



CHAPTER 37

Succession Duty Act

[Assented to 22 December 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

CHAPTER I

INTERPRETATION

Interpre-
tation:

1. In this act and the regulations hereunder, unless the context indicates otherwise,

“benefi-
ciary”;

“beneficiary” means any person to whom any property is transmitted or deemed transmitted owing to death;

“proper-
ty”;

“property” means any property the ownership, usufruct or enjoyment of which is transmitted owing to death;

“child”;

“child” means, in particular, the child of the consort;

“Minister”;

“Minister” means the Ministre du revenu;

“regula-
tion”.

“regulation” means a regulation made by the Government under this act.

CHAPTER II

LIABILITY FOR AND INCIDENCE OF DUTIES

Property
liable for
duties.

2. All property situated in Québec transmitted owing to death is liable for duties.

Property
outside
Québec.

3. Every beneficiary resident or domiciled in Québec to whom property situated outside Québec is transmitted owing to death must pay duties in respect of that property.

Personal
liability.

4. Every beneficiary is personally liable for the duties on the taxable value of all property transmitted to him owing to death.

Usufruct
or use of
property.

5. In the case of usufruct or use of property, the amount of duties is computed as though the usufructuary or the person having the right of use received the property so encumbered as absolute owner and as a separate person entitled only to the exemptions provided for in section 33.

Substitu-
tion or
trust.

6. The property subject to a substitution or to a trust is deemed to be transmitted in absolute ownership to the institute or, as the case may be, to the beneficiary of the revenue owing to the death of the donor.

Presump-
tion.

Any property in respect of which the right of the substitute or of a beneficiary arises on the death of the institute or of a beneficiary of the revenue, as the case may be, is deemed to be transmitted to the substitute or to that other beneficiary owing to such death.

Presump-
tion.

Where the right of the substitute arises before the death of the institute, the property is deemed to be transmitted to him, at that time, owing to the death of the donor.

CHAPTER III

DEEMED TRANSMISSIONS

Deemed
transmis-
sions
owing to
death.

7. Any property is deemed to be transmitted owing to the death of a person

(a) where such property was the subject of a gift in contemplation of death by such person;

(b) where that property was the subject of a prohibition to dispose stipulated by such person and still in existence within the three years prior to his death;

(c) where the deceased had in respect of such property a general right of disposition or a general power of appointment; or

(d) where the deceased has disposed of the property by gratuitous title by a deed which has taken effect within the three years prior to his death; when the subject of such disposition is a sum of money, it is deemed to have taken effect only on the date on which the said sum was really paid.

Idem.

8. Where the deceased has disposed of property by a deed which has taken effect more than three years prior to his death for a consideration then smaller than its market value and, prior to these three years, he had not absolutely divested himself of his right of ownership in the entirety of the said property, of his right to prescribe the utilization or destination thereof or of his right to

receive any consideration whatever therefor in lieu of any revenue that might arise therefrom, such property is deemed transmitted owing to the death of the deceased but only in such proportion of its market value at the time of death as is equal to that existing between the excess of the market value at the time of disposition over the consideration then received and the market value at that time.

Exception. **9.** Sections 7 and 8 do not apply to one or more gifts *inter vivos* in favour of the same donee except to the extent that the market value of the property so given during the same year exceeds \$3 000.

Disposition without divestment of rights. **10.** Where a person has disposed of a property by a deed of trust and has not absolutely divested himself of his right of ownership in the entirety of the said property, of his right to prescribe the utilization or destination thereof or of his right to receive any consideration whatever therefor in lieu of any revenue that might arise therefrom, such property is deemed to be transmitted owing to the death of such person.

Disposition taking other form. **11.** Where a disposition of property within the three years prior to the death of a person takes the form of an onerous contract but in fact entails a gratuity, such gratuity is deemed to constitute, to the extent of the value thereof, a disposition of property by gratuitous title in favour of the beneficiary of such gratuity.

Transfer owing to death. **12.** Where any property that was not in the estate of a person at the time of his death enters it by a subsequent transfer made by its owner to the donee, legatee, executor or trustee of such person, to be dealt with according to the wishes of the deceased, and the said transfer has been made gratuitously or in consideration of benefits granted by the deceased, that property is deemed transmitted owing to the death of that person to the person receiving it.

