the possession of the printer or of the bank upon the first day of January, one thousand nine hundred and seventy-two, and are unused shall be deemed to be duly stamped with six cents stamp duty. Transitional provisions.

(2) Any bank which upon the first day of January, one thousand nine hundred and seventy-two, is in possession of cheque forms referred to in subsection one of this section upon which stamp duty of five cents on each such form has been paid shall, within one month after that day, furnish to the Commissioner a statement in a form approved by him giving particulars and numbers of those forms and pay to the Commissioner additional duty of one cent on each such form.

(3) Any bank which upon the first day of January, one thousand nine hundred and seventy-two, is in possession of cheque forms referred to in subsection one of this section upon which no stamp duty has been paid shall, when making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six cents duty on each such form.

(4) Where cheque forms referred to in subsection one of this section are upon the first day of January, one thousand nine hundred and seventy-two, in the possession of a printer and are subsequently delivered to a bank, the bank shall, when making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six cents duty on each such form.

(5)



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*Stamp Duties (Amendment).*

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- (5) Where on or after the first day of January, one thousand nine hundred and seventy-two, a cheque is drawn on an unused cheque form that, on that day, is in the possession of a person other than a bank or a printer referred to in this section, the cheque form shall be deemed to be duly stamped with six cents stamp duty if it is impressed with five cents stamp duty or is deemed, by the operation of the Stamp Duties (Amendment) Act, 1966, to be duly stamped with five cents stamp duty and—
- 10 (a) the cheque form was one of more than three hundred such cheque forms in the possession of a person on the first day of January, one thousand nine hundred and seventy-two, and that person, before the issue of the cheque form—
- 15 (i) furnished to the Commissioner, for the purposes of this subsection, a statutory declaration in a form approved by the Commissioner giving the particulars and numbers of those cheque forms; and
- 20 (ii) paid to the Commissioner a further amount of duty equal to six cents for each such form so in his possession, less the amount of stamp duty already paid thereon;
- 25 (b) an adhesive duty stamp, sufficient in value to bring to six cents the value of the stamps on the cheque form, is affixed to the cheque form and duly cancelled before the cheque form is issued; or
- 30 (c) the cheque form is, before its issue, impressed at the Stamp Duties Office with such further amount of duty as is sufficient to bring to six cents the value of the stamps on the cheque form.

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BY AUTHORITYV. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971  
[25c]







*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

**I. P. K. VIDLER,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 9 December, 1971.*

## **New South Wales**



ANNO VICESIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 75, 1971.**

An Act to vary the rates of stamp duty on certain instruments; to make provisions with respect to the reduction of death duty upon estates of certain deceased persons; to specify a basis for the valuation of certain debts; for these and other purposes to amend the Stamp Duties Act, 1920; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

**L. A. PUNCH,**  
*Chairman of Committees of the Legislative Assembly.*



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*Stamp Duties (Amendment).*


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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title  
and com-  
mencement.

**1.** (1) This Act may be cited as the "Stamp Duties (Amendment) Act, 1971".

(2) This section and sections two and three of this Act commence on the day upon which this Act receives the Royal assent.

(3) Sections four, five and six of this Act commence on the first day of January, one thousand nine hundred and seventy-two.

Amendment  
of Act No.  
47, 1920.

**2.** The Stamp Duties Act, 1920, is amended—

Sec. 1.  
(Short  
title and  
division.)

(a) (i) by omitting from the matter relating to Division 1 of Part IV in section one the figures and letter "112A" and by inserting in lieu thereof the figures and letter "112F";

(ii) by inserting in the same section next after the matter relating to Division 1 of Part IV the following new matter:—

DIVISION 1A.—*Primary producers—ss.*  
112G–112L.

(iii) by omitting from the matter relating to Part V in the same section the figures "144" and by inserting in lieu thereof the figures "145";

(b)



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*Stamp Duties (Amendment).*

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- (b) by inserting next after Division 1 of Part IV the following new Division :—

**DIVISION 1A.—Primary producers.**

112G. (1) Except to the extent that the context <sup>Interpre-</sup> or subject-matter otherwise indicates or requires, in <sup>tation.</sup> this Division—

“Animals” includes poultry and bees but does not include animals maintained for the purpose of selling them as domestic pets.

