

## CHAPTER 25.

## ESTATE DUTY.

4 of 1949. AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW AS  
10 of 1950. TO ESTATE DUTY.

[1st June, 1949.]

Short title. 1. This Ordinance may be cited as the Estate Duty Ordinance.

Definitions. 2. In this Ordinance unless the context otherwise requires:  
“Deceased person” and “the deceased” mean a person dying after the commencement of this Ordinance.  
“Estate Duty” means Estate Duty under this Ordinance.

“Incumbrance” includes any claim, lien or liability attaching to property.

“Personal representative” means the executor or administrator of a deceased person and includes as regards any obligations under this Ordinance any person who takes possession of or intermeddles with the estate of a deceased person.

“Property” includes all freehold and leasehold estates and personal property and the proceeds of sale thereof respectively and any moneys or investment and any undivided share therein held jointly or in common with any other person but excluding that held by the deceased as a trustee.

“Treasurer” means the Treasurer for the time being of the Colony and any person appointed by the Governor under section 3 of this Ordinance.

Administration. 3. This Ordinance shall be administered and estate duty shall be collected by the Treasurer on behalf of the Government: Provided that the Governor may from time to time by Order in Council appoint any person he may consider fit to assist in the collection of estate duty.

[Note. This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

Charge of  
estate duty.

4. (1) On and after the date of this Ordinance, estate duty at the graduated rates shown in the Schedule to this Ordinance shall be levied and paid on the principal value of all property belonging to the deceased at the date of his death (in this Ordinance referred to as "the estate of the deceased").

(2) The estate of the deceased shall include:

- (a) property of which the deceased was at his death competent to dispose;
- (b) property taken as a *donatio mortis causa* (gift made in contemplation of death) made by the deceased;
- (c) money payable to the deceased's estate under any policy of insurance;
- (d) property which belonged to the deceased or of which he was competent to dispose at any time within three years of his death and of which the deceased has disposed in any manner other than for full consideration in money or money's worth;
- (e) any annuity or other interest purchased or provided by the deceased either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased:

Provided that this provision shall not apply to gifts made to the entire exclusion of the deceased, which are made in consideration of marriage, or which are proved to the satisfaction of the Treasurer to have been part of the normal expenditure of the deceased and to have been reasonable having regard to the amount of his income, or which in the case of any donee do not exceed in aggregate £100 in value or amount, or which are made for public or charitable purposes more than twelve months before the date of death of the deceased.

(3) Estate duty shall be paid whether or not the deceased died in the Colony and whether he was or was not domiciled in the Colony at the time of his death, but shall only be paid in respect of property situate in the Colony.

(4) For the purposes of this section the situation of any property shall be determined in accordance with the law of England.

Interest.

5. (1) Simple interest at the rate of 5 per centum per annum shall be paid on estate duty from the date of death of the deceased and shall be recoverable in the same manner as if it were part of the estate duty.

(2) Where the estate duty is less than £2 10s. 0d. interest will not be charged if the duty is paid within twelve months of the date of death.

Relief in  
respect of  
quick  
successions.

6. Where the Treasurer is satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a company) or any interest in land or such a business passing upon the death of the deceased, and subsequently estate duty has become payable on the same property or any part thereof by reason of the death of the person to whom the property passed on the first death, the estate duty payable on that property by reason of the second death shall be reduced as follows:

Where the second death occurs within one year of the first death by 50 per cent.

Where the second death occurs within two years of the first death by 40 per cent.

Where the second death occurs within three years of the first death by 30 per cent.

Where the second death occurs within four years of the first death by 20 per cent.

Where the second death occurs within five years of the first death by 10 per cent.:

Provided that where the value, on which estate duty is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

Principles for  
computing  
estate duty.

7. (1) For the purpose of determining the rate of estate duty the estate of the deceased shall be aggregated so as to form one estate and the estate duty shall be levied at the proper graduated scale on the principal value thereof as shown in the Schedule to this Ordinance.

