

Bill No. 20 of 1962 (L.A.)

PUBLISHED 25TH AUGUST, 1962.

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LEGISLATURE,
Public Buildings,
Georgetown.
23rd August, 1962.

The following Bills which will be introduced in the Legislative Assembly are published for general information.

I. CRUM EWING,
Clerk of the Legislature.

Bill No. 20 of 1962 (L.A.)

PROPERTY TAX AND THE GIFT TAX BILL, 1962.

Arrangement of Sections.

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Section Short Title, Commencement and Interpretation.

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19. Assessments, collection, appeals, etc.
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SCHEDULES:

- First Schedule — Rates of Property Tax.
Second Schedule — Rates of Gift Tax.

Third Schedule — Provisions of the Income Tax Ordinance, Chapter 299, which have effect with respect to the Property Tax and the Gift Tax.

A BILL

Intituled

An Ordinance to provide for the Levy of a Tax Computed by Reference to Property and Gifts.

A.D. 1962 Enacted by the Legislature of British Guiana:—

PART I

Short Title, Commencement and Interpretation.

Short title. 1. This Ordinance may be cited as the Property Tax and the Gift Tax Ordinance, 1962.

Commencement.

2. This Ordinance shall —

- (a) with respect to the Property Tax be deemed to have come into operation with respect to and from the year of assessment commencing on the 1st January, 1962; and
- (b) with respect to the Gift Tax come into operation with respect to and from the year of assessment commencing on the 1st January, 1963.

Interpretation

3. In this Ordinance, unless the context otherwise requires —
 “acquired” with reference to property, means acquired by purchase, gift, inheritance, or exchange, or in any other manner whatsoever;

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“body of persons” has the same meaning as it has for the Income Tax Ordinance;

“Commissioner” means the Commissioner or Commissioners charged with the administration of the Income Tax Ordinance;

“company” has the same meaning as it has for the Income Tax Ordinance;

“donee” means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

“donor” means any person who makes a gift;

“executor” means any executor, administrator or other person administering the estate of a deceased person;

“gift” means a transfer by one person to another of any existing property made voluntarily and without consideration in money or money’s worth, and includes the transfer of any property deemed to be a gift under this Ordinance but does not include any reasonable amount expended by a person on the maintenance or education of any other person;

“local authority” has the same meaning as it has for the Income Tax Ordinance and includes any other institution that may be established under any law for the purpose of local government;

“market value” with reference to any property at any date means the price which in the opinion of the Commissioner that property would have fetched on that date in open market;

“Minister” means the Minister for the time being charged with the responsibility for Finance;

“net property” means the amount by which the aggregate value, computed in accordance with the provisions of this Ordinance, of the property of any person on the valuation date is in excess of the aggregate value of all the debts owed by him on that date other than—

- (a) any debt incurred without consideration, or without full consideration, in money or money’s worth,
- (b) any debt incurred which is not wholly for his benefit,

- (c) any debt in respect of which there is any right to reimbursement from any other person unless such reimbursement cannot be obtained,
- (d) any debt charged or secured on, or incurred in relation to, any property of his which is to be excluded for the purposes of the Property Tax under the provisions of this Ordinance, and
- (e) any debt incurred by him outside British Guiana other than any such debt which is contracted to be paid in British Guiana or secured on property in British Guiana,

and account being taken not more than once of the same debt charged upon different portions of property;

“prescribed” means prescribed by regulation made under this Ordinance;

“property” includes immovable and movable property, rights of any kind, whether absolute, conditional, or contingent, and effects of any kind, situate or having their seat in British Guiana, and the proceeds of sale thereof, and any money or investment for the time being representing them;

“resident” or “resident in British Guiana” has the same meaning as it has for the Income Tax Ordinance;

“transfer of property” means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes —

- (a) the creation of a trust in property, and
- (b) the grant or creation of any interest in any property;

“valuation date”, in relation to any year of assessment, means the last day of the year preceding that year of assessment;

“year of assessment” means —

- (a) in the case of the Property Tax, the period of twelve months commencing on the first day of January, 1962, and each subsequent period of twelve months, and
- (b) in the case of the Gift Tax, the period of twelve months commencing on the first day of January, 1963, and each subsequent period of twelve months;

“year preceding the year of assessment” means the period of twelve months ending on the 31st December immediately prior to such year of assessment.

