



REPUBLIC OF GHANA

**ESTATE DUTY ACT, 1965 (ACT 271)**

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**THE TWO HUNDRED AND SEVENTY-FIRST  
ACT  
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED  
THE ESTATE DUTY ACT, 1965**

**AN ACT** to provide for the imposition and collection of estate duty.

**DATE OF ASSENT:** 23rd March, 1965

**BE IT ENACTED** by the President and the National Assembly in this present Parliament assembled as follows:—

PART I—ADMINISTRATION

Section 1—Administration.

(1) Subject to such directions as may be given by the Minister, the Commissioner shall be responsible for discharging the functions conferred on him by or under this Act.

(2) There shall be appointed for the purpose of assisting the Commissioner in discharging such functions—

(a) such officers and valuers as may be necessary for the said purpose; and

(b) such other employees as may be necessary for the said purpose.

(3) The posts held by the officers referred to in paragraph (a) of subsection (2) shall be Civil Service posts.

Section 2—Accounts

Every officer and other person entrusted with the collection and receipt or custody of duty under this Act shall keep and render accounts in the manner and form specified in that behalf in writing by the Commissioner.

PART II—IMPOSITION OF DUTY, ETC.

Section 3—Imposition of duty.

In the case of any person dying after the commencement of this Act, there shall, save as hereafter expressly provided, be levied and paid, upon the principal value of all property passing on the death of such person, in excess of five thousand Ghana pounds, a duty called “estate duty” at the appropriate rate specified in the Schedule hereto.

#### Section 4—What property is deemed to pass

(1) Property passing on the death of the deceased shall be deemed to include—

- (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, but exclusive of property the interest in which of the deceased or other person was only an interest as the holder of an office or as the recipient of the benefits of a charity or as a corporation sole;
- (c) property taken under a disposition made by the deceased 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 within five years of his death, so however, that this paragraph shall not apply to—
  - (i) any gift made or effected for public or charitable purposes, or
  - (ii) any gift made in consideration of marriage, or which is 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, does not exceed in the aggregate £G200;
- (d) property taken as a gift made in contemplation of death;
- (e) any annuity or other interest purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased; and
- (f) property not situate in Ghana, in the case of a person who to the satisfaction of the Commissioner had his permanent home in Ghana and died in Ghana.

(2) 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 not made by the deceased or under a disposition made by him more than five years before his death where possession and enjoyment of the property was bona fide assumed by the beneficiary immediately upon 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.

#### Section 5—Aggregation of property.

(1) For determining the rate of duty to be paid on any property passing on the death of the deceased, all property so passing shall be aggregated so as to form one estate; and the duty shall be levied at the appropriate rate specified in the Schedule hereto on the principal value thereof:

Provided that any property so passing, in which the deceased never had an interest, or which passes under a disposition not made by the deceased to some person (other than the wife, husband or such other close relative as may be prescribed) shall not be aggregated with any other property but shall be an estate, by itself and the duty shall be levied at the appropriate rate on the principal value thereof.

(2) Property passing on any death shall not be aggregated more than once nor shall duty in respect thereof be more than once levied on the same death.

### PART III—LIABILITY FOR DUTY, VALUE OF PROPERTY AND MATIERS RELATING TO PAYMENT

#### Section 6—Persons liable to pay duty.

(1) Subject as hereafter in this Act expressly provided, the personal representative of the deceased shall pay the duty in respect of all property passing on the death of the deceased, so, however, that where there is more than one personal representative in respect of the property of the deceased, such representatives shall be jointly and severally liable to pay the duty on such property, as long as such duty remains unpaid.

(2) A personal representative shall not be liable for any duty in excess of the assets which he has received as such representative or might but for his own negligence or default have received.

(3) In the absence of a personal representative of the deceased, every person to whom any property of the deceased passes on his death shall pay duty in respect of the property passing to him.

(4) In the absence of a personal representative of a deceased, every person to whom any property passes on his death shall pay duty in respect of the property passing to him of an amount equivalent to the following fraction of the duty payable on the principal value of all property passing on such death and calculated according to the Schedule hereto, that is to say, the fraction having as its numerator the principal value of the property passing to such person on such death and as its denominator the principal value of all property passing on the death.

