

**ESTATE DUTY ACT
NO. 45 OF 1955**

[\[View Regulation\]](#)

[ASSENTED TO 15 JUNE, 1955]
[DATE OF COMMENCEMENT: 1 APRIL, 1955]
(English text signed by the Governor-General)

This Act has been updated to *Government Gazette* 39588 dated 8 January, 2016.

as amended by

Finance Act, [No. 59 of 1956](#)
[with effect from 19 June, 1956]

Estate Duty Amendment Act, [No. 59 of 1957](#)

Estate Duty Amendment Act, [No. 65 of 1960](#)

Revenue Laws Amendment Act, [No. 71 of 1961](#)

Finance Act, [No. 77 of 1962](#)
[with effect from 29 June, 1962]

Revenue Laws Amendment Act, [No. 77 of 1964](#)

Revenue Laws Amendment Act, [No. 81 of 1965](#)

Revenue Laws Amendment Act, [No. 56 of 1966](#)

Revenue Laws Amendment Act, [No. 94 of 1967](#)

Estate Duty Amendment Act, [No. 75 of 1968](#)

Revenue Laws Amendment Act, [No. 92 of 1971](#)

Revenue Laws Amendment Act, [No. 89 of 1972](#)

Revenue Laws Amendment Act, [No. 70 of 1975](#)

Revenue Laws Amendment Act, [No. 104 of 1976](#)

Revenue Laws Amendment Act, [No. 114 of 1977](#)

Revenue Laws Amendment Act, [No. 95 of 1978](#)

Revenue Laws Amendment Act, [No. 102 of 1979](#)

Revenue Laws Amendment Act, [No. 106 of 1980](#)

Revenue Laws Amendment Act, [No. 99 of 1981](#)

Revenue Laws Amendment Act, [No. 92 of 1983](#)

Revenue Laws Amendment Act, [No. 81 of 1985](#)

Revenue Laws Amendment Act, [No. 71 of 1986](#)

Transfer of Powers and Duties of the State President Act, [No. 97 of 1986](#)
[with effect from 3 October, 1986]

Taxation Laws Amendment Act, [No. 86 of 1987](#)

Taxation Laws Amendment Act, [No. 87 of 1988](#)

Taxation Laws Amendment Act, [No. 136 of 1991](#)

Taxation Laws Amendment Act, [No. 97 of 1993](#)

Revenue Laws Amendment Act, [No. 140 of 1993](#)
[with effect from 13 October, 1993]

Taxation Laws Amendment Act, [No. 20 of 1994](#)

Taxation Laws Amendment Act, [No. 37 of 1995](#)

Taxation Laws Amendment Act, [No. 37 of 1996](#)

Revenue Laws Amendment Act, [No. 46 of 1996](#)

Abolition of Restrictions on the Jurisdiction of Courts Act, [No. 88 of 1996](#)
[with effect from 22 November, 1996]

Taxation Laws Amendment Act, [No. 27 of 1997](#)

South African Revenue Service Act, [No. 34 of 1997](#)

Taxation Laws Amendment Act, [No. 30 of 1998](#)

Revenue Laws Amendment Act, [No. 53 of 1999](#)

Taxation Laws Amendment Act, [No. 30 of 2000](#)

Revenue Laws Amendment Act, [No. 59 of 2000](#)

Taxation Laws Amendment Act, [No. 5 of 2001](#)

Revenue Laws Amendment Act, [No. 19 of 2001](#)

Second Revenue Laws Amendment Act, [No. 60 of 2001](#)

Taxation Laws Amendment Act, [No. 30 of 2002](#)

Revenue Laws Amendment Act, [No. 74 of 2002](#)

Revenue Laws Amendment Act, [No. 45 of 2003](#)

Revenue Laws Amendment Act, [No. 31 of 2005](#)

Revenue Laws Second Amendment Act, [No. 32 of 2005](#)

Small Business Tax Amnesty and Amendment of Taxation Laws Act, [No. 9 of 2006](#)

Revenue Laws Amendment Act, [No. 20 of 2006](#)

Revenue Laws Second Amendment Act, [No. 21 of 2006](#)

Taxation Laws Amendment Act, [No. 8 of 2007](#)

Revenue Laws Amendment Act, [No. 60 of 2008](#)

Revenue Laws Second Amendment Act, [No. 61 of 2008](#)

Taxation Laws Amendment Act, [No. 17 of 2009](#)

Taxation Laws Second Amendment Act, [No. 18 of 2009](#)

Taxation Laws Amendment Act, [No. 7 of 2010](#)

Tax Administration Act, [No. 28 of 2011](#)

Taxation Laws Amendment Act, [No. 31 of 2013](#)

Taxation Laws Amendment Act, [No. 25 of 2015](#)

proposed amendments by

<p>Tax Administration Act, No. 28 of 2011 (provision not yet proclaimed)</p>
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<i>Proposed amendments by</i>	<i>Sections to be amended</i>
S. 271 of Act No. 28 of 2011	Amends s. 10 of Act No. 45 of 1955

Tax Administration Laws Amendment Act, No. 21 of 2012 (provision not yet proclaimed)	
<i>Proposed amendments by</i>	<i>Sections to be amended</i>
S. 3 of Act No. 21 of 2012	Amends s. 10 of Act No. 45 of 1955

ACT

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

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1. Definitions.-(1) In this Act and in any regulations made thereunder, unless the context otherwise indicates-

"administration and distribution account"

[Definition of "[administration and distribution account](#)" deleted by [s. 3 \(a\)](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

"child", in relation to any person, includes any person adopted by him-

- (a) under any law of the Republic; or
[[Para. \(a\)](#) substituted by [s. 5](#) of [Act No. 86 of 1987](#).]

[Wording of Sections](#)

- (b) under the law of any country other than the Republic, provided the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country;
[Definition of "[child](#)" inserted by [s. 7 \(a\)](#) of [Act No. 77 of 1964](#).]

"close corporation" means a close corporation within the meaning of the Close Corporations Act, 1984 ([Act No. 69 of 1984](#));

[Definition of "[close corporation](#)" inserted by [s. 6 \(a\)](#) of [Act No. 97 of 1993](#).]

"Commissioner" means the Commissioner for the South African Revenue Service appointed in terms of [section 6](#) of the South African Revenue Service Act, 1997 ([Act No. 34 of 1997](#)), or the Acting Commissioner designated in terms of [section 7](#) of that Act;

[Definition of "[Commissioner](#)" deleted by [s. 7 \(b\)](#) of [Act No. 77 of 1964](#), inserted by [s. 9 \(1\) \(a\)](#) of [Act No. 106 of 1980](#), substituted by [s. 34 \(1\)](#) of [Act No. 34 of 1997](#) and by [s. 271](#) read with [para. 12 \(a\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

"company" includes any association incorporated or registered under any law in force in the Republic and any association which, although not so incorporated or registered, carries on business or has an office or place of business or maintains a share transfer register in the Republic;

"domestic policy" means any life policy as defined in [section 1](#) of the Long-term Insurance Act, 1998 ([Act No. 52 of 1998](#)), issued anywhere upon an application made or presented to a representative of an insurer (or to any person on behalf of such a representative) at any place in the Republic, excluding a life policy which has been made payable at a place outside the Republic at the request of the owner, but including any life policy issued outside the Republic which has subsequently been made payable in the Republic at the request of the owner;

[Definition of "[domestic policy](#)" inserted by [s. 6](#) of [Act No. 30 of 2000](#).]

"duty" means estate duty payable under this Act;

[Definition of "[duty](#)" amended by [s. 1 \(1\) \(a\)](#) of [Act No. 65 of 1960](#) and substituted by [s. 3 \(b\)](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

"executor" means any person to whom letters of administration or of executorship have been granted by a Master in respect of the estate of a deceased person under any law relating to the administration of estates, or whose appointment as assumed executor of such an estate has been endorsed by a Master under such law, or who liquidates or distributes such an estate in pursuance of a direction of a Master, and includes a person acting or authorized to act under letters of administration or of executorship granted outside the Republic but signed and sealed by a Master for use within the Republic and, in any case where the estate is not required to be administered under the supervision of the Master, the person administering the estate;

[Definition of "[executor](#)" substituted by [s. 3 \(c\)](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

"fair market value", means-

- (a) the price which could be obtained upon a sale of the property between a willing buyer and a willing seller dealing at arm's length in an open market; or
- (b) in relation to immovable property on which a *bona fide* farming undertaking is being carried on in the Republic, the amount determined by reducing the price which could be obtained upon a sale of the property between a willing buyer and a willing seller dealing at arm's length in an open market by 30 per cent;

[Definition of "[fair market value](#)" inserted by [s. 1 \(a\)](#) of [Act No. 59 of 1957](#) and substituted by [s. 1 \(1\) \(b\)](#) of [Act No. 65 of 1960](#), by [s. 7 \(1\)](#) of [Act No. 87 of 1988](#) and by [s. 1 \(1\) \(a\)](#) of [Act No. 32 of 2005](#) with effect from the date of promulgation of that Act, 1 February, 2006 and applicable in respect of the estate of any person who dies on or

after that date.]