“Family company” in relation to a person and a time means a corporation that, at that time—

(a) was a proprietary company incorporated under the Companies Act, 1961; or

(b) was a proprietary company incorporated under the law of another State,

being a corporation in which a person other than the first-mentioned person, or a relative of that person, did not beneficially own at that time shares that carried between them the right to receive more than five per centum of any distribution of capital of the corporation in the event of the winding up, or of a reduction in the capital, of the corporation.

“Farm produce” means produce resulting directly from the cultivation of land or the maintenance of animals and includes timber.

“Gross income” in relation to a person for a period means the aggregate of—

(a) the total income (without deduction of any expenses incurred in deriving that income) derived by the person during that period (otherwise than by



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*Stamp Duties (Amendment).*

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by reason of the carrying on of a business by a partnership of which the person is a member) directly or indirectly from all sources whether in or out of Australia; and

- (b) where the person is a member of a partnership—the amount that bears to the amount that would, in accordance with paragraph (a) of this definition, be the gross income of the partnership in relation to that period if the partnership were a single person the same proportion as the amount of the interest of that person in the net income of the partnership for that period (or, where the partnership suffered a net loss for that period, the amount of the liability of that person in respect of the loss) bears to the net income or, as the case may be, the net loss, of the partnership for that period,

but does not include income received by that person as a trustee or income derived by him by virtue of any limited interest.

“Gross property” in respect of a deceased person means—

- (a) the dutiable estate of that person (other than non-aggregated property);
- (b) real property situate outside New South Wales in which that person had a beneficial interest at the date of death;

(c)



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*Stamp Duties (Amendment).*

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- (c) real property so situate over which that person had a general power of appointment at that date; and
- (d) the beneficial interest held by that person immediately prior to his death in a joint tenancy or joint ownership with another person or persons in real property situate outside New South Wales.

“Gross property (non-aggregated)” in respect of a deceased person means—

- (a) the non-aggregated property included in the dutiable estate of that person; and
- (b) property, whether real or personal, which was situate outside New South Wales at the date of death of that person which, if it had been situate in New South Wales at that date would have formed part of the dutiable estate of that person by virtue of subparagraph (g) of paragraph (2) of section one hundred and two of this Act.

“Partnership” includes an association of persons in receipt of income jointly but does not include a body corporate.

“Primary production” means production resulting directly from—

- (a) the cultivation of land;
- (b) the planting or tending in a plantation or forest of trees intended for felling; or
- (c) the maintenance of animals, for the purpose of selling them or their bodily produce, including natural increase.

“Relative”



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*Stamp Duties (Amendment).*

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“Relative” in relation to a person means—

- (a) the spouse of the person;
- (b) a parent, step-parent or other lineal ancestor of the person or of the spouse of the person;
- (c) a child or other lineal descendant of the person, or of the spouse of the person;
- (d) a brother or sister (including a half-brother or half-sister) of the person or of the spouse of the person;
- (e) a child of a person to whom paragraph (d) of this definition applies; or
- (f) the spouse of a person to whom paragraph (c), (d) or (e) of this definition applies,

whether or not that person or any person referred to in paragraph (a), (b), (c), (d), (e) or (f) of this definition is illegitimate or adopted or traces a relationship so referred to through a person who is illegitimate or adopted.

“Relevant period” in respect of a deceased person means the period comprising—

- (a) the year of income of the person that ended during the period of one year that ended on the date of his death; and
- (b) the four years of income immediately preceding that year of income.

“Rural



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*Stamp Duties (Amendment).*

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“Rural property” in relation to a deceased person means property or an interest in property, in Australia, consisting of—

- (a) land that, at the time of the death of the person, was used wholly and exclusively for the purpose of carrying on a business of primary production;
- (b) animals or farm produce—
  - (i) used, or held for use, at the time of the death of the person in a business of primary production; or
  - (ii) raised or produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- (c) a right to income other than income that is included in the gross income of the person in relation to the relevant period, being a right arising from the delivery to any person of farm produce produced in the course of the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member;
- (d) shares in a rural society registered under the Co-operation Act, 1923, or exempted from registration by the Registrar under that Act; or

(d)

(e)

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*Stamp Duties (Amendment).*

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- (e) plant, machinery, goods or articles that, at the time of the death of the person were used, or held for use, in a business of primary production,

but does not include non-aggregated property or property that consists of—

- (f) motor vehicles designed primarily and principally for the transport of persons;
- (g) household furniture, furnishings or appliances;
- (h) wireless receivers or transmitters or television receivers or antennae.

