

TRINIDAD AND TOBAGO.

No. 25.—1908.

16th March.

AN ORDINANCE to provide for the collection of certain
Estate Duties.

[L.S.]

S. W. KNAGGS,

ACTING GOVERNOR.

9th April, 1908.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Estate Duty Short title.
Ordinance 1908.

2. In this Ordinance, unless the context otherwise requires, Interpretation
of terms.
the term

“Estate Duty” means the duty imposed under the provisions hereof in case of the death of any person dying on or after the commencement of this Ordinance.

“Deceased” means any person dying on or after the commencement of this Ordinance.

“Will” includes any codicil or other testamentary writing.

“Representative” means personal representative, and includes executors and administrators, and in the case of a deceased person whose estate and effects are taken possession of by the Administrator-General, means the Administrator-General.

“Administrator-General” means the person appointed under the provisions of the Administrator-General’s Ordinance, No. 103.

“Registrar” means the Registrar of the Supreme Court.

“Proper Officer” means the Receiver-General or the Registrar or any officer of their respective Departments appointed by the Receiver-General or the Registrar (as the case may be) for the particular purpose referred to.

“Declaration” includes affidavit.

PART I.

Administration.

Care and management of estate duty.

3.—(1.) The Estate Duty shall be under the care and management of the Receiver-General.

Rules.

(2.) In the care and management of such duty, the Receiver-General shall be guided by the provisions of this Ordinance and by such rules, orders and directions, not being inconsistent therewith, as the Governor in Executive Council may from time to time think fit to make and give.

(3.) All such rules, orders and directions shall be published in the *Royal Gazette*, and thereafter shall have the force of law.

Forms.

4.—(1.) The Receiver-General may from time to time frame, and when framed, alter or annul, such forms as may be required for all or any of the purposes of this Ordinance.

(2.) Every such form or alteration or annulment of a form shall be subject to the approval of the Governor in Executive Council and shall be published in the *Royal Gazette*.

5. Any declaration required for the purposes of estate duty may be taken before the proper officer, who is hereby authorized to administer the necessary oath or affirmation. Taking of oath, etc.

6.—(1.) It shall be the duty of every public officer to furnish the Receiver-General on his making application in writing for that purpose, with any information which may be in his possession or which he may be able to procure with reference to any matter connected with estate duty. Public Officers to furnish information.

(2.) The Registrar shall furnish the Receiver-General, on his making application in writing for that purpose, with a certified copy of any will deposited in the Registrar's Office after the commencement of this Ordinance.

PART II.

ESTATE DUTY.

Subjects of Duty.

7.—(1.) Estate duty shall, subject to the deductions hereinafter mentioned, be payable in respect of— Property on which estate duty is payable.

(a.) Property of which the deceased was at the time of his death competent to dispose.

(b.) Property taken as a *donatio mortis causa* made by the deceased or taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery or otherwise, which has not been *bonâ fide* made twelve months before the death of the deceased, or taken under any gift whenever made, if *bonâ fide* possession and enjoyment of such property have not been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor, or any benefit to him by contract or otherwise.

(c.) 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, or any purchase or investment made 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.

- (d.) Property passing under any past or future disposition made by the deceased verbally, or 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, or by contract or otherwise secured, either expressly or by implication, to the person disposing, or whereby the person disposing 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; notwithstanding in cases where the disposition is contained in any instrument, such instrument may have been made for valuable consideration as between the person disposing and any other person.
- (e.) Money received under a policy of assurance 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 premiums paid by him, where the policy is partially kept up by the deceased for such benefit.

Provided always that the provisions marked (c) and (d) in this Sub-section shall not apply to any property disposed of *bonâ fide* by the deceased for full valuable consideration, but the consideration obtained therefor shall be subject to the same liability in respect of duty as the property so disposed of was subject, and if such consideration consists wholly or in part of any benefit or of any periodic payment which terminates on the death of the deceased, estate duty

shall be payable on the value of such benefit or periodic payment, according to the value of such benefit or periodic payment, as if calculated at the time it was created or provided.

(2.) The term "property" as used in this section shall include real and personal property of any kind situate or being in this Colony, and the proceeds of sale thereof and any investment for the time being representing the same, and in the case of a deceased person who was at the time of his death domiciled in this Colony, shall also include personal property wherever situate: Provided always that if the Receiver-General is satisfied that duty is payable in the United Kingdom or any British Possession in respect of any personal property of such deceased person there situate by reason of his death, such personal property shall not be included in the term "property" as used in this section.

(3.) In determining the rate of estate duty chargeable, the value of all the property of the deceased situate outside of this Colony shall be included as well as the value of the property of the deceased within this Colony.