Life insurance. **13.** Notwithstanding the provisions of the Civil Code, the proceeds of an insurance policy payable owing to or upon the death of an insured person, including an annuity payable by the insurer, is deemed to be transmitted owing to such death to the beneficiary of the policy, even when the insured person did not himself take out the insurance or pay the premiums thereon.

Restriction. However, that proportion of the proceeds corresponding to the premiums paid by the beneficiary personally and actually borne by him and that part of the proceeds that the beneficiary has otherwise acquired for valuable consideration are not deemed to be transmitted owing to the death of the insured person.

Property
deemed
trans-
mitted
owing to
death.

14. Where a person has stipulated that the duties owing from a beneficiary to whom property is transmitted owing to his death should be paid or reimbursed by another person, any property used for such payment or reimbursement is deemed to be transmitted to such beneficiary, owing to death.

Value of
property.

The value of the property deemed to be transmitted under the first paragraph is equal to the amount of the duties that would otherwise be payable in the absence of this section.

Property
outside
Québec.

15. Every property situated outside Québec and transmitted owing to or upon the death of a person resident or domiciled in Québec to a corporation not resident in Québec is deemed so transmitted to any shareholder of the corporation who is resident in Québec, in proportion to his direct equity in the corporation represented by the ratio between the number of shares directly or indirectly held by him in the capital stock of the corporation and the total number of issued shares of the capital stock of the corporation; any such property so transmitted to a corporation residing outside Québec is deemed, as the case may be, transmitted to any such shareholder of a corporation that directly or indirectly controls the corporation to which the property is so transmitted, in proportion to his indirect equity in the corporation, represented by the percentage then obtained when that shareholder's direct equity percentage in any corporation is multiplied by that corporation's direct equity percentage in the corporation to which the property is transmitted.

Idem.

Any property situated outside Québec and transmitted owing to the death of a person resident or domiciled in Québec to a trust not resident in Québec is deemed so transmitted to any person resident in Québec in the proportion that such person's equity in the trust, at the time of death, represents in relation to all other persons' equity in the said trust at the same time.

Debt
receivable
from cor-
poration or
trust.

The same rule applies to a debt receivable by such person from a corporation or a trust situated outside Québec at the time of his death where the cancellation of such debt occurs owing to or upon the death of such person.

CHAPTER IV

COMPUTATION OF THE TAXABLE VALUE

DIVISION I

RULES OF VALUATION

Taxable
value.

16. The taxable value of any property transmitted to a beneficiary owing to death is equal to the market value of that property at the time of death, less the deductions and exemptions granted to that beneficiary under Divisions II and III.

Property
subject to
substitu-
tion.

17. For the purposes of section 16, the market value of all the property being the subject of a substitution and deemed transmitted owing to the death of the donor to a substitute, pursuant to section 6, is equal to the market value of the property at the time of death, or that of the property included in the substitution at the time the right of that substitute arises, whichever is the less; the market value of any property to which sections 7 and 8 are applicable must be increased by an amount equal to the tax paid or payable by the deceased, or on his behalf, and levied pursuant to any Canadian law that imposes a gift tax.

Annuity or
endow-
ment.

18. The market value of any annuity or endowment is equal to the amount required at the time of death, as computed by the debtor for such annuity or endowment in the case of a person holding a licence or otherwise authorized by the statutes of Canada or of a province to engage in the annuities business in Canada or in a province, or as computed according to the average of the values estimated by three such persons, in other cases, to ensure an equivalent annuity or endowment.

Claim.

19. The market value of any claim at the time of death of the creditor is its face value if the debtor is related to him, within the meaning of sections 14 and 15 of the Taxation Act (1972, chapter 23), except if the debtor is then insolvent.

DIVISION II

DEDUCTIONS

Deduc-
tions.

20. A beneficiary may deduct, in computing the taxable value of the property transmitted to him owing to death, that part

(a) of the debts and obligations of the deceased at the time of death, including the taxes owing under any law levying taxes on revenue on the occasion of death, and

(b) of the funeral expenses, and the purchase price of a funeral monument and a plot in a cemetery,
for which he is personally liable.

Deductions
not
allowed.

21. No deduction is allowed in computing the taxable value of property transmitted owing to death, for

(a) any debt for which there is a right to reimbursement, to the extent that such right may be exercised;

(b) any debt or part of a debt which, considering its nature and the circumstances under which it was created or is claimed, would factitiously reduce the estate of such person; or

(c) any obligation assumed in a marriage contract, to the extent that it is not fulfilled at the time of death.