(2) The principal value of any property shall be the price estimated by the Treasurer to be the price it would

fetch if sold in the open market at the date of the death of the deceased: Provided that should it be shown to the satisfaction of the Treasurer that the property has depreciated by reason of the death of the deceased the Treasurer in fixing the price shall take the depreciation into account.

(3) An allowance shall be made for reasonable funeral expenses in respect of and any debts of the deceased and for any incumbrances on the estate of the deceased, but an allowance shall not be made—

- (a) for debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest; nor
- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained; nor
- (c) more than once for the same debt or incumbrance charged upon different portions of the estate;

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other subjects of property liable thereto.

(4) No allowance shall be made for debts due from the deceased to persons resident outside the Colony unless contracted to be paid in the Colony or unless and to the extent to which it is shown to the satisfaction of the Treasurer that the property of the deceased situate in the country in which the person to whom such debts are due resides is insufficient for their payment.

8. (1) The personal representative of the deceased shall as soon as possible after the death of the deceased ascertain the particulars and principal value of the property of the deceased and make and deliver to the Treasurer an affidavit (hereinafter called the "estate duty affidavit") giving such particulars and value so far as is known to him and from time to time make and deliver to the Treasurer any further estate duty affidavit that may be necessary to supplement any omission from or mistake in any previous estate duty affidavit.

Value of  
estate:  
affidavit.

(2) Any personal representative who fails in any duty

imposed upon him by this section, or who fails to make and deliver an estate duty affidavit within twenty-one days after service of a notice from the Treasurer requiring him so to do shall be guilty of an offence against this Ordinance.

Payment of  
duty.

9. (1) Estate duty shall in the first instance be calculated at the appropriate rate on the value of the estate of the deceased which may come into his hands as shown in the original estate duty affidavit and shall be payable by the personal representative on delivery of that affidavit.

(2) The personal representative shall on delivery of every subsequent estate duty affidavit pay any estate duty payable on any property which may come into his hands disclosed by that affidavit.

Liability of  
personal  
representative.

10. The personal representative shall be liable for all estate duty payable by him in respect of the estate of the deceased which may come into his hands but his liability shall not exceed the assets he has received or would but for his own neglect or default have received.

Liability of  
beneficiaries,  
trustees,  
purchasers,  
etc.

11. Every beneficiary to the amount of the estate of the deceased passing to him, and every trustee, guardian, committee or other person to the extent of the property actually received or disposed of by him or them, and every person who takes possession of or administers any part of the property, and every person in whom the same is vested by alienation or other derivative title shall be liable for the estate duty on such estate of the deceased as is taken by him or them:

Provided that a person who merely acts as agent or bailiff for another in the management of property is not accountable for any estate duty in respect of such property.

When estate  
duty in  
arrears.

12. The whole estate duty shall, except as hereinafter mentioned, become due and payable at the end of six months from the date of death of the deceased, or on delivery of the original estate duty affidavit whichever first occurs, and any estate duty not so paid shall be deemed to be in arrears and be recoverable accordingly.

Postpone-  
ment of  
payment.

13. The Treasurer may if he is satisfied that estate duty cannot without excessive sacrifice be raised at once allow

payment to be postponed for such period and to such extent and on payment of such interest and on such terms as he may deem fit.

14. Any person liable for estate duty on any part of the estate of the deceased shall have power, whether or not the estate is vested in him, to raise the amount of such duty and expenses incurred by him in connection therewith by sale or mortgage of that part of the property.

Power to raise duty by sale or mortgage.

15. Estate duty shall, subject to the will of the deceased, be borne by the beneficiaries under the will in proportion to the value of their respective interests, and the personal representative shall in distributing the property of the deceased make such payments, reductions and adjustments as may be necessary for that purpose.

Estate duty to be borne rateably.

16. (1) Every personal representative or other person liable for the payment of estate duty or having in his possession, power or control any documents relating to the estate of the deceased shall whenever required by the Treasurer—

Personal representative, etc., to produce documents and attend examination.

(a) make and deliver to the Treasurer an affidavit giving to the best of his knowledge and belief answers to such questions as to the estate of the deceased as may be put to him by the Treasurer;

(b) disclose, produce to and allow the Treasurer to make copies of any such documents as aforesaid.

