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CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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DRAFT ORDINANCES.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

An Ordinance to provide for the imposition and collection of Estate Duty.

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SCHEDULE I.

Scale of Rates of Estate Duty.

SCHEDULE II.

*Amendments of Written Law.***An Ordinance to provide for the imposition and collection of Estate Duty.**

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

- 1 This Ordinance may be cited as the Estate Duty Ordinance, No. of 1937. Short title.

Administration.

2 (1) For the purposes of this Ordinance, the Governor may appoint a Commissioner of Estate Duty, Assistant Commissioners of Estate Duty and Assessors of Estate Duty. Appointment of Commissioner, Assistant Commissioners and Assessors.

(2) The Commissioner may authorise an Assistant Commissioner, either generally or specially, to exercise or perform all or any of the powers, duties or functions of the Commissioner under this Ordinance.

(3) An Assistant Commissioner exercising or performing any power, duty or function of the Commissioner under this Ordinance shall, until the contrary is proved, be deemed for all purposes to be authorised to exercise or perform such power, duty or function.

(4) Any powers conferred upon an Assessor by this Ordinance may be exercised by an Assistant Commissioner.

Imposition of Estate Duty.

3 In the case of every person dying on or after the first day of April, 1937, there shall, save as hereinafter expressly provided, be levied and paid upon the value of his Ceylon estate, a duty called estate duty: Imposition of estate duty.

Provided that no estate duty shall be payable where the value of the total estate of any such person does not exceed twenty thousand rupees.

4 The value of the Ceylon estate of any deceased person shall be determined in the manner hereinafter provided; and the value of the total estate of any such person shall be ascertained as far as may be in accordance with the provisions of this Ordinance relating to the determination of the value of the Ceylon estate. Determination of value of Ceylon estate and total estate.

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5 The amount of estate duty payable on the Ceylon estate of any deceased person shall be computed in accordance with the provisions of this Ordinance at the graduated rate shown in the second column of Schedule I to be the rate applicable where the value of the total estate of that person falls within the limits of the class set out in the corresponding entry in the first column of that Schedule :

Provided that where, by reason of the fact that the value of the total estate exceeds the greater of the two limits of any class specified in Schedule I, estate duty is payable at the higher rate prescribed for the next succeeding class in that Schedule, the amount of estate duty payable shall not exceed the aggregate of—

- (a) the amount which would have been payable on the Ceylon estate if the value of the total estate had reached, but had not exceeded, the greater of the two limits aforementioned ; and
- (b) the amount by which the value of the total estate exceeds such greater limit :

Provided, further, that in no case shall the amount of estate duty payable exceed the amount by which the value of the total estate exceeds twenty thousand rupees.

Property passing on death.

6 Property passing on the death of the deceased shall be deemed to include the property following, that is to say :

- (a) Property of which the deceased was at the time of his death competent to dispose ;
- (b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest ; inclusive of property the estate or interest in which has been surrendered, assured, divested, or otherwise disposed of, whether for value or not, to or for the benefit of any person entitled to an estate or interest in remainder or reversion in such property, unless that surrender, assurance, divesting, or disposition was *bona fide* made or effected three years before the death of the deceased, and *bona fide* possession and enjoyment of the property was assumed thereunder immediately upon the surrender, assurance, divesting, or disposition, and thenceforward retained to the entire exclusion of the person who had the estate or interest limited to cease as aforesaid, and of any benefit to him by contract or otherwise ; but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole ;
- (c) Property which was subject to an annuity or other periodical payment limited to cease on the death of the deceased to the extent of the benefit which would accrue from the cesser of that annuity or other payment notwithstanding that the annuity or other payment has been surrendered, assured, divested or otherwise disposed of during the lifetime of the deceased, whether for value or not, to or for the benefit of the person entitled to the property, unless the surrender, assurance, divesting or disposition was *bona fide* made or effected three years before the death of the deceased and the person entitled to the annuity or other payment was not at any time within that period in receipt of any substituted annuity or other periodical payment limited to cease on his death, being an annuity or payment which was secured, whether by contract or otherwise, to him in return for the surrender, assurance, divesting or disposition ;
- (d) Property taken as a *donatio mortis causa* made by the deceased or taken under a disposition made by him purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery, declaration of trust, or otherwise, which shall not have been *bona fide* made three years before his death, or taken under any gift, whenever made, of which *bona fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift

and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise : Provided that—

- (i) the property shall not be deemed to pass on the death of the deceased if subsequently, by means of the surrender of the benefit reserved or otherwise, it is enjoyed to the entire exclusion of the deceased and of any benefit to him by contract or otherwise, for three years before his death ;
 - (ii) in the case of a gift made for a religious, charitable, or public purpose this sub-section shall be read as if one year were substituted for three years ;
 - (iii) nothing herein contained shall apply to gifts made in consideration of marriage, or which are proved to the satisfaction of the Commissioner 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 to the circumstances under which the gift is made, or which, in the case of any donee, do not exceed in the aggregate one thousand five hundred rupees in value or amount ;
 - (iv) where an Assessor is of opinion that a disposition of property purporting to be a transfer for valuable consideration was not in fact a *bona fide* transfer for full consideration in money or money's worth received or receivable wholly by the deceased for his own use and benefit, he may treat such disposition as a gift, and the onus of proving that such disposition was in fact *bona fide* shall lie on the transferee or his successors in title ;
- (e) Property which the deceased, having been absolutely entitled thereto, has caused to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, (including also any purchase or investment effected by the deceased alone, or in concert or by arrangement with any other person), so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person ;
- (f) Property passing under any past or future settlements made by the deceased by any instrument not taking effect as a will whereby an interest in such property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved, either expressly or by implication, to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself or to reclaim the absolute interest in such property or the proceeds of sale thereof : Provided that in this paragraph the expression "settlement" shall include any trust, whether expressed in writing or not, in favour of any person, and if contained in an instrument effecting the settlement, whether the instrument was made for valuable consideration or not as between the settlor and any other person ;
- (g) Money received under a policy of insurance effected by the deceased on his life where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premium paid by him, where the policy is partially kept up by the deceased for such benefit ;
- (h) 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.

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7 Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person under a disposition enforceable at law not made by the deceased, or under a disposition enforceable at law made by the deceased more than three years before his death, where possession and enjoyment of the property was *bona fide* assumed by the beneficiary immediately upon

Exception to passing of property on enlargement of interest of settlor.

the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.

8 Where property is settled by a person on himself for life, and after his death on any other persons with an ultimate reversion of an absolute interest or absolute power of disposition to the settlor, the property shall not be deemed to pass to the settlor on the death of any such other person by reason only that the settlor, being then in possession of the property as tenant for life, fiduciary, or usufructuary, becomes, in consequence of such death, entitled to the immediate reversion, or acquires an absolute power to dispose of the whole property.

Reverter of property to disponent.

9 (1) Where by a disposition of any property an interest is conferred on any person other than the disponent for the life of such person or determinable on his death, and such person enters into possession of the interest and thenceforward retains possession thereof to the entire exclusion of the disponent or of any benefit to him by contract or otherwise, and the only benefit which the disponent retains in the said property is subject to such life or determinable interest, and no other interest is created by the said disposition, then, on the death of such person, the property shall not be deemed to pass by reason only of its reverter to the disponent in his lifetime.

(2) Where by a disposition of any property any such interest as above in this section mentioned is conferred on two or more persons, either severally or jointly or in succession, this section shall apply in like manner as where the interest is conferred on one person.

(3) The foregoing sub-sections shall not apply where such person or persons taking the said life or determinable interest had at any time prior to the disposition been himself or themselves competent to dispose of the said property.

Exception of transactions for money consideration.

10 (1) Estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bona fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease, for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease, for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

Settled Property.

Settled property.

11 In the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.

Exemptions and reliefs.

Exemptions from estate duty in case of small annuities.

12 Estate duty shall not be payable in respect of a single annuity not exceeding two hundred and fifty rupees purchased or provided by the deceased, either by himself alone or in concert or arrangement with any other person, for the life of himself and of some other person and the survivor of them, or to arise on his own death in favour of some other person; and if in any case there is more than one such annuity, the annuity first granted shall be alone entitled to the exemption under this section.