PART II

Administration

4. (1) The Property Tax and the Gift Tax shall be under the care and management of the Commissioner and the officers and persons appointed for the administration of this Ordinance or any other Ordinance under the administration or management of the Commissioner.

Care and management

(2) Any function conferred by this Ordinance upon the Commissioner shall be exercised, as may be necessary, by any officer appointed by him, according as the Commissioner may direct, and references in this Ordinance to the Commissioner shall be construed accordingly.

5. The Commissioner and the officers and persons responsible for the administration of this Ordinance shall, in respect of such administration, *mutatis mutandis*, be subject to the provisions of section 4 of the Income Tax Ordinance.

Official secretary.

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PART III

Persons to whom this Ordinance shall not apply

6. This Ordinance shall not apply to —

- (a) the Governor;
- (b) any member of the permanent consular services of foreign countries, who is a citizen or subject of the country represented by him;

Persons to whom this Ordinance shall not apply.

- (c) any expert, adviser, technician or official of any Government other than the Government of British Guiana, whose salary or principal emolument is not payable by the Government of British Guiana, employed directly by the said Government or under contract with any public or private organisation in British Guiana in connection with a technical co-operation or assistance programme or project;
- (d) any expert, adviser, technician or official whose salary or principal emolument is not payable by the Government of British Guiana and who is brought to British Guiana by the Government of British Guiana through any Specialised Agency of the United Nations or any similar organisation approved by the Council of Ministers;
- (e) any official of the United Nations who is resident in British Guiana;
- (f) members of any naval, military or air forces of any country other than British Guiana who are in British Guiana at the request or with the concurrence of the Government of British Guiana;
- (g) persons employed in any civil capacity by the Government of any country other than British Guiana who, not being persons resident in British Guiana for a period exceeding three months immediately prior to the date of commencement of such employment, are so employed in, or visit, British Guiana for any purpose connected with such members of any naval, military or air forces as are referred to in paragraph (f) of this section;
- (h) any trainee from abroad who is sent to British Guiana under any Technical Co-operation Programme of the United Nations and its Specialised Agencies, or of any similar organisation approved by the Council of Ministers;
- (i) any local authority;
- (j) any statutory or registered building or friendly society;
- (k) any ecclesiastical, charitable, or educational institution or endowment of a public character within British Guiana, or elsewhere as may be approved by the Council of Ministers, in respect of property other than property used in the carrying on of any trade or business which is not incidental to the main purpose of such institution or endowment:

Provided that —

- (a) the carrying on of a school, college or university otherwise than for private gain shall not for the purpose of this paragraph be held to be the carrying on of a trade or business;
- (b) a fair or fairs shall not be deemed to be a trade or business for the purposes of this paragraph unless the number of days on which such fair is held, or the aggregate number of days on which such fairs are held, exceeds seven days in the year immediately preceding any year of assessment;
- (l) the British Guiana Post Office Savings Bank;
- (m) the Transport and Harbours Department;
- (n) the administrators of the Widows and Orphans' Pension Fund for public officers of British Guiana;
- (o) the Central Housing and Planning Authority constituted under the Housing Ordinance;
- (p) the Catholic Hospital (Incorporated);
- (q) the medical clinic or hospital carried on by the British Guiana Mission of Seventh Day Adventists, the income of which is exempt from income tax under the provisions of section 10 of the Income Tax Ordinance;

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- (r) the British Guiana Credit Corporation;
- (s) the British Guiana Rice Marketing Board;
- (t) any other person or authority exempted from the provisions of this Ordinance by resolution of the Legislature.