Property
partly in
Québec.

22. Where any property transmitted owing to the death of a person is situated in part in Québec and in part elsewhere, and failing any precise provision in the will of that person as to the imputation of the payment of the debts and charges existing at the time of his death, the said debts and charges, to the extent that they are deductible, shall be deducted, in computing the taxable value of the property situated in Québec, only in proportion to the ratio between the value of such property and the value of all the property transmitted owing to death.

DIVISION III

EXONERATIONS AND EXEMPTIONS

Public
bodies
exempted.

23. Any public body established in Canada for cultural purposes, any charitable organization or Canadian amateur athletic association prescribed by regulation and any Canadian municipality or urban community to which property is transmitted in absolute ownership owing to death, is exempt from the payment of duties, subject to section 5; in the case of such a charitable organization or amateur athletic association, this exemption is terminated as soon as the property ceases to be used for the purposes for which the organization or association was established, and it must then pay the duties that would otherwise have been payable by it on this property owing to such death.

No duty
exigible.

24. No duty is exigible on moveable property and hypothecary claims transmitted to a person who, at the time of death, is resident and domiciled outside Québec by a person who is, at the same time, resident and domiciled outside Québec.

Exception.

25. Section 13 does not apply to that part of the proceeds payable to a beneficiary who, at the time of death, is resident and domiciled outside Québec, owing to or upon the death of an insured person who, at the same time, is resident and domiciled outside Québec.

Beneficiary is consort of deceased.

26. Subject to section 5, where the beneficiary is the consort of the deceased, he is exempt from the payment of duties on any property transmitted to him in absolute ownership owing to death.

Child or dependent person.

27. Where the beneficiary is the child of the deceased, or a person who, at the time of death, is entirely dependent on the deceased, is less than 18 years of age and is in the custody and under the supervision of the deceased, or is 18 years of age or older and attends a school or university on a full-time basis, or is dependent on him by reason of physical or mental disability, he may deduct, in computing the taxable value of the property transmitted to him owing to death, an amount not exceeding \$75 000.

Son-in-law or daughter-in-law.

28. Where the beneficiary is the son-in-law or daughter-in-law of the deceased, he may, in computing the taxable value of the property transmitted to him owing to the death of the deceased, deduct that part of the deduction provided for under section 27 which has not been used by his consort, whether the latter was not an heir to the estate, is deceased or has inherited an insufficient amount.

Direct lineal descendant.

29. Where the beneficiary is a direct lineal descendant of the deceased, he may, in computing the taxable value of the property transmitted to him owing to the death of the deceased, in addition to the amounts provided for elsewhere in this division, deduct that part of the deduction provided for in section 27 which could not be used by all the other persons who are direct lineal descendants between him and the deceased, and by the beneficiary, in the direct line ascending, contemplated in section 28, whether such other persons and such beneficiary are not heirs to the estate, are deceased, or have not inherited, all together, a sufficient amount to warrant the use of the maximum allowable deduction of \$75 000.

Beneficiary under 26 years of age.

30. Where the beneficiary contemplated in section 27 is under 26 years of age, he is entitled to an additional deduction of \$2 000 for every year of difference between 26 and his age at the time of death, but not in excess of \$50 000.

Benefi-
ciary
disabled.

31. Where, at the time of death, the beneficiary contemplated in section 27 is physically or mentally disabled, he is entitled to an additional deduction of \$50 000.

Deduction
allowed.

32. Every beneficiary other than the beneficiary contemplated in sections 26 and 27 may deduct an amount not exceeding \$5 000, in computing the taxable value of the property transmitted to him owing to death.

Idem.

33. The usufructuary or the person having a right of use contemplated in section 5 may, in computing the taxable value of encumbered property, deduct that part of the deduction provided for in this division in favour of the person having naked ownership which the latter has been unable to use, not having received an inheritance of a sufficient amount for that purpose.

CHAPTER V

COMPUTATION OF DUTIES

Duties
payable.