Wording of Sections

"family company", in relation to a deceased person, means any company (other than a company whose shares are quoted on a recognized stock exchange) which at any relevant time was controlled or capable of being controlled directly or indirectly, whether through a majority of the shares thereof or any other interest therein or in any other manner whatsoever, by the deceased or by the deceased and one or more of his relatives;

[Definition of "family company" inserted by s. 7 (c) of Act No. 77 of 1964, deleted by s. 6 (b) of Act No. 97 of 1993 and inserted by s. 2 (1) of Act No. 140 of 1993.]

Wording of Sections

"liquidation and distribution account" means the account required to be rendered by an executor to a Master in accordance with section 35 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), or where the provisions of section 68 of the Administration of Estates Act, 1913 (Act No. 24 of 1913), apply, the account required to be rendered by an executor to a Master in accordance with the last-mentioned section;

[Definition of "liquidation and distribution account" inserted by s. 3 (d) of Act No. 92 of 1971.]

"Master" in relation to any matter, property or estate, means the Master or Assistant Master of the High Court appointed under the Administration of Estates Act, 1965, who has jurisdiction in respect of that matter, property or estate;

[Definition of "Master" amended by s. 3 (e) of Act No. 92 of 1971 and by s. 5 of Act No. 27 of 1997.]

Wording of Sections

"relative", in relation to any person, means the spouse of such person or anybody related to him or his spouse within the third degree of consanguinity, or any spouse of anybody so related, and for the purpose of determining the relationship between any child referred to in the definition of "child" in this subsection and any other person, such child shall be deemed to be related to its adoptive parent in the first degree of consanguinity;

[Definition of "relative" inserted by s. 7 (d) of Act No. 77 of 1964.]

"Secretary"

[Definition of "Secretary" inserted by s. 7 (d) of Act No. 77 of 1964 and deleted by s. 9 (1) (b) of Act No. 106 of 1980.]

Wording of Sections

"South African Revenue Service" means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997;

[Definition of "South African Revenue Service" inserted by s. 34 (1) of Act No. 34 of 1997.]

"spouse", in relation to any deceased person, includes a person who at the time of death of such deceased person was the partner of such person-

- (a) in a marriage or customary union recognised in terms of the laws of the Republic;
[Para. (a) substituted by s. 3 (a) of Act No. 5 of 2001 with effect from 27 April, 1994.]

Wording of Sections

- (b) in a union recognised as a marriage in accordance with the tenets of any religion; or
[Para. (b) substituted by s. 3 (a) of Act No. 5 of 2001 with effect from 27 April, 1994.]

Wording of Sections

- (c) in a same-sex or heterosexual union which the Commissioner is satisfied is intended to be permanent:
[Para. (c) substituted by s. 3 (a) of Act No. 5 of 2001 with effect from 27 April, 1994.]

Wording of Sections

Provided that a marriage or union contemplated in paragraph (b) or (c) shall, in the absence of proof to the contrary, be deemed to be a marriage or union without community of property.

[Definition of "spouse" inserted by s. 1 (1) of Act No. 59 of 2000 with effect from 27 April, 1994 and amended by s. 3 (b) of Act No. 5 of 2001 with effect from 27 April, 1994.]

Wording of Sections

"stocks or shares" in relation to any company means any part of the share capital or members' interest of that company and includes any debenture, debenture stock or any other like form of marketable security.

[Definition of "stocks or shares" substituted by s. 6 (c) of Act No. 97 of 1993.]

Wording of Sections

(2)

[[Sub-s. \(2\)](#) added by [s. 1 \(b\)](#) of [Act No. 59 of 1957](#), amended by [s. 1](#) of [Act No. 65 of 1960](#), by [s. 3](#) of [Act No. 92 of 1971](#) and by [s. 8](#) of [Act No. 88 of 1996](#) and deleted by s. (1) (b) of [Act No. 32 of 2005](#) with effect from the date of promulgation of that Act, 1 February, 2006 and applicable in respect of the estate of any person who dies on or after that date.]

Wording of Sections

"Tax Administration Act", means the Tax Administration Act, 2011.

[[Sub-s. \(1\)](#), previously [s. 1](#), renumbered by [s. 12 \(c\)](#) of [Act No. 28 of 2011](#). Definition of "[Tax Administration Act](#)" inserted by [s. 12 \(b\)](#) of [Act No. 28 of 2011](#).]

Wording of Sections

(2) Unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Tax Administration Act bears that meaning for purposes of this Act.

[[Sub-s. \(2\)](#) added by [s. 1 \(b\)](#) of [Act No. 59 of 1957](#), amended by [s. 1](#) of [Act No. 65 of 1960](#), by [s. 3](#) of [Act No. 92 of 1971](#) and by [s. 8](#) of [Act No. 88 of 1996](#) and deleted by s. (1) (b) of [Act No. 32 of 2005](#) and inserted by s. 271 read with [para. 12 \(d\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

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

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

[Sub-s. 2 amended by [s. 8 \(1\)](#) of [Act No. 87 of 1988](#).]

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

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

- (a) any fiduciary, usufructuary or other like interest in property (including a right to an annuity charged upon property) held by the deceased immediately prior to his death;
- (b) any right to an annuity (other than a right to an annuity charged upon any property) enjoyed by the deceased immediately prior to his death which accrued to some other person on the death of the deceased,
- (bA) so much of the amount of any contribution made by the deceased in consequence of membership or past membership of any pension fund, provident fund, or retirement annuity fund, as was not allowed as a deduction in terms of [section 11 \(k\)](#) or [\(n\)](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), or paragraph 2 of the [Second Schedule](#) to that Act or, as was not exempt in terms of section 10C of that Act in determining the taxable income as defined in [section 1](#) of that Act, of the deceased;

[[Para. \(bA\)](#) inserted by [s. 2 \(1\)](#) of [Act No. 25 of 2015](#) and comes into operation on 1 January 2016 and applicable in respect of the estate of a person who dies on or after that date in respect of contributions made on or after 1 March 2015.]

but does not include-

- (c) in the case of a deceased who was not ordinarily resident in the Republic at the date of his death, any right in immovable property situate outside the Republic;
[\[Para. \(c\)](#) substituted by [s. 2 \(a\)](#) of [Act No. 65 of 1960](#).]
- (d) any right in movable property physically situate outside the Republic if the deceased was not ordinarily resident in the Republic at the date of his death;
[\[Para. \(d\)](#) amended by [s. 2 \(b\)](#) of [Act No. 65 of 1960](#).]
- (e) any debt not recoverable or right of action not enforceable in the Courts of the Republic if the deceased was not ordinarily resident in the Republic at the date of his death;
[\[Para. \(e\)](#) substituted by [s. 2 \(c\)](#) of [Act No. 65 of 1960](#).]
- (f) any goodwill, licence, patent, design, trade mark, copyright or other similar right not registered or enforceable in the Republic or attaching to any trade, business or profession in the Republic if the deceased was not ordinarily resident in the Republic at the date of his death;

- (g) in the case of a deceased who was not ordinarily resident in the Republic at the date of his death-
- (i) any stocks or shares held by him in a body corporate which is not a company; and
 - (ii) any stocks or shares held by him in a company, provided any transfer whereby any change of ownership in such stocks or shares is recorded is not required to be registered in the Republic;

[[Para. \(g\)](#) substituted by [s. 2 \(e\)](#) of [Act No. 65 of 1960.](#)]

- (h) any rights to any income produced by or proceeds derived from any property referred to in [paragraph \(e\), \(f\) or \(g\)](#);
- (i) so much of any benefit which is due and payable by, or in consequence of membership or past membership of, any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as defined in the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), on or as a result of the death of the deceased.

[[Para. \(i\)](#) added by [s. 2 \(1\) \(a\)](#) of [Act No. 60 of 2008](#) with effect from 1 January, 2009 and applicable in respect of the estate of a person who dies on or after that date.]

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

- (a) so much of any amount due and recoverable under any policy of insurance which is a "domestic policy", upon the life of the deceased as exceeds the aggregate amount of any premiums or consideration proved to the satisfaction of the Commissioner to have been paid by any person who is entitled to the amount due under the policy, together with interest at six per cent per annum calculated upon such premiums or consideration from the date of payment to the date of death: Provided that the foregoing provisions of this paragraph shall not apply in respect of any amount due and recoverable under a policy of insurance, if-
- (i) the amount due under such policy is recoverable by the surviving spouse or child of the deceased under a duly registered ante-nuptial or post-nuptial contract; or
 - (iA) the Commissioner is satisfied that the policy was taken out or acquired by a person who on the date of death of the deceased was a partner of the deceased, or held any share or like interest in a company in which the deceased on that date held any share or like interest, for the purpose of enabling that person to acquire the whole or part of-
 - (aa) the deceased's interest in the partnership concerned; or
 - (bb) the deceased's share or like interest in that company and any claim by the deceased against that company,

and that no premium on the policy was paid or borne by the deceased; or

[[Sub-para. \(iA\)](#) inserted by [s. 2 \(1\) \(a\)](#) of [Act No. 92 of 1983](#) and substituted by [s. 4 \(1\) \(a\)](#) of [Act No. 81 of 1985.](#)]

