

CHAPTER 5.

[INITIATIVE MEASURE NO. 69.]

STATE INCOME TAX LAW.

AN ACT relating to taxation; providing for the levying and collecting of an income tax and allocating the revenues derived therefrom so as to reduce other taxation; providing for exemptions and fixing the basis and rate of tax; providing procedure and machinery for the administration thereof; imposing certain duties on the state tax commission; fixing the jurisdiction of the courts in connection with review and appeal under this act; providing for payment of refunds; fixing penalties for violation of this act; and making an appropriation for carrying out its provisions.

Be it enacted by the People of the State of Washington:

SECTION 1. Existing methods of taxation, primarily based on property holdings, are inadequate, inequitable and economically unsound. Present conditions point the need of a new subject matter for taxation, which should be based on the ability to pay. Earnings for a given period are a fair measure of such ability.

The people of the State of Washington, therefore, exercising herein their supreme power and fundamental right, declare their purpose hereby to tax all annual incomes within the state as such, and not as property.

Purpose.

There shall be assessed, levied, collected and paid annually, a tax on all net income as hereinafter provided, by every person residing within the State of Washington or by his personal representative in case of death; and by every non-resident of the state, upon such income as is derived from property located or business transacted within the state, except as hereinafter exempted. Every natural person domiciled in the State of Washington, and every other natural person who maintains a permanent place of abode within the state or spends in the ag-

Persons and subjects taxable.

gregate more than seven months of the income year within the state, shall be presumed to be residing within the state for the purposes of determining liability for income taxes.

Resident
of state.

Definitions:

"Person."

"Corporation."

"Taxable
year."

"Fiscal
year."

"Taxable
year."

"Net
income."

"Gross
income."

Rents.

Dividends.

Distribution.

SEC. 2. (1) The term "person," as used in this act, shall mean and include natural persons, fiduciaries and corporations, and the word "corporation" shall mean and include corporations, joint stock companies, associations or common law trusts organized or conducted for profit, unless otherwise expressly stated. When used in this act the term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed as in this act provided. The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. The term "taxable year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made. The term "net income" as used in this act shall mean "gross income" less allowable deductions.

(2) The term "gross income," as used in this act, shall include:

(a) All rent of Washington real estate.

(b) All dividends derived from stocks and all interest derived from money loaned or invested in notes, mortgages, bonds or other evidence of debt of any kind whatsoever: *Provided*, That the term "dividends" as used in this section shall be held to mean all dividends derived from stocks whether paid to its shareholders in cash or property of the corporation.

1. For purposes of this section every distribution is presumed to be made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits.

2. Any earnings or profits accumulated, or increase in value of property accrued, before January 1, 1932, may be distributed exempt from tax, after the earnings and profits accumulated after January 1, 1932, have been distributed; but any such tax-free distribution shall be applied against and reduce the cost or other income tax basis provided in section 2 (5). If such or any similar tax-free distributions exceed such cost or other income tax basis, any excess shall be included in the gross income of the year in which received.

Accumulation prior to Jan. 1, 1932.

3. Amounts distributed in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting from such exchange shall be determined under the provisions of this paragraph and section 2 (5). No amounts received in liquidation shall be taxed as a gain until the distributee shall have received amounts in liquidation in excess of his cost or other income tax basis provided in section 2 (5), and any such excess shall be taxed as gain in the year in which received. Losses upon liquidation shall be recognized only in the year in which the corporation shall have made its final distribution. For the purposes of this paragraph a corporation shall be considered to be liquidating when it begins to dispose of the assets with which it carried on the business for which it was organized and begins to distribute the proceeds from the disposition of such assets, or the assets themselves, whether or not such disposition and distribution is made pursuant to resolution for dissolution: *Provided*, That any distribution of current earnings of a corporation shall not be considered to be a distribution in liquidation unless the corporation making such distribution has ceased or is about to cease carrying on the business for which it was organized.

Liquidation of corporations.

Gain.

Losses.

Liquidation defined.

Dividends,
other
than cash.

4. All dividends received by any person paid in any property other than cash shall be valued at the fair market value of such property on the date of the distribution.

Dividends,
paid in cap-
ital stock.

