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8

## CHAPTER 43

## CAPITAL TRANSFER TAX ACT

## ARRANGEMENT OF SECTIONS

## SECTION

*Capital Transfer Tax in respect of transfers inter vivos*

1. Imposition of capital transfer tax on transfers *inter vivos*.
2. Special exemption in respect of transfers *inter vivos*: cumulative transfers.
3. Title to transferred property: registration.

*Capital Transfer Tax in respect of transfers on Death*

4. Imposition of capital transfer tax.
5. What property is deemed to pass.
6. Supplemental provisions in the Schedule.

*Administration and General*

7. Aggregation of property to form one estate for purpose of capital transfer tax.
8. Administration of this Act.
9. Capital transfer tax form.
10. Determination of value of property, etc.
11. Persons accountable for capital transfer tax in certain cases, etc.
12. Collection and recovery of the tax.
13. Allowable deductions in respect of transfers on death.
14. Apportionment of tax.
15. Charge of capital transfer tax and facilities for raising it.
16. Powers to accept composition for capital transfer taxes.
17. Exemptions from capital transfer tax.
18. Scale of rates of capital transfer tax.
19. Reduction of tax in case of quick succession.
20. Release of persons paying capital transfer tax and provisional assessments.
21. Appeals.
22. Power to transfer property in satisfaction of capital transfer tax.
23. Commutation of duty in interest on expectancy.
24. Power to distrain for non-payment of capital transfer tax.
25. Exemption from fees under other enactments, etc.
26. Power to appoint agent, etc.
27. Regulations.
28. Interpretation.
29. Short title.

*Capital Transfer Tax Act*

ARRANGEMENT OF SECTIONS—continued  
SCHEDULE  
PROVISIONS SUPPLEMENTAL TO CERTAIN OF THE  
PROVISIONS OF THIS ACT

CHAPTER 43

CAPITAL TRANSFER TAX ACT

2. An Act to provide for the imposition of capital transfer tax where property is transferred to any person during his lifetime or following upon the death of another person.

[1st April, 1979]

*Capital Transfer Tax in respect of transfers inter vivos*

1. (1) Subject to subsection (2) of this section, as from 1st April 1979 capital transfer tax at the graduated rate specified in section 18 of this Act shall be payable on the value of any property transferred by any person during his life-time.

(2) Subsection (1) of this section shall not apply in the case of a transfer of property where it is shown to the satisfaction of the relevant tax authority that the transfer was a genuine outright sale of property and was not intended and was not made in a transaction intended to confer gratuitous benefit on the transferee and either—

- (a) the transfer was made in a transaction at arm's length between persons not connected with each other; or  
(b) the transfer was such as might be made in a transaction at arm's length between persons not connected with each other.

(3) Any person to whom property in respect of which capital transfer tax is payable under this section is transferred shall be the person accountable for the tax for the purposes of

[CAP. 43

*Capital Transfer Tax Act*

2. (1) Subject to subsection (2) of this section, no capital transfer tax shall be payable on the transfer of property where on the date of the transfer the value of the property does not exceed ₦100,000.

(2) Notwithstanding subsection (1) of this section, where at any time during the life-time of the transferor any further property, the transfer of which is liable to capital transfer tax, or would but for subsection (1) of this section have been so liable, is subsequently transferred to the transferee of property exempted under subsection (1) of this section and the value of the second or subsequent transfer if taken together with the value of any property previously transferred would exceed ₦100,000 then on the date of the second or subsequent transfer the value of all property transferred to the same transferee shall be aggregated and capital transfer tax shall be payable at the rate prescribed in section 18 on the aggregated value of all the property transferred.

(3) Nothing in subsection (2) of this section shall be construed as extending the application of that subsection to any property transferred before 1st April 1979.

3. (1) Title to transferred property liable to capital transfer tax under section 1 of this Act shall not pass to the transferee until the capital transfer tax has been paid.

(2) Where an instrument or document effecting the transfer of property liable to capital transfer tax (or evidencing the same) is registrable under any law the instrument or document shall not be registered unless there has been issued by the relevant tax authority a discharge certificate as provided in section 20 of this Act, and if any such instrument or document is registered without the discharge certificate having been issued the registration shall be void and of no effect whatsoever.