Exemption of objects of national, &c., interest given, &c., for public purposes.

13 It shall be lawful for the Commissioner to remit the estate duty, in respect of any such pictures, prints, books, manuscripts, works of art, or scientific collections, as appear to the Commissioner to be of national, scientific, artistic, or historic interest, and to be given or bequeathed to the Government of Ceylon, or to any university or public library in Ceylon, or to any local authority, and no property the duty in respect of which is so remitted shall be aggregated with any other property for the purpose of fixing the rate of estate duty.

14 Estate duty shall not be payable in respect of any pension granted under the Widows' and Orphans' Pension Fund Ordinances of 1898, or of 1906, or the Widows' and Orphans' Pension Fund (Muslim Public Officers) Ordinance, 1928, nor in respect of any pension or annuity payable by the Government of any part of the British Empire to the widow or child of any deceased officer of such Government notwithstanding that the deceased contributed during his lifetime to any fund out of which such pension or annuity is paid.

Pensions of widows and orphans.
No. 1 of 1898.
No. 13 of 1906.
No. 16 of 1928.

15 Where estate duty whether under this Ordinance or under the Estate Duty Ordinance, No. 8 of 1919, has been paid on the death of a party to a marriage in respect of property which has been settled by the will of such party or which, having been settled by some other disposition, passed on such party's death, estate duty shall not be payable in respect thereof on the death of the surviving party of the marriage unless such surviving party was at the time of his or her death competent to dispose of such property.

Property settled on parties to a marriage.

16 Where stamp duty has been paid on any instrument by which any property has been gifted or transferred by a deceased person and estate duty becomes payable in respect thereof on the death of that deceased by reason of the fact that the property falls within the category of property described in section 6 (d), the amount of such stamp duty shall be deducted from the amount of the estate duty payable in respect of that property :

Relief in respect of stamp duty.

Provided that the amount deducted under this section shall in no case exceed the amount of the estate duty payable in respect of that property.

17 (1) Where the Commissioner is satisfied that in any part of the British Empire estate duty is payable by reason of a death in respect of any property situate in that part of the British Empire and passing on such death, he shall allow a sum equal to the amount of that duty to be deducted from the estate duty payable in Ceylon in respect of that property on the same death.

Relief in respect of British estate duty.

(2) For the purposes of this section and of section 20 of the Finance Act, 1894, of the Imperial Parliament, the local situation in any property shall be determined in accordance with the law in force for the time being, in Great Britain or Northern Ireland, as the case may require.

57 and 58 Vict. c 30.

18 Where the Commissioner is satisfied that estate duty whether under this Ordinance or under the Estate Duty Ordinance, No. 8 of 1919, 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 any person, and that subsequently within five years estate duty has again become payable on the same property, or any part thereof, passing on the death of the person to whom the property passed on the first death the amount of estate duty payable on the second death, in respect of the property so passing shall be reduced as follows:—

Relief in respect of quick succession where property consists of land or a business.

- Where the second death occurs within one year of the first death, by fifty per cent. ;
- Where the second death occurs within two years of the first death, by forty per cent. ;
- Where the second death occurs within three years of the first death, by thirty per cent. ;
- Where the second death occurs within four years of the first death, by twenty per cent. ;
- Where the second death occurs within five years of the first death, by ten per cent. :

Provided that where the value, on which the 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.

19 Where settlement estate duty under section 16 of the Estate Duty Ordinance, No. 8 of 1919, has been paid in respect of any settled property and estate duty becomes payable for the first time thereafter in respect of the same property on the death of a person who at the time of his death was not competent to dispose of such property, an allowance shall be granted from the amount of such estate duty equal to the sum of—

Relief on account of payment of settlement estate duty.

- (a) the amount of settlement estate duty which has been paid in respect of that property ; and

- (b) simple interest on the said amount of settlement estate duty calculated at the rate of four per centum per annum from the date of the payment of the said duty up to the date of the death by reason of which estate duty became so payable :

Provided that the said allowance shall not exceed the estate duty payable on the said property by reason of such death.

Value of property.

Value of property.

20 (1) Subject to the provisions of sub-section (2), the value of any property shall be estimated to be the price which, in the opinion of an Assessor, such property would fetch if sold in the open market at the time of the death of the deceased ; and no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time : Provided that where it is proved to the satisfaction of an Assessor that the value of the property has been depreciated by reason of the death of the deceased, the Assessor, in fixing the price, shall take such depreciation into account.

(2) Where income in respect of any property has accrued due but has not been received by the deceased prior to his death, the value of that property for the purposes of this Ordinance shall be the aggregate of the price estimated under sub-section (1) and the amount of such income.

(3) Where the property to be valued is land situated outside the administrative limits of a local authority other than a Village Committee, the value of the land for the purposes of this Ordinance shall be the value thereof as estimated under sub-section (1) reduced by an amount equivalent to ten per centum of that value :

Provided that no such reduction shall be made from the value of—

- (a) any portion of any land upon which any building has been erected ;
- (b) land not exceeding one acre in extent which, in the opinion of an Assessor, is appurtenant or contiguous to any building and is occupied therewith ;
- (c) mines, gem-pits, quarries, minerals and mineral rights in any land.

(4) Where the property to be valued is an undivided share in any land in respect of which a reduction is authorised under sub-section (3), the value of that undivided share shall be the proportionate amount of the value of the whole land as determined under that sub-section further reduced by an amount equivalent to ten per centum of such proportionate amount.

(5) Where the property to be valued is an undivided share in any land other than a land in respect of which a reduction is authorised under sub-section (3), the value of that undivided share shall be the proportionate amount of the value of the whole land as estimated under sub-section (1) reduced by an amount equivalent to ten per centum of such proportionate amount.

Value of benefit arising by cesser of life interest.

21 The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

- (a) if the interest extended to the whole income of the property, be the value of that property ; and
- (b) if the interest extended to less than the whole income of the property, be such proportion of the value of the property as corresponds to the proportion of the income which passes on the cesser of the interest.

Deduction for debts and funeral expenses.

22 (1) In determining the value of the Ceylon estate of a deceased person, allowance shall be made, subject as hereinafter provided, for reasonable funeral expenses and for debts and incumbrances incurred or created by the deceased, or which, having been charged upon any property forming part of the Ceylon estate prior to its acquisition by the deceased, whether by way of inheritance, gift, transfer, purchase or otherwise, continued to be so charged at the date of death, but an allowance shall not be made—

- (a) for debts incurred by the deceased, or incumbrances created 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 property liable thereto ;

Provided that no allowance shall be made for funeral expenses incurred outside Ceylon or for debts due from the deceased to non-resident persons (unless contracted to be paid in Ceylon or charged on property situate in Ceylon), except out of property situate out of Ceylon upon the value of which estate duty is payable :

First Proviso.

Provided, further, that if it is proved to the satisfaction of an Assessor that the amount of the said funeral expenses and debts exceeds the value of the property of the deceased situate out of Ceylon, such excess may be deducted from the value of the Ceylon estate.

Second Proviso.

23 Where any property passing on the death of the deceased is situate in a foreign country and an Assessor is satisfied that by reason of such death any duty is payable in that foreign country in respect of that property, he shall make an allowance of the amount of that duty from the value of the property.

Deduction for foreign estate duty.

Liability for Estate Duty.

24 The executor of the deceased shall pay the estate duty in respect of all property of which the deceased was competent to dispose at his death and may pay the estate duty in respect of any other property passing on such death, if the persons liable to pay the duty in respect thereof request him to make such payment ; but an executor shall not be liable for any duty in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

Liability of executor.

25 Where property passes on the death of the deceased, and his executor is not liable to pay the estate duty in respect of such property, every person to whom any property so passes or is deemed to pass for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, curator, manager or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, shall be liable to pay the estate duty on the property, and shall within the time required by this Ordinance, or such later time as may be allowed, deliver to the Commissioner a declaration of property :

Liability of persons other than the executor.