(4.) Estate duty shall be charged and paid in respect of the value of any vessel or any share of a vessel belonging to the deceased which is registered in this Colony, notwithstanding such vessel, at the time of the death of the deceased, may have been at sea or elsewhere out of the Colony; and, for the purpose of charging the said duty, such vessel shall be deemed to have been at the time aforesaid in this Colony.

(5.) Estate duty shall not be payable in respect of property of which the deceased was possessed otherwise than beneficially.

8.—(1.) When any company incorporated according to the laws of some country, possession or place other than this Colony carries on business in this Colony, such company shall make application in the prescribed form to the Receiver-General that an office of the company in this Colony, situated as stated in the application, be registered as the registered office of the company for the purposes of this Ordinance.

Companies
registered
abroad.

The application may be made by the company by the hand of an agent or attorney or any person conducting the business of the company in this Colony.

(2.) When the company is carrying on business at the date of the commencement of this Ordinance, the application shall be made before the expiration of a period of three months thereafter; and when the company begins to carry on business after the said date, the application shall be made before the expiration of a period of three months after the company begins to carry on business.

(3.) If the company fails to make such application before the expiration of the period appointed in this section, it shall be liable to a penalty not exceeding fifty pounds nor less than twenty pounds, and to a further penalty not exceeding two pounds for every day during which the company has carried on business after the expiration of such period.

(4.) On the receipt of any such application, the Receiver-General shall register the said office of the company in a book to be kept for the purpose, and issue a certificate of registration to the company by posting the same addressed to the company at such registered office.

A copy of each certificate so issued shall be published in the *Royal Gazette*.

(5.) When the situation of the registered office of any such company is changed, notice in writing of such change shall forthwith be given by the company to the Receiver-General, who shall enter the same on the register, and when the certificate of registration is presented to him for that purpose, upon such certificate, and shall publish a copy of such notice in the *Royal Gazette*.

If any such company fails to give such notice, it shall be liable to a penalty not exceeding twenty pounds.

(6.) Such company within six months after the death of any member thereof (wheresoever such member may have been domiciled) or such further time as the Receiver-General may allow, shall cause to be delivered to the

Receiver-General a return giving the name and address of such member, the date of his death and the number description and value of the shares or other interest in the said company held by such member at the time of his death, so far as relates to the business of the said company carried on in this Colony, and shall pay estate duty thereon at the rate prescribed in the Schedule hereto.

If any such return is not delivered in accordance with this sub-section, the company making default shall be liable to a penalty not exceeding fifty pounds.

Moreover, such duty shall be deemed to be a debt due by the company to His Majesty, and shall be recoverable accordingly in any Court of competent jurisdiction.

(7.) Any writ or other process issued in pursuance of this Ordinance against any such company may be served by being left at the registered office of the company with some person there, or if there is no registered office or no person is found at the registered office, by being affixed at the office of the Registrar.

(8.) Production of the *Royal Gazette* purporting to contain the copy of a certificate of registration issued under this section shall for the purposes of proceedings in any Court of Justice or for any other purpose be evidence that the office of such company has been duly registered under this Ordinance and is situated as mentioned in the certificate.

Production of the *Royal Gazette* purporting to contain the copy of a notice of the change of the situation of a registered office shall for the purposes aforesaid be evidence that the registered office of the company mentioned therein has been so changed.

9. When a member of a company registered under the Companies Ordinance No. 69, or any Ordinance repealing the same, dies after the commencement of this Ordinance, wheresoever such member may have been domiciled, estate duty shall be chargeable on the value of the shares or other interest held by such member at the time of his death.

Companies
registered in
this Colony.

The Secretary or Attorney in this Colony of such company shall within six months of the death of such member notify the Receiver-General of the name and address of such member, the date of his death and the number, description and value of the shares or other interest in the said company held by such member at the time of his death, and the company shall through such secretary or attorney pay the estate duty thereon at the rate prescribed in the Schedule hereto.

Any such Secretary or Attorney who refuses or neglects so to notify the Receiver-General shall be liable on summary conviction to a penalty of £50.

Company may
recover duty
from represen-
tative.

10. Any payment by a company of estate duty imposed in respect of shares or other interest in that company held by such deceased member shall be deemed to be a payment on behalf of the personal estate of such member, and may by the company be deducted from any moneys payable by the company to the representative of such deceased member in respect of such shares or interest, or be recovered by action from such representative, and the company shall have a first and paramount lien upon such shares or interest for the amount of such payment.

Deductions.

Deduction of
debts and
funeral
expenses.