5. A dividend paid by a corporation in its own capital stock shall not be subject to income tax as a dividend at the time of its receipt by a stockholder; but the sale of such stock may result in a gain or loss for income tax purposes, and the gain or loss from the sale of such stock and from the sale of the stock with respect to which it was issued, shall be determined as provided in this paragraph and in section 2 (2) (d). For the purpose of determining the profit or loss on the sale or other disposition of stock received as a stock dividend or of the stock with respect to which such stock dividend was issued, the cost or other basis of the old and of the new shares shall be such proportion of the previous cost or other basis of the old stock as is properly allocable to each, under regulations prescribed by the tax commission. If before or after the distribution of any stock dividend, the corporation proceeds to cancel or redeem its stock at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock to the extent that it represents a distribution of earnings or profits accumulated after January 1, 1932, shall be treated as a taxable dividend as herein defined.

Gain or loss.

Wages, fees.

(c) All wages, salaries or fees derived from services.

Profits.

(d) All profits derived from the transaction of business or from the sale or other disposition of real estate or other capital assets; *Provided*, That

Ascertaining.

for the purpose of ascertaining the gain or loss resulting from the sale or other disposition of prop-

erty, real or personal, acquired prior to January 1, 1932, the fair market value of such property as of January 1, 1932, shall be the basis for determining the amount of such gain or loss: *And provided further,* That the basis for computing the profit or loss on the sale of property acquired by gift after January 1, 1932, shall be the same as it would have been had the sale been made by the last preceding owner who did not acquire it by gift; and in case the taxing officers are unable to ascertain the cost of the property to such prior owner, if acquired after January 1, 1932, then the basis shall be the value thereof at or about the time it was acquired by him, and such value shall be determined from the best information obtainable. In computing profit or loss on the sale of property acquired by descent or by will since January 1, 1932, the appraised value of such property in the administration of the estate of the deceased owner as of the date of his death shall be deemed to be the fair market value of said property at said date. The basis mentioned above shall in cases of sale of property be diminished by the amount of the deduction for exhaustion, wear and tear and depletion which have, since the acquisition of the property, been allowed as deductions under this act; and such basis shall also be diminished by the amounts of all income deferred by the taxpayer and used to reduce property, and all anticipated losses on such property which have been deducted from taxable income. If property, exclusive of inventories (as raw materials, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is within one year in good faith, under regulations prescribed by the tax commission, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use

Gifts.

Property
acquired
by descent.Deduction
for deter-
ioration.Destruction
and invol-
untary
conversion
of property.

Property replaced.

No gain.

to the property so destroyed, or in the establishment of a replacement fund which, within two years from the date of the fire or other casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired, for purposes of depreciation and all other purposes of taxation, shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended. A replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him from the insurance company for the purpose of this subsection.

Royalties. (e) All royalties derived from mines or the possession or use of franchises or legalized privileges of any kind.

Income from transfers. (f) If any transfer of a reserve or other account or portion thereof is in effect a transfer to surplus, so much of such transfer as has been accumulated through deductions from the gross or taxable income of the years open to audit under sections 10 and 11 shall be included in the gross or taxable income of such years, and so much of such transfer as has been accumulated through deductions from the gross or taxable income of the years following January 1, 1932, and not open to audit under sections 10 and 11 shall be included in the gross or taxable income of the year in which such transfers were effected.

Life insurance. (g) Life insurance paid to the insured, and insurance paid to a corporation or partnership upon policies on the lives of its officers, partners or employees, after deducting from such insurances the

cash surrender value thereof on January 1, 1932, and all net premiums paid thereafter and not deducted on Washington income tax returns.

(h) And all other gains, profits or income of any kind derived from any source whatever, except such as are hereinafter exempted. Other profits.

(i) 1. No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization. Reorganiza-
tion of cor-
porations.

2. No gain or loss shall be recognized if a corporation a party to reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

3. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock received by each is substantially in proportion to his interest in the property prior to the exchange. Property
exchanged
for stock.

4. If there is distributed, in pursuance of a plan of reorganization to a stockholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorganization, without the surrender by such shareholder of stock or securities in such a corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized.