Provided that nothing in this section shall render a person liable to pay estate duty who acts merely as agent for another person who is resident in Ceylon.

- 26 (1) Subject to the provisions of sub-section (2)—
- (a) the estate duty payable by an executor shall be a first charge on all the property of which the deceased was competent to dispose at his death and such charge may be enforced against any such property for the recovery of the whole or any part of such estate duty ;
 - (b) the estate duty payable by any person other than the executor in respect of any property shall be a first charge on that property.

Duty to be a charge on property passing on death of deceased.

(2) Subject as hereinafter provided, the first charge referred to in sub-section (1) shall rank in priority over all alienations, leases and incumbrances effected or created before or after the death :

Provided that—

- (a) such charge shall not extend to any property sold prior to the date of its seizure in execution of such charge to a *bona fide* purchaser thereof for valuable consideration without notice ;
- (b) as regards immovable property, such charge shall not rank in priority over any lease or incumbrance created *bona fide* for value and registered prior to the date of death.

(3) Nothing in this Ordinance shall be deemed to create a charge for estate duty on any property situate outside Ceylon.

Power to raise estate duty by sale, mortgage, or terminable charge.

27 (1) A person authorised or required to pay the estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise with the consent of the appropriate District Court the amount of such duty and any interest and expenses properly incurred or paid by him in respect thereof, by the sale or mortgage of, or a terminable charge on, that property or any part thereof.

(2) A person having a limited interest in any property, and a lessee or mortgagee of any property, who pays the estate duty in respect of that property, shall be entitled to the like charge as if the estate duty in respect of that property had been raised by means of a mortgage to him.

Apportionment of burden of estate duty paid.

28 As between the several persons beneficially interested in the property of a deceased person on which the executor is, under the provisions of this Ordinance, authorised or required to pay estate duty, all such duty paid in respect of such property shall be regarded as a debt incurred by the deceased person, and shall, unless such deceased person has otherwise directed by his will, if any, be apportioned among such persons in proportion to the values of their interests in the property of such deceased person.

Returns, &c.

Declaration of property.

29 (1) The executor of every deceased person shall, within six months after the date of the death of the deceased, deliver to the Commissioner in the prescribed form a declaration of property containing a full and true statement of particulars relating to the total estate of the deceased including the value thereof; and together with such declaration of property he shall deliver to the Commissioner a certified copy of the will, if any, of the deceased.

(2) Where the executor is not liable to pay estate duty in respect of any property passing on the death of a deceased person, the person liable to pay such duty shall, within six months after the date of the death of the deceased, deliver to the Commissioner in the prescribed form a declaration of property containing a full and true statement of particulars relating to such property including the value thereof.

(3) An Assessor may, in his discretion, extend the period hereinbefore prescribed for delivering any declaration of property.

Further declaration in case of error.

30 Where at any time it comes to the notice of any executor or other person liable to pay estate duty that in any declaration of property delivered by him there is an error in that—

- (a) property liable to estate duty has been omitted therefrom, or
- (b) property liable to estate duty has been undervalued therein, or
- (c) a deduction has been claimed which is not authorised under this Ordinance,

he shall forthwith deliver to the Commissioner a further declaration setting out particulars of such error.

Assessor may require particulars in certain cases.

31 (1) An Assessor may give notice in writing to any person who, in his opinion, is able to give information regarding the affairs of any deceased person or persons requiring him within the time limited by such notice to furnish such particulars as the Assessor may deem necessary.

(2) An Assessor may give notice in writing to any person who is required by this Ordinance to make a declaration of property or to whom a notice has been addressed under subsection (1) calling upon such person within the time limited by such notice to produce at the time and place fixed by the Assessor any deeds, plans, instruments, books, accounts or documents which the Assessor may deem necessary.

Assessment.

Assessor to make assessments.

32 An Assessor may at any time, whether the declaration of property has been delivered or not, assess the estate duty payable in respect of the estate of a deceased person, and shall issue to the person or persons whom he considers liable to pay such estate duty a notice of such assessment.

Additional assessments.

33 Where it appears to an Assessor that the amount which any person is liable to pay as estate duty has been assessed at less than the proper amount, the Assessor may at

any time within three years of the date of the notice of the original assessment make an additional assessment of the amount which such person is, in his opinion, liable to pay :

Provided that—

- (a) where the under-assessment is due to fraud or wilful evasion, such additional assessment may be made at any time, and
- (b) an Assessor may, notwithstanding that the above-mentioned period of three years has expired, assess at any time any liability for additional duty which may be brought to his notice by an executor or by any other person liable to pay estate duty under this Ordinance.

Proviso.

Appeals to the Commissioner.

34 Any person aggrieved by the amount of an assessment made under this Ordinance may within thirty days after the date of the notice of such assessment appeal to the Commissioner by notice of objection in writing to review and revise such assessment. Any person so appealing (hereinafter referred to as the appellant) shall state precisely in his notice the grounds of his objection and the notice shall not be valid unless it contains such grounds and is made within the period abovementioned :

Appeals to the Commissioner.

Provided that the Commissioner, upon being satisfied that owing to absence from Ceylon, sickness, or other reasonable cause the appellant was prevented from giving notice of objection within such period, shall grant an extension thereof :

First Proviso.

Provided, further, that, where the assessment appealed against has been made in the absence of a declaration of property, no notice of objection shall be valid unless and until such declaration of property is duly delivered in the prescribed form.

Second Proviso.

35 Where any person other than the executor is under this Ordinance liable to pay the estate duty in respect of any property and no notice of assessment has been issued to him, he shall be entitled to the same right of appeal against the assessment, in so far as such estate duty is therein determined, as though a notice of assessment had been issued to him on the date on which he is called upon to pay such estate duty.

Appeal by person other than executor who is called upon to pay estate duty.

36 (1) On receipt of a valid notice of objection, the Commissioner may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the amount which the appellant is liable to pay, any necessary adjustment of the assessment shall be made.

Powers of Commissioner on appeal.

(2) Where no agreement is reached between the appellant and the Assessor, the Commissioner shall fix a time and place for the hearing of the appeal.

(3) The Commissioner shall have power to summon any person whom he considers able to give evidence respecting the appeal to attend before him at the hearing and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(4) In disposing of an appeal the Commissioner may confirm, reduce, increase, or annul the assessment.

(5) Where the Commissioner authorises an Assistant Commissioner to hear appeals, such authority shall not empower such Assistant Commissioner to hear an appeal against an assessment which he has himself made.

37 The decision of the Commissioner may be communicated to the appellant either orally at the conclusion of the hearing of an appeal or in writing by letter addressed to the appellant at any time thereafter.

Communication of decision of Commissioner on appeal.

Appeals to the Board of Review.

38 (1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a Board of Review (hereinafter referred to as the Board) consisting of not more than twenty members who shall be appointed from time to time by the Governor. The members of the Board shall hold office for a term of three years but shall be eligible for reappointment.

Constitution of the Board of Review.

(2) There shall be a Clerk to the Board who shall be appointed by the Governor.

(3) There shall be a Legal Adviser to the Board who shall be appointed by the Board.

(4) Three or more members of the Board shall be nominated by the Financial Secretary and summoned by the Clerk to attend meetings at which appeals are to be heard. At such a meeting a quorum shall consist of two members.

(5) At the request of the Commissioner, the Clerk to the Board shall summon a meeting of the whole Board. At such a meeting a quorum shall consist of five members.

(6) The remuneration of the members of the Board, the Clerk, and the Legal Adviser shall be fixed by the Governor.

No. 2 of 1932.

(7) Until such time as the Governor shall appoint a Board, a Clerk and a Legal Adviser for the purposes of this Ordinance, the Board constituted under the Income Tax Ordinance, 1932, and the Clerk and the Legal Adviser of that Board under that Ordinance shall respectively be the Board, the Clerk and the Legal Adviser for the purposes of this Ordinance.

Appeal to the Board of Review.

39 (1) Any appellant who is dissatisfied with the determination of the Commissioner on any appeal may, if such determination is communicated to him orally, declare his dissatisfaction with that determination within seven days after the announcement thereof by the Commissioner, or if that determination is communicated to him in writing by the Commissioner, declare his dissatisfaction with that determination within seven days of the date of the letter by which that determination of the Commissioner is communicated to him.