34. The duties payable by a beneficiary, on the taxable value of the property transmitted to him owing to death, are the following:

(a) 20 per cent of that part of the taxable value not in excess of \$100 000;

(b) \$20 000 plus 23 per cent of that part of the taxable value in excess of \$100 000, if that value is greater than \$100 000 but does not exceed \$200 000;

(c) \$43 000 plus 26 per cent of that part of the taxable value in excess of \$200 000, if that value is greater than \$200 000, but does not exceed \$500 000;

(d) \$121 000 plus 29 per cent of that part of the taxable value in excess of \$500 000, if that value is greater than \$500 000 but does not exceed \$1 000 000;

(e) \$266 000 plus 32 per cent of that part of the taxable value in excess of \$1 000 000, if that value is greater than \$1 000 000 but does not exceed \$2 000 000;

(f) \$586 000 plus 35 per cent of that part of the taxable value in excess of \$2 000 000, if that value is greater than \$2 000 000.

Property
outside
Québec.

35. Where succession duties have been paid on property situated outside Québec to the government of a foreign country, of a political subdivision of a foreign country or of another pro-

vince by a beneficiary resident or domiciled in Québec or by an estate, that beneficiary may deduct from the duties otherwise payable by him, the amount of the duties so paid or of the duties proportionately attributable to that property, whichever is the less, computing this deduction separately for each jurisdiction.

Deduction
of gift tax.

36. Where property transmitted owing to death to a beneficiary has been the subject of a gift on which a gift tax has been levied under any act in Canada that imposes a gift tax, this beneficiary may deduct from the duties otherwise payable by him the amount of the tax so levied or of the duties proportionately attributable to that property, whichever is the less.

Shares of
private
corpora-
tion.

37. Where, among the property transmitted in the direct line owing to the death of a person to a beneficiary resident or domiciled in Québec, there are shares of a private corporation, the beneficiary may deduct from the duties otherwise payable by him one-half of the duties proportionately attributable to those shares.

Remit-
tance to
Minister.

However, if the beneficiary, otherwise than following his death, an expropriation or an alienation contemplated in Chapters IV, V and VI of Title IX of Book III of the Taxation Act, disposes within seven years after the death of that person of one or several of such shares, he shall then remit to the Minister the amount he has effectively deducted with respect to those shares under the preceding paragraph, proportionately to the number of shares he will have so disposed of in relation to the number of shares transmitted to him owing to death; he shall also remit the amount so deducted if the gross revenue of the corporation for a financial year of that period ceases to be derived at least 50 per cent from the carrying on of an active business.

Private
corpora-
tion.

38. For the purposes of section 37, a corporation is private where at least 75 per cent of its gross revenue is derived from the carrying on of an active business and it fulfils the other conditions prescribed by regulation. Where such corporation is a subsidiary wholly-owned corporation, within the meaning of section 1 of the Taxation Act, of another corporation whose property consists almost entirely of shares of the said corporation, that other corporation is then deemed to be a private corporation and the gross revenue of the subsidiary is deemed earned by it.

Property
used in
farming
business.

39. Where, among the property transmitted in the direct line owing to the death of a person to a beneficiary resident or domiciled in Québec, there is property used in the operation of a farming business, or an interest in a partnership or a stock or share in a cooperative or corporation whose principal source of revenue is agriculture, section 37 applies *mutatis mutandis* to the

duties otherwise payable by that beneficiary on that property, interest, stock or share.

Property transmitted within twelve months before death.

40. Where among the property transmitted owing to the death of a person there is property that was transmitted to that person within the twelve months preceding his death owing to the death of another person, which was the subject of duties under this act or the Succession Duties Act (Revised Statutes, 1964, chapter 70), or property substituted therefor, the beneficiary of that property may deduct from the duties otherwise payable by him the amount of 50 per cent of the duties proportionately attributable to that property, or 50 per cent of the duties paid by the deceased person under either of the said acts at the death of the other person and proportionately attributable to that property, whichever is the less.

Deduction by substitute.

41. In the case of a substitution that provides for the remittance of the property encumbered to the substitute within a period not exceeding ten years after the date of death of the donor, this substitute may deduct from the duties otherwise payable by him an amount equal to the duties paid by the institute and proportionately attributable to that property, reduced by 10 per cent for each year or part of a year between that death and the expiry of the period.

Computation of deductions.

42. No deduction may be claimed under sections 35 and 36 at the same time with respect to the same property; in addition, the deductions provided for by sections 35 to 39 and 41 are computed separately in each section without taking into account the other deductions granted by this chapter, while the deduction provided for in section 40 is computed after applying sections 37 and 39.

CHAPTER VI

PAYMENT OF THE DUTIES AND REIMBURSEMENT

Time of payment of duties.