Wording of Sections

- (ii) except where the provisions of [paragraph \(i\)](#) or [\(iA\)](#) of this proviso apply, the Commissioner is satisfied and remains satisfied that such policy was not effected by or at the instance of the deceased, that no premium on such policy was paid or borne by the deceased, that no amount due or recoverable under such policy has been or will be paid into the estate of the deceased and that no such amount has been or will be paid to, or utilized for the benefit of, any relative of the deceased or any person who was wholly or partly dependent for his maintenance upon the deceased or any company which was at any time a family company in relation to the deceased;

[[Para. \(a\)](#) amended by [s. 2 \(1\) \(a\)](#) of [Act No. 81 of 1965](#), substituted by [s. 4 \(1\) \(a\)](#) of [Act No. 92 of 1971](#) and amended by [s. 7](#) of [Act No. 30 of 2000](#). [Sub-para \(ii\)](#) amended by [s. 2 \(1\) \(b\)](#) of [Act No. 92 of 1983.](#)]

Wording of Sections

(a)bis

[[Para. \(a\)bis](#) inserted by [s. 2 \(1\) \(b\)](#) of [Act No. 81 of 1965](#), substituted by [s. 3 \(1\)](#) of [Act No. 102 of 1979](#), by [s. 10 \(1\)](#) of [Act No. 106 of 1980](#) and by [s. 2 \(1\) \(c\)](#) of [Act No. 92 of 1983](#), amended by [s. 6](#) of [Act No. 27 of 1997](#), substituted by [s. 13](#) of [Act No. 30 of 1998](#), amended by [s. 7](#) of [Act No. 30 of 2000](#) and deleted by [s. 2 \(1\) \(b\)](#) of [Act No. 60 of 2008](#) with effect from 1 January, 2009 and applicable in respect of the estate of a person who dies on or after that date.]

Wording of Sections

- (b) any property donated by the deceased in terms of a donation which was exempt from donations tax under [section 56 \(1\) \(c\)](#) or [\(d\)](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), if that property is not otherwise included as property of the deceased for purposes of this Act;

[[Para. \(b\)](#) substituted by [s. 5 \(1\)](#) of [Act No. 31 of 2005](#) deemed to have come into operation on 8 November, 2005 and applicable in respect of the estate of any person who dies on or after that date.]

Wording of Sections

(c)

[Para. (c) amended by s. 8 (a) and (b) of Act No. 77 of 1964, by s. 3 (1) of Act No. 89 of 1972 and by s. 4 (1) (b) of Act No. 81 of 1985 and deleted by s. 9 (1) (a) of Act No. 87 of 1988.]

Wording of Sections

(cA) the amount of any claim acquired by the estate of the deceased under section 3 of the Matrimonial Property Act, 1984, against the deceased's spouse or the estate of his deceased spouse, in respect of any accrual contemplated in that section;

[Para. (cA) inserted by s. 4 (1) (c) of Act No. 81 of 1985.]

(cB)

[Para. (cB) inserted by s. 9 (1) (b) of Act No. 87 of 1988 and deleted by s. 7 (a) of Act No. 97 of 1993.]

Wording of Sections

(d) property (being property not otherwise chargeable under this Act or the full value of which is not otherwise required to be taken into account in the determination of the dutiable amount of the estate) of which the deceased was immediately prior to his death competent to dispose for his own benefit or for the benefit of his estate.

[Para. (d) substituted by s. 2 (f) of Act No. 65 of 1960.]

(4)

[Sub-s. (4) amended by s. 8 (c) of Act No. 77 of 1964 and by s. 4 (1) (b) of Act No. 92 of 1971, substituted by s. 9 (1) (c) of Act No. 87 of 1988 and deleted by s. 7 (b) of Act No. 97 of 1993.]

Wording of Sections

(5) For purposes of paragraph (d) of subsection (3)-

(a) the term "property" shall be deemed to include the profits of any property;

(b) a person shall be deemed to have been competent to dispose of any property-

(i) if he had such power as would have enabled him, if he were *sui juris*, to appropriate or dispose of such property as he saw fit whether exercisable by will, power of appointment or in any other manner;

(ii) if under any deed of donation, settlement, trust or other disposition made by him he retained the power to revoke or vary the provisions thereof relating to such property;

(c) the power to appropriate, dispose, revoke or vary contemplated in paragraph (b) shall be deemed to exist if the deceased could have obtained such power directly or indirectly by the exercise, either with or without notice, of power exercisable by him or with his consent;

(d) the expression "property of which the deceased was immediately prior to his death competent to dispose" shall not include the share of a spouse of a deceased in any property held in community of property between the deceased and such spouse immediately prior to his death.

[Sub-s. (5) inserted by s. 2 (g) of Act No. 65 of 1960.]

4. Net value of an estate.-The net value of any estate shall be determined by making the following deductions from the total value of all property included therein in accordance with section 3, that is to say-

(a) so much of the funeral, tombstone and death-bed expenses of the deceased which the Commissioner considers to be fair and reasonable;

[Para. (a) substituted by s. 8 (1) (a) of Act No. 97 of 1993.]

Wording of Sections

(b) all debts due by the deceased to persons ordinarily resident within the Republic (other than any debt which constitutes a claim by such a person to property donated by the deceased in terms of a donation which was exempt from donations tax under section 56 (1) (c) or (d) of the Income Tax Act, 1962 (Act No. 58 of 1962)), which it is proved to the satisfaction of the Commissioner have been discharged from property included in the estate;

[Para. (b) substituted by s. 6 (1) (a) of Act No. 31 of 2005 deemed to have come into operation on 8 November, 2005 and applicable in respect of the estate of any person who dies on or after that date.]

Wording of Sections

(c) all costs which have been allowed by the Master in the administration and liquidation of the estate,

other than expenses incurred in the management and control of any income accruing to the estate after the date of death;

- (d) all expenditure incurred in carrying out the requirements of the Master or the Commissioner in pursuance of the provisions of this Act;
- (e) the amount included in the total value of all property of the deceased as representing the value of any right in or to property situate outside the Republic acquired by the deceased-
 - (i) before he became ordinarily resident in the Republic for the first time; or
 - (ii) after he became ordinarily resident in the Republic for the first time, by-
 - (aa) a donation if at the date of the donation the donor was a person (other than a company) not ordinarily resident in the Republic; or
 - (bb) inheritance from a person who at the date of his death was not ordinarily resident in the Republic; or

[Sub-para. (ii) substituted by [s. 1 \(1\) \(a\)](#) of [Act No. 104 of 1976](#).]

Wording of Sections

- (iii) out of the profits and proceeds of any such property proved to the satisfaction of the Commissioner to have been acquired out of such profits or proceeds;

[[Para. \(e\)](#) substituted by [s. 3](#) of [Act No. 65 of 1960](#).]

- (f) any debts due by the deceased to persons ordinarily resident outside the Republic (other than any debt which constitutes a claim by such a person to property donated by the deceased in terms of a donation which was exempt from donations tax under [section 56 \(1\) \(c\)](#) or [\(d\)](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), which have been discharged from property included in the estate to the extent that the amount of such debts is proved to the satisfaction of the Commissioner to exceed the value of any assets of the deceased outside the Republic and not so included;

[[Para. \(f\)](#) substituted by [s. 6 \(1\) \(b\)](#) of [Act No. 31 of 2005](#) deemed to have come into operation on 8 November, 2005 and applicable in respect of the estate of any person who dies on or after that date.]

Wording of Sections

- (g) the value of any interest included as property of the deceased under [paragraph \(a\)](#) of [subsection \(2\)](#) of [section three](#) where such interest was held by the deceased by virtue of a donation to him by the person to whom the right of enjoyment of the property in which the deceased held the interest, accrues or, where the interest consists of a right to an annuity charged upon property, by the person who is the owner of that property;

- (h) the value of any property included in the estate which has not been allowed as a deduction under any other provision of this section which accrues or accrued to-

- (i) any public benefit organisation which is exempt from tax in terms of [section 10 \(1\) \(cN\)](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)); or

[[Sub-para. \(i\)](#) substituted by [s. 8 \(1\) \(b\)](#) of [Act No. 97 of 1993](#) and by [s. 8 \(1\) \(a\)](#) of [Act No. 30 of 2000](#) with effect from 15 July, 2001.]

Wording of Sections

- (iA) any institution, board or body, which is exempt from tax in terms of [section 10 \(1\) \(cA\) \(i\)](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)), which has as its sole or principal object the carrying on of any public benefit activity contemplated in [section 30](#) of that Act; or

[[Sub-para. \(iA\)](#) inserted by [s. 4 \(1\) \(b\)](#) of [Act No. 30 of 2002](#) with effect from 15 July, 2001.]

- (ii)

[[Sub-para. \(ii\)](#) deleted by [s. 8 \(1\) \(b\)](#) of [Act No. 30 of 2000](#) with effect from 15 July, 2001.]

Wording of Sections

- (iii) the State or any "municipality" as defined in [section 1](#) of the Income Tax Act, 1962 ([Act No. 58 of 1962](#)); or

[[Sub-para. \(iii\)](#) substituted by [s. 2](#) of [Act No. 20 of 2006](#).]

Wording of Sections

- (iv)

[[Sub-para. \(iv\)](#) amended by [s. 7 \(a\)](#) of [Act No. 27 of 1997](#) and deleted by [s. 8 \(1\) \(b\)](#) of [Act No. 30 of 2000](#) with effect from 15 July, 2001.]

