

No. 45, 1955.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

## ACT

**To impose an estate duty upon the estates of deceased persons, to repeal the Death Duties Act, 1922, and to provide for matters incidental thereto.**

*(English text signed by the Governor-General.)  
(Assented to 15th June, 1955.)*

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

**1.** In this Act and in any regulations made thereunder, unless the context otherwise indicates—

- (i) "administration and distribution account" means the account required to be rendered by the executor to a Master in accordance with section *sixty-eight* of the Administration of Estates Act, 1913 (Act No. 24 of 1913), in respect of the administration of the estate of which he is the executor; (i)
- (ii) "Commissioner" means the Commissioner for Inland Revenue; (v)
- (iii) "company" includes any association incorporated or registered under any law in force in the Union and any association which, although not so incorporated or registered, carries on business or has an office or place of business or maintains a share transfer register in the Union; (vi)
- (iv) "duty" means estate duty payable under this Act; (ii)
- (v) "executor" means any person to whom letters of administration have been granted by a Master in respect of the estate of a deceased person under any law relating to the administration of estates, and includes a person acting or authorized to act under letters of administration granted outside the Union but signed and sealed by a Master for use within the Union and, in any case where the estate is not required to be administered under the supervision of the Master, the person administering the estate; (iv)
- (vi) "Master" in relation to any matter, property or estate, means the Master or Assistant Master of the Supreme Court appointed under the Administration of Estates Act, 1913, who has jurisdiction in respect of that matter, property or estate; (vii)
- (vii) "stocks or shares" in relation to any company means any part of the share capital of that company and includes any debenture, debenture stock or any other like form of marketable security. (iii)

Levy of estate duty.

**2.** (1) There shall be charged, levied and collected in respect of the estate of every person who dies on or after the first day of April, 1955, a duty to be known as an estate duty.

(2) Estate duty shall be charged upon the dutiable amount of the estate calculated in accordance with the provisions of this Act, and shall be levied at the rates set out in the First Schedule.

What constitutes an estate.

**3.** (1) For the purposes of this Act the estate of any person shall consist of all property of that person as at the date of his death and of all property which in accordance with this Act is deemed to be property of that person at that date.

(2) "Property" means any right in or to property, movable or immovable, corporeal or incorporeal, and includes—

- (a) any fiduciary, usufructuary or other like interest in property (including a right to an annuity charged upon property) held by the deceased immediately prior to his death;
- (b) any right to an annuity (other than a right to an annuity charged upon any property) enjoyed by the deceased

immediately prior to his death which accrued to some other person on the death of the deceased,  
but does not include—

- (c) any right in immovable property situate outside the Union;
- (d) any right in movable property physically situate outside the Union if the deceased was not ordinarily resident in the Union;
- (e) any debt not recoverable or right of action not enforceable in the Courts of the Union, other than any such debt or right of action in respect of any amount standing to the credit of the deceased at the date of his death with any bank, building society or other institution outside the Union, if the deceased was ordinarily resident in the Union, or any debt secured upon immovable property by bond registered in the Union;
- (f) any goodwill, licence, patent, design, trade mark, copyright or other similar right not registered or enforceable in the Union or attaching to any trade, business or profession in the Union;
- (g) any stocks or shares in any body corporate which is not a company or any stocks or shares in a company held by a deceased who was not ordinarily resident in the Union, provided any transfer whereby any change of ownership in such stocks or shares is recorded is not required to be registered in the Union;
- (h) any rights to any income produced by or proceeds derived from any property referred to in paragraph (e), (f) or (g).

(3) Property which is deemed to be property of the deceased includes—

- (a) so much of any amount due and recoverable under any policy of insurance which is a "Union policy" as defined in section *one* of the Insurance Act, 1943 (Act No. 27 of 1943), upon the life of the deceased, other than a policy the amount due under which is recoverable by the surviving spouse or child of the deceased under a duly registered ante-nuptial or post-nuptial contract, as exceeds the aggregate amount of any premiums or consideration proved to the satisfaction of the Commissioner to have been paid by any person who is entitled to the amount due under the policy, together with interest at six per cent. per annum calculated upon such premiums or consideration from the date of payment to the date of death;
- (b) any property donated under a *donatio mortis causa*;
- (c) any property donated under a donation (other than a donation to a spouse under a duly registered ante-nuptial or post-nuptial contract or a *donatio mortis causa*) made—
  - (i) in the case of a deceased not referred to in subparagraph (ii), by the deceased; or
  - (ii) in the case of a deceased who was married in community of property, by the deceased or by a spouse who was so married to the deceased to the extent to which the property would, if it had not been donated, have formed part of the estate of the deceased; or
  - (iii) by a body corporate, if such property is in terms of sub-section (2) of section *fifty-four quin* of the Income Tax Act, 1941 (Act No. 31 of 1941), deemed to have been disposed of under a donation by the deceased,