PART IV.

Imposition of Property Tax

7. Subject to the provisions of this Ordinance, and more particularly to the other provisions of this Part of this Ordinance, there shall be charged, levied and collected for each year of assessment a tax (to be called the Property Tax) at the appropriate rate or rates specified in the first schedule to this Ordinance, in respect of the net property, on the corresponding valuation date, of every person.

Charge of
Property Tax.

First sched-
ule.

8. Where the Commissioner has permitted any person under the provisions of section 9 of the Income Tax Ordinance to compute the gains or profits from his trade or business for the purposes of the Income Tax Ordinance upon the income of a year terminating on some day other than that immediately preceding any year of assessment, the Commissioner may permit that day to be the valuation date for the purposes of this Part of this Ordinance in respect of property held for the purposes of such trade or business.

Special
valuation
dates.
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9. (1) There shall be included in the net property of any person —

Net property
to include
certain
property.

- (a) any property in which he has only a life interest;
- (b) being the only beneficiary under a trust, the property subject to the trust;
- (c) being one of several beneficiaries under a trust the benefits from which to the beneficiaries can be ascertained from year to year, such part of the property subject to the trust as is proportionate to his share of the benefit from the trust;
- (d) being the trustee of a trust the benefits from which to all or any of the beneficiaries under the trust cannot be ascertained from year to year, the property subject to the trust;
- (e) being the trustee of a trust of a public character (which term includes any ecclesiastical, charitable or educational institution or endowment of a public character within British Guiana, or elsewhere as may be approved by the Council of Ministers) the property subject to the trust other than property excluded from inclusion in the net property under sub-paragraph (iii) of paragraph (a) of section 10 of this Ordinance; and
- (f) being a partner in a firm, the value of his interest in the firm:

Provided that nothing in the preceding provisions of this subsection shall apply to any superannuation fund or scheme approved by the Governor for the purposes of subsection (1) of section 20 of the Income Tax Ordinance.

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(2) Where the estate of a deceased person is administered by an executor, then, for the purposes of subsection (1) of this section, the executor shall be deemed to be the trustee of the estate and every heir to the whole or any part of the estate shall be deemed to be a beneficiary and the estate shall be deemed to be the property subject to the trust.

10. There shall be excluded —

(a) from the net property of a person for any year of assessment —

Certain pro-
perty to be
excluded
from net
property.

- (i) being, in the year preceding that year of assessment, a person not resident in British Guiana, or a person ceasing to be resident in British Guiana, or a person not domiciled in British Guiana, his property which is outside British Guiana;

- (ii) being a person not resident in British Guiana in the year preceding that year of assessment, his holdings of securities issued by the Government of British Guiana;
- (iii) being an ecclesiastical, charitable or educational institution or endowment of a public character within British Guiana, or elsewhere as may be approved by the Council of Ministers, such income thereof as income which is not derived from any trade or business carried on by such institution or endowment or any such property thereof as is property which is not used in any trade or business carried on by such institution or endowment:

Provided that —

[A] a trade or business which is incidental to the main purpose of the institution or endowment; or

[B] a school, college, university or other educational establishment carried on otherwise than for private gains, or

[C] a fair or fairs held on a number of days which in aggregate do not exceed seven days in the year immediately preceding any year of assessment,

shall not be held for the purpose of this paragraph of this section, to be a trade or business; and

- (b) from the net property of an individual for any year of assessment —

- (i) his right or interest in any life insurance policy before the moneys covered by that policy became due and payable to him;
- (ii) his right to receive a pension or other life annuity;
- (iii) any tools and instruments (but not plant and machinery) necessary for him to carry on his profession or vocation subject to a maximum of five thousand dollars;
- (iv) any works of art, including drawings, paintings, photographs and prints, archaeological, scientific or art collections, books or manuscripts belonging to him and not intended for sale subject to a maximum of five thousand dollars;
- (v) any household furniture and equipment belonging to him and not intended for sale, subject to a maximum of five thousand dollars;
- (vi) any jewellery belonging to him and not intended for sale, subject to a maximum of two thousand dollars;
- (vii) the amount to his credit as an employee in any provident fund; and
- (viii) any property donated to him subject to a life interest in the donor, so long as the life interest subsists.