Wording of Sections

(v)

[Para. (h) amended by s. 9 (a) of Act No. 71 of 1961 and by s. 3 (1) (a) of Act No. 81 of 1965, substituted by s. 6 (1) (a) of Act No. 86 of 1987 and by s. 10 (1) (a) of Act No. 87 of 1988 and amended by s. 4 (1) (a) of Act No. 30 of 2002 and by s. 5 (1) (a) of Act No. 74 of 2002 with effect from 5 August, 2002. Sub-para. (v) added by s. 3 (1) (b) of Act No. 20 of 1994 and deleted by s. 7 (b) of Act No. 27 of 1997.]

Wording of Sections

- (i) the amount by which the value of any property included in the estate has been enhanced by any improvements made to the property concerned-
 - (i) at the expense of the person to whom such property accrues on the death of the deceased; and
 - (ii) during the lifetime of the deceased and with his consent;
- (j) the amount by which the value of any fiduciary, usufructuary or other like interest which ceased upon the death of the deceased has been enhanced by any improvements made to the property concerned-
 - (i) at the expense of the person to whom the benefit arising by reason of the cessation of such interest upon the death of the deceased, accrues; and
 - (ii) during the lifetime of the deceased and with his consent;

(k)

[Para. (k) substituted by s. 9 (1) (a) of Act No. 77 of 1964, by s. 3 (1) (b) of Act No. 81 of 1965, by s. 2 (1) (a) of Act No. 94 of 1967 and by s. 2 (1) (a) of Act No. 70 of 1975, amended by s. 4 (1) (a) of Act No. 102 of 1979 and by s. 11 (1) (a) of Act No. 106 of 1980 and deleted by s. 10 (1) (b) of Act No. 87 of 1988.]

Wording of Sections

(l)

[Para. (l) added by s. 2 of Act No. 59 of 1957, substituted by s. 9 (b) of Act No. 71 of 1961, by s. 9 (1) (a) of Act No. 77 of 1964, by s. 3 (1) (c) of Act No. 81 of 1965, by s. 2 (1) (b) of Act No. 94 of 1967, by s. 5 (1) (b) of Act No. 92 of 1971, by s. 2 (1) (b) of Act No. 70 of 1975 and by s. 1 (1) (b) of Act No. 104 of 1976, amended by s. 4 (1) (b) of Act No. 102 of 1979, by s. 11 (1) (b) of Act No. 106 of 1980 and by s. 3 (1) of Act No. 99 of 1981 and deleted by s. 10 (1) (c) of Act No. 87 of 1988.]

Wording of Sections

- (lA) the amount of any claim against the estate acquired under section 3 of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), by the surviving spouse of the deceased or by the estate of his deceased spouse, in respect of an accrual contemplated in that section;
[Para. (lA) inserted by s. 5 (1) (a) of Act No. 81 of 1985.]

- (m) the value of any usufructuary or other like interest in property and of any right to an annuity charged upon property, included as property of the deceased under section 3 (2) (a), if such interest or right was created by a predeceased spouse of the deceased and-
 - (i) the property over which the deceased enjoyed such interest or right formed part of the estate of such predeceased spouse; and
 - (ii) no deduction in respect of the value of such interest or right was allowable in the determination of the net value of the estate of the predeceased spouse under the provisions of paragraph (q) of this section;

[Para. (m) added by s. 2 of Act No. 59 of 1957 and substituted by s. 6 (1) (b) of Act No. 86 of 1987 and by s. 10 (1) (d) of Act No. 87 of 1988. Sub-para. (ii) substituted by s. 14 (1) of Act No. 30 of 1998.]

Wording of Sections

(n)

[Para. (n) added by s. 2 of Act No. 59 of 1957 and deleted by s. 10 (1) (e) of Act No. 87 of 1988.]

Wording of Sections

- (o) any amount included in the estate in respect of-
 - (i) the value of books, pictures, statuary or other objects of art; or
 - (ii) so much of the value of any shares in a body corporate as is attributable to such body's ownership of books, pictures, statuary or other objects of art,

if such books, pictures, statuary or other objects of art have been lent under a notarial deed to the government of the Republic in the national, provincial or local sphere for a period of not less than thirty years, and the deceased died during such period;

[[Para. \(o\)](#) added by [s. 9 \(c\)](#) of [Act No. 71 of 1961](#), amended by [s. 10 \(1\) \(f\)](#) of [Act No. 87 of 1988](#) and by [s. 3](#) of [Act No. 31 of 2013](#).]

Wording of Sections

- (p) so much of the value of any property deemed to be property of the deceased by virtue of the provisions of [section 3 \(3\)](#) as has not been deducted under any of the other provisions of this section and as the Commissioner is satisfied has been taken into account under the provisions of [section 5 \(1\) \(f\)bis](#) in the determination of the value of any company shares or a member's interest in a close corporation included as property in the estate;

[[Para. \(p\)](#) added by [s. 9 \(1\) \(b\)](#) of [Act No. 77 of 1964](#) and substituted by [s. 8 \(1\) \(c\)](#) of [Act No. 97 of 1993](#).]

Wording of Sections

- (q) so much of the value of any property included in the estate which has not been allowed as a deduction under the foregoing provisions of this section, as accrues to the surviving spouse of the deceased: Provided that-

(i) the deduction allowable under the provisions of this paragraph shall be reduced by so much of any amount as the surviving spouse is required in terms of the will of the deceased to dispose of to any other person or trust;

(ii) no deduction shall be allowed under the provisions of this paragraph in respect of any property which accrues to a trust established by the deceased for the benefit of the surviving spouse, if the trustee of such trust has a discretion to allocate such property or any income therefrom to any person other than the surviving spouse.

[[S. 4](#) amended by [s. 5 \(1\) \(a\)](#) of [Act No. 92 of 1971](#). [Para. \(q\)](#) added by [s. 5 \(1\) \(b\)](#) of [Act No. 81 of 1985](#) and substituted by [s. 6 \(1\) \(c\)](#) of [Act No. 86 of 1987](#).]

Wording of Sections

4A. Dutiable amount of an estate.-(1) Subject to subsections (2) and (3), the dutiable amount of the estate of any person shall be determined by deducting from the net value of that estate, as determined in accordance with [section 4](#), an amount of R3,5 million.

(2) Where a person was the spouse at the time of death of one or more previously deceased persons, the dutiable amount of the estate of that person shall be determined by deducting from the net value of that estate, as determined in accordance with [section 4](#), an amount equal to the amount specified in [subsection \(1\)](#)-

(a) multiplied by two; and

(b) reduced by the amount deducted from the net value of the estate of any one of the previously deceased persons in accordance with this section.

(3) Where a person was one of the spouses at the time of death of a previously deceased person, the dutiable amount of the estate of that person shall be determined by deducting from the net value of that estate, as determined in accordance with [section 4](#), an amount equal to the sum of-

(a) the amount specified in [subsection \(1\)](#); and

(b) the amount specified in [subsection \(1\)](#) divided by the number of spouses, reduced by an amount which is determined by dividing the amount deducted, in accordance with this section, from the net value of the estate of the previously deceased person by the number of spouses of that previously deceased person.

[[Para. \(b\)](#) substituted by [s. 4 \(1\) \(a\)](#) by [Act No. 7 of 2010](#) deemed to have come into operation on 1 January, 2010 and applicable in respect of the estate of a person who dies on or after the date.]

Wording of Sections

(4) The amount contemplated in [subsection \(2\) \(b\)](#) or [\(3\) \(b\)](#) shall not exceed the amount specified in [subsection \(1\)](#).

(5) [Subsections \(2\)](#) and [\(3\)](#) shall not apply unless the executor of the estate of that person submits, at the time and in the manner and form prescribed by the Commissioner, to the Commissioner a copy of a return submitted to the Commissioner in terms of [section 7](#) in respect of the estate of the previously deceased person.

(6) Where a person and his or her spouse die simultaneously, the person of whom the net value of the estate, determined in accordance with [section 4](#), is the smallest must be deemed for the purposes of this section to have died immediately prior to his or her spouse.

[[S. 4A](#) inserted by [s. 6 \(1\)](#) of [Act No. 92 of 1971](#), amended by [s. 3 \(1\)](#) of [Act No. 95 of 1978](#), by [s. 5 \(1\)](#) of [Act No. 102 of 1979](#), by [s. 12 \(1\)](#) of [Act No. 106 of 1980](#), by [s. 4 \(1\)](#) of [Act No. 99 of 1981](#), by [s. 6 \(1\)](#) of [Act No. 81 of 1985](#), by [s. 2 \(1\)](#) of [Act No. 71 of 1986](#), substituted by [s. 11 \(1\)](#) of [Act No. 87 of 1988](#), amended by [s. 5 \(1\)](#) of [Act No. 30 of 2002](#) and by [s. 17 \(1\)](#) of [Act No. 9 of 2006](#) and substituted by [s. 1 \(1\)](#) of [Act No. 8 of 2007](#) and by [s. 5 \(1\)](#) of [Act No. 17 of 2009](#) with effect from 1 January, 2010 and applicable in respect of the estate of any person who

[Wording of Sections](#)

5. Determination of value of property.-(1) The value of any property for the purposes of the inclusion thereof in the estate of any person in terms of [section 3](#) or the deduction thereof in terms of [section 4](#), determined as at the date of death of that person, shall be-

- (a) in the case of property, other than such property as is referred to in [paragraph \(f\)bis](#) or the proviso to [paragraph \(g\)](#), disposed of by a purchase and sale which in the opinion of the Commissioner is a *bona fide* purchase and sale in the course of the liquidation of the estate of the deceased, the price realized by such sale;

[[Para. \(a\)](#) amended by [s. 4 \(a\)](#) of [Act No. 65 of 1960](#).]