*Capital Transfer Tax in respect of transfers on Death*

4. In respect of every person dying on or after 1st April 1979 there is hereby imposed on the value of all property passing on the death of such person capital transfer tax at the graduated rates specified in section 18 of this Act.

Capital Transfer Tax Act

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5. (1) Property passing on the death of the deceased includes the following—

- (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;
- (c) any property taken as a *donatio mortis causa* made by any person dying on or after 1st April 1979, or taken under a disposition made by any person so dying, purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust or otherwise but exclusive of any such property in respect of which capital transfer tax had been paid during the life-time of the deceased;
- (d) any property which a person dying on or after 1st April 1979 having been entitled thereto, has caused or may cause to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person;
- (e) any property passing under any past or future settlement made by any person dying on or after such day by deed or any other instrument not taking effect as a will, whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in such property;
- (f) 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.

Capital Transfer Tax Act

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(2) For the purposes of this Act—

- (a) a person shall be deemed competent to dispose of property if he has such a right (including any right of occupancy granted or deemed to be vested pursuant to the Land Use Act) or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property, whether or not with the consent of any authority specified under the Land Use Act; and the expression "general powers" 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, or as mortgagee;
- (b) a disposition taking effect out of the interest of the deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required;
- (c) money which a person has a general power to charge shall be deemed to be property of which he has power to dispose.

6. The supplemental and other provisions set out in the Schedule to this Act shall have effect in respect of the various matters to which they relate.

Administration and General

7. For determining the rate of capital transfer tax to be paid on any property passing on the death of the deceased, all property so passing in respect of which the tax is leviable situated within the territory of the State concerned shall be aggregated so as to form one estate, and the tax shall be levied at the proper graduated rate on the value thereof.

8. (1) In respect of the property situated in a State the due administration of this Act shall be under the care and management of the statutory body (however described) charged with responsibility for the assessment and collection of tax on the income of persons resident in the State, and such

## Capital Transfer Tax Act

body (in this Act referred to as "the Relevant Tax Authority") is hereby charged with responsibility for the assessment and collection of the tax imposed under this Act.

(2) Subsection (1) of this section shall have effect notwithstanding that the deceased or transferor of the property as the case may be, was not liable to pay income tax to the statutory body in that state.

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9. Every person who under any provision of this Act is accountable for capital transfer tax in respect of any property shall not later than twelve months after the death of the deceased or six months after the transfer of the property prepare and deliver to the Relevant Tax Authority in the prescribed form (hereinafter referred to as "the Capital Transfer Tax Form") which shall—

- (a) in the case of the estate of a deceased person contain a true and perfect inventory and account of the estate of the deceased and a statement of the value of the estate; and
- (b) in the case of a transfer *inter vivos* contain a description of the property and a statement of its value.

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10. (1) The value of any property for the purposes of this Act shall be estimated to be the price which, in the opinion of the Relevant Tax Authority, such property would fetch if sold in the open market at the time of the death of deceased or of the transfer of the property.

(2) Subject to this Act, the value of any property for the purposes of subsection (1) of this section shall be ascertained by the Relevant Tax Authority in such manner as it thinks fit and if it authorises a person to inspect any property and report to it the value thereof for the purposes of this Act, the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the Relevant Tax Authority may consider necessary.

(3) The Relevant Tax Authority may from time to time appoint a sufficient number of qualified persons to act as valuers for the purposes of this Act and shall, in respect of persons so appointed who are not public officers, fix a scale of charges for the remuneration of such persons; and the court

## Capital Transfer Tax Act

may, in the case of an appeal under section 21, refer any question of disputed value under this section to the arbitration of any of the persons so appointed and the costs of any such arbitration shall be part of the costs of the appeal.

(4) Where the Relevant Tax Authority requires a valuation to be made by any person appointed under this section the reasonable costs of such valuation shall be defrayed by the Relevant Tax Authority.