“Rural property (non-aggregated)” in relation to a deceased person means non-aggregated property that would be rural property—

- (a) if it were not non-aggregated property; and
- (b) if a reference in the definition of “Rural property” in this subsection to the carrying on of a business of primary production by the deceased person or by a partnership of which he was a member included a reference to the carrying on of such a business by a trustee.

“Year of income” in relation to a person means—

- (a) where the person has adopted an accounting period under the **Income Tax Assessment Act 1936** of the Parliament of the Commonwealth, or any Act amending or replacing that Act, being a year ending on a day that is not the thirtieth day of June—that accounting period; or

(b)



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*Stamp Duties (Amendment).*

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- (b) in any other case, the year ending on the thirtieth day of June.

(2) For the purposes of this Division, the gross farm income of a deceased person for a period is the aggregate of—

- (a) so much of the gross income of that person for that period as was derived by that person (otherwise than as a member of a partnership or as a beneficiary in a trust estate) directly from the carrying on by him of a business of primary production in Australia;
- (b) where that person during that period derived income from a partnership of which he was a member—the amount ascertained in respect of each such partnership in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

- “x” represents that amount;
- “a” represents so much of the gross income of the partnership for that period as was derived directly from the carrying on by the partnership of a business of primary production in Australia;
- “b” represents the amount of the interest of that person in the net income of the partnership for that period or, where the partnership suffered a net loss for that period, the amount of the liability of that person in respect of the loss;
- “c” represents the net income or, as the case may be, the net loss, of the partnership for that period; and

(c)

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*Stamp Duties (Amendment).*


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- (c) where that person, during that period derived income from a trust estate in which he was a beneficiary—the amount ascertained in respect of each such trust estate in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income of the trust estate for that period as was derived directly from the carrying on by the trustees of the trust estate of a business of primary production in Australia;

“b” represents the gross income of that person for that period as a beneficiary in the trust estate;

“c” represents the gross income of the trust estate for that period,

but does not include any gross farm income (limited interest) of that person for that period.

(3) For the purposes of this Division, the gross farm income (limited interest) of a deceased person for a period is the aggregate of—

(a) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to the whole of the income or benefits of that property—so much of the gross income from that property for that period as was attributable to the carrying on of a business of primary production in Australia; and

(b) where that person had a limited interest in gross property (non-aggregated) and the limited interest extended to less than the whole



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*Stamp Duties (Amendment).*

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whole of the income or benefits of that property—the amount ascertained in respect of each such limited interest in accordance with the formula—

$$x = \frac{a \times b}{c}$$

where—

“x” represents that amount;

“a” represents so much of the gross income represented by “c” as was attributable to the carrying on of a business of primary production in Australia;

“b” represents the gross income (limited interest) of that person for that period;

“c” represents the total income (without deduction of any expenses incurred in deriving that income) from that property for that period.

(4) For the purposes of paragraph (b) of subsection three of this section, the gross income (limited interest) for a period of a person who had a limited interest in gross property (non-aggregated) that extended to less than the whole of the income or benefits of that property is—

- (a) where the limited interest provided for an income of a fixed amount—the amount of that income in respect of that period; or
- (b) in any other case—such amount as bears to the total income (without deduction of any expenses incurred in deriving that income) from that property for that period the same proportion as the amount of the interest of that person in the net income from that property for that period bears to that net income for that period.

(5)



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*Stamp Duties (Amendment).*

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(5) For the purposes of this Division, the expression "limited interest" shall be deemed to extend to property referred to in paragraph (b) of the definition of "Gross property (non-aggregated)" in subsection one of this section as if the property so referred to were non-aggregated property.

(6) For the purposes of the definition of "Family company" in subsection one of this section, shares in a corporation shall be treated as having been beneficially owned by a person at the time of his death if the shares are included in his dutiable estate.