#### Section 7—Value of property

(1) In determining the value of property for calculating duty for the purposes of this Act, every valuer, the Commissioner and the High Court shall estimate such value to be the price that such property would fetch if sold in the open market at the time of the death of the deceased.

(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 the property for the purposes of this Act shall be the aggregate of the price estimated under subsection (1) and the amount of such income.

#### Section 8—Allowances for funeral expenses etc.

In determining the principal value of property for calculating duty for the purposes of this Act, allowances shall be made for funeral expenses which in the opinion of the Commissioner are reasonable, for debts and incumbrances and for such exemptions as may be provided for by regulations under this Act; but no allowance shall be made—

(a) for debts incurred by the deceased or incumbrances, created by a disposition 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 are met 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 incumbrances 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.

#### Section 9—Allowance for quick succession to property

Where the Commissioner is satisfied that duty has become payable on any property passing upon the death of a person, and that subsequently within five years 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 duty payable on the second death in respect of the property so passing shall be reduced as follows:—

(a) where the second death occurs within one year of the first death, by fifty per centum;

(b) where the second death occurs within two years of the first death, by forty per centum;

(c) where the second death occurs within three years of the first death, by thirty per centum;

(d) where the second death occurs within four years of the first death, by twenty per centum; and

(e) where the second death occurs within five years of the first death, by ten per centum:

Provided that where the value of the property on which duty is payable in the case of the second death exceeds the value of the property on which duty is payable in the case of 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.

Explanation.—For the purposes of this section every death shall be deemed to be a second death in relation to the death immediately preceding.

#### Section 10—Declaration of value, etc., to be submitted to Commissioner.

(1) Any person liable to pay duty, in respect of property passing on death under section 6 of this Act, shall submit to the Commissioner, a declaration containing a full and true statement of particulars of such property including the value thereof and copies of the will of the deceased and inventory, if any, submitted in any Court under the Administration of Estates Act, 1961 (Act 63).

(2) The person referred to in subsection (1) shall submit the said declaration and the said copies, if any, to the Commissioner, within six months after the date of the death of the deceased, or within such further time as he may allow on application made by such person.

(3) Where the Commissioner is not satisfied with the value of the property specified in the declaration, submitted under sub-section (1), he may request such property to be valued by a

valuer appointed for the purposes of this Act and such valuer shall within the period specified in such request value the property.

#### Section 11—Powers of certain persons to ascertain value of property.

The Commissioner, any valuer or any person authorised in that behalf by the High Court may, for the purposes of this Act, inspect any property, or obtain from any Court any record of proceedings filed therein under the Administration of Estates Act, 1961 (Act 63).

#### Section 12—Assessment by Commissioner.

(1) The Commissioner after examining the declaration submitted under section 10 (1) and any valuation made by any valuer under subsection (3) of that section shall make an assessment of the principal value of the property concerned and the duty payable thereon, and inform the person liable to pay the duty by written notice such value and duty, and the time within which it is to be paid and the place of payment. Subject as otherwise expressly provided in this Act, such person shall pay the duty in accordance with the provisions of this section.

(2) The Commissioner may allow the duty to be paid in instalments of such amount and at such intervals as he may determine in writing and if he so allows, the person liable to pay such duty shall pay the duty in such instalments and at such intervals as the Commissioner has so determined.

#### Section 13—Appeals

(1) Any person aggrieved by a decision of the Commissioner in respect of all or any of the following matters may appeal to the High Court within thirty days after the receipt by him of the notice referred to in section 12:—

- (a) liability to pay duty;
- (b) the property subject to duty;
- (c) the principal value of the property as determined by a valuer or the Commissioner;
- (d) the rate of duty payable; and
- (e) any other matter connected with or relating to the payment of duty.

(2) The High Court shall as soon as may be practicable after such appeal determine the appeal and its determination shall be final.

(3) The procedure governing appeals to the High Court under this Act shall, as far as may be practicable, be the procedure governing appeals to that Court in ordinary civil proceedings; and wherever any matter relating to such appeals is not covered by the ordinary procedure of the High Court in civil proceedings, the appropriate procedure shall be determined by the Judge of the High Court hearing such appeals.