11. (1) The executor of the deceased shall, to the best of his knowledge and belief, specify in the Capital Transfer Tax Form all the property in respect of which capital transfer tax is payable upon the death of the deceased and shall be accountable for the tax in respect of all personal property wheresoever situate in the State concerned of which the deceased was competent to dispose at his death, but shall not be liable for any tax in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

(2) Where by operation of law, including customary or other personal law, property passes on the death of the deceased, and there is no executor or the executor is not accountable for the capital transfer tax in respect of such property, every person to whom any property so passes by operation of law as aforesaid, for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, shall be accountable for the capital transfer tax on the property, and shall, within the time required by section 9 of this Act prepare and deliver a Capital Transfer Tax Form as provided in that section:

Provided that nothing in this section shall render a person accountable for tax who acts merely as agent or bailiff for another person in the management of property.

(3) Every person accountable for capital transfer tax, and every person whom the Relevant Tax Authority believes to

*Capital Transfer Tax Act*

have taken possession of any property, or administered any part of the estate, in respect of which capital transfer tax is payable or is in receipt of the income of any part of such property or estate, shall, if required to do so by the Relevant Tax Authority supply to the Authority, in such form as the Authority may direct, evidence as it requires relating to the property or estate.

(4) A person who wilfully fails to comply with any of the foregoing provisions of this section shall be guilty of an offence and liable on conviction to a fine of a sum equal to double the amount of the capital transfer tax, if any, remaining unpaid for which he is accountable.

(5) If any person makes any statement in a Capital Transfer Tax Form which is false in any material particular he shall be guilty of an offence and liable on conviction to a fine of ₦100,000 or to imprisonment for two years.

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12. (1) Capital transfer tax shall be collected and recovered as hereinafter mentioned.

(2) The person accountable for capital transfer tax in respect of the estate of a deceased person shall pay the tax in respect of all personal property of which the deceased was competent to dispose at this death, on delivering to the Relevant Tax Authority the Capital Transfer Tax Form and may pay in like manner the tax in respect of any other property passing on such death, which by virtue of any testamentary disposition of the deceased or by operation of law, including customary or other personal law, is under his control, or, in the case of property not under his control, if any other person accountable for the tax in respect thereof requests him to make such payment.

(3) The transferee of property transferred *inter vivos* shall pay the capital transfer tax on delivery of the Capital Transfer Tax Form to the Relevant Tax Authority.

(4) Where the person accountable for capital transfer tax does not know the amount or value of any property to which this Act relates, he may state in the Capital Transfer Tax Form that such property exists, but he does not know the amount of or value thereof, and that he undertakes, as soon

*Capital Transfer Tax Act*

as the amount and value are ascertained, to bring in an account thereof, and to pay both the tax for which he is or may be liable, and any further tax payable by reason thereof for which he is or may be liable in respect of the other property mentioned in the Capital Transfer Tax Form.

(5) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(6) The tax which is to be collected upon a Capital Transfer Tax Form shall be due on the delivery thereof, or on the expiration of twelve months after the death or six months after the transfer, whichever ever first happens.

(7) Capital transfer tax shall in the first instance be calculated by the Relevant Tax Authority at the appropriate rate according to the value of the property or estate as set forth in the Capital Transfer Tax Form delivered, but if afterwards it appears for any reason that too little tax has been paid, the additional tax shall unless a certificate of discharge has been delivered under this Act, be payable, and be treated as tax in arrears.

(8) The Relevant Tax Authority may, on application from a person accountable for the tax on any property where it considers that it can conveniently be done, certify the amount of valuation accepted by them in respect of the property or part thereof.

(9) Where the Relevant Tax Authority is satisfied that the capital transfer tax leviable in respect of any property cannot without excessive sacrifice be raised at once, it may allow payment to be postponed for such interest not exceeding three *per cent* and on such terms, as the Relevant Tax Authority, thinks fit.

(10) When it is proved to the satisfaction of the Relevant Tax Authority that too much tax has been paid, the excess shall be repaid by them and, in cases where the overpayment was due to over-valuation by the Relevant Tax Authority, with interest at three *per cent per annum*.