5. The distribution, in pursuance of a plan of reorganization, by a corporation a party to the reorganization, of its stock or securities, or stock or

securities in a corporation a party to the reorganization, shall not be considered a distribution of earnings or profits for the purpose of determining the taxability of subsequent distributions by the corporation.

“Reorganization.”

6. The term “reorganization” means (a) a merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation, or substantially all the properties of another corporation), or (b) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (c) a recapitalization, or change in the form of capitalization, or (d) a mere change in identity, form or place of organization, however affected.

“A party to a reorganization.”

7. The term “a party to a reorganization” includes a corporation resulting from a reorganization and includes both corporations in the case of an acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation.

“Control.”

8. As used in this section the term “control” means the ownership of at least eighty per cent of the voting stock and at least eighty per cent of the total number of shares of all other classes of stock of the corporation.

Property acquired by reorganization.

(j) 1. If property involved in transactions described in section 2 (i) 1, 2, (other than stock or securities in a corporation a party to the reorganization) was acquired by a corporation in connection with the reorganization, and immediately after the transfer an interest or control in such property of eighty per cent or more remained in the same per-

sons or any of them, then the basis for determining gain or loss, depletion or depreciation shall be the same as it would be in the hands of the transferor. This paragraph shall be applicable only when the transaction involved was treated for income tax purposes as provided in section 2 (i) 1, 2.

Basis of
gain or loss.

2. If property (other than stock or securities in a corporation a party to reorganization) was acquired by a corporation by the issuance of its stock or securities in connection with a transaction described in section 2 the basis shall be the same as it would be in the hands of the transferor. This paragraph shall be applicable only when the transaction involved was treated for income tax purposes as provided in section 2, (i) 1, 2.

Property
acquired by
issuance
of stock.

3. If the property consists of stock or securities distributed to a taxpayer in connection with a transaction described in section 2 (i) 4 the basis in the case of the stock in respect of which the distribution was made shall be apportioned as in the case of stock dividends. This paragraph shall be applicable only when the transaction involved was treated for income tax purposes as provided in section 2, (i) 4.

(3) (a) Persons who customarily estimate their incomes or profits on a basis other than cash receipts and disbursements, may, with the consent and approval of the tax commission, return for assessment and taxation the income or profits earned during the income year, in accordance with the method of accounting regularly employed in keeping their books, except as hereinafter provided; but if no such method of accounting has been employed, or if the method used does not clearly reflect the income taxable under this act, the computation shall be made upon such basis and in such manner as in the opinion of the tax commission will clearly reflect such income.

Accounting
methods.

"Paid" or
"actually
paid."

(b) The terms "paid" or "actually paid," as used in this act, are to be construed in each instance in the light of the method used in computing taxable income whether on the accrual or receipt basis; *Provided*, That the deduction for federal income and excess profits taxes shall be confined to cash payments made within the year covered by the income tax return, and that reserves for contingent losses or liabilities shall not be deducted.

Income,
follows
situs of
business ;

(c) For the purposes of taxation income from mercantile or manufacturing businesses, not requiring apportionment under section 2 (3) (d) shall follow the situs of the business from which derived. Income derived from rentals and royalties from real estate or tangible personal property, or from the operation of any farm, mine or quarry, or from the sale of real property or tangible personal property shall follow the situs of the property from which derived. All other income, including royalties from patents, income derived from personal services, professions and vocations and from land contracts, mortgages, stocks, bonds and securities or from the sale of similar intangible personal property, shall follow the residence of the recipient, except as provided in section 9.

follows
situs of
property ;

follows
residence
of recip-
ient.

Business,
within and
without
the state.

(d) Persons engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income apportionable to Washington may be determined by an allocation and separate accounting thereof, when, in the judgment of the tax commission, that method will reasonably reflect the income properly assignable to this state, but otherwise in the following manner: There shall first be deducted from the total net income of the taxpayer such part thereof (less related expenses, if any) as follows the situs of the property or the residence of the recipient:

Apportion-
ment of
income.