43. The duties levied under this act are payable not later than six months after the date of death; however, in the case of the death of a person in service in the armed forces or in the Merchant Marine of Canada or in the commercial aviation of Canada, the period of six months begins to run only from the date of the official return that such person is dead or presumed dead; in the case of a declaratory judgment of death, the said delay begins to run only from the date of that judgment.

Substitute
or benefi-
ciary of
capital.

Where the beneficiary is a substitute or a beneficiary of the capital contemplated in section 6, the duties are payable not later than six months after the date of opening of his right.

Executor,
etc, not
personally
liable.

44. No executor, trustee or administrator is personally liable for the payment of the duties; nevertheless, he may be required to pay these duties out of the property or money in his possession belonging or owing to the beneficiaries, and, if he fails to do so, he may be sued for the amount of these duties, but only in his representative capacity, and any judgment rendered against him in that capacity shall be executed against that property or money only.

Property
consisting
mainly of
shares or
immove-
ables.

45. Subject to section 46, where not less than two-thirds of the market value of the property transmitted owing to the death of a person to a beneficiary consists of shares or immoveables, this beneficiary may elect, in the form prescribed by the Minister and within the required period for the filing of the declaration contemplated in section 50, to pay the duties owed by him in equal consecutive annual instalments, not exceeding four, as specified in his election, provided that he furnishes such security as the Minister considers sufficient.

Date of
payment of
instal-
ments.

The first instalment must be paid not later than the date on which the duties would otherwise have been payable, and the other instalments, not later than the same date in each of the subsequent years.

Interest on
instal-
ment.

Interest at the rate fixed under section 28 of the Revenue Department Act (1972, chapter 22) must be paid on any instalment so paid for the period extending from the date on which the duties would otherwise have been payable until the day of payment.

Provisions
applicable.

46. Section 45 applies *mutatis mutandis* to duties payable on stocks, shares or property contemplated in sections 37 and 39 as if the expression "not exceeding four" read "not exceeding seven".

Notice of
assess-
ment.

47. Notwithstanding section 95 of the Revenue Department Act, the Minister may issue a notice of assessment or reassessment until the expiry of four years following the period of seven years provided for in sections 37 and 39.

Personal
liability for
payment of
duties.

48. Every person contemplated in sections 5 and 6 must see that the duties on the property encumbered in his favour are paid, and these duties may be paid from that property; if necessary, he may, with the authorization of a judge of the Superior Court and on the conditions the judge may fix, alienate or bind that property to make that payment.

Overpaid
duties.

49. Every right to the reimbursement of overpaid duties and every suit to claim back these duties is prescribed by four years from the date on which the duties are payable or the date of issue of the assessment, whichever is later.

CHAPTER VII

ADMINISTRATION

DIVISION I

DECLARATION AND FILING OF DOCUMENTS

Obligations
of benefi-
ciary, etc.

50. Every beneficiary, executor, trustee or administrator must, within six months after the death of a person, file with the Minister a true copy of the will, of all codicils, of the marriage contract and of any deed of disposition of property deemed transmitted owing to his death, that have been made by that person, and a declaration in the form prescribed by the Minister and containing the information required therein.

Supple-
mentary
declara-
tion.

51. Where property is deemed transmitted owing to death under section 12 or is discovered after the filing of the declaration required by section 50, the persons contemplated in the latter section must, within sixty days of the transfer mentioned in section 12 or of that discovery, file a supplementary declaration with the Minister.

Declara-
tion
sufficient.

52. A declaration duly filed by one of the persons mentioned in section 50 relieves all the others from the necessity of filing a declaration if it contains all the information necessary for ascertaining the amount of duties payable by each beneficiary.

Declara-
tion by
corpora-
tion, etc.

53. Every corporation, trust or partnership having its head office or chief place of business in Québec, in which any person having died outside Québec held any interest, shares, bonds, other securities or a share must, within sixty days of the date when it learns of the death, file with the Minister a declaration containing the name and address of the deceased, the date of death and the description of that interest or those shares, bonds, other securities or share.

Obligations
of trustee.

54. Every trustee must inform the Minister of the gift in trust within sixty days of the date on which he learns of the death of the donor; if the gift was not made by a notarial deed, the information must be accompanied with a true copy of the deed of trust.

DIVISION II

PERMITS AND CERTIFICATES

Validity of
transfer.

55. No transfer of property transmitted or deemed transmitted owing to the death of a person, except property having been subject to a gift *inter vivos* by that person, is valid or gives rise to a valid title with regard to that property until the Minister has delivered a disposal permit; the Minister shall issue that permit when the duties payable with respect to that property have been paid or are subject to guarantees he deems sufficient, or when no duty is exigible.