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13. (1) In determining the value of the estate of a deceased person for the purpose of capital transfer tax, allowance shall be made for reasonable funeral expenses and for debts and encumbrances; but an allowance shall not be made—

- (a) for debts incurred by the deceased, or incumbrances created by the deceased, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest; nor
- (b) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such re-imbursement cannot be obtained; nor
- (c) more than once for the same debt or incumbrance charged upon different portions of the estate,

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other property liable thereto.

(2) For the purposes of subsection (1) of this section, reasonable funeral expenses means such expenses as may be admitted as reasonable by the Relevant Tax Authority and includes reasonable expenditure in embalming and transporting the deceased to the burying place, so however that the expenses so admitted shall not—

- (a) in respect of a tombstone, exceed ₦1,000; and
- (b) in respect of all other expenses, exceed ₦3,000.

(3) Where an estate includes an interest in expectancy, capital transfer tax in respect of that interest shall be paid, at the option of the person accountable for the tax, either with the tax in respect of the rest of the estate or when the interest falls into possession, and if the tax is not paid with the tax in respect of the rest of the estate, then—

- (a) for the purpose of determining the rate of tax in respect of the rest of the estate the value of the interest shall be its value at the date of the death of the deceased; and
- (b) the rate of tax in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

(4) The value of the benefit accruing or arising from the cessation of an interest ceasing on the death of the deceased shall—

- (a) if the interest extended to the whole income of the property, be the value of that property; and
- (b) if the interest extended to less than the whole income of the property, be the value of an addition to the property equal to the income to which the interest extended.

14. (1) In the case of property which does not pass to the executor or to any other person accountable as such, an amount equal to the proper rateable part of the capital transfer tax may be recovered by the person, who being authorised or required to pay the tax in respect of any property has paid the tax, from the person entitled to any sum charged on such property (whether as capital or as an annuity or otherwise), under a disposition not containing any express provision to the contrary.

(2) Any dispute as to the proportion of the tax to be borne by any property or person, may be determined upon application by any person interested in the manner directed by rules of court, by the High Court.

(3) Any person from whom a rateable part of the tax can be recovered under this section shall be bound by the accounts and valuations as settled between the person entitled to recover the same and the Relevant Tax Authority.

15. (1) A rateable part of capital transfer tax on an estate, in proportion to the value of any property which does not pass to the executor or to any other person accountable as such, shall be a first charge on the property in respect of which tax is leviable:

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

(2) On an application, submitting in the prescribed form the description of the lands or other subjects of property (whether hereditaments, stocks, funds, shares or securities) and of the debts and incumbrances allowed by the Relevant Tax Authority in assessing the value of the property for the

purposes of capital transfer tax, the Authority shall grant a certificate of the tax paid in respect of the property, and specify the debts and incumbrances so allowed, as well as the lands or other subjects of property.

(3) Subject to any repayment of capital transfer tax arising from want of title to the land or other subjects of property, or from the existence of any debt or incumbrance thereon for which under this Act an allowance ought to have been but has not been made, or from any other cause, the certificate of the Relevant Tax Authority shall be conclusive evidence that the amount of tax named therein is a first charge on the land or other subject of property after the debts and incumbrances allowed as aforesaid:

Provided that any such repayment of tax by the Relevant Tax Authority shall be made to the person producing to it the said certificate.

(4) If the rateable part of the tax in respect of any property is paid by the executor or other person accountable, it shall when occasion requires be repaid to him by the trustees or owners of the property or any other person beneficially entitled to the property.

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

(6) A person having a limited interest in any property, who pays the tax in respect of that property shall be entitled to the like charge, as if the tax in respect of that property had been raised by means of a mortgage to him.

16. Where, by reason of the number of deaths on which property has passed or of the complicated nature of the interests of different persons in other cause, it is difficult to ascertain exactly the amount of the capital transfer taxes or any of them payable in respect of any property or any interest

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therein, or so to ascertain the same without undue expense proportion to the value of the property or interest, the Relevant Tax authority on the application of any person accountable for any tax thereon and upon his giving to it the information in his power respecting the amount of the property and the several interests therein, and other circumstances of the case, may by way of composition for or any of the capital transfer taxes payable in respect of the property, or interest, as having regard to the circumstances appears proper, and may accept payment of the sum assessed in full discharge of all claims for the taxes in respect of such property or interest, and shall give a certificate of discharge accordingly:

Provided that the certificate shall not discharge any person from any tax in case of fraud or failure to disclose material facts.