(2) Where the appellant has declared or communicated his dissatisfaction in accordance with sub-section (1), the Commissioner shall, within thirty days of the determination of the appeal, transmit in writing to the appellant his determination and the reasons therefor.

(3) Within thirty days of the transmission of such written determination and reasons by the Commissioner, the appellant may present a petition of appeal to the Board. Such petition shall not be entertained unless it is sent in writing to the Clerk to the Board and is accompanied by a copy of the Commissioner's written determination, together with a statement of the grounds of appeal therefrom.

(4) Save with the consent of the Board and on such terms as the Board may determine the appellant may not at the hearing by the Board rely on any grounds of appeal other than the grounds stated in the petition of appeal, and may not adduce any evidence other than evidence adduced at the hearing of the appeal before the Commissioner.

Commissioner may refer appeals to the Board of Review.

40 Notwithstanding the provisions of section 36, where the Commissioner is of opinion that no useful purpose would be served by his hearing an appeal, he may refer it to the Board of Review, and the Board shall hear and determine such appeal and the provisions of section 41 shall apply accordingly.

Hearing and disposal of appeals by the Board of Review.

41 (1) As soon as may be after the receipt of the petition of appeal, the Clerk to the Board shall fix a time and place for the hearing of the appeal, and shall give fourteen clear days' notice thereof both to the appellant and to the Commissioner.

(2) Every appellant shall attend at the meeting of the Board at which the appeal is heard in person or by an authorised representative: Provided always that the Board may postpone the hearing of the appeal for such time as it thinks necessary for the attendance of the appellant.

(3) The Assessor who made the assessment appealed against or some other person authorised by the Commissioner shall attend such meeting of the Board in support of the assessment.

(4) The onus of proving that the assessment as determined by the Commissioner on appeal, or as referred by him under section 40, as the case may be, is excessive, shall be on the appellant.

(5) All appeals shall be heard *in camera*.

(6) The Board shall have power to summon to attend at the hearing any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(7) At the hearing of the appeal the Board may, subject to the provisions of section 39 (4), admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Ceylon Evidence Ordinance, 1895, relating to the admissibility of evidence shall not apply.

No. 14 of 1895.

(8) After hearing the appeal, the Board shall confirm, reduce, increase, or annul the assessment as determined by the Commissioner on appeal, or as referred by him under section 40, as the case may be, or may remit the case to the Commissioner with the opinion of the Board thereon. Where the case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require.

(9) Where under sub-section (8) the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board a sum not exceeding one hundred rupees; and such sum so awarded as costs shall be recovered in the manner hereinafter provided for the recovery of estate duty as though such sum were estate duty due from the appellant.

Appeals to the Supreme Court.

42 (1) The decision of the Board shall be final: Provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of the Supreme Court. Such application shall not be entertained unless it is made in writing and delivered to the Clerk of the Board, together with a fee of fifty rupees, within thirty days of the date of the Board's decision. If the decision of the Board shall be notified to the Commissioner or to the appellant in writing, the date of the decision, for the purposes of determining the period within which either of such persons may require a case to be stated, shall be the date of the communication by which the decision is notified.

Appeal on a question of law to the Supreme Court.

(2) The stated case shall set forth the facts and the decision of the Board, and the party requiring it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(3) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the case has been stated on his application and shall supply such other party with a copy of the stated case. The notice required by this sub-section to be served on the other party may be served on any authorised representative of that party.

(4) Any two or more Judges of the Supreme Court may cause a stated case to be sent back for amendment and thereupon the case shall be amended accordingly.

(5) Any two or more Judges of the Supreme Court shall hear and determine any question of law arising on the stated case and may in accordance with the decision of the Court upon such question confirm, reduce, increase, or annul the assessment determined by the Board, or may remit the case to the Board with the opinion of the Court thereon. Where a case is so remitted by the Court, the Board shall revise the assessment as the opinion of the Court may require.

(6) In any proceedings before the Supreme Court under this section, the Court may make such order in regard to costs in the Supreme Court and in regard to the sum paid under sub-section (1) as to the Court may seem fit.

43 Any action required to be taken by an appellant in regard to any appeal under this Ordinance to the Commissioner or to the Board of Review or in connexion with a case stated under this Ordinance to the Supreme Court may be taken by the authorised representative of that appellant; and any communication made to or notice served on such authorised representative shall, for the purposes of this Ordinance, be deemed to be made or served, as the case may be, to or on the appellant.

Authorised representative may act for appellant.

Payment of Estate Duty.

44 (1) Estate duty shall be paid in the manner directed in a notice of assessment on or before the date specified in such notice.

Manner of payment of estate duty.

(2) Estate duty shall be paid notwithstanding any appeal or notice of objection unless the Commissioner orders that payment of the duty or any part thereof be held over to a date specified in such order.

(3) Any estate duty not paid on or before the date specified in the notice of assessment or in any order made under sub-section (2) shall be deemed to be in default unless the Commissioner has agreed to accept payment of estate duty by instalments.

Payment by transfer of immovable property to the Crown.

45 (1) Any person liable to pay estate duty under this Ordinance may apply to the Commissioner before the date fixed for the payment thereof that immovable property passing on the death of the deceased equivalent in value to the amount of such duty may be transferred to His Majesty in lieu of payment of such duty in cash.

(2) No such application shall be granted or refused by the Commissioner except with the approval of the Financial Secretary.

(3) The value of any immovable property transferred in payment of duty under this section shall be the value of that property as determined for the purposes of this Ordinance.

(4) All fees, charges and expenses incidental to or connected with the transfer to His Majesty of any immovable property in payment of estate duty, the examination of title to, and the execution of the deed of transfer of, such property, shall be borne by the applicant.

Interest on duty unpaid.

46 Simple interest at the rate of four per centum per annum shall be paid as from the date of death upon all estate duty remaining unpaid from and after the expiration of one year from such date and shall be recovered as though it formed part of the estate duty in default :

Provided that where the estate duty payable has not been assessed, the executor or other person liable to pay duty may pay to the Commissioner any sum on account of estate duty thereafter to be assessed ; and any sum so paid shall, on assessment, be appropriated against the estate duty due from such executor or other person, as the case may be.

Allocation of payments.

47 Where under this Ordinance any sum is payable by any person by way of interest and estate duty, any payment made by such person shall be appropriated first to interest and then to estate duty.

Payment by instalments.

48 (1) If the Commissioner is satisfied that the Ceylon estate of a deceased person consists wholly or mainly of immovable property and that the movable property of the Ceylon estate available for payment of estate duty is insufficient for such payment, the Commissioner may, subject to such terms, conditions and procedure as may be prescribed by regulations made under section 75, accept payment of estate duty in not more than sixteen equal half-yearly instalments the first of such instalments falling due for payment on a date six months from the date of the death of the deceased.

(2) No person shall be permitted to pay estate duty by instalments until he has furnished security for such payment to the satisfaction of the Commissioner.

(3) Where a person is permitted to pay estate duty by instalments and fails to pay any such instalment within fourteen days after the date on which it falls due, the remaining instalments shall be deemed to be in default and the total amount of estate duty remaining unpaid may be recovered in the manner provided in this Ordinance for the recovery of estate duty in default.

Certificate of payment and release.

Certificate of payment.

49 When any executor shall have paid or secured to the satisfaction of the Commissioner the payment of all estate duty for which he is liable, the Commissioner shall issue a certificate to that effect to which shall be attached a copy of the declaration of property in respect of which estate duty has been paid or secured.

Certificate of release.

50 (1) The Commissioner on being satisfied that the full estate duty has been or will be paid in respect of all property passing on the death of a deceased person for which the executor is liable to pay estate duty under this Ordinance shall, if required by the executor, give a certificate to that effect, which shall discharge from any further claim for estate duty the property mentioned in that certificate.

