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Stamp (Amendment) Act, No. 16 of 1958

Date of Assent : May 9, 1958

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AN ACT TO AMEND THE STAMP ORDINANCE.

[Date of Assent: May 9, 1958]

Chapter 189.
(Vol. IV.,
page 684).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Stamp (Amendment) Act, No. 16 of 1958, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title.
and date of
operation.

2. Section 23A of the Stamp Ordinance (hereinafter referred to as the "principal enactment"), as amended by Ordinance No. 47 of 1941, is hereby amended as follows:—

Amendment of
section 23A of
Chapter 189.

(a) by the renumbering of that section as sub-section (1) of section 23A; and

(b) by the addition, at the end of that section, of the following sub-section:—

"(2) Where any instrument referred to in sub-section (1) in reality effects a gift of any such annuity or other right as is specified in that sub-section, that instrument shall be chargeable with the same duty as on a gift of a value equivalent to that which is deemed under sub-section (1) to be consideration if no consideration is set forth in the instrument."

3. Section 25A of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended as follows:—

Amendment of
section 25A of
the principal
enactment.

(1) in sub-section (1) of that section, by the substitution, for all the words from "the instrument shall be deemed to be" to the end of that sub-section, of the following:—

"the Commissioner of Stamps shall, according to the circumstances of the case, deem the transaction embodied in such instrument to be—

(i) a conveyance or transfer for a consideration partly pecuniary and partly other than pecuniary, or

(ii) partly a conveyance or transfer for a pecuniary consideration and partly a gift."

- (2) by the insertion, immediately after sub-section (1) of that section, of the following new sub-sections:—

“(1A) Where the transaction embodied in the instrument referred to in sub-section (1) is deemed by the Commissioner of Stamps to be a conveyance or transfer for a consideration partly pecuniary and partly other than pecuniary, such instrument shall be chargeable with duty accordingly.

(1B) Where the transaction embodied in the instrument referred to in sub-section (1) is deemed by the Commissioner of Stamps to be partly a conveyance or transfer for a pecuniary consideration and partly a gift, such instrument shall—

- (a) if such transaction does not relate to any property or business referred to in paragraph (2a) of item 23 in Part I of Schedule A, be chargeable with duty equal to the aggregate of—
- (i) the duty, in respect of such part of that transaction as is deemed by the Commissioner of Stamps to be a conveyance or transfer for a pecuniary consideration, chargeable as on a conveyance or transfer for the pecuniary consideration set forth in such instrument, and
 - (ii) the duty, in respect of such part of that transaction as is deemed by the Commissioner of Stamps to be a gift, chargeable as on a gift of a value equal to the difference between the value of the property to which that transaction relates and the amount of the pecuniary consideration set forth in such instrument; and
- (b) if such transaction relates to any property or business referred to in paragraph (2a) of item 23 in Part I of Schedule A, be chargeable with duty in accordance with the provisions of paragraph (2) of the proviso to paragraph (2a) of the aforesaid item 23.

(1C) Where, in the case of any instrument of conveyance or transfer to which section 26C does not apply and in which a pecuniary consideration or a consideration capable of being valued in money is set forth, it appears to the Commissioner of Stamps that, by reason of the fact that the consideration so expressed seems not to have passed at the time of execution of the instrument or seems to be inadequate, such instrument is in reality for the purpose of bestowing a gift, he may call upon the parties to such instrument to furnish proof to his satisfaction that the transaction embodied in such instrument is a *bona fide* conveyance or transfer and not a gift. If no such proof is furnished or the proof furnished is in his opinion inadequate, the Commissioner of Stamps shall deem such instrument to be for the purpose of bestowing a gift, and such instrument shall be chargeable with duty accordingly.”;

(3) by the addition, at the end of that section, of the following new sub-section:—

“(3) Where any immovable property, or any part thereof, is conveyed or transferred to the same person in lots by several instruments, and the consideration set forth in any such instrument does not exceed fifteen thousand rupees, and it appears to the Commissioner of Stamps that several instruments were executed with the intention of avoiding the duty which would be chargeable if the total area conveyed or transferred by such instruments was conveyed or transferred by a single instrument, he may call upon the parties to such instruments to prove to his satisfaction that such instruments were not executed with such intention, and, if no such proof is furnished or the proof furnished is, in his opinion, inadequate, each instrument in which the consideration set forth does not exceed fifteen thousand rupees shall be charged with the same rate of duty as is chargeable in the case of a conveyance or transfer in which the consideration set forth exceeds fifteen thousand rupees.”; and

(4) in the marginal note to that section by the substitution, for the words “true consideration”, of the words “true consideration, true character of conveyance or transfer,”.