unless—

- (aa) such donation took effect prior to the twenty-fourth day of March, 1955, and in the case of a donation made at any time during the period from the first day of April, 1951, to the twenty-third day of March, 1955 (both days inclusive), more than five years prior to the death of the deceased; or
- (bb) such donation takes effect on or after the twenty-fourth day of March, 1955, and is exempt from donations tax in terms of paragraph (a) or (c) of sub-section (2) of section *fifty-four quat* of the Income Tax Act, 1941 (Act No. 31 of 1941), or, unless such donation took effect prior to the said date and would have been exempt from donations tax in terms of the said paragraphs if the

- provisions thereof had been in force on the date on which the donation took effect; or
- (cc) such donation was made to a person who pre-deceased the donor, other than a child referred to in paragraph (iii) of the first proviso to the First Schedule;
- (d) any property held by or registered in the name of an individual or a body corporate or un-incorporate and of which or of the profits derivable from which the deceased directly or indirectly and for his own benefit had the control or right of disposition.
- (4) For the purposes of paragraph (c) of sub-section (3)—
- (a) any disposition whereby any person becomes entitled to receive or acquire any property, for a consideration which, in the opinion of the Commissioner, is not a full consideration for that property, shall, to the extent to which the fair market value of the property exceeds the said consideration, be deemed to be a donation;
- (b) any disposition of property to a trustee to be administered by him for the benefit of any beneficiary mentioned in the trust deed, shall be deemed to be a donation of that property to the trustee;
- (c) a donation shall be deemed to take effect upon the date upon which the donee becomes entitled to the property donated or, where delivery of property has been made under a donation which has not been registered or notarially executed, the date upon which the right of recovery of the excess in value over five hundred pounds, becomes prescribed or, if the deceased has by the deed of donation or otherwise retained the right to revoke or to vary any rights conferred by the donation, the date upon which such right is terminated.

Dutiable amount of an estate.

4. The dutiable amount of any estate shall be determined by making the following deductions from the total value of all property included therein in accordance with section *three*, that is to say—

- (a) so much of the funeral and death-bed expenses of the deceased which the Commissioner considers to be fair and reasonable;
- (b) all debts due by the deceased to persons ordinarily resident within the Union which it is proved to the satisfaction of the Commissioner have been discharged from property included in the estate;
- (c) all costs which have been allowed by the Master in the administration and liquidation of the estate, other than expenses incurred in the management and control of any income accruing to the estate after the date of death;
- (d) all expenditure incurred in carrying out the requirements of the Master or the Commissioner in pursuance of the provisions of this Act;
- (e) any amount of any death duties chargeable by any other State in respect of any property included in the estate consisting of—
- (i) any right in movable property physically situate outside the Union;
- (ii) any amount standing to the credit of the deceased with any bank, building society or other institution outside the Union; or
- (iii) any debt secured upon immovable property by bond registered in the Union included in the estate under paragraph (e) of sub-section (2) of section *three*;
- (f) any debts due by the deceased to persons ordinarily resident outside the Union which have been discharged from property included in the estate to the extent that the amount of such debts is proved to the satisfaction of the Commissioner to exceed the value of any assets of the deceased outside the Union and not so included;
- (g) the value of any interest included as property of the deceased under paragraph (a) of sub-section (2) of section *three* where such interest was held by the deceased by virtue of a donation to him by the person

to whom the right of enjoyment of the property in which the deceased held the interest, accrues or, where the interest consists of a right to an annuity charged upon property, by the person who is the owner of that property;

- (h) any amount which, in terms of the will of the deceased, or the value of any property included in the estate which, or the value of any fiduciary, usufructuary or other like interest where the benefit arising by reason of the cessation of such interest upon the death of the deceased, accrues or accrued to—
- (i) any person under conditions requiring such amount or value to be devoted wholly to charitable, educational or ecclesiastical purposes of a public nature within the Union; or
  - (ii) any public institution within the Union for the advancement of science or art, or of a charitable, educational or ecclesiastical nature; or
  - (iii) the State or any local authority:
- Provided that where the property which accrues or accrued to the State or to any one person or institution referred to in sub-paragraph (i), (ii) or (iii) consists of a fixed sum of money and exceeds an amount of five hundred pounds, the deduction to be allowed in respect of the amount so accruing or having accrued, shall be an amount which bears the same ratio to the amount so accruing or having accrued as the value of the property included in the estate bears to the aggregate value of the said value and the value of the property of the deceased falling under paragraphs (c), (d), (e), (f), (g) and (h) of sub-section (2) of section *three*, if any;
- (i) the amount by which the value of any property included in the estate has been enhanced by any improvements made to the property concerned—
- (i) at the expense of the person to whom such property accrues on the death of the deceased; and
  - (ii) during the lifetime of the deceased and with his consent;
- (j) the amount by which the value of any fiduciary, usufructuary or other like interest which ceased upon the death of the deceased has been enhanced by any improvements made to the property concerned—
- (i) at the expense of the person to whom the benefit arising by reason of the cessation of such interest upon the death of the deceased, accrues; and
  - (ii) during the lifetime of the deceased and with his consent;
- (k) so much of the aggregate amount which is deemed to be property of the deceased under paragraph (a) of sub-section (3) of section *three* as does not exceed the sum of five thousand pounds.