17. (1) Subject to subsection (2) of this section and notwithstanding anything to the contrary in any other provision of this Act, no capital transfer tax shall be payable in respect of any family house.

(2) For the purposes of this section, "family house" means any house or part thereof used wholly by a particular family as the principal place of residence for that family in respect of which no income accrues to such family or any member thereof.

(3) Notwithstanding anything to the contrary in any other provision of this Act, no capital transfer tax shall be payable in respect of such paintings, manuscripts, works of art or scientific collections as may be donated or bequeathed to any body or institution in Nigeria to which subsection (4) of this section applies and no property, the tax in respect of which is so exempted, shall be aggregated with any other property for the purpose of fixing the rate of tax.

(4) The provisions of subsection (3) of this section shall apply in relation to such museums, universities or other public institutions as may be specified by the National Council of Ministers by order published in the Federal Gazette.



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18. The rates of capital transfer tax shall be according to the following scale—

Net Value of the Estate or Property transferred				Rate of Capital Transfer Tax
N				
First	100,000	..	..	Nil
Next	150,000	..	..	10%
Next	150,000	..	..	20%
Next	250,000	..	..	30%
Next	500,000	..	..	40%
Next	1,000,000	..	..	50%
Thereafter		..	..	60%

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19. Where the Relevant Tax Authority is satisfied that capital transfer tax has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within ten years capital transfer tax 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 capital transfer tax payable on the second death in respect of the property so passing shall be reduced as follows—

- (a) where the second death occurs within twelve months of the first death, by eighty *per cent*;
- (b) where the second death occurs within two years of the first death, by seventy five *per cent*;
- (c) where the second death occurs within three years of the first death, by sixty *per cent*;
- (d) where the second death occurs within four years of the first death, by fifty five *per cent*;
- (e) where the second death occurs within five years of the first death, by fifty *per cent*;
- (f) where the second death occurs within six years of the first death, by forty five *per cent*;
- (g) where the second death occurs within seven years of the first death, by thirty *per cent*;

- (h) where the second death occurs within eight years of the first death, by twenty *per cent*;
- (i) where the second death occurs within nine years of the first death, by fifteen *per cent*;
- (j) where the second death occurs within ten years of the first death, by ten *per cent*;

Provided that where the value, on which the tax is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of determining the amount of tax on which the reduction under this section is to be calculated.

20. (1) The Relevant Tax Authority on being satisfied that the full capital transfer tax has been paid in respect of any property or in respect of an estate or any part thereof shall give a certificate to that effect, which shall discharge from any further claim for capital transfer tax the property shown on the certificate.

(2) A certificate of the Relevant Tax Authority under this section shall not discharge any person or property from capital transfer tax in case of fraud or failure to disclose material facts, and shall not affect the rate of tax payable in respect of any property afterwards shown to have passed on the death, and the tax in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which tax has been already accounted for.

(3) A certificate purporting to be a discharge of the whole capital transfer tax payable in respect of any property included in the certificate shall exonerate a *bona fide* purchaser for valuable consideration without notice from the tax notwithstanding any such fraud or failure.

(4) Where, after filling the Capital Transfer Tax Form by the person *prima facie* responsible for accounting for the tax, the Relevant Tax Authority is satisfied upon the information disclosed therein that capital transfer tax is payable in respect of any estate, the Relevant Tax Authority shall issue a certificate of provisional assessment to him for the purposes

*Capital Transfer Tax Act*

only of section 25 of this Act and for the avoidance of doubt, such certificate shall not—

- (a) prejudicially affect the operation of the other provisions of this Act and in particular section 9(a) thereof (relating to the disclosure in the Form of a true and perfect inventory and account of any estate); or
- (b) relieve any such person from payment of court fees chargeable for oaths or, subject to this Act, or any probate fees where it is subsequently revealed that the estate is not chargeable to capital transfer tax.

appeals.