Provided, That in the case of income which follows the residence of the recipient, the amount of interest and dividends deductible under this provision shall be limited to the total interest and dividends received which are in excess of the total interest (or related expenses, if any) paid and allowable as a deduction under section 3 during the income year. The remaining net income shall be apportioned to Washington on the basis of the ratio obtained by taking the arithmetical average of the following three ratios:

1. The ratio of the tangible property, real, personal, and mixed, owned and used by the taxpayer in Washington in connection with his trade or business during the income year to the total of such property of the taxpayer owned and used by him in connection with his trade or business everywhere. Cash on hand or in bank, shares of stock, notes, bonds, accounts receivable, or other evidence of indebtedness, special privileges, franchises, good will, or property the income of which is not taxable or is separately allocated, shall not be considered tangible property nor included in the apportionment.

2. In the case of persons engaged in manufacturing or in any form of collecting, assembling, or processing goods and materials within this state, the ratio of the total cost of manufacturing, collecting, assembling, or processing within this state to the total cost of manufacturing, or assembling, or processing everywhere. The term "cost of manufacturing, collecting, assembling, or processing within this state and everywhere," as used herein, shall be interpreted in a manner to conform as nearly as may be to the best accounting practice in the trade or business. Unless in the opinion of the tax commission the peculiar circumstances in any case justified a different treatment, this term shall be generally

Limitation.

Ratio used in apportionment.

"Cost of manufacturing, collecting, assembling, or processing within this state and everywhere."

Elements
of cost.

interpreted to include as elements of cost within this state the following:

a. The total cost of all goods, materials, and supplies used in manufacturing, assembling, or processing within this state regardless of where purchased.

b. The total wages and salaries paid or incurred during the income year in this state in such manufacturing, assembling, or processing activities.

c. The total overhead or manufacturing burden properly assignable according to good accounting practice to such manufacturing, assembling, or processing activities within this state.

3. In the case of trading, mercantile, or manufacturing concerns the ratio of the total sales made through or by offices, agencies, or branches located in Washington during the income year to the total net sales made everywhere during said income year.

4. Where, in the case of any person engaged in business within and without the State of Washington and entitled to an apportionment of his income as herein provided, it shall be shown, to the satisfaction of the tax commission, that the use of any one of the three ratios above provided for gives an unreasonable or inequitable final average ratio because of the fact that such person does not employ, to any appreciable extent in his trade or business in producing the income taxed, the factors made use of in obtaining such ratio, this ratio may with the approval of the tax commission, be omitted in obtaining the final average ratio which is to be applied to the remaining net income.

Ratio may
be omitted,
when.

“Sales.”

“Manufacturing.”

5. As used in this section the word “sales” shall extend to and include exchange, and the word “manufacturing” shall extend to and include mining and all processes of fabricating or of curing raw materials. If the income of any such person properly assignable to the State of Washington can not

be ascertained with reasonable certainty by either of the foregoing methods, then the same shall be apportioned and allocated under such rules and regulations as the tax commission may prescribe.

(e) A foreign corporation transacting business in the State of Washington shall be deemed a resident of this state for income tax purposes, and its income shall be determined and assessed as if it were incorporated under the laws of Washington notwithstanding its domicile is elsewhere.

Foreign corporations.

(4) Whenever in the opinion of the commission the use of inventories is necessary in order to clearly determine the income of any person, inventory shall be taken by such person upon such basis as the commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income.

Inventories, when required.

(5) (a) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the income year. Partners shall be required to file individual returns on the basis of a fiscal or calendar year which coincides with that upon which the partnership return is filed.

Partners, individually liable.

(b) The net income of the partnership shall be computed in the same manner and on the same basis as provided for computation of the income of persons other than corporations.

Net income, computation of.

SEC. 3. Every corporation, joint stock company or association shall be allowed to make from its gross income the following deductions:

Deductions of corporations.

(1) Payments made within the year for wages of employees and salaries of officers if reasonable in amount, for services actually rendered in producing such income: *Provided*, There be reported the

Payment of wages and salaries.

name, address and amount paid each such employee or officer residing within this state to whom a compensation of eight hundred dollars or more shall have been paid during the assessment year.

Other ex-
penses actu-
ally paid.

(2) Other ordinary and necessary expenses and cash bonuses to employees, actually paid within the year out of the income in the maintenance and operation of its business and property, a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence.