(2) Where a person other than the executor is liable to pay estate duty in respect of any property passing on a death, such person may, if the executor has not delivered under section 29 a declaration which includes a reference to that property, furnish to the Commissioner a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto ; and the Commissioner may determine the rate of the estate duty in respect of the property for which the applicant is liable, and on payment of the duty at that rate, that property and the applicant, so far as regards that property, shall be discharged

from any further claim for estate duty, and the Commissioner shall give a certificate of such discharge.

(3) On the application of the executor or of any person having an interest in any property passing on the death of a deceased person, the Commissioner may, if he thinks fit, determine the estate duty payable in respect of that property, and, on due payment of such estate duty, may issue a certificate which shall discharge from any further claim for estate duty the property mentioned in that certificate.

(4) A certificate of the Commissioner under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty on such property 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 duty has been already accounted for :

Provided that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate from the estate duty a *bona fide* purchaser for valuable consideration without notice, notwithstanding any such fraud or failure.

(5) Nothing in this section contained shall be deemed to derogate from or affect the power conferred upon an Assessor by section 33.

51 Any statement made in any certificate issued by the Commissioner shall be presumed to be correct until the contrary is proved; and, in the absence of proof to the contrary, a Court shall act on any such statement without requiring further proof thereof.

Facts stated in Commissioner's certificate need not be proved.

Grant of Probate and Letters of Administration.

52 No probate or letters of administration shall be granted by the Court in respect of the estate of a deceased person until—

Probate not to be issued until estate duty is paid.

- (a) the Commissioner has issued the certificate that the estate duty for the payment of which the executor is liable under this Ordinance has been paid or secured; and
- (b) the certificate so issued has been filed in Court.

Collection of Estate Duty.

53 (1) Where any person proves to the satisfaction of the Commissioner that he would, on payment of estate duty, be entitled to probate or letters of administration, and requests the Commissioner to collect a sum on account of the estate duty to be paid by such person out of any money or debts forming part of the estate of the deceased, the Commissioner may, if he thinks fit, by notice in writing, require any person or persons who hold such money or owe such debts to pay in the manner and within the period stated in such notice so much of such money or debts as the Commissioner may deem sufficient to cover the estate duty payable in respect of the property of the deceased.

Collection of money or debts on account of estate duty.

(2) Any person to whom a notice is sent by the Commissioner in accordance with sub-section (1), shall, notwithstanding anything contained in any written law, contract or agreement, comply with such notice to the extent of the money held by him on account of the estate of the deceased, or owed by him to such estate, and is hereby indemnified in respect of any payment made thereunder against all proceedings, civil or criminal.

(3) Where any sum required to be paid by a notice given under sub-section (1) is not paid in accordance with such notice, it shall be recoverable from the person to whom the notice was directed as if such sum were estate duty due from such person and as if such estate duty were in default.

54 Where any estate duty is in default the Commissioner may issue to the appropriate District Court a certificate, in this Ordinance referred to as a collection certificate, containing particulars of such duty, the name and address of the person by whom it is payable, and a schedule of property by the sale of which the duty may be recovered. The District Court shall thereupon issue a writ to the Fiscal or Deputy Fiscal requiring him to seize and sell the said property or such

Recovery of duty by seizure and sale of property.

No. 2 of 1889.

Recovery of
estate duty
out of debts,
&c.

part thereof as he may deem necessary, and the provisions of sections 226 to 297 of the Civil Procedure Code, 1889, shall, *mutatis mutandis*, apply to such seizure and sale.

55 (1) Where estate duty payable on the death of a deceased person is in default, and it appears to the Commissioner to be probable that any person—

- (a) is about to pay any money to an executor for or on account of the estate of the deceased ; or
- (b) holds any money for or on account of such estate ; or
- (c) has authority from some other person to pay any money to an executor for or on account of such estate ; or
- (d) is liable to pay for or on account of such estate money which, if paid to an executor, is bound to be credited by him to that estate,

the Commissioner may give to such person notice in writing requiring him to pay as directed in such notice any such money not exceeding the amount of the estate duty in default. The notice shall apply to such money as is in the hands of the person noticed or is due from him or is about to be paid by him at the date of the receipt of such notice, or comes into his hands or becomes due from him or is about to be paid by him at any time within a period of thirty days after that date.

(2) Any estate duty paid in accordance with this section shall be deemed to have been paid on behalf of another person within the meaning of section 69.

(3) Any person to whom a notice has been given under sub-section (1) who is unable to comply therewith owing to the fact that the money in question does not come into his hands or does not become due from him within the period of thirty days referred to in that sub-section shall, at least fourteen days after the expiration of that period, inform the Commissioner in writing of the facts by reason of which he is unable to comply with such notice.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to inform the Commissioner as required in sub-section (3), or where he has deducted or could have deducted the estate duty to which the notice relates or any part thereof and has not paid over as directed by the Commissioner the amount of such estate duty or part thereof within fourteen days after the expiration of the period of thirty days referred to in sub-section (1), he shall be personally liable for the whole of the estate duty which he has been required to deduct, and the amount of such duty may be recovered from him as a debt due to the Crown.

Recovery from
surviving
partners.

56 (1) Where a deceased person was at the time of his death a partner in a partnership carrying on business in Ceylon, and any estate duty payable in respect of the property passing on the death of such deceased person is in default, the Commissioner may give notice in writing to any person who was at the time of the death a partner in such partnership requiring him to pay as directed in such notice the amount of the estate duty in default or the amount of the deceased person's interest in such partnership, whichever is the less.

(2) Any estate duty paid in accordance with this section shall be deemed to have been paid on behalf of another person within the meaning of section 69.

(3) Where any person fails to comply with a notice given under sub-section (1), the amount of the estate duty which is in default, or the amount of the deceased person's interest in the partnership at the time of death, whichever is the less, shall be recoverable from him as if it were estate duty due from him and as if such estate duty were in default.

Special
procedure not
to affect right
of Crown to
recover duty in
any other
manner.

57 The special procedure prescribed by this Ordinance for the recover of estate duty from any person shall not affect or abrogate or be deemed to affect or abrogate the right of the Crown to recover any such duty or part thereof in any other manner or by any other procedure available under any written or other law for the recovery of debts due to the Crown.

Repayment.

Refund of
estate duty.

58 If at any time within three years of the date of issue of a notice of assessment a claim is made to the Commissioner for the return of any moneys paid as estate duty and it is proved to the satisfaction of the Commissioner that such

estate duty has been overpaid, it shall be lawful for the Commissioner to return the amount of duty which has been overpaid :

Provided that—

Proviso.

- (1) where by reason of any proceeding at law, any debt due from the deceased which might be allowed as a deduction has not been ascertained, and in consequence thereof the executor was prevented from claiming refund of estate duty as aforesaid within the said term of three years, it shall be lawful for the Commissioner to allow such further time for making a claim as may appear to him to be reasonable ;
- (2) nothing in this section shall confer or be deemed to confer on any person—
 - (a) any right to prefer a claim for the return, or any right to a return, of any moneys paid as estate duty on any ground which has been or could have been raised by such person by way of appeal under this Ordinance ;
 - (b) any right of action against the Crown for the recovery or return of any moneys overpaid as estate duty.

Offences and Penalties.

59 Every person who fails duly to deliver a declaration of property or any other statement whatsoever required to be furnished under this Ordinance shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial by a Police Magistrate, to a fine not exceeding the total of five hundred rupees and the estate duty, if any, for which he is liable.

Penalty for failure to deliver declaration of property, &c.

60 Every person who fails to comply with a notice issued under section 31 or section 55 or section 67 shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial by a Police Magistrate, to a fine not exceeding five hundred rupees.

Penalty for failure to furnish information.

61 Every person who without reasonable excuse—

- (a) omits or understates the value of any property which is or should be included in a declaration of property or in any other statement whatsoever required to be delivered or furnished under this Ordinance ; or
- (b) makes any incorrect statement in connexion with a claim to an allowance under section 22 ; or
- (c) gives any incorrect information in relation to any matter or thing affecting the liability of himself or any other person to pay estate duty,

Penalty for making incorrect statements, &c.

shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial by a Police Magistrate, to a fine not exceeding the total of five hundred rupees and the amount of estate duty, if any, which has been undercharged in consequence of such offence or which would have been so undercharged if such offence had not been detected.