Amendment of
section 26A of
the principal
enactment.

4. Section 26A of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended by the insertion, immediately after sub-section (1) of that section, of the following sub-sections:—

“(1A) Where in the case of the agreement or contract referred to in sub-section (1) it appears to the Commissioner of Stamps that, by reason of the fact that no consideration is set forth in such agreement or contract or the consideration so set forth is not capable of being valued in money or by reason of other circumstances, such agreement or contract is in reality for the purpose of bestowing a gift, he may call upon the parties to such agreement or contract to furnish proof to his satisfaction that such agreement or contract is wholly for the purpose of making a *bona fide* conveyance or transfer and not for the purpose of bestowing a gift. If no such proof is furnished or the proof furnished is in his opinion inadequate, the Commissioner of Stamps shall deem such agreement or contract to be wholly for the purpose of bestowing a gift.

(1B) Where any pecuniary consideration or any consideration capable of being valued in money is set forth in the agreement or contract referred to in sub-section (1) and it appears to the Commissioner of Stamps that, by reason of the inadequacy of such consideration or other circumstances, such agreement or contract is not wholly for the purpose of making a conveyance or transfer, the Commissioner of Stamps may call upon the parties to such agreement or contract to furnish proof to his satisfaction that such agreement or contract is wholly for the purpose of making a *bona fide* conveyance or transfer and not partly for the purpose of making a conveyance or transfer and partly for the purpose of bestowing a gift. If no such proof is furnished or the proof furnished is in his opinion inadequate, the Commissioner of Stamps shall deem such agreement or contract to be partly for the purpose of making a conveyance or transfer and partly for the purpose of bestowing a gift.

(1C) The agreement or contract referred to in sub-section (1) shall,—

(a) if such agreement or contract is deemed by the Commissioner of Stamps to be wholly for the purpose of bestowing a gift, be charged with

such duty, to be paid by the grantee or transferee, as is chargeable,—

- (i) where such agreement or contract is in respect of a business, on a gift of a value equal to the net value of that business added to the amount, including accrued interest, due on mortgage debts charged on the immovable property of that business;
 - (ii) where such agreement or contract is in respect of a share in a business, on the net value of that share added to such part of the amount, including accrued interest, due on mortgage debts charged on the immovable property of that business as is proportionate to that share; and
 - (iii) where such agreement or contract is in respect of other property, on a gift of a value equal to the value of that property;
- (b) if such agreement or contract is in respect of property referred to in any of the subparagraphs (i) to (vi) of paragraph (2a) of item 23 in Part I of Schedule A and is deemed by the Commissioner of Stamps to be partly for the purpose of making a conveyance or transfer and partly for the purpose of bestowing a gift, be charged with duty equal to the aggregate of—
- (i) the duty which is in respect of such part of the agreement or contract as is deemed by the Commissioner of Stamps to be for the purpose of making a conveyance or transfer and which shall be chargeable under paragraph (2a) of item 23 in Part I of Schedule A on a transfer of such property for the consideration set forth in the agreement or contract, and
 - (ii) the duty which is in respect of such part of the agreement or contract as is deemed by the Commissioner of Stamps to be for the purpose of bestowing a gift and which shall be chargeable as on a gift of a value equal to the difference between the amount on which duty would be chargeable if

the agreement or contract were wholly for the purpose of making a conveyance or transfer and the amount or value of the consideration set forth in the agreement or contract; and

(c) if such agreement or contract is in respect of a business and is deemed by the Commissioner of Stamps to be partly for the purpose of making a conveyance or transfer and partly for the purpose of bestowing a gift, be charged with duty equal to the aggregate of—

(i) the duty which is in respect of such part of the agreement or contract as is deemed by the Commissioner of Stamps to be for the purpose of making a conveyance or transfer and which shall be equal to such part of the amount of the duty chargeable under sub-paragraph (vii) of paragraph (2a) of item 23 in Part I of Schedule A on a transfer of the said business as bears to that amount the same proportion as the amount or value of the consideration set forth in the agreement or contract bears to the aggregate of the net value of the said business and the amount, including accrued interest, due on mortgage debts charged on the immovable property of the said business, and

(ii) the duty which is in respect of such part of the agreement or contract as is deemed by the Commissioner of Stamps to be for the purpose of bestowing a gift and which shall be chargeable as on a gift of a value equal to the difference between—

(x) the aggregate of the net value of the said business and the amount, including accrued interest, due on mortgage debts charged on the immovable property of the said business, and

(y) the amount or value of the consideration set forth in the agreement or contract.”.

and partly a gift, and such instrument shall be chargeable with duty accordingly. ”.

