The main purpose is to provide exemption from estate duty on property passing within families on an interim basis from 21 November 1977 to 1 July 1979 and the total abolition of estate duty after 1 July 1979.

In the past the Commonwealth and all the States have imposed death duties and the Commonwealth and some States gift duties. However, most States have recently abolished death duty on property passing to a spouse and, in the case of Victoria, children, but in Victoria and South Australia, gift duty remains on gifts to relatives. Queensland completely abolished both death and gift duty as from 1 January 1977 and both Western Australia and N.S.W. have foreshadowed their intention to follow suit with respect to death duty. Neither of these States imposes any formal gift duty.

The abolition of Commonwealth estate and gift duty was announced as an election promise in 1977 by the L-NCP. The time-table to give effect to this promise was announced by the Treasurer (Hon. John Howard) on 18 January, 1978.

Legislation necessary to implement these proposals includes:

- Estate Duty Assessment Amendment Bill 1978;
- Estate Duty Amendment Bill 1978;
- Gift Duty Assessment Amendment Bill 1978; and

It is worth noting that the Estate Duty Act and the Gift Duty Act impose duties at rates set out in a schedule to those Acts, whereas the Estate Duty Assessment Act and the Gift Duty Assessment Act relate to the levying, assessment and collection of these duties.
Main Provisions

Notes on the clauses of this and the other related Bills are provided in an explanatory memorandum.

The term "members of the family" is inserted to mean the widow, widower, a child, grandchild, a parent or grandparent of the deceased person (clause 3). Taken together with sub-clauses 4(3) and 11(2), exemption from duty is to be provided for property passing to a member of a family in accordance with this definition where the deceased died on or after 21 November 1977.

Estate duty is to be abolished altogether for estates of persons dying on or after 1 July 1979 (sub-clause 4(1)).

As a consequence of the interim family exemption provisions in the Bill, the $50,000 deduction for property passing to a widow or widower and the higher level of statutory exemption where property passes to a widow or widower, children or grandchildren become redundant and are to be withdrawn as from 21 November 1977 (clauses 5, 7, 9 and 11).

The Commissioner of Taxation is to be given a new power to amend an estate duty assessment within 3 years of the due date of payment to adjust the amount originally allowed as a deduction for State duties where the amount ultimately payable to a State differs from the deduction allowed (clause 8). At present the Commissioner can only amend an assessment to correct an error in calculation or a mistake of fact, unless there has not been a full and true disclosure or the assessment is subject to an objection or appeal.

Exemptions are to be provided for property passing to the National Trust of Australia (Northern Territory) on or after 16 November 1976 or the National Trust of Australia (A.C.T.) on or after 20 December 1976, placing these two bodies on an equal footing for estate duty purposes with the Australian Council of National Trusts and the State National Trust organisations (sub-clauses 4(2) and 11(1)).

Finance, Industries, Trade and Development Group

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LEGISLATIVE RESEARCH SERVICE