62 Any person who wilfully with intent to evade or to assist any other person to evade payment of estate duty—

- (a) omits from a declaration of property any property which should be included in that declaration ;
- (b) makes any incorrect statement in connexion with a claim to an allowance under section 22 ;
- (c) signs any declaration, statement or return furnished under this Ordinance without reasonable grounds for believing the same to be true ;
- (d) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance ;
- (e) prepares or maintains or authorises the preparation or maintenance of any false book of account or other document ;
- (f) makes use of or authorises the use of any fraudulent device, art, or contrivance,

Penal provisions relating to fraud, &c.

shall be guilty of an offence and shall for each such offence be liable, on conviction after summary trial by a Police Magistrate, to a fine not exceeding the total of five thousand rupees and treble the amount of estate duty for which he or the person whom he has assisted is liable to pay, or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Power of Commissioner to compound offences.

63 The Commissioner may at any time compound any offence under this Ordinance :

Provided that where a prosecution has been entered against any person for any offence under this Ordinance, the Commissioner may compound such offence at any time before judgment and may withdraw such prosecution.

Estate duty to be payable notwithstanding proceedings for penalties.

64 The prosecution of any person for an offence under this Ordinance, the conviction of any person of any such offence, or the imposition on any person of any penalty, fine, or imprisonment under this Ordinance, shall not affect the liability of any person to be assessed for estate duty or to pay such duty.

Prosecution not to be entered except with sanction of the Commissioner.

65 No prosecution in respect of any offence under this Ordinance shall be instituted except at the instance of or with the written sanction of the Commissioner.

Miscellaneous.

Public officers to assist Commissioner.

66 (1) Where the Commissioner is of opinion that any public officer is in a position to supply any information which the Commissioner may require for the purposes of this Ordinance, he may by written application request such public officer to furnish such information ; and every such public officer shall supply the information required to the best of his knowledge and belief.

(2) Every public officer having in his custody any registers, books, records, papers, documents or proceedings the inspection whereof may tend to secure any duty under this Ordinance or to prove or lead to the discovery of any fraud or omission in relation to any such duty, shall at all reasonable times permit any person authorised in writing by the Commissioner to inspect for such purpose such registers, books, records, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary without fee or charge.

(3) In this section, " public officer " includes any officer in the employ of a local authority.

Inspection of property.

67 The Commissioner may, by notice in writing, require any person having the care, control, custody, management or possession of any property forming part of the Ceylon estate, whether movable or immovable, to permit any public officer named in such notice to inspect such property ; and the person to whom any such notice is addressed shall, upon the receipt thereof, give the public officer named in such notice all facilities for inspecting the property to which that notice relates.

Agents and trustees.

68 (1) Any act or thing required by or under this Ordinance to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustee of such incapacitated person or by the agent of such non-resident person, as the case may be.

(2) Where a non-resident person dies, any person who was his agent at the time of death shall be deemed for the purposes of this Ordinance to be the agent of the executor of such deceased person unless he proves—

(a) that the executor of such deceased person is resident in Ceylon ; or

(b) that some other person in Ceylon is the agent of the said executor.

(3) A notice of assessment of the liability of a non-resident person to pay estate duty may be made out in the name of the agent of such non-resident person ; and such agent, when served with a notice of assessment so made out, shall be liable to pay the estate duty set out in that notice of assessment.

Indemnification of representative.

69 (1) Every person liable to pay estate duty as agent or trustee, or from whom estate duty is recoverable or has been recovered on behalf of another person, may retain out of any assets coming into his possession or control, either on behalf of such other person or in his capacity as agent or trustee, so much thereof as shall be sufficient to produce the amount of such duty, and he shall be and is hereby indemnified against any person whomsoever in respect of his retention of such assets.

(2) Where any person acting as trustee has paid estate duty, and no assets of the trust come into his possession or control out of which he could retain the duty so paid, such duty shall be a debt due from the beneficiaries of the trust to the trustee.

(3) Where estate duty has been paid by or recovered from any person liable to pay estate duty on behalf of another person, and no assets of such other person come into his possession or control out of which he could retain the duty so paid, such duty shall be a debt due to him from such other person.

70 Where two or more persons, whether in partnership or otherwise, act jointly in any capacity, either on behalf of themselves or of any other person, they shall be jointly and severally answerable for doing all such acts, matters and things as would be required to be done under the provisions of this Ordinance by an individual acting in such capacity.

Persons acting jointly.

71 The secretary, manager, chairman, or other principal officer of every company or body of persons shall be answerable for doing all such acts, matters, and things as are required to be done under the provisions of this Ordinance by such company or body of persons :

Principal officer to act on behalf of a company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Ordinance as representing a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connexion with such company or body of persons, or that some other person resident in Ceylon is the principal officer thereof.

Proviso.

72 (1) Every notice given by the Commissioner, an Assistant Commissioner, or an Assessor under this Ordinance shall bear the name of the Commissioner, Assistant Commissioner, or Assessor, as the case may be, and every such notice shall, if the name of the Commissioner, Assistant Commissioner, or Assessor is duly printed or stamped thereon, be as valid and effectual as if that notice is signed by such Commissioner, Assistant Commissioner, or Assessor, as the case may be.

Signature and service of notices.

(2) Every notice given by virtue of this Ordinance may be served on a person either personally or by being delivered at, or sent by post to, an address furnished by him for the purpose of service of notices, or his last known address or place of abode or to any place at which he is or has been carrying on business ; provided that a notice of assessment shall be served personally or by being sent by registered post to any such address or place as aforesaid. Any notice sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post. In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(3) Every notice required by or under this Ordinance to be served on a non-resident person may be served on his agent.

(4) Where any notice or certificate bears the name and official designation of any person and purports to have been issued by him under this Ordinance, it shall be presumed, until the contrary is proved, that on the date of the issue of that notice or certificate a person bearing that name was entitled to that official designation ; and the name and office of that person shall be judicially noticed.

73 Where a member of a Hindu undivided family dies, no estate duty shall be payable on any property proved to the satisfaction of the Commissioner to be the joint property of that Hindu undivided family.

Hindu undivided families.

Forms and Regulations.

74 The Commissioner may from time to time prescribe forms to be used for all or any of the purposes of this Ordinance ; and any form so prescribed may from time to time be amended or varied by the Commissioner or some other form may be substituted by the Commissioner in place of any forms so prescribed.

Forms.

75 (1) The Financial Secretary may make regulations for the purpose of carrying out or giving effect to the objects and purposes of this Ordinance.

Regulations.

(2) Such regulations may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding in each case a sum of five hundred rupees ; and any person who contravenes or fails to comply with any regulation for the contravention of or failure to comply with which a penalty is so prescribed shall be guilty of an offence which may be summarily tried by a Police Magistrate.

(3) No regulation shall have effect until it has been approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the Gazette.

(4) Every regulation when approved by the State Council and ratified by the Governor shall, upon publication in the Gazette, be as valid and effectual as if it were herein enacted.

Interpretation.

Interpretation.

76 (1) In this Ordinance, unless the context otherwise requires—

“agent”, when used with reference to a non-resident person, includes—

(a) his attorney, factor, receiver or manager in Ceylon, and

(b) any person in Ceylon who has the care, custody, possession, management or control of any property on behalf of such non-resident person ;

“appropriate District Court” means the District Court of Colombo and includes any other District Court having jurisdiction to administer the estate of the deceased or any other District Court by which probate or letters of administration granted outside Ceylon have been re-sealed under the British Courts Probates (Re-sealing) Ordinance, No. 3 of 1937 ;

No. 3 of 1937.