Amendment of section 30 of the principal enactment.

6. Section 30 of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended, in sub-section (3) of that section, by the substitution, in paragraph (c) of the proviso to that section, for the word “ six ”, of the word “ ten ”.

Amendment of section 34 of the principal enactment.

7. Section 34 of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended by the substitution, for the word “ six ”, of the word “ ten ”.

Amendment of section 35 of the principal enactment.

8. Section 35 of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended, in paragraph (a) of the proviso to that section, by the substitution, for the word “ six ”, of the word “ ten ”.

Amendment of section 41 of the principal enactment.

9. Section 41 of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended in sub-section (1) of that section by the substitution, for the word “ six ”, of the word “ ten ”.

Amendment of section 43 of the principal enactment.

10. Section 43 of the principal enactment, as amended by Ordinance No. 47 of 1941, is hereby amended by the substitution, for the word “ six ”, of the word “ ten ”.

Amendment of Part I of Schedule A to the principal enactment.

11. Part I of Schedule A to the principal enactment is hereby amended as follows:—

(1) in item 1 of that Part, as amended by Ordinance No. 47 of 1941, by the substitution, for the figures “ 0.6 ” appearing in the column headed “ Duty. ”, of the figures “ 0.10 ”;

(2) in item 14 of that Part, by the substitution in paragraph (b) of the exemptions set out under that item, for all the words from “ on the British territories ” to the end of that paragraph, of the words “ to be drawn out of, and to be payable in, Ceylon. ”;

(3) in item 23 of that Part—

(a) in sub-paragraph (b) of paragraph (1) of that item—

(i) by the substitution, for the words and figures “ Every further
- Rs. 500 or part thereof ”, of

the words and figures " Over Rs. 1,000 and not over Rs. 15,000, for every Rs. 500 or part thereof "; and

- (ii) by the addition, at the end of that sub-paragraph, of the following:—

" Over Rs. 15,000, for every Rs. 100 or part thereof ... 3.0:

Provided that where a conveyance or transfer of any immovable property is deemed by the Commissioner of Stamps to be partly a conveyance or transfer and partly a gift, then, if the value of such property exceeds Rs. 15,000, the rate of duty chargeable in respect of such part of the transaction as is deemed to be a conveyance or transfer shall be Rs. 3 for every Rs. 100 or part thereof, notwithstanding that the consideration set forth in the instrument of such conveyance or transfer is less than Rs. 15,000. " ;

- (b) in paragraph (2) of that item, as amended by Act No. 4 of 1948, by the substitution, in the proviso to that paragraph,—

- (i) for the figures " 0.50 ", of the figures " 1.00 " ;
- (ii) for the figures " 1.50 ", of the figures " 2.00 " ;
- (iii) for the figures " 3.00 ", of the figures " 4.00 " ;
- (iv) for the figures " 4.50 ", of the figures " 6.00 " ;
- (v) for the figures " 6.00 ", of the figures " 8.00 " ;
- (vi) for the figures " 7.50 ", occurring immediately below the figures " 6.00 ", of the figures " 10.00 " ;
- (vii) for the figures " 15.00 ", of the figures " 20.00 " ; and
- (viii) for the figures " 7.50 ", occurring at the end of that proviso, of the figures " 10.00 " ;

(c) in paragraph (2a) of that item, inserted by Ordinance No. 47 of 1941, by the addition, at the end of that paragraph, of the following proviso:—

“ Provided that the following provisions shall apply where any such transfer or assignment is deemed by the Commissioner of Stamps to be a gift, or to be partly a transfer or an assignment and partly a gift:—

(1) the transfer or assignment which is deemed by the Commissioner of Stamps to be a gift shall,—

(a) if it is a transfer or an assignment referred to in any of the preceding sub-paragraphs (i) to (vi), be charged with the same duty as on a gift of a value equal to the amount on which duty would be chargeable if the transfer or assignment were not a gift, and

(b) if it is a transfer or an assignment referred to in the preceding sub-paragraph (vii), be charged with the same duty as on a gift of a value equal to the aggregate of the net value of the business transferred or assigned and the amount, including accrued interest, due on mortgage debts charged on the immovable property of such business;

(2) the transfer or assignment which is deemed by the Commissioner of Stamps to be partly a transfer or an assignment and partly a gift shall,—

(a) if it is a transfer or an assignment referred to in any of the preceding sub-paragraphs (i) to (vi), be charged with duty equal to the aggregate of—