(7) Where—

- (a) income consisting of dividends, salary, wages, bonuses or directors' fees is derived from a corporation by a person (other than a corporation);
- (b) the person was, at the time when he derived the income, the beneficial owner of one or more shares in the corporation;
- (c) the corporation was a family company of the person at all times during—
  - (i) the year of income of the corporation during which the income was derived by the person; or
  - (ii) if the person died during that year of income—the part of that year of income that ended on the date of his death; and
- (d) the gross farm income of the corporation for that year of income constituted more than one-half of the gross income of the corporation for that year of income,

the



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*Stamp Duties (Amendment).*

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the income so derived by the person shall be deemed for the purposes of this Division to be income derived by the person directly from the carrying on by the person of a business of primary production in Australia.

(8) For the purposes of this Division, rural property of a family company of a person is property that would be rural property if the company were that person.

112H. (1) Where any rural property is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

Reduction of  
death duty—  
rural  
property.

- (a) that, as at the death, the rural property was vested in, or, on the death, the rural property passed to or devolved upon, the widow, widower, child, parent, brother or sister of the deceased; and
- (b) that, as at the death the person, in whom the rural property was vested or to or upon whom the rural property passed or devolved—
  - (i) was wholly or mainly dependent for support on the deceased;
  - (ii) was ordinarily employed by the deceased in the business of primary production to which the rural property relates; or
  - (iii) was wholly or mainly dependent for his livelihood on income derived from the rural property or, where an election has been made under section 112K of this Act, was so dependent



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*Stamp Duties (Amendment).*

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dependent on income derived from the family company to which the election relates, whether the income was derived as an employee, a shareholder or otherwise,

the amount of death duty payable on the death of the deceased in respect of the rural property shall, subject to this section, be reduced as provided by subsections two and three of this section.

(2) Subject to subsection three of this section, the extent of the reduction of death duty referred to in subsection one of this section is—

- (a) where the value of the gross property of the deceased does not exceed \$150,000—thirty per centum;
- (b) where the value of the gross property of the deceased exceeds \$150,000 but does not exceed \$160,000—twenty-five per centum;
- (c) where the value of the gross property of the deceased exceeds \$160,000 but does not exceed \$170,000—twenty per centum;
- (d) where the value of the gross property of the deceased exceeds \$170,000 but does not exceed \$180,000—fifteen per centum;
- (e) where the value of the gross property of the deceased exceeds \$180,000 but does not exceed \$190,000—ten per centum;
- (f) where the value of the gross property of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

(3)



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*Stamp Duties (Amendment).*

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(3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

- (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which, but for this subsection, would be applicable; and
- (b) by subtracting from the amount so calculated the amount by which the value of the gross property of the deceased exceeds the maximum value of gross property to which that next higher rate per centum applies.

(4) For the purposes of subsections one and five of this section, where shares in a family company in respect of which an election is made under section 112K of this Act are included in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property of a value that bears to the value of those shares as determined under the provisions of section 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property of the company.

(5) Subsection one of this section does not apply unless—

- (a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;

(b)



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*Stamp Duties (Amendment).*


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- (b) the gross farm income of that person for the relevant period was more than one-half of his gross income for that period; and
- (c) the value of the rural property included or deemed to be included in the dutiable estate of that person was more than one-half the value of his gross property.

Reduction  
of death  
duty—rural  
property  
(non-  
aggregated).

112I. (1) Where any rural property (non-aggregated) is included or is deemed to be included in the dutiable estate of a person who dies after the commencement of section two of the Stamp Duties (Amendment) Act, 1971, and the Commissioner is satisfied—

- (a) that, as at the death, the rural property (non-aggregated) was vested in or, on or at a time determined by reference to the death, the rural property (non-aggregated) passed to, the widow, widower, child, parent, brother or sister of the person who created the limited interest; and
  - (b) that as at the death the person in whom the rural property (non-aggregated) was vested or to whom the rural property (non-aggregated) passed—
    - (i) was wholly or mainly dependent for support on the deceased;
    - (ii) was ordinarily employed by the deceased in the business of primary production to which the rural property (non-aggregated) relates; or
    - (iii) was wholly or mainly dependent for his livelihood on income derived from the rural property (non-aggregated) or, where an election has been made under section 112K
- of



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*Stamp Duties (Amendment).*

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of this Act, was so dependent on income derived from the family company to which the election relates whether the income was derived as an employee, a shareholder or otherwise,

the amount of death duty payable on the death of the deceased in respect of the rural property (non-aggregated) shall, subject to this section, be reduced as provided by subsections two and three of this section.