Wife's
property.

11. The value of the net property of a married woman living with her husband for any year of assessment shall be deemed to form part of the value of the net property of the husband for that year of assessment and shall be charged in the name of the husband and not in her name or in that of her trustee:

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of net property of the wife bears to the amount of the total net property of the husband and wife, may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

Value of
property in
computing
net property.

12. (1) In the computation of net property the value of any property other than cash shall be computed in accordance with the following provisions —

- (a) Where any property was acquired before 1st January, 1956, its value shall be the aggregate of its mar-

ket value, as at 1st January, 1956; and the cost of improvements and additions made to it after 1st January, 1956; but in the case of property being stocks and shares quoted on a recognised Stock Exchange shall be the middle market price on 1st January, 1956.

(b) Where any property was acquired on or after 1st January, 1956, its value shall —

(i) if it was acquired by purchase, be an amount equal to the aggregate of the cost of purchase and the cost of improvements and additions made to it after its purchase; and

(ii) if it was acquired otherwise than by purchase, be an amount equal to the aggregate of its market value, on the date of acquisition and the cost of improvements and additions made to it after its acquisition.

(c) Where the property consists of debts due to the person, the nominal amount of these debts.

(2) Where the price of any property has been satisfied otherwise than in cash, the then value of the consideration actually given for the property shall be treated as the price at which the property was acquired.

(3) The price or value of any property shall for the purposes of this Part of the Ordinance be subject to the following deductions —

(a) in the case of property other than a debt any deductions for wear and tear and annual allowances (but not initial allowances) since the acquisition of the property or 1st January, 1956, whichever is the later, as are authorised by the Income Tax Ordinance; and

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(b) in the case of debts, any deduction from the nominal amount which has been allowed in respect thereof for income tax purposes.

13. When the value of the stocks or shares of a company which has paid or is liable to pay the tax has been included in the net property of a shareholder, an amount equal to the product of the value so included and the rate of the tax payable by companies shall be set-off against the tax payable by the shareholder:

Set-off against tax on property of shareholder.

Provided that the amount to be set off shall in no case be in excess of the amount of the tax payable by the shareholder before the set-off.

PART V.

Imposition of Gift Tax

14. (1) Subject to the provisions of this Ordinance and more particularly to the other provisions of this Part of this Ordinance, there shall be charged, levied and collected for each year of assessment a tax (to be called the Gift Tax) at the appropriate rate or rates specified in the second schedule to this Ordinance and computed in accordance with the provisions of Section 17 of this Ordinance, in respect of the taxable gifts made by every individual in the year preceding the year of assessment.

Charge of Gift Tax.

Second schedule.

(2) Such part of the tax of an individual in respect of his taxable gifts for any year of assessment as is attributable to the value of any one of his taxable gifts shall be deemed to be a sum which bears to the value of that gift the same proportion as the amount of such tax bears to the value of his taxable gifts.

(3) The tax in respect of taxable gifts shall be paid by the donor, but where such tax cannot be recovered from the donor, it may be recovered from the donee notwithstanding that no assessment has been made upon the donee, and the provisions of this Ordinance as to the collection and recovery of the tax shall apply accordingly:

Provided that the amount which may be recovered from the donee shall not exceed that portion of such tax which appears to the Commissioner to be attributable to the value of the gift made to the donee by the donor as at the date of the gift.

Gifts to
include certain
transfers.