21. (1) Any person aggrieved by the decision of the Relevant Tax Authority with respect to the amount of capital transfer tax payable in respect of any property, whether on the ground of the value of the property or the rate charged or otherwise, may on payment of fifty *per cent* of the tax assessed by the Relevant Tax Authority or of such portion of it as is therein payable by him, appeal to the High Court of State concerned and the amount of tax shall be determined by the High Court, and if the tax as determined is less than that paid to the Relevant Tax Authority the excess shall be repaid.

(2) Appeals shall lie from decisions of the High Court under this section in the same manner and to the same extent as appeals from the decisions of the Court in civil proceedings given by that Court sitting at first instance.

(3) The High Court, where it appears to the court just, may order the Relevant Tax Authority to pay on any excess of duty repaid by them interest at the rate of three *per cent per annum* for such period as appears to the court just.

(4) The Chief Judge of a State may make rules providing for the manner of making appeals to the High Court from any decision of the Relevant Tax Authority, and the procedure to be followed in respect of such appeals; and until such rules are made the rules applicable in the case of appeals to the High Court from decisions of Appeal Commissioners under any applicable law shall with all necessary modifications apply to appeals under this section.

*Capital Transfer Tax Act*

22. (1) The Relevant Tax Authority may if it thinks fit o the application of any person liable to pay capital transfer tax accept in satisfaction of the whole or any part of such tax an property, including interest in land, as may be agreed between the Relevant Tax Authority and that person.

(2) The Relevant Tax Authority may hold and dispose o any property accepted pursuant to this section and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the appropriate State Commissioner.

23. The Relevant Tax Authority in its discretion, upon application by a person entitled to an interest in expectancy may commute the capital transfer tax which would or might but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such tax, regard being had to be contingencies affecting the liability to and rate and amount of such tax, and interest being reckoned at three *per cent* and on the receipt of such sum they shall give a certificate of discharge accordingly.

24. (1) For the purposes of enforcing payment of capital transfer tax due from any person charged with the payment of such tax and in addition to any other power conferred under this Act where any person fails, neglects or refuses to pay any tax the Relevant Tax Authority may—

- (a) for the non-payment of such tax distrain—
  - (i) upon the land, premises or place in respect of which the tax was charged,
  - (ii) the person charged by his goods or other chattels including money, bills of exchange, bonds or other securities;
- (b) recover the amount of tax by sale of anything so distrained.

(2) Subject to subsection (3)(c) of this section, the power conferred under this section may be exercised by any officer authorised by the Relevant Tax Authority.

(3) The Sheriffs and Civil Process Law in force in the State concerned shall apply for the purposes of this section as it applies for the purpose of levying execution against the movable or immovable property of a judgment debtor, subject to the following—

- (a) for references to "judgment creditor" and "judgment debtor" there shall be substituted references to the Relevant Tax Authority and the person accountable for capital transfer tax or charged with the payment of the tax under this Act respectively;
  - (b) for references to "sheriff", "deputy sheriff" and "bailiff" there shall be substituted respectively references to officer authorised by the Relevant Tax Authority;
  - (c) any power exercisable by the registrar of a court or by a magistrate by virtue of that Law shall be exercisable by an officer of the Relevant Tax Authority not below the rank of a Principal Inspector of Taxes; and
  - (d) all or any of the forms prescribed in the Sheriffs and Civil Process Law may be applied or varied in such manner as the Relevant Tax Authority may deem necessary.
- (4) The foregoing provisions of this section shall not be construed so as to authorise the sale of any immovable property without an order of the High Court.

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25. Notwithstanding anything to the contrary in any law, including rules of court, if any person applying to any court for probate or grant of letters of administration in respect of the will or estate of a deceased person or in respect of any matter connected with the distribution of the estate of a deceased person produces to the appropriate officer of the court a certificate or, as the case may be, a certificate of provisional assessment issued pursuant to section 20 of this Act in relation to the estate of that deceased person no such fees as may be prescribed by any law including rules of court shall be payable in respect of the application of the court, and if any such fees had been paid before the issue of a certificate pursuant to section 20 of this Act they shall be refunded to the person producing the certificate.

26. (1) The Relevant Tax Authority may by notice in writing appoint any person accountable for capital transfer tax under this Act as the agent of any other person accountable for the tax, and the person so appointed as agent may be required to pay any tax which is or will be payable by that person in respect of whom he is appointed an agent from any moneys which may be held by him for that person, and in default of such payment the tax shall be recoverable from the person appointed as agent.

