

MEMORANDUM FOR THE CABINET BY THE
HON. MINISTER OF ECONOMIC PLANNING & FINANCE

Duty on the Estate of the late
Mr. Giuseppe Buttigieg

When the Succession and Donation Duties Ordinance was enacted in 1918 it provided that where a person bequeathed the usufruct of an estate to another person, the latter might elect either to pay the whole amount of the duty straightaway or to pay it by sixteen equal half-yearly instalments; but the law also provided that if this latter person opted to pay by instalments and died within eight years from the devolution of the usufruct, then any instalments not yet fallen due on the date of death were automatically remitted.

2. That is as the law stood up to 1947, when it was felt that this provision operated unfairly in the case of the person who had paid the whole amount straightaway and died within the said eight years. The person who paid promptly should clearly not be in a more unfavourable position than the person who paid by instalments and an amendment was made by an Ordinance of 1947 to assimilate the two positions. It was expressly provided by law that also in the case where the person has paid the whole amount straightaway and died within the said eight years, the Governor may authorise the refund of that part of the duty corresponding to the amount of the instalments which would have been remitted if the person had opted to pay by instalments.

3. The Commissioner of Inland Revenue is recommending an application from the testamentary executor of Mrs Grazia Buttigieg (who, during her lifetime, had been enjoying the general usufruct of the estate of her deceased husband) for the refund of part of the duty in terms of section 40 of the Succession and Donation Duties Ordinance. In this particular case the husband (Giuseppe Buttigieg) died on the 1st September, 1961, and his wife the usufructuary died a few months later (i.e. on the 17th March, 1962), while the total duty - assessed at £210.5s.9d - was paid in 1962; this is therefore a case which comes well within the purview of the equitable provisions of the 1947 amendment.

4. The relative provision of the law refers only to duty payable in respect of the usufruct of immovables but in a previous case in which - as in the one at issue - the property left in usufruct consisted of both movables and immovables, a

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proportional part of the duties due in respect of the immovables only, was remitted on the advice of the Attorney-General.

5. Hon. Ministers are asked whether they agree that His Excellency the Governor be advised to authorise the refund asked for which, calculated on the immovables only, works out at £35.19s.11d.

17th January, 1963.

L-Arkivji Nazzjonali ta' Malta

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