Value of property in estate.

5. (1) The value of any property included in the estate of any person shall be—

- (a) in the case of property, other than such property as is referred to in the proviso to paragraph (g), disposed of by a purchase and sale which in the opinion of the Commissioner is a *bona fide* purchase and sale in the course of the liquidation of the estate of the deceased, the price realized by such sale;
- (b) in the case of any such fiduciary, usufructuary or other like interest in property as is referred to in paragraph (a) of sub-section (2) of section *three*, an amount determined by capitalizing at six per cent. the annual value of the right of enjoyment of the property in which such interest was held, to the extent to which the person who upon the cessation of the said interest of the deceased becomes entitled to such right of enjoyment, over the expectation of life of such person, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser

period: Provided that in any case in which it is proved to the satisfaction of the Commissioner that such person paid any consideration for the right of ownership in the property whereby he became entitled to the right of enjoyment of the property upon the death of the deceased, the value shall be so much of the value so arrived at as exceeds the amount of such consideration together with interest thereon calculated at six per cent. per annum from the date of payment of such consideration to the date of death of the deceased;

- (c) in the case of any right to any annuity referred to in paragraph (a) of sub-section (2) of section *three*, an amount equal to the value of the annuity capitalized at six per cent.—
- (i) in the case where the said right accrues to some other person on the death of the deceased, over the expectation of life of the person to whom the said right accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;
- (ii) in the case where the said right does not so accrue to some other person, over the expectation of life of the person who on the death of the deceased is the owner of the property upon which such annuity was charged;
- (d) in the case of any right to any annuity referred to in paragraph (b) of sub-section (2) of section *three*, an amount equal to the value of the annuity capitalized at six per cent. over the expectation of life of the person to whom the right to such annuity accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;
- (e) in the case of any property referred to in paragraph (b) or (c) of sub-section (3) of section *three*, an amount determined in the manner prescribed in section *fifty-four dec.* of the Income Tax Act, 1941 (Act No. 31 of 1941);
- (f) in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property determined, subject to the provisions of section *eight*, by some impartial person appointed by the Commissioner, exceeds the value of such interest, determined—
- (i) in the case of a usufructuary interest, by capitalizing at six per cent. the annual value of the right of enjoyment of the property subject to such usufructuary interest over the expectation of life of the person entitled to such interest, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period;
- (ii) in the case of an annuity charged upon the property, by capitalizing at six per cent. the amount of the annuity over the expectation of life of the person entitled to such annuity, or if it is to be held for a lesser period than the life of such person, over such lesser period; or
- (iii) in the case of any other interest, by capitalizing at six per cent. such amount as the Commissioner may consider reasonable as representing the annual yield of such interest, over the expectation of life of the person entitled to such interest, or if such interest is to be held for a lesser period than the life of such person, over such lesser period;
- (g) in the case of any other property, the fair market value of such property as at the date of death of the deceased person as determined, subject to the pro-

visions of section *eight*, by sworn appraisalment by some impartial person appointed by the Commissioner: Provided that in any case in which, as a result of conditions which in the opinion of the Commissioner were imposed by or at the instance of the deceased, the value of any property is reduced upon the death of the deceased, the value of such property shall be determined as though the conditions in terms of which the value of the said property is so reduced upon the death of the deceased, had not been imposed.

(2) For the purposes of paragraphs (b) and (f) of sub-section (1) the annual value of the right of enjoyment of a property means an amount equal to six per cent. upon the fair market value, determined, subject to the provisions of section *eight*, by sworn appraisalment by some impartial person appointed by the Commissioner, of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that where it is established to the satisfaction of the Commissioner that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to six per cent. on such value of the property, the Commissioner may fix such sum as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraph (b) of sub-section (1) be deemed to be the annual value of the right of enjoyment of such property: Provided further that where the property which is subject to any such interest consists of books, pictures, statuary or other objects of art, the annual value of the right of enjoyment thereof shall for the purposes of paragraph (b) of sub-section (1) be deemed to be the average net receipts (if any) derived by the person entitled to such right of enjoyment of such property during the three years immediately preceding the date of death of the deceased.