(2) Subject to subsection three of this section, the extent of the reduction of death duty referred to in subsection one of this section is—

- (a) where the value of the gross property (non-aggregated) of the deceased does not exceed \$150,000—thirty per centum;
- (b) where the value of the gross property (non-aggregated) of the deceased exceeds \$150,000 but does not exceed \$160,000—twenty-five per centum;
- (c) where the value of the gross property (non-aggregated) of the deceased exceeds \$160,000 but does not exceed \$170,000—twenty per centum;
- (d) where the value of the gross property (non-aggregated) of the deceased exceeds \$170,000 but does not exceed \$180,000—fifteen per centum;
- (e) where the value of the gross property (non-aggregated) of the deceased exceeds \$180,000 but does not exceed \$190,000—ten per centum;

(f)



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*Stamp Duties (Amendment).*

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- (f) where the value of the gross property (non-aggregated) of the deceased exceeds \$190,000 but does not exceed \$200,000—five per centum.

(3) Notwithstanding subsection two of this section, the amount of the reduction ascertained pursuant to that subsection shall, where necessary, be increased so that it is not less than the amount ascertained—

- (a) by calculating the reduction referred to in subsection one of this section as if it were to be made at the rate per centum specified in subsection two of this section as the rate per centum next higher than that which, but for this subsection, would be applicable; and
- (b) by subtracting from the amount so calculated the amount by which the value of the gross property (non-aggregated) of the deceased exceeds the maximum value of gross property (non-aggregated) to which that next higher rate per centum applies.

(4) For the purposes of subsections one and five of this section, where shares in a family company in respect of which an election is made under section 112K of this Act are included as non-aggregated property in the dutiable estate of a deceased person, there shall be deemed to be included in that estate rural property (non-aggregated) of a value that bears to the value of those shares as determined under the provisions of section 112L of this Act the same proportion as the gross value of the rural property of the company bears to the gross value of the whole of the property of the company.

(5)



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*Stamp Duties (Amendment).*

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(5) Subsection one of this section does not apply unless—

- (a) the deceased person referred to therein was domiciled in New South Wales at the date of his death;
- (b) the gross farm income (limited interest) of that person for the relevant period was more than one-half of his gross income (limited interest) for that period; and
- (c) the value of the rural property (non-aggregated) included or deemed to be included in the dutiable estate of that person was more than one-half of the value of his gross property (non-aggregated).

112J. For the purposes of sections 112H and 112I of this Act the value of any property is—

Ascertainment of value of property.

- (a) in the case of property included in the dutiable estate of a deceased person, the value at which it is included therein; and
- (b) in any other case, the value of the property as at the time of the death of the deceased person referred to in those sections.

112K. (1) Where—

Election with respect to rural property.

- (a) the dutiable estate of a deceased person includes shares in a family company of that person;
- (b) the property of the family company at the date of death of the deceased included rural property; and
- (c) the gross value of the rural property of the family company exceeded one-half of the gross value of the whole of the property of the family company,

the



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*Stamp Duties (Amendment).*

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the administrator of the estate or other person liable to the payment of death duty may elect to have the shares taken into account in determining the rural property included in the dutiable estate.

(2) An election under subsection one of this section shall be in writing and shall be lodged with the Commissioner within sixty days after the affidavit of value referred to in subsection one of section one hundred and seventeen, the application referred to in subsection five of section one hundred and seventeen, or the account referred to in subsection two of section one hundred and twenty, of this Act, as the case may be, is received by the Commissioner, or within such further time as the Commissioner allows.

(3) An election under subsection one of this section may be withdrawn by the person who made the election by notice in writing lodged with the Commissioner at any time prior to the assessment of duty or within sixty days after notice of the assessment has been given to the administrator or other person liable to the payment of duty or within sixty days after the determination of an appeal under section one hundred and twenty-four of this Act, whereupon the provisions of this Act shall have effect as if the election had not been made.

Valuation  
of shares  
in certain  
cases.

112L. Notwithstanding the provisions of section one hundred and twenty-seven of this Act, where an administrator or other person has made an election under section 112K of this Act, the value of the shares in the family company to which the election relates shall, for the purposes of Parts IV and V of this Act, be the amount that the holder of the shares would have received or been entitled to receive in respect of the shares if the company had been voluntarily wound up on the date upon which the value of the shares is to be ascertained

for



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*Stamp Duties (Amendment).*

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for the purposes of this Act, no account being taken of any costs that would have been incurred in the winding up of the company, or of any liability to income tax that would have been incurred by the company, by reason of the winding up.