- (b) in the case of any such fiduciary, usufructuary or other like interest in property as is referred to in [paragraph \(a\)](#) of [section 3 \(2\)](#), an amount determined by capitalizing at twelve per cent the annual value of the right of enjoyment of the property in which the deceased held any such fiduciary, usufructuary or other like interest, to the extent to which the person who upon the cessation of the said interest of the deceased in consequence of the death of the deceased becomes entitled to any right of enjoyment of such property of whatever nature, over the expectation of life of such person, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period: Provided that in any case in which it is proved to the satisfaction of the Commissioner that such person paid any consideration for the right of ownership in the property whereby he became entitled to the right of enjoyment of the property upon the death of the deceased, the value shall be so much of the value so arrived at as exceeds the amount of such consideration together with interest thereon calculated at six per cent per annum from the date of payment of such consideration to the date of death of the deceased: Provided further that where upon the cessation of the interest of the deceased in any property, there accrues to the holder of the bare dominium therein, the full ownership in that property, the value of the advantage or benefit so accruing by reason of the cessation of the interest held by the deceased, shall not exceed the difference between the fair market value of that property as at the date of such cessation and the value of the bare dominium as at the date when such bare dominium was first acquired under the disposition creating the said interest held by the deceased: Provided further that if upon the cessation of the interest held by the deceased it is not possible to ascertain until some future date the person or some or all of the persons who will become entitled to the right of enjoyment of the property, the value shall be determined by capitalizing at twelve per cent over a period of fifty years the annual value of the right of enjoyment of the property in which such interest was held, unless the Commissioner and the executor agree that, having regard to the circumstances of the case, it would be reasonable to adopt a lesser period than fifty years, in which event such lesser period, as agreed, may be adopted accordingly;

[[Para. \(b\)](#) amended by [s. 3 \(a\)](#) of [Act No. 59 of 1957](#) and by [s. 4 \(b\)](#) of [Act No. 65 of 1960](#) and substituted by [s. 7 \(1\) \(a\)](#) of [Act No. 114 of 1977](#).]

[Wording of Sections](#)

- (c) in the case of any right to any annuity referred to in [paragraph \(a\)](#) of [subsection \(2\)](#) of [section three](#), an amount equal to the value of the annuity capitalized at twelve per cent.-
- (i) in the case where the said right accrues to some other person on the death of the deceased, over the expectation of life of the person to whom the said right accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;
- (ii) in the case where the said right does not so accrue to some other person, over the expectation of life of the person who on the death of the deceased is the owner of the property upon which such annuity was charged;

[[Para. \(c\)](#) amended by [s. 7 \(1\) \(b\)](#) of [Act No. 114 of 1977](#).]

[Wording of Sections](#)

- (d) in the case of any right to any annuity referred to in [paragraph \(b\)](#) of [subsection \(2\)](#) of [section three](#), an amount equal to the value of the annuity capitalized at twelve per cent. over the expectation of life of the person to whom the right to such annuity accrues on the death of the deceased, or if it is to be held for a lesser period than the life of such person, over such lesser period;

[[Para. \(d\)](#) amended by [s. 7 \(1\) \(c\)](#) of [Act No. 114 of 1977](#).]

[Wording of Sections](#)

- (d)bis in the case of any annuity to which the provisions of [section 3 \(3\) \(a\)](#) or [\(a\)bis](#) apply, an amount equal to the value of the annuity capitalized at twelve per cent. over the expectation of life of the

annuitant, or if the annuity is payable for a lesser period than the life of the annuitant, over such lesser period: Provided that if within five years after the death of the deceased the annuity ceases to be payable because of the death of the annuitant within that period or, where the annuitant is the widow of the deceased, because of her re-marriage within that period, the value of the annuity shall be deemed to be an amount equal to the lesser of-

- (i) the aggregate of the amounts which accrued to the annuitant in respect of the annuity and any amounts which accrued to him or his estate upon or as a result of the termination of the annuity; or
- (ii) the said capitalized value of the annuity;

[Para. (d)bis inserted by s. 4 (1) of Act No. 81 of 1965, substituted by s. 2 (1) of Act No. 56 of 1966 and amended by s. 7 (1) (d) of Act No. 114 of 1977.]

Wording of Sections

- (e) in the case of any property referred to in section 3 (3) (b), an amount determined in the manner prescribed in section 62 of the Income Tax Act, 1962 (Act No. 58 of 1962);

[Para. (e) substituted by s. 10 of Act No. 77 of 1964, by s. 12 (1) (a) of Act No. 87 of 1988 and by s. 9 (a) of Act No. 97 of 1993.]

Wording of Sections

- (f) in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property exceeds the value of such interest, determined-

- (i) in the case of a usufructuary interest, by capitalizing at twelve per cent. the annual value of the right of enjoyment of the property subject to such usufructuary interest over the expectation of life of the person entitled to such interest, or if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period;

[Sub-para. (i) amended by s. 7 (1) (e) of Act No. 114 of 1977.]

Wording of Sections

- (ii) in the case of an annuity charged upon the property, by capitalizing at twelve per cent. the amount of the annuity over the expectation of life of the person entitled to such annuity, or if it is to be held for a lesser period than the life of such person, over such lesser period; or

[Sub-para. (ii) amended by s. 7 (1) (e) of Act No. 114 of 1977.]

Wording of Sections

- (iii) in the case of any other interest, by capitalizing at twelve per cent. such amount as the Commissioner may consider reasonable as representing the annual yield of such interest, over the expectation of life of the person entitled to such interest, or if such interest is to be held for a lesser period than the life of such person, over such lesser period;

[Para. (f) amended by s. 1 (b) of Act No. 19 of 2001. Sub-para. (iii) amended by s. 7 (1) (e) of Act No. 114 of 1977.]

Wording of Sections

- (f)bis in the case of shares in any company not quoted on any stock exchange, the value of such shares in the hands of the deceased at the date of his death, subject to the following provisions, namely-

- (i) no regard shall be had to any provision in the memorandum and articles of association, founding statement, association agreement or rules of the company, as the case may be, restricting the transferability of the shares therein, but it shall be assumed that such shares were freely transferable;

[Sub-para. (i) substituted by s. 9 (b) of Act No. 97 of 1993.]

Wording of Sections

- (ii) no regard shall be had to any provision in the memorandum and articles of association, founding statement, association agreement or rules of the company, as the case may be, whereby or whereunder the value of the shares of the deceased or any other member is to be determined;

[Sub-para. (ii) substituted by s. 9 (b) of Act No. 97 of 1993.]

Wording of Sections

- (iii) if upon a winding-up of the company the deceased would have been entitled to share in the assets of the company to a greater extent *pro rata* to shareholding or membership than other shareholders or members, no lesser value shall be placed on the shares held by the deceased than the amount to which he would have been so entitled if the company had been in course of winding-up and the said amount had been determined as at the date of his death;

[Sub-para. (iii) substituted by s. 9 (b) of Act No. 97 of 1993.]

Wording of Sections

- (iv) no regard shall be had to any provision or arrangement resulting in any variation in the rights attaching to any shares through or on account of the death of the deceased;

[Sub-para. (iv) substituted by [s. 10 \(b\)](#) of [Act No. 71 of 1961](#).]

- (v) there shall be taken into account any power of control exercisable by the deceased and the company whereunder he was entitled or empowered to vary or cancel any rights attaching to any class of shares therein, including by way of redemption of preference shares, if, by the exercise of such power he could have conferred upon himself any benefit or advantage in respect of the assets or profits of the company;

(vi)

[Para. (f)bis inserted by [s. 4 \(c\)](#) of [Act No. 65 of 1960](#) and amended by [s. 10 \(a\)](#) of [Act No. 71 of 1961](#) and by [s. 1 \(c\)](#) of [Act No. 19 of 2001](#). Sub-para. (vi) deleted by [s. 10 \(c\)](#) of [Act No. 71 of 1961](#).]

Wording of Sections

- (f)ter in the case of any property referred to in [paragraph \(d\)](#) of [subsection \(3\)](#) of [section three](#) which consists only of profits, an amount determined by capitalizing at twelve per cent. such amount as the Commissioner may consider reasonable as representing the annual value of such profits over the expectation of life of the deceased immediately prior to the date of his death, and in the case of any other property referred to in the said paragraph the amount remaining after deducting from the fair market value of that property as at the date of death of the deceased the expenses and liabilities which the deceased would have had to bear or assume if he had at that date exercised his power of disposition;

[Para. (f)ter inserted by [s. 4 \(c\)](#) of [Act No. 65 of 1960](#) and amended by [s. 7 \(1\) \(f\)](#) of [Act No. 114 of 1977](#).]