11. In determining the amount on which the estate duty payable in respect of any property is to be calculated and paid, the following deductions shall first be made from the value of such property, namely :—

- (a.) Such expenses as are allowable as reasonable funeral expenses.
- (b.) All debts or incumbrances incurred or created by the deceased *bond fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit: provided always that no debt shall be deducted in respect whereof there is a right to re-imbusement from any other estate or person.

Charge of Duty.

12.—(1.) The estate duty payable in respect of any property of a deceased person shall, unless or until the same is paid as hereinafter provided, be a first charge on all the property of the deceased, ranking immediately after debts (if any) due from the deceased to the Crown; and the whole or any part of such duty if unpaid may be recovered as a Crown debt from any person to whom any such property has been transferred or delivered, to the extent of the value of the property so transferred or delivered. Provided always that no person to whom any of such property has been transferred or delivered *bonâ fide* and for valuable consideration, after the certificate hereinafter mentioned of the proper officer of the Receiver-General's Department is delivered to the Registrar, shall be under any liability for the payment of such estate duty, nor shall such property in his possession be subject to any claim in respect of such duty. Duty to be a first charge.

(2.) A certificate purporting to be signed by the Receiver-General and stating the amount of such unpaid duty, shall, in proceedings under this section be *primâ facie* evidence of the statements therein contained.

13. Subject to the provisions of this Ordinance, the estate duty prescribed in the Schedule hereto shall be imposed and be payable by the representative of any person dying on or after the commencement of this Ordinance. Rates of duty.

Payment of Duty.

14. The representative of every deceased person shall be under the same liability to pay the estate duty, payable in respect of the property becoming subject thereto, on his death, as if such duty had been a debt incurred by such deceased person, and shall have power to pay such duty out of any money for the time being in hand or to raise the amount of such duty and any interest and expenses properly paid or incurred in respect thereof by sale or mortgage of such property or any part thereof. Liability of representative.

Inventory of
property liable
to duty.

15.—(1.) The representative of every deceased person shall, if such person died in this Colony, within three months after his death, or if such person died out of this Colony, within six months after his death, appear by himself or some other competent person before the proper officer of the Receiver-General's Department, and

(a.) Deliver a full and true inventory of all the property in respect of which duty has, subject to the deductions hereinbefore mentioned, become payable on the death of the deceased, together with a statement of the deductions which are to be made therefrom, exhibiting at the same time the will (if any) of the deceased, and

(b.) Make a statutory declaration verifying such inventory and statement and stating that such property is of the value of a certain sum therein specified to the best of the deponent's knowledge, information and belief.

(2.) If such property, owing to its not all passing to the same class of persons, is not all subject to estate duty at the same rate, such property shall in such inventory be classified according to the rate of estate duty to which it is subject, and the value of each class of property shall be separately stated in such declaration, and the aggregate amount of the deductions to be made from the aggregate value of such property shall be apportioned between the several classes of property in proportion to their several values.

(3.) The Supreme Court may, on motion being made and good cause shewn, extend the period hereinbefore fixed for making the inventory and declaration hereinbefore mentioned.

Assessment of
duty or fresh
valuation.

16.—(1.) The Receiver-General shall, if he is satisfied with the inventory and estimate of value given in the declaration as originally delivered, or with any amendments that may be made therein upon his requisition, assess the duty on the footing of such inventory and estimate; but it shall be lawful for the Receiver-General, if he is dissatisfied with such inventory and estimate, to cause an inventory and

estimate to be taken by any assessor or assessors to be appointed by the Governor, and to assess the duty on the footing of such last-mentioned inventory and estimate, subject to appeal as hereinafter provided.

(2.) If the duty so assessed exceeds the duty assessable according to the return made to the Receiver-General, and with which he was dissatisfied, and if there is no appeal against such assessment, it shall be in the discretion of the Receiver-General, having regard to the merits of each case, to charge the whole or any part of the expenses incident to the taking of such last-mentioned inventory and estimate in increase of such duty, and to recover the same forthwith accordingly; and, if there is an appeal against such last-mentioned assessment, the payment of such expenses shall be in the discretion of the Court.

Appeal against valuation or assessment.

(3.) If any person who is made accountable by this Ordinance is dissatisfied with any valuation or assessment made by or on behalf of the Receiver-General, and the sum in dispute in respect of duty on such assessment exceeds twenty pounds, such person, on giving within twenty-one days after receiving notice of such valuation or assessment a notice in writing to the Receiver-General of his intention to appeal against such valuation or assessment, and on furnishing to the Receiver-General, within the further period of twenty-one days, a statement in writing of the grounds of such appeal, may on motion appeal accordingly to the Supreme Court.