(3) Where for the purposes of sub-section (1) any calculation is required to be made over the expectation of life of any person, such calculation shall, in the case of a person who is not a natural person, be made over a period of fifty years.

Administration  
of Act.

6. (1) The Commissioner shall be responsible for the administration of this Act.

(2) The powers conferred and the duties imposed upon the Commissioner by this Act may be exercised or performed by the Commissioner personally or by any officer acting under a delegation from or under the control or direction of the Commissioner.

(3) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Commissioner, or by the officer concerned, and shall, until it has been so withdrawn, be deemed to have been made, issued or signed by the Commissioner.

Rendering  
of returns.

7. (1) Every executor or, if he is called upon by the Commissioner to do so, any person having the control of or any interest in any property included in the estate, shall submit to the Commissioner a return in a form, prescribed by him, disclosing the amount claimed by the person submitting the return to represent the dutiable amount of the estate together with full particulars regarding—

- (a) the property of the deceased as at the date of his death;
- (b) property which, in accordance with sub-section (3) of section *three*, is deemed to be property of the deceased as at that date;
- (c) any deduction claimed in terms of section *four*.

(2) If after having been called upon to do so by the Commissioner, any person referred to in sub-section (1) fails to submit to the Commissioner the return referred to in that sub-section within the period prescribed by the Commissioner, the Commissioner may estimate the dutiable amount of the estate of the deceased in such sum as he may consider to be fair and reasonable, and thereupon duty shall be assessed upon the dutiable amount of the estate as so estimated.

Determination  
of dutiable  
amount.

8. (1) If the Commissioner on receipt of any return referred to in section *seven*—

(a) is dissatisfied with any value at which any property is shown in any such return; or

(b) is of the opinion that the amount claimed to represent the dutiable amount as disclosed in the return does not represent the correct dutiable amount, he shall adjust such value or amount and determine the dutiable amount accordingly.

(2) For the purposes of sub-section (1) the Commissioner may call upon any person to furnish such information as he may require.

(3) Any dutiable amount determined by the Commissioner under sub-section (1) shall, subject to the provisions of section *twenty-four*, be the amount upon which duty shall be assessed.

Assessment  
of duty by  
Commissioner.

9. (1) The Commissioner shall assess the duty payable under this Act and shall in respect of every estate liable for the duty issue a notice of assessment to the executor or, if there is no executor, to any person liable for the duty.

(2) The duty assessed shall be paid on such date and at such place as may be prescribed in the notice of assessment, and may be paid in one sum or in such instalments as may be determined by the Commissioner having regard to the circumstances of the case.

(3) A notice of assessment shall be issued in respect of each return submitted in respect of any estate in which liability for duty is disclosed, due regard being had in the calculation of the duty to any duty chargeable on any previous returns submitted in respect of the same estate.

Payment of  
interest.

10. (1) If any duty remains unpaid at the expiration of a period of thirty days from the date of payment notified in accordance with sub-section (2) of section *nine*, there shall be payable, in addition to the unpaid duty, interest at the rate of six per cent. per annum on the amount of unpaid duty calculated from the date of the expiration of the said period to the date of payment: Provided that, where the assessment of duty is delayed beyond a period of twelve months from the date of death, interest at the rate of six per cent. per annum shall be payable as from a date twelve months after the date of death on the difference (if any) between the duty assessed and any deposit (if any) made on account of the duty payable within the said period of twelve months.

(2) Whenever the Commissioner is satisfied that the delay in the payment of duty within the period of thirty days from the date of payment notified in accordance with sub-section (2) of section *nine*, or within the period of twelve months from the date of death, as the case may be, has not been occasioned either by the executor or by any person liable for the duty, he may allow an extension of time within which the duty may be paid without interest if, before the expiration of the said period of thirty days or the said period of twelve months, as the case may be or such further period as the Commissioner may allow—

(a) a deposit on account of the duty payable is made of an amount which, in the opinion of the Commissioner, is reasonable regard being had to the amount of the duty payable; and

(b) application is made in writing to the Commissioner for such extension of time.

Person liable  
for duty.

11. The person liable for the duty shall be—

(a) where duty is levied on property of the deceased which falls under sub-section (2) of section *three*—

(i) as to any property referred to in paragraph (a) or (b) of that sub-section, the person to whom any advantage accrues by the death of the deceased;

(ii) as to any other property, the executor;

(b) where duty is levied on property which, in accordance with sub-section (3) of section *three*, is deemed to be property of the deceased—

(i) as to property referred to in paragraph (a) of that sub-section, the executor: Provided that

where the amount due under the policy is recoverable by any person other than the executor, the person liable for the duty shall be the person entitled to recover the amount due under the policy;

- (ii) as to any property referred to in paragraph (b) or (c) of that sub-section, the donee;
- (iii) as to any property referred to in paragraph (d) of that sub-section, the executor.