15. (1) For the purposes of this Part of this Ordinance —

- (a) subject to the provisions of subsection (2) of this section, where a company controlled by not more than five persons makes a gift on any date, every person who is a shareholder of the company on that date shall be deemed to make a gift in value equal to an amount which bears to the value of the gift made by the company the same proportion as his share of the capital of the company bears to the aggregate of the shares of the capital of the company, and, if any such shareholder has not consented to the making of the gift by the company and declines to pay such part of the tax in respect of his taxable gifts as is attributable to the value of the gift which he is deemed to make under this paragraph, the provisions of subsection (3) of section 14 of this Ordinance shall apply in regard to the recovery of the amount which he declines to pay as though such tax were tax which cannot be recovered from him;
- (b) where any property is transferred and the Commissioner, having regard to the circumstances of the case, is of the opinion that the transfer is for a consideration which is not adequate, and the parties to the transfer, upon being requested in writing by the Commissioner to show cause against such opinion within the time specified in the request, such time being not less than twenty-eight days, do not show cause within that time or show such cause as is considered by the Commissioner to be inadequate, the amount by which the market value of that property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor;
- (c) where any property is transferred and the Commissioner, having regard to the circumstances of the case, is of opinion that the consideration for the transfer has not passed or is not intended to pass either in full or in part from the transferee to the transferor, and the parties to the transfer, upon being requested in writing by the Commissioner to show cause against such opinion within the time specified in the request, such time being not less than twenty-eight days, do not show cause within that time or show such cause as is considered by the Commissioner to be inadequate, the amount of the consideration which, in the opinion of the Commissioner, has not passed or is not intended to pass shall be deemed to be a gift made by the transferor;
- (d) where a person absolutely entitled to any property causes or has caused that property to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation from or out of that property, the amount of the appropriation used for the benefit of the person making the appropriation or for the benefit of any other person shall be deemed to be a gift made in his favour by the person who causes or has caused that property to be so vested;
- (e) where there is a release, discharge, surrender or abandonment of any debt (other than a debt which is treated as a bad debt and allowed as a deduction under the Income Tax Ordinance) or contract or of any interest in any property by any person, the value of the release, discharge, surrender or abandonment shall be deemed to be a gift made by him; and
- (f) the gift of any property on or after 1st January, 1962, subject to a reservation in favour of the donor or any other person shall be deemed to take effect when it is made and not when the interest created by the reservation is extinguished.

(2) For the purposes of paragraph (a) of the last foregoing sub-section —

- (a) a company shall be deemed to be controlled by not more than five persons—
- (i) if any five or fewer persons together exercise, or are able to exercise, or are entitled to acquire control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if any five or fewer persons together possess, or are entitled to acquire, the greater part of the share capital or voting power of the company; or
 - (ii) if any five or fewer persons together possess, or are entitled to acquire, either the greater part of the issued share capital of the company, or such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle them to receive the greater part of the amount so distributed; and
- (b) in determining the number of persons controlling a company, persons who are relatives of one another, persons who are nominees of any other person together with that other person, persons in partnership and persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person shall respectively be treated as a single person.

For the purposes of this paragraph —

- (i) "relative" means husband, wife, ancestor, lineal descendant, brother or sister; and
- (ii) a person shall be deemed to be a nominee of another person if, whether directly or indirectly, he possesses on behalf of that other person, or may be required to exercise on the direction of or on behalf of that other person, any right or power which, by virtue of any of the provisions of this subsection, is material in determining whether a company is or is not to be deemed to be under the control of not more than five persons.

16. (1) This Ordinance shall not apply to gifts made by any individual — Exemption in respect of certain gifts.

- (a) of immovable property situated outside British Guiana;
- (b) of movable property situated outside of British Guiana unless he is domiciled in British Guiana and is resident in British Guiana during the year in which the gifts are made, such year being the year preceding the year of assessment;
- (c) to any ecclesiastical, charitable or educational institution or endowment of a public character within British Guiana, or elsewhere as may be approved by the Council of Ministers and allowed as a deduction for income tax purposes under the Income Tax Ordinance; Cap. 299.
- (d) to the Government of British Guiana or to any local authority;
- (e) at any time before 1st January, 1962;
- (f) in the year preceding the year of assessment subject to a maximum of two thousand dollars in value in aggregate;
- (g) by a will; or
- (h) in contemplation of death.