Transfer of
property
prohibited.

56. Until the disposal permit mentioned in section 55 has been delivered with regard to any property, no executor, trustee, administrator, curator or beneficiary may consent to the transfer of that property, and,

(a) if the property consists of shares, bonds or other securities of a corporation, no person may accept or enter, in the books of the corporation, a transfer of those shares or registration of those bonds or other securities;

(b) if the property consists of money deposited in the personal account of a deceased person or a joint account, no debtor or depositary may remit it or transfer it to another person;

(c) if the property consists of titles, moneys, securities, documents or articles of any kind belonging to a deceased person, no holder, depositary or debtor, in any capacity, of or for that property may effect the surrender, delivery, payment, exchange or transfer thereof;

(d) if the property consists of an immoveable belonging to a deceased person at the time of his death or of a debt affecting an immoveable by privilege or hypothec in his favour, no registrar may register the transmission or discharge thereof and the disposal permit must, before registration is made, be deposited in the office of the registrar to be kept therein and, except in the case of cancellation of real rights, noted in the index of immoveables;

(e) if the property is an amount due by an insurer upon or owing to a death, that insurer cannot make a valid payment of it.

Exception.

57. Notwithstanding section 56, every depositary, holder or debtor contemplated in paragraphs *b* and *c* of the said section, without awaiting the delivery of the disposal permit mentioned therein, may remit an amount not exceeding \$1 500, and the insurer contemplated in paragraph *e* of the said section, without awaiting the delivery of the said permit, may pay to the child,

father, mother, son-in-law, daughter-in-law, stepson or step-daughter of the deceased an amount not exceeding \$10 000 in all, if the beneficiary of that amount is domiciled or resident in Québec at the time of the death.

Exception. **58.** Notwithstanding section 56, where the beneficiary of the property contemplated therein is the consort of the deceased person, every depositary, holder or debtor contemplated in paragraph *b* or *c* of the said section, without awaiting the delivery of the disposal permit mentioned therein, may remit the property, and the insurer contemplated in paragraph *e* of the said section, without awaiting the delivery of the said permit, may pay to that beneficiary the proceeds of the policy.

Declaration to Minister. **59.** Every person who remits an amount or property under sections 57 and 58 must file in duplicate with the Minister, within the first ten days of the month following the remittance, a declaration in the form prescribed by the Minister containing the information required therein.

DIVISION III

INVENTORIES

Minute required for opening or removal of container. **60.** No person may permit the opening or removal of any container, rented by a deceased person or his or her consort from any person ordinarily renting safes, safety deposit boxes or other containers, unless a minute setting forth the opening thereof and containing a complete and detailed enumeration of the contents is drawn up by a representative of the estate of the deceased and a copy certified true by that representative and countersigned by the lessor is transmitted to the Minister.

Inventory. **61.** The minute contemplated in section 60 may be replaced by an inventory, prepared in conformity with articles 914 and following of the Code of Civil Procedure, of the property found in the container; the notary drawing up the instrument must forthwith transmit to the Minister an authentic copy of it.

Obligations of lessor of container. **62.** The lessor of a container contemplated in section 60 shall not permit any person to take possession of any property or document found therein, except a document mentioned in section 50, an insurance policy or the titles of ownership of an immovable, until he has received the written authorization of the Minister or until a disposal permit required under section 55 with regard to that property has been issued.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

Beneficiary claiming deduction.

63. A beneficiary who claims a deduction under sections 37 and 39 must remit to the Minister as surety the stock certificates or the shares or grant him a privilege on the immoveables used in the farming business; the Minister must remit these documents or grant the cancellation of the privilege when the beneficiary remits to him, in accordance with the said sections, the amount so deducted or when the period contemplated therein has ended and no duty is exigible from the beneficiary.

Special case.

Notwithstanding the first paragraph, the Minister, if he considers it advisable in a particular case, may accept any other real or personal surety from the beneficiary or any other person.

Reimbursement.

64. Where any property transmitted owing to death to a beneficiary has been the subject of a gift on which gift tax has been levied under Part VIII of the Taxation Act, and that tax exceeds the deduction provided for in regard to that property in section 36, the Minister must reimburse that excess to the beneficiary, except in the case of any property situated outside Québec, the beneficiary of which is neither domiciled in nor resident in Québec.