Duty payable by executor.

12. Notwithstanding anything to the contrary contained in section *eleven*, any duty payable under this Act shall be payable by and recoverable from the executor of the estate subject to the duty: Provided that the liability under this section of any executor shall be a liability in his capacity as executor only and for an amount not exceeding the available assets in the estate.

Right of recovery by executor.

13. (1) Every executor who is required to pay duty in respect of any property referred to in sub-paragraph (i) of paragraph (a) or the proviso to sub-paragraph (i) of paragraph (b), or sub-paragraph (ii) of paragraph (b) of section *eleven*, shall be entitled to recover from the person liable therefor the duty attributable to such property.

(2) The duty attributable to any such property shall be a sum which bears to the full duty payable in respect of the estate (before the deduction in accordance with the provisions of section *sixteen* of any amount in respect of transfer duty or donations tax) the same ratio as the value of the said property, as determined for the purposes of this Act, bears to the total value of the estate as so determined, reduced, in any case in which there is, in accordance with the said section *sixteen*, deducted from the duty payable in respect of the estate, any amount of transfer duty or donations tax paid in respect of any property included in the estate which has accrued to the person liable for the duty attributable to that property, by the amount of the transfer duty or donations tax so paid.

(3) Whenever duty is in terms of sub-paragraph (i) of paragraph (b) of section *eleven* payable by more than one person on the value of any property referred to in paragraph (a) of sub-section (3) of section *three*, the amount of duty payable by each such person shall be such proportion of the total duty attributable to the total value of the said property, as bears to the said total duty the same ratio as so much of the amount which such person is entitled to recover under any policy as is included in the estate under paragraph (a) of sub-section (3) of section *three*, bears to the total value of the said property plus the amount deducted in terms of paragraph (k) of section *four*.

Right to mortgage property.

14. To provide for the payment of any duty, the person liable therefor may, with the consent of the Master, borrow any moneys or mortgage any property in respect of which the liability for duty arises, notwithstanding any provision to the contrary contained in any deed or testamentary disposition or in any law.

Recovery of duty paid in certain cases.

15. Any person who has disposed of property in respect of which a liability for duty in accordance with sub-paragraph (ii) of paragraph (b) of section *eleven*, thereafter arises, without having received full consideration therefor, may recover from the person to whom he has disposed of such property the amount of duty payable by him in respect thereof.

16. There shall be deducted from any duty payable under this Act—

- (a) any transfer duty which is proved to the satisfaction of the Commissioner to have been paid in respect of the acquisition from the deceased or his estate of any property included in the estate for the purposes of the assessment of duty, by any person liable for the duty attributable to that property; and
- (b) any donations tax which is proved to the satisfaction of the Commissioner to have been paid under the



Income Tax Act, 1941 (Act No. 31 of 1941), in respect of any property which, in accordance with paragraph (c) of sub-section (3) of section *three* of this Act is deemed to be property of the deceased.

No account to be filed by Master before duty is paid or secured.

17. The Master shall not file any administration and distribution account in his office or grant a discharge to any executor until he is satisfied that the duty payable under this Act has been paid or secured to the satisfaction of the Commissioner or that the Commissioner consents to the discharge.

No property to be delivered by executor before duty provided for.

18. Before delivering or transferring any property of the deceased to any heir or legatee the executor shall satisfy the Commissioner that due provision has been made for the payment of any duty payable under this Act.

Personal liability of executor.

19. Every executor who pays over or parts with the possession or control of any property under his administration without first paying any duties payable under this Act, shall be personally and jointly and severally liable with any other person to whom he has paid over, or to whom he has delivered, any such property, for the amount of the duty ascertained by the Commissioner to be payable in respect thereof.

Expenditure incurred by executor.

20. Every executor who is required to incur any expenditure in respect of any property which falls under paragraph (a) or (b) of sub-section (2) or under sub-section (3) of section *three*, shall be entitled to recover such expenditure from the person liable, in accordance with section *eleven*, for the duty payable in respect of such property.

No transfer of stocks or shares to be registered before duty paid.

21. (1) A company shall not permit the transfer—

(a) of any stocks or shares in such company registered in a deceased person's name; or

(b) of any stocks or shares in such company registered in the name of any person who has been notified to such company by the Commissioner as being a person in whose name stocks or shares belonging to a deceased person are held,

until satisfactory proof has been lodged that payment has been made of any duty payable under this Act in respect of such stocks or shares or that the Commissioner consents to such transfer.

(2) The person holding the position of secretary of such company shall be responsible for the carrying out of the provisions of sub-section (1).

No transfer of property to be registered in any Deeds office until duty paid.