“Assessor” means an Assessor of Estate Duty appointed under section 2 ;

“Assistant Commissioner” means an Assistant Commissioner of Estate Duty appointed under section 2 ;

“authorised representative”, when used with reference to a person who is liable to pay estate duty, means an Advocate or a Proctor, or an accountant approved by the Commissioner ;

“Board” means the Board of Review constituted under section 38 ;

“body of persons” includes any local or public authority, any body corporate or collegiate, and any fraternity, fellowship, association, or society of persons, whether corporate or unincorporate ;

“British Empire” means Great Britain and Northern Ireland and any other part of His Majesty’s dominions and includes any British Protectorate or Protected State and any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty ;

“Ceylon estate” means—

(a) in the case of a deceased person who was at the time of his death domiciled in Ceylon, all property settled or not settled which passes on his death wherever situate, except immovable property not situate in Ceylon ; and

(b) in the case of a deceased person who was not domiciled in Ceylon, all property in Ceylon, settled or not settled, which passes on his death ;

“Commissioner” means the Commissioner of Estate Duty appointed under section 2 and includes an Assistant Commissioner specially authorised by the Commissioner either generally or for some specific purpose to act on behalf of the Commissioner ;

“company” means any company incorporated or registered under any law in force in Ceylon or elsewhere ;

“deceased” or “deceased person” means any person dying on or after the first day of April, 1937 ;

“declaration of property” means a declaration furnished under this Ordinance by an executor or other person liable to pay estate duty for the purpose of the assessment of such duty ;

“estate duty” or “duty” means the duty imposed under this Ordinance ;

“executor” means the executor or administrator of a deceased person, and includes, as regards any obligation under this Ordinance, any person who takes possession of, or intermeddles with, the property of a deceased person, and any person who has applied or is entitled to apply to a District Court for the grant or re-sealing of probate or letters of administration in respect of the estate of a deceased person ;

- “incapacitated person” means any minor, lunatic, idiot or person of unsound mind ;
- “incumbrances” includes mortgages, hypothecations, and terminable charges ;
- “local authority” means a Municipality, a District Council, a Local Board, a Sanitary Board and a Village Committee ;
- “non-resident” means not resident in Ceylon ;
- “person”, except when used with reference to a deceased person, includes a company or body of persons ;
- “property” includes movable and immovable property of every kind, and the proceeds of sale thereof respectively, and any money or investment or other asset for the time being representing the proceeds of sale ;
- “property passing on the death” includes property deemed to pass on the death and property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation ; and the expression “on the death” includes “at a time ascertainable only by reference to the death” ;
- “settled” when applied to property means any property subject to a settlement ;
- “settlement” means any deed, will, agreement for a settlement, or other instrument or any number of instruments, or any parole trust, under or by virtue of which any property or any interest therein stands for the time being limited to or in trust for any person or persons by way of succession, and includes any interest in remainder or reversion not disposed of by the settlement and reverting to the settlor or descending to the testator’s heir or next of kin ;
- “total estate” means in every case all property settled or not settled wherever situate which passes on the death ;
- “trustee”, when used with reference to an incapacitated person, includes any guardian, curator, manager or other person having the direction, control, or management of any property on behalf of such incapacitated person.

(2) For the purposes of this Ordinance—

- (a) a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property ; and the expression “general power” includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself ;
- (b) a disposition taking effect out of the interest of a deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required ;
- (c) money which a person has a general power to charge on property shall be deemed to be property of which he has power to dispose.

Repeals and Transitory Provisions.

77 The provisions of written law specified in the first column of Schedule II are hereby amended in the manner and to the extent set out in the second column of that Schedule.

Amendments of written law consequent on the re-imposition of estate duty. Schedule II.

78 Sections 18 to 33 of the Estate Duty Ordinance, No. 8 of 1919, are hereby repealed.

Repeals. No. 8 of 1919.

79 For the purpose of the application of the provisions of the Estate Duty Ordinance, No. 8 of 1919, any reference in that Ordinance or in the rules and forms prescribed thereunder to the Commissioner of Stamps shall be deemed to be a reference to the Commissioner of Estate Duty appointed under this Ordinance.

Transitory provisions. No. 8 of 1919.

80 (1) Any estate duty payable in respect of property passing on the death of any person who died at any time between the first day of July, 1919, and the first day of October, 1935, shall so far as that duty is unpaid on the date

Recovery of estate duty due under Ordinance No. 8 of 1919.

No. 8 of 1919.

Proviso.

of the commencement of this Ordinance be assessed, paid, collected or refunded in accordance with the provisions of this Ordinance; and such provisions, so far as they are not inconsistent with the provisions of sections 1 to 17 of the Estate Duty Ordinance, No. 8 of 1919, and the rules and forms prescribed thereunder, shall have application accordingly:

Provided that any matter or proceeding relating to the payment, levy, collection or refund of any estate duty accrued due prior to the first day of April, 1937, and pending in any Court on the date of the commencement of this Ordinance may be continued and completed as if this Ordinance had not been enacted.

(2) Regulations may be made under section 75 for the purpose of giving effect generally to the provisions of sub-section (1); but if any difficulty not provided for in such regulations arises in any particular case in regard to the application of the provisions of sub-section (1), the Governor may make such order as the circumstances may require in order to remove such difficulty; and such order shall have the force of law.

SCHEDULE I.

(Section 5.)

Scale of Rates of Estate Duty.

I.		II.	
Class.	Where the value of the total estate of the deceased—		Estate duty shall be payable at the rate per cent. of Rs.
1.	Exceeds Rs. 20,000 and does not exceed Rs. 50,000	Rs. 50,000	1
2.	do. Rs. 50,000	do. Rs. 75,000	2
3.	do. Rs. 75,000	do. Rs. 100,000	3
4.	do. Rs. 100,000	do. Rs. 150,000	4
5.	do. Rs. 150,000	do. Rs. 300,000	5
6.	do. Rs. 300,000	do. Rs. 600,000	6
7.	do. Rs. 600,000	do. Rs. 900,000	7
8.	do. Rs. 900,000	do. Rs. 1,200,000	8
9.	do. Rs. 1,200,000	do. Rs. 1,500,000	9
10.	do. Rs. 1,500,000	do. Rs. 2,500,000	10
11.	do. Rs. 2,500,000	do. Rs. 3,000,000	11
12.	do. Rs. 3,000,000	do. Rs. 3,750,000	12
13.	do. Rs. 3,750,000	do. Rs. 4,500,000	13
14.	do. Rs. 4,500,000	do. Rs. 5,250,000	14
15.	do. Rs. 5,250,000	do. Rs. 6,000,000	15
16.	do. Rs. 6,000,000	do. Rs. 7,500,000	16
17.	do. Rs. 7,500,000	do. Rs. 9,000,000	17
18.	do. Rs. 9,000,000	do. Rs. 12,000,000	18
19.	do. Rs. 12,000,000	do. Rs. 15,000,000	19
20.	do. Rs. 15,000,000	do. ..	20

SCHEDULE II.

(Section 77.)

Amendments of Written Law.

I.	II.
The Stamp Ordinance, 1909, Schedule B, Part III., Second proviso.	For the words "and of any persons dying at any time while the Abolition of Estate Duty Ordinance, No. 51 of 1935, is in force, substitute the words:—"and at any time between the first day of October, 1935, and the first day of April, 1937".
The Income Tax Ordinance, 1932, section 4, sub-section (4), paragraph (a)	For the words "to the Commissioner of Stamps, or" substitute the words:—"to the Commissioner of Stamps, or to the Commissioner of Estate Duty, or".
The Abolition of Estate Duty Ordinance, No. 51 of 1935, section 2.	For the words "dying on or after the first day of October, nineteen hundred and thirty-five", substitute the words:—"dying on the first day of October, 1935, or at any time between that date and the first day of April, 1937".
The British Courts Probates (Re-sealing) Ordinance, No. 3 of 1937, section 10, definition of "testamentary duty".	For the words "includes any duty payable" substitute the words:—"includes estate duty and any duty payable".

Objects and Reasons.

1. This Bill makes provision for the re-imposition and collection of estate duty in Ceylon and gives effect to the decision of the State Council that steps should be taken for the restoration of the levy of death duties which were discontinued as a result of the enactment of the Abolition of Estate Duty Ordinance, No. 51 of 1935. The Bill, however, makes no provision for the recovery of settlement estate duty and it is proposed to abandon the levy of that form of estate duty.