Wording of Sections

- (g) in the case of any other property, the fair market value of such property as at the date of death of the deceased person: Provided that in any case in which, as a result of conditions imposed by any person whomsoever, the value of any property could or would be reduced for any reason or after the moment of death, the value of such property shall, unless the Commissioner otherwise directs, be determined as though those conditions had not been imposed.

[Sub-s. (1) amended by [s. 1 \(a\)](#) of [Act No. 19 of 2001](#). Para. (g) amended by [s. 4 \(d\)](#) of [Act No. 65 of 1960](#) and by [s. 1 \(d\)](#) of [Act No. 19 of 2001](#).]

Wording of Sections

(1A) Where any company referred to in [paragraph \(f\)bis](#) of [subsection \(1\)](#) owns immovable property on which *bona fide* farming operations are being carried on in the Republic, the value of such immovable property shall, in so far as it is relevant for the purposes of determining in terms of that subsection the value of any shares in such company, be determined in the manner prescribed in the definition of "[fair market value](#)" in [section 1](#).

[Sub-s. (1A) inserted by [s. 7 \(1\)](#) of [Act No. 81 of 1985](#).]

(2) For the purposes of paragraphs (b) and (f) of subsection (1) and for purposes of determining the value of any deduction contemplated in [section 4](#), the annual value of the right of enjoyment of a property means an amount equal to twelve per cent upon the fair market value of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that where the Commissioner is satisfied that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to 12 per cent on such value of the property, the Commissioner may fix such sum as representing the annual yield as may be reasonable, and the sum so fixed shall be deemed to be the annual value of the right of enjoyment of such property: Provided further that where the property which is subject to any such interest consists of books, pictures, statuary or other objects of art, the annual value of the right of enjoyment thereof shall for the purposes of [paragraph \(b\)](#) of [subsection \(1\)](#) be deemed to be the average net receipts (if any) derived by the person entitled to such right of enjoyment of such property during the three years immediately preceding the date of death of the deceased.

[Sub-s. (2) amended by [s. 7 \(1\) \(g\)](#) of [Act No. 114 of 1977](#), by [s. 2](#) of [Act No. 136 of 1991](#), by [s. 1 \(e\)](#) of [Act No. 19 of 2001](#) and by [s. 12 \(1\) \(b\)](#) of [Act No. 60 of 2001](#) with effect from 27 July, 2001.]

Wording of Sections

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

(4) Whenever the value of any property included in the estate of a deceased is reduced as a result of the continuance after the death of that person of any right (other than a fiduciary, usufructuary or other like interest) to the use or occupation of property for no consideration or for a consideration which in the opinion of the Commissioner is not an adequate consideration, the value of such property shall for the purposes of [subsection \(1\)](#) be determined as though the said right had not been granted.

[Sub-s. (4) added by [s. 3 \(b\)](#) of [Act No. 59 of 1957](#) and substituted by [s. 12 \(1\) \(b\)](#) of [Act No. 87 of 1988](#).]

Wording of Sections

(5) For the purposes of [subsection \(1\) \(f\)bis](#), the term "shares" includes any members' interests or any class of shares, stock, debenture stock, debentures or right to purchase members' interests or to subscribe for or purchase shares, stocks or debentures, and the term "company" includes any company or close corporation incorporated in the Republic or elsewhere.

[[S. 5](#) amended by [s. 12 \(1\) \(a\)](#) of [Act No. 60 of 2001](#) with effect from 27 July, 2001. [Sub-s. \(5\)](#) inserted by [s. 4 \(e\)](#) of [Act No. 65 of 1960](#), amended by [s. 10 \(d\)](#) of [Act No. 71 of 1961](#) and substituted by [s. 9 \(c\)](#) of [Act No. 97 of 1993](#).]

Wording of Sections

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

(2) The powers conferred and the duties imposed upon the Commissioner by this Act may be exercised or performed by the Commissioner or by any SARS official under the control, direction or supervision of the Commissioner.

[[Sub-s. \(2\)](#) substituted by s. 271 read with [para. 13 \(a\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

(3) Administrative requirements and procedures for purposes of the performance of any duty, power or obligation or the exercise of any right in terms of this Act are, to the extent not regulated in this Act, regulated by the Tax Administration Act.

[[Sub-s. \(3\)](#) substituted by s. 271 read with [para. 13 \(b\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

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

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

[[Sub-s. \(1\)](#) amended by s. 271 read with [para. 14 \(a\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

(2)

[[Sub-s. \(2\)](#) deleted by s. 271 read with [para. 14 \(b\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

8.

[[S. 8](#) amended by [s. 4](#) of [Act No. 59 of 1957](#), by [s. 2 \(1\)](#) of [Act No. 32 of 2005](#), by [s. 12](#) of [Act No. 77 of 1962](#) and repealed by s. 271 read with [para. 15](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

8bis.

[[S. 8bis](#) inserted by [s. 13](#) of [Act No. 77 of 1962](#) and repealed by [s. 7](#) of [Act No. 46 of 1996](#).]

Wording of Sections

8A.

[[S. 8A](#) inserted by [s. 7](#) of [Act No. 46 of 1996](#), amended by [s. 15](#) of [Act No. 30 of 1998](#), [s. 13](#) of [Act No. 60 of 2001](#), [s. 10](#) of [Act No. 45 of 2003](#) and repealed by s. 271 read with [para. 15](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

8B.

[[S. 8B](#) inserted by [s. 7](#) of [Act No. 46 of 1996](#) and repealed by s. 271 read with [para. 15](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

8C.

[[S. 8C](#) inserted by [s. 7](#) of [Act No. 46 of 1996](#) and repealed by s. 271 read with [para. 15](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

8D.

[[S. 8D](#) inserted by [s. 7](#) of [Act No. 46 of 1996](#), amended by [s. 9](#) of [Act No. 30 of 2000](#) and repealed by s. 271 read with [para. 15](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

8E.

[[S. 8E](#) inserted by [s. 7](#) of [Act No. 46 of 1996](#), amended by [s. 16](#) of [Act No. 30 of 1998](#) and repealed by s. 271 read with [para. 15](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

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

(1A) If the Commissioner, prior to the issue of a notice of assessment in terms of [subsection \(1\)](#)-

- (a) is dissatisfied with any value at which any property is shown in any return; or
- (b) is of the opinion that the amount claimed to represent the dutiable amount as disclosed in any return, does not represent the correct dutiable amount,

the Commissioner shall adjust such value or amount and determine the dutiable amount upon which such assessment shall be raised accordingly.

[[Sub-s. \(1A\)](#) inserted by s. 271 read with [para. 16 \(a\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

(2)

[[Sub-s. \(2\)](#) deleted by s. 271 read with [para. 16 \(b\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

(3) A notice of assessment shall be issued in respect of each return submitted in respect of any estate in which liability for duty, other than in respect of additional property contemplated in [subsection \(4\) \(c\)](#), is disclosed, due regard being had in the calculation of the duty to any duty chargeable on any previous returns submitted in respect of the same estate.

[[Sub-s. \(3\)](#) substituted by [s. 1 \(1\) \(a\)](#) of [Act No. 61 of 2008](#) with effect from 1 January, 2009.]

[Wording of Sections](#)

(4) (a) Unless a notice of assessment has already been issued, a notice of assessment shall be deemed to have been issued in terms of [section 9 \(3\)](#) in respect of the estate of every person-

- (i) if the value of the estate does not exceed the amount determined by the Minister by notice in the *Gazette* contemplated in [section 18 \(3\)](#) of the Administration of Estates Act, 1965 ([Act No. 66 of 1965](#)), on the date on which a death notice is given to a Master in terms of [section 7](#) of that Act; or
- (ii) in every other case, on the date on which the estate has become distributable in terms of [section 35 \(12\)](#) of the Administration of Estates Act, 1965 ([Act No. 66 of 1965](#)).

(b) If additional property is found in respect of an estate within five years from the date contemplated in subparagraph (i) or (ii) and a supplementary liquidation and distribution account is required in terms of [section 35](#) of the Administration of Estates Act, 1965 ([Act No. 66 of 1965](#)), paragraph (a) shall not apply and a notice of

assessment shall be deemed to have been issued in terms of [section 9 \(3\)](#) in respect of the estate on the date on which the supplementary liquidation and distribution account has become distributable in terms of section 35 (12) of the Administration of Estates Act, 1965.

(c) If additional property is found in respect of an estate more than five years after the date contemplated in subparagraph (i) or (ii) and a liquidation and distribution account is required in terms of [section 35](#) of the Administration of Estates Act, 1965 ([Act No. 66 of 1965](#)), the additional property shall be subject to an estate duty as if that property were the sole property of the estate of the deceased and as if the death of the deceased occurred on the date on which the additional property was reflected in the supplementary liquidation and distribution account.

[[Sub-s. \(4\)](#) added by [s. 1 \(1\) \(b\)](#) of [Act No. 61 of 2008](#) with effect from 1 January, 2009.]

(5) An assessment contemplated in [subsection \(4\) \(a\)](#) and [\(b\)](#) is deemed to be an assessment by way of self-assessment.

[[Sub-s. \(5\)](#) inserted by s. 271 read with [para. 16 \(c\)](#) of Sch. 1 of [Act No. 28 of 2011](#).]