(i) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a

transfer or an assignment and which shall be chargeable as on the transfer or assignment for the amount or value of the consideration set forth in the instrument of transfer or assignment, and

- (ii) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a gift and which shall be chargeable as on a gift of a value equal to the difference between the amount on which duty would be chargeable if the entire transaction were a transfer or an assignment and the amount or value of the consideration set forth in the instrument of transfer or assignment, and

- (b) if it is a transfer or an assignment of a business, be charged with duty equal to the aggregate of—

- (i) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a transfer or an assignment and which shall be equal to such part of the amount of the duty chargeable under the preceding sub-paragraph (vii) on a transfer or an assignment of the said business as bears to that amount the same proportion as the amount or value of the consideration set forth in the

instrument of transfer or assignment bears to the aggregate of the net value of the said business and the amount, including accrued interest, due on mortgage debts charged on the immovable property of the said business, and

(ii) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a gift and which shall be chargeable as on a gift of a value equal to the difference between—

(x) the aggregate of the net value of the said business and the amount, including accrued interest, due on mortgage debts charged on the immovable property of the said business, and

(y) the amount or value of the consideration set forth in the instrument of transfer or assignment.”;

(d) in paragraph (6) of that item, as amended by Act No. 4 of 1948, by the substitution, in sub-paragraph (ii) of that paragraph, for the figures “ 15 ”, of the figures “ 20 ”; and

(e) in paragraph (8) of that item, as amended by Ordinance No. 47 of 1941, by the substitution, for the words “ such property.”, of the following:—

“ such property, or, where such conveyance or transfer is deemed by the Commissioner of Stamps to be a gift, the same duty as on a gift of a value equal to the value of such property, or, where such conveyance or

transfer is deemed by the Commissioner of Stamps to be partly a conveyance or transfer and partly a gift, the aggregate of—

- (i) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a conveyance or transfer and which shall be chargeable as on a conveyance or transfer for the amount or value of the consideration set forth in the instrument of conveyance or transfer, and
- (ii) the duty which is in respect of such part of the transaction as is deemed by the Commissioner of Stamps to be a gift and which shall be chargeable as on a gift of a value equal to the difference between the value of such property and the amount or value of such consideration:

Provided that, except in cases where different allotments are treated and described as one property, and from their situation as respects each other can be included in one survey, a conveyance or transfer affecting more than one land shall be liable to further duty, in respect of each additional land as follows:—

- (i) where the aggregate value of the lands does not exceed Rs. 100 0.25
- (ii) where such aggregate value exceeds Rs. 100 but does not exceed Rs. 300 ... 0.50
- (iii) where such aggregate value exceeds Rs. 300 ... 1.00.”:

- (4) in item 27 of that Part by the substitution, for the proviso to that item, of the following proviso:—

“ Provided that the duty chargeable on such declaration shall,—

- (a) where such declaration is in reality a conveyance or transfer, be the same duty as on a conveyance or transfer for a pecuniary consideration equal to the value of the property as set forth in the instrument by which such declaration is made, and

- (b) where such declaration is in reality a gift, be the same duty as on a gift of a value equal to the value of the property as so set forth.”;
- (5) in item 29 of that Part, as amended by Ordinance No. 47 of 1941, by the addition, at the end of that item, of the following paragraph:—
 - “ (3) Where the deed or instrument referred to in any of the preceding paragraphs (1) and (2) is in reality a deed or instrument of gift, the duty shall be the same as on a gift of a value equal to the value of the property of the greatest value as set forth in such deed or instrument.”;
- (6) in item 31 of that Part, as amended by Ordinance No. 47 of 1941, by the substitution, for the figures “ 0.6 ” appearing in the column headed “ Duty ”, of the figures “ 0.10 ”;
- (7) in item 32 of that Part, as follows:—
 - (a) by the substitution, in paragraph (1) of that item, for all the words from “ The same duty ” to the end of that paragraph, of the following:—
 - “ A duty of Rs. 5 for every Rs. 100 or part thereof of the value of the gifted property as set forth in such instrument:”;
 - (b) by the omission of the figure “ (1) ” from the first paragraph of that item;
 - (c) by the omission of paragraph (2) of that item; and
 - (d) by the omission of all the words and figures from “ (3) Gift or deed ” to “ fraction thereof:”;
- (8) in item 49 of that Part, as amended by Ordinance No. 47 of 1941, by the substitution, for the figures “ 0.6 ” appearing in the column headed “ Duty. ”, of the figures “ 0.10 ”.