22. (1) No grant, transfer, endorsement or other registration shall be recorded in any deeds registry in connection with any property or interest in property forming part of a deceased estate or which was held by a deceased person, unless there is produced to the registrar of deeds concerned a certificate issued by the Commissioner that all necessary provision has been made for the payment of any duties payable under this Act.

(2) No fee shall be payable in respect of the issue of any such certificate.

Returns by insurers.

23. Every person who carries on in the Union any insurance business shall whenever he, on the death of any person, makes payment of any claim under any policy of insurance which is a "Union policy" as defined in section *one* of the Insurance Act, 1943 (Act No. 27 of 1943), upon the life of that person, advise the Commissioner, in such form as the Commissioner may require, of such payment.

Appeals from decisions of Commissioner regarding matters of valuation.

24. (1) Any person aggrieved by any decision of the Commissioner under sub-section (1) of section *eight* in regard to the valuation of any property under this Act may, within thirty days after the decision became known to him or within such further period as the Commissioner may on good cause allow, appeal against that decision to the special court constituted in accordance with the provisions of section *seventy-nine* of the Income Tax Act, 1941 (Act No. 31 of 1941), for the hearing of income tax appeals in the area in which the estate concerned is being administered.

(2) Every notice of appeal under sub-section (1) shall be in writing and shall be lodged with the Commissioner.

(3) The special court to which appeal is made shall inquire into and consider the matter and shall confirm, vary or set aside the decision of the Commissioner or give such other decision as, in its opinion, the Commissioner ought to have given.

(4) The provisions of sub-sections (9), (10), (11) (12), (14)*bis*, (15) and (16) of section *seventy-nine* and of sections *seventy-nine bis*, *seventy-nine ter* and *eighty-one* of the Income Tax Act, 1941, shall apply *mutatis mutandis* with reference to any appeal under this section.

Recovery of duty.

25. (1) Any duty or interest, or any other sum whatever due under this Act shall be a debt due to the Government and shall be recoverable by action instituted in the name of the Commissioner in any competent court.

(2) Any such action may be instituted against any person liable under any provision of this Act, notwithstanding that the obligation to pay the amount of duty is also imposed by this Act on any other person.

Prevention of, or relief from double taxation.

26. (1) The Governor-General may enter into an agreement with the Government of any other country or territory, whereby arrangements are made with such Government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Union and of such other country or territory, of estate duty in respect of the same property or to the rendering of reciprocal assistance in the administration of, and in the collection of estate duty under the laws relating to estate duty in force in the Union and in such other country or territory.

(2) As soon as may be after the conclusion of any such agreement, the arrangements thereby made shall be notified by proclamation by the Governor-General in the *Gazette*, whereupon until such proclamation is revoked by the Governor-General, the arrangements notified therein shall, so far as they relate to immunity, exemption or relief in respect of Union estate duties, have effect as if enacted in this Act, but only if and for so long as such arrangements, so far as they relate to immunity, exemption or relief in respect of estate duties levied or leviable in such other country or territory have the effect of law in such country or territory.

(3) As soon as may be after the publication in the *Gazette* of any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

(4) The Governor-General may at any time revoke any such proclamation by proclamation in the *Gazette*, and the arrangements notified in such earlier proclamation shall cease to have effect upon a date fixed in such latter proclamation, but the revocation of any proclamation shall not affect the validity of anything previously done thereunder.

(5) As soon as may be after the publication in the *Gazette* of any proclamation revoking any such proclamation copies thereof shall be laid upon the Tables of both Houses of Parliament.

Collection of duties under arrangements made under section 26.

27. (1) If the Commissioner has, in accordance with any arrangements made with the Government of any other country or territory by an agreement entered into under section *twenty-six* with a view to rendering reciprocal assistance in the collection of estate duties, received a request for the collection from any person in the Union of an amount alleged to be due by him under the laws relating to estate duties in force in such other country or territory, the Commissioner may, by notice in writing, call upon such person to state, within a period specified in the notice, whether or not he admits liability for the said amount or for any lesser amount.

(2) The Commissioner may—

(a) if such person so admits liability; or

(b) (i) if such person fails to comply with the notice or in answer to the notice denies his liability for the said amount or for any part thereof; and

(ii) if a judge of the Supreme Court sitting in Chambers has certified that he has afforded the person concerned an opportunity of presenting his case, and that on the information submitted to him by the Commissioner and by such person (if any), the amount specified in the certificate appears to be payable by such person in terms of a final determination under the laws relating to estate duties in force in such other country or territory,

by notice in writing require such person to pay the amount for which he has admitted liability or the amount so specified, as the case may be, on a date, at a place, and to a person specified in the notice, for transmission to the proper authority in such other country or territory.