(4.) The Court, or any Judge thereof sitting either in Court or in Chambers, shall have jurisdiction to hear and determine in a summary way the matter of such appeal and the costs thereof, with power to direct, for the purposes of such appeal, an inquiry, valuation, or report to be made by any Officer of the Court or other person, as such Court or Judge may think fit.

(5.) Where the sum in dispute in respect of any duty on such assessment does not exceed twenty pounds, the accountable person may, on giving notice of appeal and delivering a statement of the grounds thereof as hereinbefore directed, appeal to the Stipendiary Justice of the Peace of the

District in which the appellant is resident or the property is situated; and such Justice shall have jurisdiction to hear and determine the matter of such appeal and the costs thereof, with the like power as is by this section given to the Supreme Court or a Judge thereof.

Certificate of
payment of
duty.

17.—(1.) On the duty payable being assessed as aforesaid, the proper officer of the Receiver-General's Department shall cause to be made on the declaration a memorandum of the amount of estate duty payable.

(2.) The person making the declaration, or his agent, shall thereupon pay to the officer whose duty it is to receive it, the duty so assessed, and such officer shall give a receipt on the declaration for the amount so paid.

(3.) The proper officer shall then prepare a certificate under his hand, setting forth that the inventory and declaration have been duly delivered and that the estate duty, if such duty is payable, has been paid, and stating the value as shown by the inventory of the property on which estate duty is payable.

(4.) No probate or letters of administration shall issue from the Registrar's Office unless and until there has been filed in such office the certificate mentioned in (3) hereof.

Provided that in lieu of such certificate there may be filed a bond (with or without sureties as may be approved by the Receiver-General) given by the executor or administrator, conditioned for the payment to the Receiver-General of the estate duty, in the case of real property within one year and in the case of personal property within six months from the date of issue of probate or letters of administration, under a penalty of twice the amount of the estate duty payable.

Power to
require
explanations
and proof in
support of
affidavit.

18.—(1.) It shall be lawful for the Receiver-General at any time and from time to time within three years after the date of the certificate, as he may think necessary, to require the representative of any deceased person to furnish such information or explanations and to produce such documentary or other evidence respecting the contents of, or the particulars verified by, the declaration of the property of the deceased subject to estate duty as the case may seem to him to require.

(2.) Any person failing to comply with any such requisition shall be liable to a penalty not exceeding £100.

19. If any person who ought to deliver any inventory and make a declaration or a further declaration (as hereinafter mentioned) neglects to do so within the period prescribed by law for the purpose, he shall be liable to pay to His Majesty the King double the amount of duty chargeable, and the same shall be a debt due from him to the Crown; without prejudice to the liability of the property and effects of the deceased person to the payment of the duty chargeable thereon.

Payment of double duty in case of default.

Return of Duty, etc.

20. If at any time during the administration of the estate of a deceased person, the value mentioned in the certificate of the proper Officer of the Receiver-General's Department is found to exceed the true value of the property subject to estate duty on the death of the deceased, it shall be lawful for the Receiver-General, on proof of the facts to his satisfaction and with the sanction of the Governor, to return the amount of duty which has been overpaid, and to cause a fresh certificate to be written by the proper Officer of the Receiver-General's Department setting forth such true value; and such certificate shall be substituted for, and have the same force and effect as, the certificate hereinbefore mentioned.

Provision for return of duty overpaid.

21. Where it is proved by an affidavit or statutory declaration and proper vouchers, to the satisfaction of the Receiver-General, that the representative has paid debts (including funeral expenses) which might have been but were not deducted as hereinbefore provided, and the deduction thereof would have occasioned a less duty to be paid than has been actually paid, it shall be lawful for the Receiver-General, and he is hereby required, to return the difference, provided the same is claimed within three years after the date of the certificate; but where, by reason of any proceeding at law, the debts due from the deceased which might be deducted as aforesaid have not been ascertained and in consequence thereof the representative was prevented from deducting the same and from claiming such return of duty as aforesaid within the term of three years, it shall be lawful for the

Return of duty in respect of debts, if claimed in three years.

Receiver-General to allow such further time for making the claim as may appear to him to be reasonable under the circumstances of the case.

Provision for
payment of
further duty.

22.—(1.) If at any time it is discovered that the property subject to estate duty on the death of the deceased was, at the time of the delivery of the certificate, of greater value than the value mentioned in the certificate, the representative shall, within six months after the discovery, deliver a further declaration, with an account, to the proper officer of the Receiver-General's Department.