9A.

[[S. 9A](#) inserted by [s. 7](#) of [Act No. 86 of 1987](#), amended by [s. 14 \(1\)](#) of [Act No. 60 of 2001](#), by [s. 3](#) of [Act No. 18 of 2009](#) and repealed by s. 271 read with [para. 17](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

9B.

[[S. 9B](#) inserted by [s. 6](#) of [Act No. 30 of 2002](#) and repealed by s. 271 read with [para. 17](#) of Sch. 1 of [Act No. 28 of 2011](#).]

Wording of Sections

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

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

- (a) a deposit on account of the duty payable is made of an amount which, in the opinion of the Commissioner, is reasonable, regard being had to the amount of the duty payable; and
- (b) application is made in writing to the Commissioner for such extension of time.

11. Person liable for duty.-The person liable for the duty shall be-

- (a) where duty is levied on property of the deceased which falls under [subsection \(2\)](#) of [section three](#)-
 - (i) as to any property referred to in [paragraph \(a\)](#) or [\(b\)](#) of that subsection, the person to whom any advantage accrues by the death of the deceased;
 - (ii) as to any other property, the executor;
- (b) where duty is levied on property which, in accordance with [subsection \(3\)](#) of [section three](#), is deemed to be property of the deceased-
 - (i) as to property referred to in [paragraph \(a\)](#) of that subsection, the executor: Provided that where the amount due under the policy is recoverable by any person other than the executor, the person liable for the duty shall be the person entitled to recover the amount due under the policy;

(iA) as to property referred to in paragraph (a)*bis* of that subsection, the executor: Provided that where the benefit in question accrues to any person other than the executor, the person liable for the duty shall be such other person;

[[Sub-para. \(iA\)](#) inserted by [s. 3 \(1\)](#) of [Act No. 56 of 1966](#).]

(ii) as to any property referred to in [paragraph \(b\)](#) of that subsection, the donee;
[[Sub-para. \(ii\)](#) substituted by [s. 13 \(1\)](#) of [Act No. 87 of 1988](#) and by [s. 3](#) of [Act No. 37 of 1995](#).]

[Wording of Sections](#)

(iii) as to any property referred to in paragraph (cA) or (d) of that subsection, the executor.
[[Sub-para. \(iii\)](#) substituted by [section 3](#) of [Act No. 37 of 1995](#).]

[Wording of Sections](#)

12. Duty payable by executor.-Notwithstanding anything to the contrary contained in [section 11](#), any duty payable under this Act shall be payable by and recoverable from the executor of the estate subject to the duty, to the extent contemplated in Chapter 10 and 11 of the Tax Administration Act.

[[S. 12](#) amended by [s. 4 \(1\)](#) of [Act No. 18 of 2009](#) and substituted by s. 271 read with [para. 19](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

12A.

[[S. 12A](#) inserted by [s. 1](#) of [Act No. 21 of 2006](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

12B.

[[S. 12B](#) inserted by [s. 1](#) of [Act No. 21 of 2006](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

13. Right of recovery by executor.-(1) Every executor who is required to pay duty in respect of any property referred to in [paragraph \(a\) \(i\)](#), or in the proviso to [paragraph \(b\) \(i\)](#) or [\(b\) \(iA\)](#), or in [paragraph \(b\) \(ii\)](#), of [section 11](#), shall be entitled to recover from the person liable therefor the duty attributable to such property.

[[Sub-s. \(1\)](#) substituted by [s. 7 \(1\) \(a\)](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

(2) The duty attributable to any such property shall be a sum which bears to the full duty payable in respect of the estate (before the deduction in accordance with the provisions of [section 16](#) of any amount in respect of transfer duty or donations tax) the same ratio as that portion of the net value of the estate (as determined under [section 4](#)) which is attributable to the inclusion in the estate of the value of the said property, bears to the net value of the estate as so determined, reduced, in any case in which there is, in accordance with the said [section 16](#), deducted from the duty payable in respect of the estate, any amount of transfer duty or donations tax paid in respect of any property included in the estate which has accrued to the person liable for the duty attributable to that property, by the amount of the transfer duty or donations tax so paid.

[[Sub-s. \(2\)](#) substituted by [s. 7 \(1\) \(b\)](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

(3) Whenever duty is in terms of [section 11 \(b\) \(i\)](#) payable by more than one person on the value of any property referred to in [section 3 \(3\) \(a\)](#), the amount of duty payable by each such person shall be such proportion of the total duty attributable to the total value of the said property, as bears to the said total duty the same ratio as so much of the amount which such person is entitled to recover under any policy as is included in the estate under [section 3 \(3\) \(a\)](#), bears to the total value of the said property.

[[Sub-s. \(3\)](#) substituted by [s. 14 \(1\)](#) of [Act No. 87 of 1988](#).]

[Wording of Sections](#)

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

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

16. Deduction of transfer duty and donations tax.-There shall be deducted from any duty payable under this Act-

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

(b)

[[Para. \(b\)](#) amended by [s. 11](#) of [Act No. 77 of 1964](#) and deleted by [s. 15 \(1\)](#) of [Act No. 87 of 1988](#).]

[Wording of Sections](#)

(c) without in any way modifying or adding to the rights of any person under an agreement entered into by the Government of the Republic with the Government of any other country or territory relating to the prevention of or relief from double taxation in respect of estate duty, any amount of any death duties proved to the satisfaction of the Commissioner to have been paid to any other State in respect of any property situate outside the Republic and included in the estate of any person who at the date of his death was ordinarily resident in the Republic: Provided that the deduction under this paragraph shall not exceed the duty imposed on such property by this Act.

[[Para. \(c\)](#) added by [s. 5 \(c\)](#) of [Act No. 65 of 1960](#).]

17. No account to be filed by Master before duty is paid or secured.-The Master shall not file any liquidation and distribution account in his office or grant a discharge to any executor until he is satisfied that the duty payable under this Act has been paid or secured to the satisfaction of the Commissioner or that the Commissioner consents to the discharge.

[[S. 17](#) amended by [s. 8](#) of [Act No. 92 of 1971](#).]

[Wording of Sections](#)

18. No property to be delivered by executor before duty provided for.-Before delivering or transferring any property of the deceased to any heir or legatee the executor shall satisfy the Commissioner that due provision has been made for the payment of any duty payable under this Act.

19.

[[S. 19](#) repealed by [s. 5 \(1\)](#) of [Act No. 18 of 2009](#) with effect from the date of promulgation of that Act: 30 September, 2009.]

[Wording of Sections](#)

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

21 and 22.

[[Ss. 21](#) and [22](#) repealed by [s. 8](#) of [Act No. 81 of 1985](#).]

[Wording of Sections](#)

23.

[[S. 23](#) amended by [s. 6](#) of [Act No. 81 of 1965](#) (only in English), substituted by [s. 10](#) of [Act No. 30 of 2000](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

23bis.

[[S. 23bis](#) inserted by [s. 14](#) of [Act No. 77 of 1962](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

24.

[[S. 24](#) amended by [s. 17](#) of [Act No. 59 of 1956](#), by [s. 5](#) of [Act No. 59 of 1957](#) and by [s. 11](#) of [Act No. 71 of 1961](#), substituted by [s. 15](#) of [Act No. 77 of 1962](#), amended by [s. 12](#) of [Act No. 77 of 1964](#), by [s. 8](#) of [Act No. 86 of 1987](#), by [s. 10](#) of [Act No. 97 of 1993](#), by [s. 2](#) of [Act No. 104 of 1996](#), by [s. 8](#) of [Act No. 27 of 1997](#) and by [s. 9](#) of [Act No. 53 of 1999](#), substituted by [s. 15 \(1\)](#) of [Act No. 60 of 2001](#), amended by [s. 11](#) of [Act No. 45 of 2003](#), by [s. 15 \(1\)](#) of [Act No. 60 of 2001](#) (as substituted by [s. 68 \(1\)](#) of [Act No. 30 of 2002](#)) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

25.

[[S. 25](#) amended by [s. 16](#) of [Act No. 77 of 1962](#), by [s. 9](#) of [Act No. 86 of 1987](#), by [s. 11](#) of [Act No. 97 of 1993](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

25A.

[[S. 25A](#) amended by [s. 16 \(1\)](#) of [Act No. 60 of 2001](#), by [s. 7](#) of [Act No. 30 of 2002](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

[Wording of Sections](#)

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

[[Sub-s. \(1\)](#) substituted by [s. 9 \(a\)](#) of [Act No. 27 of 1997](#).]

[Wording of Sections](#)

(2) As soon as may be after the approval of Parliament of any such agreement, as contemplated in [section 231](#) of [the Constitution](#), the arrangements thereby made shall be notified by publication in the *Gazette* and the arrangements so notified shall thereupon have effect as if enacted in this Act.

[[Sub-s. \(2\)](#) amended by [s. 13](#) of [Act No. 77 of 1964](#) and substituted by [s. 9 \(a\)](#) of [Act No. 27 of 1997](#).]

[Wording of Sections](#)

(3)

[[Sub-s. \(3\)](#) amended by [s. 5](#) of [Act No. 99 of 1981](#) and deleted by [s. 9 \(b\)](#) of [Act No. 27 of 1997](#).]