(3) If such person fails to comply with the notice under sub-section (2), the amount in question may be recovered for transmission to the said authority as if it were a duty payable by such person under this Act, but subject, in the case of any amount to which any such certificate relates, to the outcome of any proceedings which such person may institute in such other country or territory for determining his liability for the said amount.

(4) No steps taken in any other country or territory under any arrangements referred to in sub-section (1), for the collection of an amount alleged to be due by any person under this Act and no judgment given against any such person in pursuance of such arrangements in such other country or territory for any such amount, shall affect his right to have his liability for any such amount determined in the Union in accordance with the provisions of this Act.

Penalties.

28. (1) Any person who—

(a) in relation to any matter dealt with in this Act, makes any fraudulent or false statement or representation knowing it to be fraudulent or false; or  
(b) after having been called upon to do so by the Commissioner in terms of section *seven*, fails within the period prescribed by the Commissioner, to submit the return required to be submitted in terms of that section or knowingly omits from such return any particulars required by this Act to be included therein, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who—

(a) being the secretary of a company, contravenes the provisions of sub-section (1) of section *twenty-one*; or  
(b) fails to comply with the provisions of section *twenty-three*; or  
(c) fails to comply with any reasonable requirement of the Commissioner or Master made for the purpose of carrying out any provision of this Act; or  
(d) obstructs or hinders the Commissioner or Master in carrying out any provision of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds.

Regulations.

29. The Governor-General may make regulations for the better carrying out of the objects and purposes of this Act, including regulations as to the valuation of annuities or of fiduciary, usufructuary or other limited interests in property, the hearing of an appeal under section *twenty-four*, and the payment of fees to executors and other persons required to render returns under this Act in respect of property with regard to which no remuneration is payable under the provisions of section *sixty-nine* of the Administration of Estates Act, 1913 (Act No. 24 of 1913).

Forms to be prescribed.

30. The Commissioner may prescribe such forms as he may consider necessary for the proper carrying out of any provision of this Act or the regulations made thereunder.

Repeal of laws.

31. (1) The laws set out in the Second Schedule are hereby repealed to the extent set out in the third column of the said Schedule: Provided that the said laws shall continue to apply in relation to the estate of any person who died before the first day of April, 1955.

(2) Any agreement entered into and any proclamation issued under section *thirty-six bis* of the Death Duties Act, 1922 (Act No. 29 of 1922), and in force at the date of commencement of this Act, shall be deemed to have been entered into or issued also under section *twenty-six* of this Act.

Short title and date of commencement.

32. This Act shall be called the Estate Duty Act, 1955, and shall be deemed to have come into operation on the first day of April, 1955.

## First Schedule.

## RATES OF ESTATE DUTY.

| Dutiable Amount of Estate.                                   | Rate of Duty.   |
|--|---|
| Where the dutiable amount—<br>does not exceed £6,000 .. .. . | 1 per cent. on the dutiable amount;   |
| exceeds £6,000, but does not exceed £7,000                   | £60, plus 2 per cent. on the amount by which the dutiable amount exceeds £6,000;      |
| .. £7,000 .. .. . £8,000                                     | £80, plus 3 per cent. on the amount by which the dutiable amount exceeds £7,000;      |
| .. £8,000 .. .. . £9,000                                     | £110, plus 4 per cent. on the amount by which the dutiable amount exceeds £8,000;     |
| .. £9,000 .. .. . £10,000                                    | £150, plus 5 per cent. on the amount by which the dutiable amount exceeds £9,000;     |
| .. £10,000 .. .. . £11,000                                   | £200, plus 6 per cent. on the amount by which the dutiable amount exceeds £10,000;    |
| .. £11,000 .. .. . £12,000                                   | £260, plus 7 per cent. on the amount by which the dutiable amount exceeds £11,000;    |
| .. £12,000 .. .. . £13,000                                   | £330, plus 8 per cent. on the amount by which the dutiable amount exceeds £12,000;    |
| .. £13,000 .. .. . £14,000                                   | £410, plus 9 per cent. on the amount by which the dutiable amount exceeds £13,000;    |
| .. £14,000 .. .. . £15,000                                   | £500, plus 10 per cent. on the amount by which the dutiable amount exceeds £14,000;   |
| .. £15,000 .. .. . £16,000                                   | £600, plus 11 per cent. on the amount by which the dutiable amount exceeds £15,000;   |
| .. £16,000 .. .. . £17,000                                   | £710, plus 12 per cent. on the amount by which the dutiable amount exceeds £16,000;   |
| .. £17,000 .. .. . £18,000                                   | £830, plus 13 per cent. on the amount by which the dutiable amount exceeds £17,000;   |
| .. £18,000 .. .. . £19,000                                   | £960, plus 14 per cent. on the amount by which the dutiable amount exceeds £18,000;   |
| .. £19,000 .. .. . £20,000                                   | £1,100, plus 15 per cent. on the amount by which the dutiable amount exceeds £19,000; |
| .. £20,000 .. .. . £22,000                                   | £1,250, plus 16 per cent. on the amount by which the dutiable amount exceeds £20,000; |
| .. £22,000 .. .. . £24,000                                   | £1,570, plus 17 per cent. on the amount by which the dutiable amount exceeds £22,000; |
| .. £24,000 .. .. . £26,000                                   | £1,910, plus 18 per cent. on the amount by which the dutiable amount exceeds £24,000; |
| .. £26,000 .. .. . £28,000                                   | £2,270, plus 19 per cent. on the amount by which the dutiable amount exceeds £26,000; |
| .. £28,000 .. .. . £30,000                                   | £2,650, plus 20 per cent. on the amount by which the dutiable amount exceeds £28,000; |
| .. £30,000 .. .. . £35,000                                   | £3,050, plus 21 per cent. on the amount by which the dutiable amount exceeds £30,000; |
| .. £35,000 .. .. . £40,000                                   | £4,100, plus 22 per cent. on the amount by which the dutiable amount exceeds £35,000; |
| .. £40,000 .. .. . £45,000                                   | £5,200, plus 23 per cent. on the amount by which the dutiable amount exceeds £40,000; |
| .. £45,000 .. .. . £50,000                                   | £6,350, plus 24 per cent. on the amount by which the dutiable amount exceeds £45,000; |
| .. £50,000 .. .. .   | £7,550, plus 25 per cent. on the amount by which the dutiable amount exceeds £50,000; |