(2) For the purposes of subsection (1) of this section, property shall be deemed to be gifted by any individual in contemplation of his death if he, being ill and expecting to die of his illness, gives to any person possession of that property which is to be a gift to that person in case the donor dies of his illness, the gift being revocable by the donor and being inoperative in the event of the donor's recovery from his illness or his surviving that person.

Taxable gifts of a person, and computation of tax in respect of taxable gifts.

17. (1) The gifts of an individual other than gifts specified in section 16 of this Ordinance shall be his taxable gifts, and he shall, subject to the provisions of subsection (3) of section 14 of this Ordinance, be liable to pay the tax in respect of such taxable gifts.

(2) For the year of assessment commencing on 1st January, 1963, the tax of an individual in respect of taxable gifts shall be computed by reference to the taxable gifts made by him in the period commencing 1st January, 1962, and ending 31st December, 1962.

(2) For every year of assessment (hereafter in this subsection referred to as the "relevant year of assessment") commencing on or after 1st January, 1964, the value of taxable gifts made by an individual in the year preceding the relevant year of assessment shall be added to the value of the taxable gifts made by him on or after 1st January, 1962, and before such preceding year. Then, assuming that the sum resulting from such addition is the value of the taxable gifts in respect of which tax is payable, the amount of tax shall be computed. From the amount so computed there shall be deducted all the tax previously payable by him in respect of taxable gifts. The amount left after such deduction shall be the amount of the tax payable in respect of his taxable gifts for the relevant year of assessment.

Determination of value of gifts.

18 (1) The value of any property (other than cash) which constitutes a gift shall, subject as hereafter in this section provided, be estimated to be the market value of the gift on the date on which the gift was made.

(2) Any gift which is subject to any reservation in favour of the donor or any other person shall be valued as if that gift had passed to the donee without that reservation.

(3) Subject to the provisions of the succeeding subsections of this section where any gift consists of shares in or debentures of a company, then if the donor had the control of the company at any time during the five years ending with the date on which the gift was made the value of the shares or debentures, in lieu of being estimated in accordance with the provisions of subsection (1) of this section, shall be estimated by reference to the net value of the assets of the company estimated in accordance with the provisions of the next succeeding subsection.

(4) For the purposes of such estimation as aforesaid —

(a) the net value of the assets of the company shall be taken to be the market value of all the assets of the company as a going concern, including goodwill, on the date on which the gift was made, after deducting therefrom—

(i) all liabilities of the company incurred or created bona fide for consideration in money or money's worth (computed, as regards liabilities which have not matured at the date of the gift, by reference to the value thereof at that date, and, as regards contingent liabilities, by reference to such estimation as appears to the Commissioner to be reasonable), other than liabilities in respect of shares in or debentures of the company,

(ii) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependents or relatives, and in no other manner.

(b) the aggregate value of all the shares in and debentures of the company issued and outstanding at the date the gift was made by the donor shall be taken to be the same as the net value of the assets of the company;

- (c) in a case in which there are both shares in and debentures of the company issued and outstanding at the date the gift was made by the donor, or different classes of either, the net value of the assets of the company shall be apportioned between them with due regard to the rights attaching thereto respectively; and
- (d) the value of any share or of any debenture, or of a share or debenture of any class, shall be a rateable proportion, ascertained by reference to the nominal amount, of the net value of the assets of the company as determined under paragraph (a) of this subsection, or, in the case mentioned in paragraph (c) of this subsection of the part thereof apportioned under that paragraph to the shares of the company, or to its debentures, or to that class thereof, as the case may be.