(2) For the purposes of this section, the Relevant Tax Authority may require any person to give information as to any moneys and other assets which may be held by him for any person accountable for capital transfer tax under this Act.

(3) Any person appointed as agent pursuant to this section may retain out of any money coming into his hands on behalf of a person accountable for tax so much thereof as shall be sufficient to pay the tax, and is hereby indemnified against any person whatsoever for all payments made by him in pursuance of this section.

27. The National Council of Ministers may make regulations generally for the proper administration of this Act and may, without prejudice to the generality of the foregoing, by the regulations prescribe—

- (a) the form of the Capital Transfer Tax Form; and
- (b) any other thing requiring to be prescribed under this Act.

28. In this Act, unless the context otherwise requires—  
"Capital Transfer Tax Form" means the Capital Transfer Tax Form referred to in section 9 of this Act;

"executor" means the executor or administrator of a deceased person, and includes, as regards any obligation under this Act, any person who takes possession of or intermeddles with the personal property of a deceased person;

"High Court" means the High Court of the State concerned;

"incumbrances" includes mortgages and terminable charges;

"interest in expectancy" includes an estate in remainder or reversion and every other future interest whether vested

or contingent, but does not include reversions expectant upon the determination of leases;

"person accountable" means any person accountable for the payment of capital transfer tax under the provisions of this Act;

"prescribed" means prescribed by this Act or by regulations made under this Act;

"property" includes money and all interests capable of being held in land, and personal property and the proceeds of sale thereof respectively and any money or investment for the time being representing the proceeds of sale;

"property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation and "on the death" includes "at a period ascertainable only by reference to the death";

"settled property" means property comprised in a settlement;

"tax" or "the tax" means capital transfer tax payable under this Act.

ort title.

29. This Act may be cited as the Capital Transfer Tax Act.

## SCHEDULE

### PROVISIONS SUPPLEMENTAL TO CERTAIN PROVISIONS OF THIS ACT

#### PART I

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1. (1) Any disposition made by the deceased in favour of a relative of his shall be treated for the purpose of section 5 of this Act as a gift unless—
    - (a) the disposition was made on the part of the deceased for full consideration in money or money's worth paid to him for his own use or benefit; or
    - (b) the deceased was concerned in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such capacity only,

## Capital Transfer Tax Act

### SCHEDULE—continued

and references to a gift in any other provision of this Act shall be construed accordingly:

Provided that where the disposition was made on the part of the deceased for partial consideration in money or money's worth paid to him for his own use or benefit, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of capital transfer tax.

(2) Where the deceased made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of this Act as a consideration for the disposition made by the deceased.

(3) If a company to which this paragraph applies was concerned in a transaction in relation to which it is claimed that the provisions of paragraph 1(1)(a) of this Schedule or the proviso to that paragraph have effect, those provisions shall have effect in relation thereto if and only if and to the extent only to which, the Relevant Tax Authority is satisfied that those provisions would have had effect in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred, and if the company had acted in the capacity of a trustee only with power to carry on the business of the company and to employ the assets of the company therein.

(4) Any gift made in favour of a relative of the deceased by a company of which the deceased at the time of the gift had control within the meaning of paragraph 13 of this Schedule shall be treated for the purposes of section 5 of this Act as a gift made by the deceased, and the property taken under the gift shall be treated as included in the property passing on the death of the deceased if, and to the extent to which, the Relevant Tax Authority is satisfied that they would fall to be so treated in the circumstances mentioned in the last foregoing sub-paragraph.

(5) In this paragraph the expression "relative" means, in relation to the deceased,—

- (a) the wife or husband of the deceased;
- (b) the father, mother, children, uncles and aunts, of the deceased; and
- (c) any issue of any person falling within either of the preceding paragraphs and the other party to a marriage with any such person or issue; and references to "children" and "issue" include references to children born out of wedlock and to adopted children.

(6) In this paragraph, the expression "annuity" includes any series of payments, whether inter-connected or not, whether of the same or of