- (c) by inserting next after section 125A the following New sec. 125AA.  
new section :—

125AA. (1) Subject to subsection two of this section, where it is necessary for the purpose of assessing death duty under this Act to ascertain the value of a debt (whether or not the debt is a debt which is, or the value of which is, included in the dutiable estate of a deceased person) the value shall be ascertained as if the amount thereof outstanding had become due and payable on the date on which the value of the debt is to be ascertained. Ascertain-  
ment of  
value of  
debts.

(2) Subsection one of this section does not apply—

- (a) to a marketable security that, on the date referred to in that subsection, is quoted in a stock or share market in or out of New South Wales; or
- (b) where the terms on which the debt so referred to is repayable are such as would be expected in a normal commercial transaction and the Commissioner is satisfied that it would not be just and reasonable in the circumstances that the subsection should apply.

(3) In this section “debt” means a debt of any kind whatsoever, whether secured or unsecured and whether under seal or otherwise, and includes a bill of exchange or promissory note, whether negotiable or otherwise.



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*Stamp Duties (Amendment).*


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Further  
amendment  
of Act No.  
47, 1920.  
Second  
Schedule.

3. The Second Schedule to the Stamp Duties Act, 1920, is amended by omitting from the matter appearing in paragraph (1) under the heading "CONVEYANCES OF ANY PROPERTY" in the first column, and from the matter opposite thereto in the second column, the following matter :—

Exceeds \$100 and does not exceed \$200 .. ..	2.50
Exceeds \$200 but does not exceed \$14,000, for every \$200 and also for any remaining fractional part of \$200 of such amount .. .. .	2.50
Exceeds \$14,000—For every \$200 of the first \$14,000 of such amount .. .. .	2.50
And in addition thereto, for every \$200 and also for any remaining fractional part of \$200 in excess of the first \$14,000 .. .. .	3.00

and by inserting in lieu thereof the following matter :—

Exceeds \$100 but does not exceed \$14,000—	
For every \$100 and also for any remaining fractional part of \$100 of such amount .. .. .	1.25
Exceeds \$14,000 but does not exceed \$30,000—	
For every \$100 of the first \$14,000 of such amount ..	1.25
And in addition thereto for every \$100 and also for any remaining fractional part of \$100 in excess of the first \$14,000 .. .. .	1.50
Exceeds \$30,000 but does not exceed \$50,000—	
For every \$100 and also for any remaining fractional part of \$100 of such amount .. .. .	1.75
Exceeds \$50,000 but does not exceed \$100,000—	
For every \$100 and also for any remaining fractional part of \$100 of such amount .. .. .	2.00
Exceeds \$100,000 but does not exceed \$250,000—	
For every \$100 and also for any remaining fractional part of \$100 of such amount .. .. .	2.25
Exceeds \$250,000—	
For every \$100 and also for any remaining fractional part of \$100 of such amount .. .. .	2.50



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*Stamp Duties (Amendment).*

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4. (1) The Stamp Duties Act, 1920, is further amended—

Further  
amendment  
of Act No.  
47, 1920.

- (a) by omitting from paragraph (b) of subsection one of section 97AB the word "five" and by inserting in lieu thereof the word "seven";
- (b) by omitting from the same paragraph the word "twenty" and by inserting in lieu thereof the word "thirty".

Sec. 97AB.

(2) Notwithstanding the provisions of subsection one of this section, the amount payable as stamp duty under section 97AB of the Stamp Duties Act, 1920, in respect of sales and purchases made or deemed to have been made before the first day of January, one thousand nine hundred and seventy-two, shall be at the rate or rates payable under that section immediately before that day.

5. The Second Schedule to the Stamp Duties Act, 1920, is further amended—

Further  
amendment  
of Act No.  
47, 1920.  
Second  
Schedule.

- (a) by omitting from the second column the figures "0.05" opposite the word "Cheque" under the heading "BILL OF EXCHANGE, PROMISSORY NOTE AND CHEQUE—" in the first column and by inserting in lieu thereof the figures "0.06";
- (b) by omitting from the second column the figures "0.04" opposite paragraph (1) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figures "0.06";
- (c) by omitting the figure and letter "4c" from the matter in the second column opposite paragraph (4) under the heading "TRANSFER OF SHARES—" and by inserting in lieu thereof the figure and letter "6c".