(2) Any personal representative or other person who fails to comply with the requirements of the Treasurer under this section within fourteen days after a notice stating such requirements shall be guilty of an offence under this Ordinance.

17. (1) Subject to the provisions of this Ordinance the Treasurer shall ascertain the principal value of the estate of the deceased in such manner and by such means as he shall deem fit and may accept the value estimated by the personal representative or the valuation of any person approved by the Treasurer as a valuer for the purpose of this Ordinance or for the purpose of that valuation.

Valuation by Treasurer.

(2) The Treasurer shall pay the reasonable cost of the valuation made by a person named by him.

(3) Any person named by the Treasurer to value any property for the purpose of this Ordinance shall at all reasonable times have power to enter and inspect the property.

Assessment  
by Treas-  
urer.

18. (1) The assessment of the Treasurer that any estate duty is payable in respect of any property shall, subject to the right of appeal hereinafter provided for, be conclusive evidence that that duty is payable in respect of that property.

(2) The Treasurer may at any time revoke or reduce an assessment when it is shown to his satisfaction to be erroneous or excessive and may make a further assessment in respect of the same property.

Refund of  
overpaid  
duty.

19. The Treasurer shall refund any excess estate duty when it is shown to his satisfaction that too much duty has been paid.

Appeals  
against  
assessment,  
etc.

20. (1) Any person aggrieved by the refusal of the Treasurer to refund any excess duty or by any assessment or other decision of the Treasurer may on payment of the estate duty or such part thereof then payable or on giving security for it to the satisfaction of the Supreme Court appeal to the Supreme Court of the Colony.

(2) The appeal shall be lodged within one month of the date of notice of the decision of the Treasurer by which the appellant is aggrieved and shall specify the objections to the assessment, decision or refusal to refund.

(3) The Supreme Court may

- (a) extend the time for appealing notwithstanding that it has elapsed if it considers the interests of justice so require;
- (b) reverse or vary an assessment, decision or refusal to refund;
- (c) make such order as to costs of the appeal as it may deem fit.

Recovery of  
estate duty.

21. (1) Estate duty in arrears shall be recoverable by civil suit as a debt to the Government of the Colony from the person liable.

(2) The Treasurer may apply to any magistrate or justice of the peace in the Colony in open court to recover estate duty in arrears as follows—

- (a) on production of the assessment and on proof of service on the person liable and that duty is in arrear the Court shall make an order for the payment of the estate duty in arrear by the person liable and may direct the immediate execution of the order;
- (b) a statement in writing by the Treasurer shall be sufficient evidence of the amount of estate duty in arrears;
- (c) the order shall be served as soon as possible on the person liable who may within fourteen days of such service apply to the Court for the order to be discharged, which may be done on any ground disclosing a valid defence to proceedings for the recovery of the estate duty;
- (d) property liable to attachment and sale in execution of the order may be seized forthwith but shall not be sold until the time for applying for a discharge of the order has elapsed or the application for discharge been disposed of;
- (e) when it appears to the Court that an appeal against the assessment is pending or the time for appealing has not elapsed the Court may grant a stay of execution for such period and on such terms as it may deem just.

**22.** (1) The whole estate duty shall be a first charge on the estate of the deceased.

Estate duty  
a charge on  
deceased's  
estate.

(2) The Supreme Court may appoint a receiver of the property and of the rents, profits and income thereof and order a mortgage or sale of the property for enforcing such charge.

**23.** (1) The Treasurer may, on being satisfied that the full estate duty has been or will be paid in respect of all the estate of the deceased, give a certificate discharging the property specified in the certificate from any further claim for estate duty.

Certificate of  
discharge.

(2) A person liable for estate duty, other than a personal representative, may after two years from the death of the deceased apply to the Treasurer for a certificate discharging him and specified property from any further claim for estate duty and shall deliver to the Treasurer a full



statement to the best of his knowledge and belief of all the estate of the deceased and the persons entitled thereto, and the Treasurer may, upon payment by the person liable of such estate duty as should be borne by him, issue such certificate.