(2.) The person making the declaration, or his agent, shall thereupon pay to the officer whose duty it is to receive the same, the amount which, with the duty previously paid on a declaration of such property, may be sufficient to cover the duty chargeable according to the true value thereof, and shall at the same time pay to the Receiver-General interest upon such amount at the rate of six per centum per annum from the date of the certificate or from such subsequent date as the Receiver-General may think proper.

(3.) The Receiver-General on the receipt of such declaration and account shall cause a fresh certificate to be written by the proper officer, setting forth the true value of the property as then ascertained, and such certificate shall be substituted for, and have the same force and effect as, the certificate hereinbefore mentioned.

Offences.

Punishment of
person making
false affidavit.

23. If any person, in any affidavit or statutory declaration made under the provisions of this Ordinance, wilfully and corruptly affirms or declares any matter or thing which is false or untrue, with intent to defraud His Majesty the King of any duty mentioned in this Ordinance, every such person shall be guilty of perjury, and shall be liable to be indicted, and if convicted, to be punished accordingly.

Penalty on
person
altering
assessment,
etc.

24. If any person alters any word, letter, figure or number in any assessment or certificate made or given in respect of any duty under the provisions of this Ordinance, after the same has been signed by the proper Officer of the

Receiver-General's Department, or alters or publishes as true any such altered assessment or certificate with intent to defraud His Majesty the King or any other person, every such person shall forfeit and pay the sum of £200.

Procedure.

26. If any person who is made accountable by this Ordinance makes default in delivering any inventory or making a declaration required by the Receiver-General under this Ordinance, it shall be lawful for the Receiver-General to sue out of the Supreme Court, and for the Court to issue a citation, in such form as the Judges of the Court may from time to time prescribe, commanding the party so in default to deliver such account or make such declaration within such period as may be appointed in the citation, or to show cause to the contrary, and whether cause is shown or not, such order shall be made by the Court as may be just.

Proceedings in case of return not being made by accountable person.

27. Any amount owing by way of penalty to His Majesty the King under this Ordinance may be recovered, with costs, in any Court of competent civil jurisdiction in any action at the suit of the Receiver-General.

Recovery of penalties.

28. As between the several persons beneficially interested in the property of a deceased person, all estate duty paid under this Ordinance in respect to 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.

Apportionment of burden of estate duty paid.

29. Production of a copy of the *Royal Gazette* purporting to contain any rules, orders, directions or forms made, given or framed under this Ordinance shall in any proceedings under this Ordinance be *prima facie* evidence of the due making, giving or framing and of the tenor of such rules, orders, directions and forms.

Evidence.

30. The Royal Order in Council relating to Legacy and Succession Duty dated 3rd February 1851, and the Legacy Duty Ordinance No. 208 and Sections 104 to 107 (inclusive) of Ordinance No. 99 are hereby repealed.

Repeal.

Provided that this repeal shall not affect the validity or invalidity of anything done or suffered or any right accrued or liability incurred before, or any proceeding pending or uncompleted at the commencement of this Ordinance.

Commence-
ment.

31. This Ordinance shall commence and come into operation on such day as may be fixed by the Governor by proclamation.

Provided that at any time after the passing of this Ordinance, any rules and orders may be made, directions given and forms framed which may be necessary or proper to be made, given or framed to bring this Ordinance into operation at the commencement thereof.

Passed in Council this Sixteenth day of March, in the year of Our Lord one thousand nine hundred and eight.

ALFRED TAITT,
Acting Clerk of the Council.

SCHEDULE.

Rates of Estate Duty under Section 13.

Where the principal value of the Estate	Estate duty shall be payable at the rate per cent. of
Exceeds £100 and does not exceed £ 500	£ 1.
„ 500 „ „ 1,000	2.
„ 1,000 „ „ 1,500	3.
„ 1,500 „ „ 2,000	4.
„ 2,000 „ „ 3,000	5.
„ 3,000 „ „ 5,000	6.
„ 5,000 „ „ 8,000	8.
„ 8,000 „ „ 10,000	10.
„ 10,000 and upwards	12.

When the whole or any portion of the estate passes to the husband, wife, lawful issue or ancestor of the deceased, one half of the aforesaid rates of duty shall be payable on such whole or portion not exceeding twenty thousand pounds.

Provided that when the whole or any portion of the estate passes to any other person than the husband, wife, lawful issue, ancestor or brother or sister of the deceased, twice the aforesaid rates of duty shall be payable on such whole or portion.

Provided also that when the whole or any portion of the estate passes to the husband or wife of the deceased absolutely, no estate duty shall be payable on such whole or portion.