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*Stamp Duties (Amendment).*

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Transitional  
provisions.

6. (1) Cheque forms which have before the first day of January, one thousand nine hundred and seventy-two, been printed to the order of a bank under license issued under the provisions of the Stamp Duties Act, 1920, and are impressed with five cents stamp duty and are either in the possession of the printer or of the bank upon the first day of January, one thousand nine hundred and seventy-two, and are unused shall be deemed to be duly stamped with six cents stamp duty.

(2) Any bank which upon the first day of January, one thousand nine hundred and seventy-two, is in possession of cheque forms referred to in subsection one of this section upon which stamp duty of five cents on each such form has been paid shall, within one month after that day, furnish to the Commissioner a statement in a form approved by him giving particulars and numbers of those forms and pay to the Commissioner additional duty of one cent on each such form.

(3) Any bank which upon the first day of January, one thousand nine hundred and seventy-two, is in possession of cheque forms referred to in subsection one of this section upon which no stamp duty has been paid shall, when making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six cents duty on each such form.

(4) Where cheque forms referred to in subsection one of this section are upon the first day of January, one thousand nine hundred and seventy-two, in the possession of a printer and are subsequently delivered to a bank, the bank shall, when making payment of the stamp duty on these forms in accordance with the provisions of the Stamp Duties Act, 1920, and the regulations thereunder, pay to the Commissioner the amount of six cents duty on each such form.

(5)



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*Stamp Duties (Amendment).*

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(5) Where on or after the first day of January, one thousand nine hundred and seventy-two, a cheque is drawn on an unused cheque form that, on that day, is in the possession of a person other than a bank or a printer referred to in this section, the cheque form shall be deemed to be duly stamped with six cents stamp duty if it is impressed with five cents stamp duty or is deemed, by the operation of the Stamp Duties (Amendment) Act, 1966, to be duly stamped with five cents stamp duty and—

- (a) the cheque form was one of more than three hundred such cheque forms in the possession of a person on the first day of January, one thousand nine hundred and seventy-two, and that person, before the issue of the cheque form—
  - (i) furnished to the Commissioner, for the purposes of this subsection, a statutory declaration in a form approved by the Commissioner giving the particulars and numbers of those cheque forms; and
  - (ii) paid to the Commissioner a further amount of duty equal to six cents for each such form so in his possession, less the amount of stamp duty already paid thereon;
- (b) an adhesive duty stamp, sufficient in value to bring to six cents the value of the stamps on the cheque form, is affixed to the cheque form and duly cancelled before the cheque form is issued; or
- (c) the cheque form is, before its issue, impressed at the Stamp Duties Office with such further amount of duty as is sufficient to bring to six cents the value of the stamps on the cheque form.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

*Government House,  
Sydney, 21st December, 1971.*



## Stamp Duty (Amendment)

(2) Where on or after the first day of January, one thousand nine hundred and seven, a cheque is drawn on an unpaid cheque form that on that day is in the possession of a person other than a bank or a person related to the issuer of the cheque form, and is deemed to be this stamp duty or is deemed, by the operation of the Stamp Duty (Amendment) Act, 1966, to be duly stamped with five cents stamp duty only—

(a) the cheque form was one of more than three hundred such cheque forms in the possession of a person on the first day of January, one thousand nine hundred and six, and that person, before the issue of the cheque form—

(i) furnished to the Commissioner, for the purpose of this subsection, a statutory declaration in a form approved by the Commissioner giving the particulars and numbers of those cheque forms; and

(ii) paid to the Commissioner a further amount of duty equal to six cents for each such form so in his possession, less the amount of stamp duty already paid thereon;

(b) an adhesive duty stamp sufficient to bring to six cents the value of the stamps on the cheque form is affixed to the cheque form and duty is paid on the cheque form in full;

(c) the cheque form is before its issue, impressed at the Stamp Duty Office with such further amount of duty as is sufficient to bring to six cents the value of the stamps on the cheque form.

In the event of any breach of this Act, a person is liable to a fine not exceeding five hundred dollars.

A. E. GUTTER

Government

Government

25th, 21st December, 1971.