(5) For the purposes of this section a person shall be deemed to have had control of a company at any time if he then had—

- (a) the right to receive, or the power to dispose of (whether as dividend, or as interest on debentures, or both, or otherwise), more than half of the income of the company; or
- (b) the control of powers of voting on all questions, or on any particular question, affecting the company as a whole which if exercised would have yielded a majority of the votes capable of being exercised thereon; or
- (c) the capacity to exercise or to control the exercise of any of the following powers, that is to say, the powers of a board of directors or of a governing director of the company, power to nominate a majority of the directors or a governing director thereof, power to veto the appointment of director thereof, or powers of a like nature; or

if he could have obtained such control or capacity, as mentioned in paragraph (b) and (c) of this subsection, by an exercise at that time of a power exercisable by him or with his consent.

(6) The last three foregoing subsections shall not apply to the valuation of shares or debentures of a class as to which permission to deal has been granted by the committee of a recognised stock exchange and dealings in the ordinary course of business on that stock exchange have been recorded during the year ending with the date on which the gift was made, and, in making an apportionment under paragraph (c) of subsection (4) of this section in the case of a company having shares or debentures of such a class, the part of the value of the assets of the company to be apportioned to shares or debentures of that class shall be determined by reference to the prices recorded on such dealings.

(7) Control of a company which a person had in a fiduciary capacity otherwise than as a director of the company shall be disregarded for the purposes of this section:

Provided that a person having any power or control or doing any act in a fiduciary capacity shall be construed as references to his having that power or control or doing that act in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only.

(8) For the purposes of this section—

“Debenture” means, in relation to a company, any obligation of the company in respect of any loan capital issued by the company otherwise than as consideration for a loan made to it in the ordinary course of a banking business, or in respect of any debt incurred by the company—

- (a) for any money borrowed by the company, otherwise than by way of temporary loan made in the ordinary course of a banking business;
- (b) for any transfer of capital assets made to the company by any person, unless the obligation is one resulting from a dealing with a person who transferred such

assets to the company in, and on terms consistent with, the ordinary course of a business carried on by him.

- (c) without consideration, or for consideration the value of which to the company at the time when the debt was incurred was substantially less than the value at that time of the debt (including any premium thereon); or
- (d) where the debt was of such a nature that it would, in the ordinary course of business and apart from some special arrangement, have carried interest, if the debt did not carry interest or carried interest at a rate which was either unreasonably high or unreasonably low.

PART VI

Returns, Assessments, Appeals, Payment, Recovery and Repayment, and Offences, etc.

Assessments, collection, appeals, etc.

19. (1) Property Tax and the Gift Tax shall be assessed and collected by the Commissioner.

(2) Every person being—

- (a) an individual who is resident in British Guiana in the year preceding the year of assessment who on the last day of the year preceding the year of assessment possessed net property whether situated in British Guiana or otherwise of the value of twenty-five thousand dollars or more; or
- (b) an individual who is not resident in British Guiana in the year preceding the year of assessment who on the last day of the year preceding the year of assessment possessed net property situated in British Guiana of the value of twenty-five thousand dollars or more; or
- (c) a body of persons or a company which was registered in or carried on business in British Guiana in the year preceding the year of assessment,

shall on or before the prescribed day in the year of assessment deliver to the Commissioner a true and correct return of his net property, and shall if absent from the Colony give the name and address of an agent residing therein.

(3) Every individual who has in the year preceding the year of assessment made taxable gifts under the provisions of this Ordinance shall on or before the prescribed day in the year of assessment deliver to the Commissioner a true and correct return of his taxable gifts, and shall if absent from the Colony give the name and address of an agent residing therein.

Cap. 299. Third schedule.

(4) The provisions of the sections of the Income Tax Ordinance specified in the third schedule to this Ordinance (which relate to returns, assessments, objections and appeals therefrom, the signing and service of notices, the payment and recovery of tax, and offences shall, *mutatis mutandis*, have effect with respect to the Property Tax and the Gift Tax as they have effect with respect to the Income Tax.