[Wording of Sections](#)

(4)

[[Sub-s. \(4\)](#) deleted by [s. 9 \(b\)](#) of [Act No. 27 of 1997](#).]

Wording of Sections

(5)

[[Sub-s. \(5\)](#) amended by [s. 5](#) of [Act No. 99 of 1981](#) and deleted by [s. 9 \(b\)](#) of [Act No. 27 of 1997](#).]

Wording of Sections

27.

[[S. 27](#) amended by [s. 10](#) of [Act No. 27 of 1997](#) and repealed by s. 271 read with [para. 20](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

Wording of Sections

28. Offences.-(1)

[[Sub-s. \(1\)](#) amended by [s. 7 \(a\)](#) of [Act No. 81 of 1965](#), by [s. 11 \(a\)](#) of [Act No. 30 of 2000](#) and deleted by s. 271 read with [para. 21 \(b\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

Wording of Sections

(2) Any person who-

(a)

[[Para. \(a\)](#) deleted by [s. 9](#) of [Act No. 81 of 1985](#).]

Wording of Sections

(b)

[[Para. \(b\)](#) deleted by s. 271 read with [para. 21 \(c\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

Wording of Sections

(b)*bis*

[[Para. \(b\)*bis*](#) inserted by [s. 17](#) of [Act No. 77 of 1962](#), substituted by [s. 8](#) of [Act No. 46 of 1996](#) and deleted by s. 271 read with [para. 21 \(c\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

Wording of Sections

(c) fails to comply with any reasonable requirement of the Commissioner or Master made for the purpose of carrying out any provision of this Act; or

(d) obstructs or hinders the Commissioner or Master in carrying out any provision of this Act,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

[[S. 28](#) amended by s. 271 read with [para. 21 \(a\)](#) of Sch. [1](#) of [Act No. 28 of 2011](#). [Sub-s. \(2\)](#) amended by [s. 7 \(b\)](#) of [Act No. 81 of 1965](#), by [s. 12](#) of [Act No. 97 of 1993](#) and by [s. 11 \(b\)](#) of [Act No. 30 of 2000](#).]

Wording of Sections

28A.

[[S. 28A](#) inserted by [s. 17 \(1\)](#) of [Act No. 30 of 1998](#) and repealed by s. 271 read with [para. 22](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

Wording of Sections

29. Regulations.-The Minister of Finance may make regulations for the better carrying out of the objects and purposes of this Act, including regulations as to the valuation of annuities or of fiduciary, usufructuary or other limited interests in property and the hearing of an appeal under [section 24](#).

[[S. 29](#) substituted by [s. 4](#) of [Act No. 89 of 1972](#) and by [s. 3](#) of [Act No. 92 of 1983](#) and amended by [s. 46](#) of [Act No. 97 of 1986](#).]

Wording of Sections

30.

[[S. 30](#) repealed by s. 271 read with [para. 22](#) of Sch. [1](#) of [Act No. 28 of 2011](#).]

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

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

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

NOTE

Government Notice No. 125 of 27 January, 1956 reads as follows: It is hereby notified for general information that the Commissioner for Inland Revenue has, under and by virtue of the powers vested in him by [subsection \(2\)](#) of [section six](#) of the Estate Duty Act, 1955 ([Act No. 45 of 1955](#)), delegated to the several Masters and Assistant Masters of the Supreme Court and to all officers in the offices of the several Masters and Assistant Masters of the Supreme Court holding administrative rank, the powers, duties and functions set out in the Schedule hereto:-

<i>Powers, Duties and Functions Delegated</i>	<i>Section of Estate Duty Act, 1955, under which Powers, Duties and Functions are Exercised</i>
To admit claims as to the amount of any premiums or consideration paid by persons entitled to the amounts due under any policies of insurance	Paragraph (a) of subsection (3) of section three
To decide whether the consideration paid for any property is a full consideration for that property	Paragraph (a) of subsection (4) of section three
To determine whether the amount claimed in respect of funeral and death-bed expenses is fair and reasonable	Paragraph (a) of section four
To admit claims in respect of any debts which have been discharged from property included in the estate	Paragraph (b) of section four
To admit as claims so much of any debts due by the deceased to persons ordinarily resident outside the Union as exceed the value of any assets of the deceased outside the Union	Paragraph (f) of section four
To decide whether a purchase and sale is a <i>bona fide</i> purchase and sale in the course of the liquidation of the estate	Paragraph (a) of subsection (1) of section five
To admit any claim that consideration was paid for the right of ownership in property	Paragraph (b) of subsection (1) of section five
To appoint an impartial person to determine the fair market value of property	Paragraphs (f) and (g) of subsection (1) and subsection (2) of section five
To determine the annual yield of an interest in property	Subparagraph (iii) of paragraph (f) of subsection (1) of section five and subsection (2) of section five
To decide whether any conditions affecting the value of any property were imposed by or at the instance of the deceased	Paragraph (g) of subsection (1) of section five
To appoint any person to submit a return in prescribed form	Subsection (1) of section seven
To receive the returns submitted by executors or other persons	Subsection (1) of section seven
To call upon any person to submit a return within a prescribed period, to prescribe such period, and to estimate the dutiable value of an estate in the absence of a return	Subsection (2) of section seven

To adjust the value of any property shown in a return, and to determine the dutiable amount of an estate	Subsection (1) of section eight
To call upon any person to furnish information	Subsection (2) of section eight
To assess the duty payable under the Act and to issue notices of assessment	Subsection (1) of section nine
To allow an extension of time within which duty may be paid without interest in cases where an assessment has not yet been issued	Subsection (2) of section ten
To decide whether a deposit on account of duty is reasonable	Paragraph (a) of subsection (2) of section ten
To admit claims as to the amounts of transfer duty and donations tax which may be allowed as deductions from the duty payable	Section sixteen
To ensure that due provision has been made for the payment of duty	Section eighteen
To ascertain the amount of duty payable in respect of any property which an executor has paid over or with which he has parted without first paying duty thereon	Section nineteen
To consent to the transfer of stocks or shares	Subsection (1) of section twenty-one
To consent to the transfer of immovable property	Subsection (1) of section twenty-two
To determine what reduction shall be made, in terms of the second proviso to the First Schedule , in the amount of duty payable	Second proviso to First Schedule

NOTE

Government Notice No. 964 of 22 June, 1962, reads as follows: It is hereby notified for general information that the Commissioner for Inland Revenue has, under and by virtue of the powers vested in him by [subsection \(2\)](#) of [section six](#) of the Estate Duty Act, 1955 ([Act No. 45 of 1955](#)), delegated to the several Commissioners and to all other officers in the offices of the several Commissioners holding administrative rank, the powers, duties and functions set out in the Schedule hereto, to be exercised by the said Commissioners and/or officers of administrative rank in the offices of Commissioners, in relation to the intestate estates of Blacks who died on or after the 1st April, 1955:-

<i>Powers, Duties and Functions Delegated</i>	<i>Section of Estate Duty Act, 1955, under which Powers, Duties and Functions are Delegated</i>
To consent to the transfer of immovable property	Subsection (1) of section twenty-two

First Schedule

RATE OF ESTATE DUTY

[[First Schedule](#) amended by [s. 6](#) of [Act No. 59 of 1957](#), by [s. 12](#) of [Act No. 71 of 1961](#) and by [s. 14 \(1\)](#) of [Act No. 77 of 1964](#), substituted by [s. 8](#) of [Act No. 81 of 1965](#), amended by [s. 1 \(1\)](#) of [Act No. 75 of 1968](#), substituted by [s. 9 \(1\)](#) of [Act No. 92 of 1971](#) and amended by [s. 13 \(1\)](#) of [Act No. 106 of 1980](#), by [s. 3 \(1\)](#) of [Act No. 71 of 1986](#), by [s. 16 \(1\)](#) of [Act No. 87 of 1988](#), by [s. 11 \(1\)](#) of [Act No. 37 of 1996](#) and by [s. 4 \(1\)](#) of [Act No. 5 of 2001](#).]

Wording of Sections

The rate of estate duty shall be 20 per cent of the dutiable amount of the estate: Provided that where duty becomes payable upon the value of any movable or immovable property or on a value determined by reference to the value of any movable or immovable property, and duty has, upon the death of any person (hereinafter referred to as the first-dying person), who died within ten years prior to the death of the deceased, become payable upon the value of that movable or immovable property or upon a value determined by reference to the value of that movable or immovable property (or any movable or immovable property for which the Commissioner is satisfied that that movable or immovable property has been substituted), the duty attributable to the value of that movable or immovable property or, as the case may be, the value determined by reference to the value of that movable or immovable property, but not exceeding (in either case) an amount equal to the value on which duty has become payable on the death of the first-dying person, shall be reduced by a percentage according to the following scale-

if the deceased dies within two years of the death of the first-dying person	100 per cent
if the deceased dies more than two years, but not more than four years after the death of the first-dying person	80 per cent
if the deceased dies more than four years, but not more than six years after the death of the first-dying person	60 per cent
if the deceased dies more than six years, but not more than eight years after the death of the first-dying person	40 per cent
if the deceased dies more than eight years, but not more than ten years after the death of the first-dying person	20 per cent

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

Second Schedule

LAWS REPEALED

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