2. It has been found necessary to retain those essential provisions of the old Estate Duty Ordinance, No. 8 of 1919, which were derived from the corresponding sections of the relevant Finance Acts of the Imperial Parliament; but the basis of the levy of duty has been entirely changed in the Bill and the opportunity has been taken to introduce new procedure for the assessment, payment and collection of estate duty.

3. Estate duty will be levied on the value of the "Ceylon estate" of a deceased person, but the graduated rate per cent. at which such duty is payable will be ascertained by reference to the value of the "total estate" of the deceased, wherever situate, whether outside or within Ceylon. No estate duty will be payable unless the value of the total estate exceeds Rs. 20,000. This method of determining the graduated rate applicable by reference to the value of the total estate already exists in the corresponding legislation of Trinidad (Ordinance No. 9 of 1931).

4. The English law casts upon the executor and other persons an obligation to furnish an account on the death of a deceased and estate duty is computed and assessed on the account so furnished. Generally speaking, a liability to furnish an account connotes a liability to pay estate duty; but the expression "accountable" has not this special significance under our law and has accordingly been omitted throughout the Bill although used in the old Ordinance of 1919. Further, under Ceylon law, title to immovable property belonging to the estate of a deceased person does not vest in the administrator of the estate of such person, and there is no legislation corresponding to section 1 of the Administration of Estates Act, 1925, of the Imperial Parliament, which provides that the real estate to which a deceased person was entitled for an interest not ceasing on his death shall, notwithstanding any testamentary disposition thereof, devolve on the personal representative of the deceased in like manner as chattels real.

It has therefore been found necessary, as in South Africa (Act 29 of 1922), to make express provision in regard to the liability of the executor and of other persons to pay estate duty (Clauses 24 and 25).

5. Considerable delay and expense have resulted from the requirements of the old law under which questions relating to the valuation of property, &c., had to be decided by a District Court. It is considered that such questions can more speedily and economically be dealt with by a Board of Review as in matters relating to the assessment of income tax. A person dissatisfied with the assessment of estate duty by an Assessor can appeal to the Commissioner of Estate Duty and a further appeal will lie to the Board of Review against the decision of the Commissioner. On matters of law, the Supreme Court will be the final tribunal to which a case can be stated. Clauses 29 to 43 relating to returns, assessment and appeals have accordingly been adapted from the corresponding provisions of the Income Tax Ordinance, 1932. The adoption of this procedure has been suggested as a result of the amalgamation of the Departments of Income Tax, Estate Duty and Stamps and in the light of the experience gained in the joint administration of those departments. It is felt that the procedure proposed will conduce to administrative efficiency and will prove attractive to members of the public who desire a simple, cheap, and expeditious system for the disposal of matters relating to the assessment and payment of estate duty together with ample safeguards for the judicial determination of all questions of law incidental thereto.

6. One of the chief difficulties under the old Ordinance was that an executor could not withdraw cash lying to the credit of an estate in a Bank until he obtained probate and could not obtain probate until he paid estate duty. Clause 53 of the Bill provides that the Commissioner may by notice in writing direct any person who holds money belonging to the estate of a deceased person or who owes money to that estate to pay such money to the Commissioner who can thereupon use the money to pay the estate duty. The person noticed by the Commissioner to pay any money will be indemnified in respect of the money so paid.

7. Provision has also been inserted (Clause 45) to authorise the payment of estate duty by the transfer of immovable property to the Crown in certain circumstances. Immovable property accepted in payment of duty will be taken over at the value at which such property is assessed for duty. Facilities will also be available for the payment of estate duty by instalments which may be extended over a period of eight years (Clause 48).

8. Clause 15 deals *inter alia* with the case in which property is left by a husband or wife to a child or children with a life interest reserved to the surviving spouse. In such a case, no duty will be levied on the death of the surviving spouse in respect of property on which duty was paid on the death of the spouse who died first.

9. Special provisions have been inserted in regard to the valuation of agricultural property. Clause 20 provides for a deduction of ten per cent. on the market value of agricultural lands situate within the administrative limits of local authorities other than village committees. Further deductions will be allowed where the property consists of undivided shares in land.

10. Considerable difficulty has been experienced in recovering estate duty where a member of a Hindu undivided family died. It is proposed that the joint property of a Hindu undivided family should be exempt from estate duty (Clause 73), and that such families should, for the purposes of the levy of income tax, pay the same rate of tax as non-resident companies. The necessary amendment of the law will be made in the Income Tax Ordinance, 1932, by a separate Bill which will be introduced simultaneously with this Bill in the State Council.

11. The Crown will have a first charge on all property passing on the death of a deceased (Clause 26), but that charge will not rank in priority over any lease or incumbrance created *bona fide* for value and registered prior to the date of death. This position was not quite clear in the old Ordinance, but it has been considered equitable that the charge in favour of the Crown should not have precedence in the cases mentioned.

12. Estate duty will be recovered through the civil courts by the issue of a writ for such recovery to the Fiscal (Clause 54).

13. The Estate Duty Ordinance, No. 8 of 1919, came into operation on July 1, 1919, and estate duty was levied on the estates of all persons who died between that date and October 1, 1935. It has been found necessary to keep alive the principal charging sections of the old Ordinance, as these sections must be available for the purpose of levying estate duty in respect of the estates of persons who died on or after July 1, 1919, and before October 1, 1935; but in matters of procedure relating to the payment and collection of estate duty, the provisions of the new Ordinance will apply except as regards cases pending in the courts on the date on which the new law comes into operation.

Colombo, April 24, 1937. C. H. COLLINS,
Acting Financial Secretary.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

No. 2 of 1932.	An Ordinance to amend the Income Tax Ordinance, 1932.
	BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—
Short title	1 This Ordinance may be cited as the Income Tax Amendment Ordinance, No. of 1937.
Amendment of section 20 of Ordinance No. 2 of 1932.	2 Section 20 of the Income Tax Ordinance, 1932, is hereby amended as follows :— (1) in sub-section (6) thereof— (a) by the substitution for the word "Tax" of the words "Until the thirty-first day of March 1937, tax"; (b) by the omission of the words "and for each subsequent year of assessment" in the proved thereto; and

(2) by the insertion, immediately after sub-section (6) thereof, of the following new sub-section :—

“(6A) Tax shall be charged for the year of assessment commencing on the first day of April, 1937, and for each subsequent year of assessment at twice the unit rate increased by an additional rate of three per centum upon the taxable income for that year of every Hindu undivided family and of every company whose shares are not movable property situate in Ceylon for the purposes of any written law making provision for the imposition and collection of estate duty in Ceylon ”.

Objects and Reasons.

When the levy of estate duty was discontinued in accordance with the provisions of the Abolition of Estate Duty Ordinance, No. 51 of 1935, the tax at the additional rate of two per cent. which was imposed under section 20 (6) of the Income Tax Ordinance, 1932, on the taxable income of non-resident companies was removed. The State Council recently decided that steps should be taken for the re-imposition of estate duty.

2. A Bill is being introduced simultaneously with this Bill to re-impose estate duty with effect from 1st April, 1937, and as the next year of assessment for income tax purposes commenced on that date, it is necessary to re-impose an additional rate, with effect from that date, on the taxable income of such companies.

3. The levy of estate duty in the case of a Hindu undivided family has in practice occasioned both legal and administrative difficulties. There is reason to believe that property passing on the death of a member of such a family has often escaped the incidence of estate duty. It has therefore been decided that a Hindu undivided family should be treated in the same manner as a company in respect of the levy of income tax on its taxable income. Provision has been inserted in the new Estate Duty Bill exempting from the incidence of such duty the joint property of a Hindu undivided family.

4. The additional rate to be imposed will be increased to three per cent. in order to make the amount which may be realised by the imposition of income tax commensurate with the anticipated loss of estate duty on the property of a Hindu undivided family and on shares which are not movable property situate in Ceylon for the purposes of estate duty.

5. This Bill effects the necessary amendments in section 20 of the Income Tax Ordinance, 1932.

The Secretariat,
Colombo, April 26, 1937.

C. H. COLLINS,
Acting Financial Secretary.