(3) A certificate given under this section shall not

- (a) discharge any person or property from estate duty in case of fraud or failure to disclose material facts;
- (b) affect the rate of duty payable in respect of any other part of the estate of the deceased and the duty in respect of such other part shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which a certificate of discharge has been given.

(4) A certificate purporting to be a discharge of the whole estate duty payable in respect of any property in the certificate shall exonerate a *bona-fide* purchaser for valuable consideration without notice from estate duty notwithstanding any such fraud or failure.

Power to  
accept  
composition

24. The Treasurer may, where it is difficult to ascertain exactly the amount of estate duty payable in respect of any property or to ascertain the same without undue expense in proportion to the value of the property, on the application of the person liable for estate duty thereon and upon his giving all information in his power affecting the liability of the property for estate duty, assess such sum as he may consider proper as the estate duty and accept payment of that sum as composition for and in full discharge of all claims for estate duty in respect of that property and issue a certificate of discharge accordingly:

Provided that the certificate shall not discharge any person or property from any duty in case of fraud or failure to disclose material facts.

No grant to  
probate  
without cer-  
tificate of  
Treasurer.

25. Probate or Letters of Administration shall not be granted unless a certificate of the Treasurer is produced that a proper estate duty affidavit as to the estate of the deceased has been delivered to the Treasurer and that the estate duty has been paid or security for the payment thereof has been given to his satisfaction.

26. Any person who, while any part of the estate duty payable on the estate of the deceased remains unpaid or in respect of which satisfactory security has not been given as provided in this Ordinance,

Penalty for administering or accepting assets while duty unpaid.

- (a) distributes any part of the estate of the deceased to any beneficiary;
- (b) takes possession of and administers or appropriates any part of the estate of the deceased;
- (c) being a beneficiary accepts any part of the property shall be guilty of an offence against this Ordinance.

27. Any notice of any act, decision, requirement, valuation or assessment of or by the Treasurer under this Ordinance or any regulation made thereunder required to be served on any person shall be sufficient if it records the substance of that act, decision, requirement, valuation or assessment and is signed by the Treasurer and shall be sufficiently served if left at the last known place of abode or business in the Colony of the person to be served or if sent by registered post to such place of abode or business.

Notices.

28. The Governor may make regulations for carrying this Ordinance into effect and in particular, without prejudice to the general power, prescribing

Regulations.

- (a) the forms of estate duty and other affidavits;
- (b) the accounts to be kept by the Treasurer and procedure to be observed by him in carrying out the provisions of this Ordinance.

29. Any person who wilfully fails to perform any duty imposed upon him by this Ordinance or any regulation thereunder or contravenes the provisions of this Ordinance or any regulation thereunder or who attempts to commit or abets an offence against this Ordinance shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding £200 or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Penalties.

## SCHEDULE.

## Rate of Estate Duty.

				Rate of Duty.	
Not exceeding	£100	..	..	..	Nil
Exceeding	£100 but not exceeding	£300	..	£1 10 0	(fixed)
"	£300	"	"	£2 10 0	"
"	£500	"	"	1 per cent.	
"	£1,000	"	"	2	"
"	£2,000	"	"	3	"
"	£3,000	"	"	4	"
"	£5,000	"	"	5	"
"	£7,500	"	"	6	"
"	£10,000	"	"	7	"
"	£12,500	"	"	8	"
"	£15,000	"	"	10	"
"	£20,000	"	"	12	"
"	£25,000	"	"	14	"
"	£30,000	"	"	16	"
"	£35,000	"	"	18	"
"	£40,000	"	"	20	"
"	£45,000	"	"	22	"
"	£50,000	"	"	24	"
"	£60,000	"	"	27	"
"	£75,000	"	"	30	"
"	£100,000	"	"	35	"
"	£150,000	"	"	40	"
"	£200,000	"	"	45	"
"	£250,000	"	"	50	"
"	£300,000	"	"	55	"
"	£500,000	"	"	60	"
"	£750,000	"	"	65	"
"	£1,000,000	"	"	70	"
"	£2,000,000	..	..	75	"