Offence and penalty.

65. Any person who infringes section 56, 60 or 62 is guilty of an offence and is liable, on summary conviction, to a fine of not over \$2 000, or, on failure to pay such fine, to imprisonment for not over one month.

Reception of will or of declaration.

66. Notwithstanding section 69 of the Revenue Department Act, the Minister or an officer authorized by him may state whether a will or a declaration has been received or not by the Minister and confirm whether a property is included or not in a declaration.

Information supplied to other governments if reciprocity.

He may also give information and furnish documents to any officer entrusted with the collection of succession duties for the government of another province or of a foreign country, with regard to an estate subject to succession duties in that province or country, if the government of that province or country grants the same power to the officers of Québec.

Regulations of Government.

67. The Government may make regulations prescribing the conditions that a corporation must fulfil to qualify as a private corporation and generally prescribing the measures required for the application of this act.

Coming into force.

68. A regulation made under this act comes into force on the date of its publication in the *Gazette officielle du Québec* or on

any later date fixed therein; nevertheless, a regulation made for the purposes of section 23 or 38, if it so provides, may apply to any succession opened after 18 April 1978.

Minister
respon-
sible.

69. The Ministre du revenu is entrusted with the application of this act.

R.S., c. 70,
replaced.

70. This act replaces the Succession Duties Act (Revised Statutes, 1964, chapter 70).

Interpre-
tation.

71. In any act, proclamation, order in council, regulation, contract or document, a reference to the Succession Duties Act or any provision of that act is deemed to be a reference to this act or the equivalent provision of this act.

Regula-
tions, etc.,
in force.

72. The regulations and agreements, accords or understandings made under the Succession Duties Act continue to be in force until repealed, replaced or amended by regulations or, as the case may be, agreements, accords or understandings made under this act.

Appropri-
ations.

73. The appropriations voted for the application of the Succession Duties Act replaced by this act are appropriated to the application of this act.

Applica-
bility.

74. This act applies to every succession opened after 18 April 1978, except that the disposal permit contemplated in section 55 may validly be substituted for the certificate contemplated in section 44 of the Succession Duties Act for successions opened before 19 April 1978.

Exception.

Notwithstanding the first paragraph, where property is the subject of a testamentary trust established owing to or upon a death that occurred before 19 April 1978, the first beneficiary to whom property from the trust is transmitted after 18 April 1978 is exempt from duties on that property.

Payment
of duties.

75. Notwithstanding section 43, duties imposed in respect of any succession opened after 18 April 1978 and before 1 July 1978 become payable only on 1 January 1979.

Coming
into force.

76. Notwithstanding section 74, the period provided for in sections 51, 53 and 54 with respect to any succession opened between 18 April 1978 and the date of the coming into force of this act begins to run only from that date of coming into force in the case where it would have begun to run before that latter date.

1972, c. 23,
ss. 897a-
897c,
added.

77. (1) The Taxation Act (1972, chapter 23) is amended by inserting, after section 897, the following sections:

Trust
deemed an
individual.

"897a. For the purposes of this Part, a trust is deemed to be an individual.

Distribu-
tion of
capital
deemed a
gift.

"897b. Every distribution of capital of a testamentary trust or of a trust where the donor has not absolutely divested himself of his right of ownership in the entirety of the property, of his right to prescribe the utilization or destination thereof or of his right to receive any consideration whatever therefor in lieu of any revenue that might arise therefrom, is deemed to be a gift.

Exception.

However, the preceding paragraph does not apply to a distribution of capital to a beneficiary where the latter was subject to succession duties respecting the property of the trust so distributed or any property substituted therefor.

Exemption
from tax.

Where property is the subject of a testamentary trust established owing to or upon a death that occurred before 19 April 1978, the first beneficiary to whom a distribution of capital is made after 18 April 1978, other than the beneficiary contemplated in the second paragraph, is exempt from the tax provided for by this Part in respect of that distribution.

Trust
deemed
resident in
Québec.

"897c. A trust is deemed to be resident in Québec if more than 50 per cent of the value of all participation in the capital or in the revenues of the trust is owned directly or indirectly by persons who are resident or domiciled in Québec."

Effect.

(2) Notwithstanding section 74, section 897a of the Taxation Act is declaratory and section 897b of the said act has effect from the day of its sanction.

Coming
into force.

78. This act comes into force on the day of its sanction.