(5) Any reference in this Ordinance to the Income Tax Ordinance shall be construed as a reference to that Ordinance as amended by any subsequent Ordinance.

Power to make regulations.

20. The Minister may from time to time make regulations generally from carrying out the provisions of this Ordinance.

FIRST SCHEDULE

Section 7

Rates of Property Tax

Rate per centum

- (1) For a person other than a company :
On the first \$50,000 of net property Nil

<i>Section</i>	<i>Subject matter</i>
68	Appellant to give security for payment of tax.
69	Penalty for non-payment of tax and enforcement of payment.
69A	Recovery of tax from persons leaving the Colony.
69B	Certificate registrable as judgment.
69C	Garnishments.
70	Collection of tax after determination of objection or appeal.
71	Suit for tax by Commissioner.
72	Power of Governor to remit tax.
73	Repayment of tax.
74	Power of Commissioner to remit certain penalties.
75	Penalties for offences.
76	Penalty for making incorrect return.
77	False statements and returns.
78	Impeding or obstructing Commissioner or officers.
79	Proceedings.
80	Saving for criminal proceedings.
81	Signing of notices.
82	Service of notices.

OBJECTS AND REASONS

This Bill seeks to provide for the levy of a Tax computed by reference to property and gifts and known as the Property Tax and the Gift Tax respectively. Individuals are liable to both the Property Tax and the Gift Tax while companies are liable only to the Property Tax. However, gifts made by certain companies are deemed to be made by the shareholders. The proceeds of the tax will form part of the general revenue of British Guiana.

2. Clause 2 seeks to provide that the Ordinance shall come into operation with respect to the Property Tax with effect from the year of assessment 1962 and with respect to the Gift Tax with effect from the year of assessment 1963.

3. Clause 3 seeks to define for the purposes of the Ordinance several terms and expressions appearing therein.

4. Clauses 4 and 5 seek to provide for the administration of the Ordinance by the Inland Revenue Department.

5. Clause 6 seeks to provide for the exemption from the provisions of the Ordinance of certain persons and bodies.

6. Clause 7 seeks to provide for the levy annually of the Property Tax, at the appropriate rates, upon the net property (estimated as on the last day of the year immediately preceding the year in which the tax is to be paid) of individuals and companies.

7. Clauses 9 and 10 seek to provide for the inclusion and exclusion of certain properties from net property.

8. Clause 11 seeks to provide for the aggregation of the net property of a married woman with that of her husband and for the recovery, if necessary, of any tax attributable to the property of the wife from the wife.

9. Clause 12 seeks to provide how the value of net property is to be estimated.

10. Clause 13 seeks to provide for the relief of a shareholder or stockholder where the company of which he is a shareholder or stockholder has paid or is liable to pay tax on his stocks or shares.

11. Clause 14 seeks to provide for the levy of the Gift Tax, at the appropriate rates, upon the taxable gifts made by an individual in the

year preceding the year in which he is assessed; for the apportionment of the tax among an individual's taxable gifts and for the recovery of the tax from the donor or, where it cannot be recovered from the donor, the donee.

12. Clause 15 seeks to make provision for deeming gifts made by certain companies to be gifts made by the shareholders and for certain other transfers to be deemed gifts.

13. Clause 16 seeks to provide for the exemption from the provisions of the Ordinance of certain gifts, among which are gifts which in the aggregate do not amount to more than 2000 dollars in any one year.

14. Clause 17 seeks to provide for the ascertainment of the taxable gifts of an individual and for the computation of tax thereon.

15. Clause 18 seeks to provide for the valuation of gifts.

16. Clause 19 seeks to provide for assessments, collection, returns and appeals. The provisions of the Income Tax Ordinance relating thereto, have been, with the necessary changes, incorporated by reference.

17. Clause 20 seeks to provide for the making of regulations to carry out the provisions of the Ordinance.

CHARLES JACOB, Jr.
Minister of Finance.

(G. 5 D/61)
(Bill 20/1962 (L.A.))