

N.Z. L.R. C.A. 577, at p. 602), it is frequently “most grievous for a life tenant—generally a woman who has a family of children entitled in remainder, and who has no other means of support for herself or them—to have the whole of her income diverted for a period in payment of succession duty.”

If the life tenant be other than the widow or widower the rate of duty payable may be so great as to render necessary the impounding of the income for several years to provide for the amount. On the other hand, it must be remembered that should a personal representative pay over a portion of the income to the life tenant and the life tenant subsequently die before the whole of the amount of duty has been recouped, such personal representative in all probability would be held personally liable for the amount of the income so paid over. It is true that in some cases it might be possible to take from a life tenant security by way of a life policy in consideration of the postponement of the deduction of the duty from the income, but such a course could not always be arranged—*e.g.*, where the beneficiary concerned is in such poor health, or of such an age, that an insurance cover could not be completed. In instances like this the executor or administrator would obviously be taking serious personal risks by departing from the rule of adjustment which has been laid down.

108. This is only one of the difficulties and hardships which arise. Of course, provision for questions like this should be made in a well-drawn will, and departmental officers in taking instructions for wills explain to testators the operation and the incidence of duty, in order that they may include in their wills express provisions to give effect to their wishes in this connection. In home-drawn wills and those drafted by inexperienced persons, however, no such provision is made, and so it is hoped that in the future it may be possible to arrange for amending legislation to mitigate as far as practicable these hardships and difficulties which affect not only the work of the Public Trustee, but also that of all persons and concerns conducting the administration of estates in New Zealand.

109. The liability of the assets of a deceased person to payment of death duty depends to a large extent upon his domicile. If, for example, a person is domiciled in New Zealand at the time of his death, his movable estate (which, roughly, means all his property other than real estate), wherever situated, is taxed by the New Zealand authorities by way of New Zealand death duties. The same result takes place where deceased is domiciled in Great Britain or other component parts of the British Empire. It is often extremely difficult to fix with any degree of certainty the place of a person's domicile, and it is only to be expected that in case of doubt each jurisdiction may put forward competing claims for the right to tax foreign movables on the ground that the deceased was domiciled in their respective territories. For example, supposing a person residing in England comes to live in New Zealand and after a while dies here, leaving extensive personal property in Australia, the revenue authorities may claim that on the evidence before them the deceased was domiciled in New Zealand, so as to bring into the New Zealand dutiable estate the movable estate outside the Dominion, including his Australian assets. On the other hand, the English revenue authorities may point to other facts and circumstances, tending to show an English domicile, and may on such evidence base a decision that the deceased was domiciled in England at the time of his death, so as to render subject to the English death duties the Australian assets. Obviously, it would be desirable to have some working arrangement between the revenue authorities of different parts of the Empire which would avoid or settle such conflicts of opinion without recourse to expensive litigation or lengthy correspondence. It is hoped, therefore, that before long there may eventuate some such arrangement whereby the revenue authorities will agree to accept in such cases the decision of the Law Officers of the State in which deceased died, or, alternatively, of the State in which the greater portion of the assets were physically situated at the time of death.

110. Whilst on the question of estate and succession duty, I may state that inexperienced persons not infrequently lump together the various levies payable to the Crown with the Office commission or fee, and put down the total as “what it cost to have the estate administered by the Public Trustee.” I have before me a case of a moderate estate which was given to a stranger in blood, who by virtue of section 17 of the Death Duties Act, 1921, paid succession duty at the rate of 10 per