Provided that the duty calculated in accordance with this table shall be subject to a rebate of an amount equal to duty so calculated upon a dutiable amount equal to the aggregate of—

- (i) an amount of five thousand pounds; and
- (ii) an amount of two thousand pounds in respect of every child of the deceased who survives him; and
- (iii) an amount of two thousand pounds in respect of every child of the deceased who predeceased him and who left issue or a spouse surviving the deceased; and
- (iv) an amount of ten thousand pounds in any case in which the deceased is survived by his spouse:

Provided further that where duty becomes payable upon the value of any movable or immovable property or on a value determined by reference to the value of any movable or immovable property and duty has, upon the death of any person (hereinafter referred to as the first-dying person), who died within three years prior to the death of the deceased, become payable upon

the value of that movable or immovable property or upon a value determined by reference to the value of that movable or immovable property (or any movable or immovable property for which the Commissioner is satisfied that that movable or immovable property has been substituted), the duty attributable to the value of that movable or immovable property or, as the case may be, the value determined by reference to the value of that movable or immovable property, but not exceeding (in either case) an amount equal to the value on which duty has become payable on the death of the first-dying person shall be reduced by a percentage according to the following scale—

|  |               |
|--|---------------|
| if the deceased dies within six months of the death of the first-dying person .. .. .                              | 100 per cent. |
| if the deceased dies more than six months, but not more than one year after the death of the first-dying person .. | 60 per cent.  |
| if the deceased dies more than one year, but not more than two years after the death of the first-dying person ..  | 40 per cent.  |
| if the deceased dies more than two years, but not more than three years after the death of the first-dying person  | 20 per cent.  |

subject to a maximum reduction equal to so much of the duty previously payable upon the death of the first-dying person as is attributable to the value of that movable or immovable property or, as the case may be, to an amount equal to the value determined by reference to the value of that movable or immovable property, and as is proved to the satisfaction of the Commissioner to have been borne by the deceased.

### Second Schedule.

#### LAWS REPEALED.

| Number and Year of Law. | Title.                                       | Extent of Repeal.                              |
|-------------------------|--|--|
| Act No. 29 of 1922      | Death Duties Act, 1922 .. .. .               | The whole.                                     |
| Act No. 31 of 1925      | Death Duties Act, 1922, Amendment Act, 1925. | The whole.                                     |
| Act No. 34 of 1930      | Financial Adjustments Act, 1930 ..           | Section <i>ten</i> .                           |
| Act No. 64 of 1934      | Finance Act, 1934 .. .. .                    | Section <i>ten</i> .                           |
| Act No. 33 of 1939      | Finance Act, 1939 .. .. .                    | Section <i>twelve</i> .                        |
| Act No. 23 of 1942      | Death Duties Amendment Act, 1942             | The whole.                                     |
| Act No. 33 of 1944      | Death Duties Amendment Act, 1944             | The whole.                                     |
| Act No. 46 of 1945      | Finance Act, 1945 .. .. .                    | Sections <i>sixteen</i> and <i>seventeen</i> . |
| Act No. 60 of 1951      | Death Duties Amendment Act, 1951             | The whole.                                     |
| Act No. 33 of 1954      | Death Duties Amendment Act, 1954             | The whole.                                     |