(4) Notwithstanding any appeal made under this section, the person liable to pay the duty under this Act, shall pay such duty in accordance with the provisions of section 12 unless the Commissioner has prescribed other arrangements for the payment of the duty.

(5) Where any person, before any determination of the High Court on appeal, has paid any duty, in excess of the duty he is liable to pay under this Act or less than the duty he is liable to pay under the Act, he shall be refunded as to the amount paid in excess or shall pay the balance of duty he is liable to pay, as the case may be, within such period as may be fixed in that behalf by the Commissioner.

#### PART IV—RECOVERY OF DUTY AND PENALTIES

##### Section 14—Recovery of duty

The duty may be sued for and recovered in a court of competent jurisdiction in the official name of the Commissioner with full costs of suit as a debt due to the Republic,

##### Section 15—Duty in arrear first charge on property.

(1) All duty in arrear shall be a first charge on the property in respect of which the duty is leviable:

Provided that the property shall not be chargeable as against bona fide purchaser thereof for valuable consideration without notice.

(2) Where any duty is in default, the Commissioner may, for the purpose of recovering such duty, sell such property passing on the death of the deceased as he may think fit and out of the proceeds of the sale recover the amount of such duty and pay, any excess left after such recovery to the person legally entitled thereto.

##### Section 16—Offences.

Any person who contravenes the provisions of this Act or who makes any false or incorrect statement in respect of any matter which he is required to make by or under this Act shall be guilty of an offence and shall, after summary trial, be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and where any person liable to pay duty under this Act fails to pay such duty on the day he is required so to do, he shall incur an additional fine of five pounds for each day in which he is in default.

#### PART V—MISCELLANEOUS

##### Section 17—Notification of death to Commissioner.

The relatives of the deceased present at his death or in attendance during his last illness and, if the death took place to the knowledge of the chief occupier of the premises where he died, such occupier shall inform the Commissioner in writing of such death within fourteen days after the death.

##### Section 18—Regulations.

The Minister may by legislative instrument make regulations in respect of all or any of the following matters:—

(a) the exemptions to be granted under this Act other than those expressly specified herein;

(b) the returns and other forms to be submitted for the purposes of this Act;

(c) subject to the other provisions of this Act, any matter relating to appeals to the High Court;

(d) any fee to be charged for any matter relating to the provisions of this Act; and

(e) any prescribed matter or any other matter connected with the principles and provisions of this Act.

#### Section 19—Interpretation

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

“Commissioner” means the Commissioner of Income Tax or any person authorised by him to discharge any functions under this Act; and

“duty” means the estate duty imposed by section 3 of this Act;

“Minister” means the Minister responsible for Finance;

“personal representative” means the executor, original or by representation, or administrator for the time being of the deceased;

“principal value”, in relation to property, means—

(a) the price the property will fetch if sold in the open market at the time of the death of the deceased as reduced by such allowances or exemptions as may be granted by or under this Act; and

(b) where any income in respect of such property has accrued due in accordance with subsection (2) of section 7, the aggregate of such price and the amount of such income;

“property” includes immovable and movable property and the proceeds of the sale thereof and any money or investment for the time being representing the proceeds of sale; and

“property passing on the death” includes property passing either immediately on his death or after an 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.

(2) For the purposes of this Act, 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.

#### Section 20—Date of Commencement.

This Act shall come into force on the first day of February, 1965.

#### SCHEDULE



Principal value of property		Rate per centum of principal value			
£G					
First	5,000 .. ..	..	..	..	Nil
next	5,000 .. ..	..	..	..	2½
next	5,000 .. ..	..	..	..	5
next	7,500 .. ..	..	..	..	7½
next	7,500 .. ..	..	..	..	10
next	10,000 .. ..	..	..	..	12½
next	10,000 .. ..	..	..	..	15
next	15,000 .. ..	..	..	..	17½
next	15,000 .. ..	..	..	..	20
next	20,000 .. ..	..	..	..	22½
over	100,000 .. ..	..	..	..	25