Wear and
tear.

Obsolescence.

Depletion.
Depreciation.

In the case of mines, other natural deposits (except oil and gas wells), and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: *Provided, however,* That in the case of such properties acquired prior to January 1, 1932, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided, further,* That in the case of mines discovered by the taxpayer on or after January 1, 1932, and not acquired as the result of a purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery or within thirty days thereafter; but such depletion allowance based on discovery value shall not exceed fifty per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance be less than it would be if computed without reference to discovery value; and including also interest paid during the year in the operation of the business from which its income is derived: *Pro-*

vided, The debtor reports the amount so paid, the form of the indebtedness, together with the names and addresses of the parties to whom interest was paid, in the manner provided in subsection (3) of section 8.

(3) Losses actually sustained within the year and not compensated by insurance or otherwise: *Provided*, That no loss resulting from the operation of business conducted without the state, or the ownership of property located without the state, may be allowed as a deduction, *And provided further*, That no loss may be allowed on the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or to the destruction of property by fire, flood or other casualty. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition. Property of or debts due any banking corporation or association, trust company, mutual savings bank or savings and loan association, ordered charged off or charged down during the taxable year by the examining or supervisory department required by law to examine and supervise such corporations and/or associations shall be accepted as ascertained losses for the taxable year to the extent of such orders. Any amounts subsequently realized on such charge offs or charge downs, over and above the order on the particular

Losses
sustained.

Shares, sold
and reac-
quired.

Debts of
banking cor-
porations
charged off.

item, shall be returned for the taxable year in which such realization takes place.

Taxes paid.

(4) Taxes other than assessments for local improvements, paid during the year upon the business or property from which the income taxed is derived, including therein taxes imposed by the State of Washington and the government of the United States as income, excess or war profits and capital stock taxes, or other taxes imposed by the government of the United States: *Provided*, That such portion of the deduction for federal income and excess profits taxes as may be allowable shall be confined to cash payments made within the year covered by the income tax return: *And provided further*, That income taxes imposed by the State of Washington shall accrue for the purpose of this subsection only in the year in which such taxes are assessed.

Dividends,
when
deductible.

(5) Dividends, except those provided in section 2 (2) (b) 2 and 3, received from any corporation conforming to all the requirements of this subsection. Such corporation must have filed income tax returns as required by law and the income of such corporation must be subject to the income tax law of the state. The principal business of the corporation must be attributable to Washington and for the purpose of this subsection any corporation shall be considered as having its principal business attributable to Washington if fifty per cent or more of the entire net income or loss of such corporation after adjustment for tax purposes (for the year preceding the payment of such dividends) was used in computing the average taxable income provided by this act. If the net incomes of several affiliated corporations have been combined for the purpose of determining the amount of income subject to taxation under the statute, the location of the principal business of such group shall determine the taxable status of dividends paid, but inter-company divi-

dends passing between affiliated corporations whose incomes are included in the taxable income of the group, shall not be assessed as group income.

(6) Amounts distributed to patrons in any year, in proportion to their patronage of the same year, by any corporation, joint stock company or association doing business on a co-operative basis (hereinafter called "company"), shall be returned as income or receipts by said patrons but may be deducted by such company as cost, purchase price or refunds: *Provided*, That no such deduction shall be made for amounts distributed to the stockholders or owners of such company in proportion to their stock or ownership, nor for amounts retained by such company and subject to distribution in proportion to stock or ownership as distinguished from patronage.

Distributions to patrons by co-operatives.

(7) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to any corporations, community chest fund, foundation, or associations, operating within this state, organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum of the taxpayer's net income of the calendar or fiscal year as computed without the benefit of this subsection.

Contributions.

SEC. 4. Persons other than corporations, in reporting incomes for purposes of taxation, shall be allowed the following deductions:—

Deductions of persons other than corporations.

(1) Payments made within the year for wages or other compensation for services actually rendered in carrying on the profession, occupation or business from which the income is derived. But no deductions shall be made for any amount paid for services

Payment of wages.

actually rendered in the carrying on of the profession, occupation or business from which the income is derived unless there be reported the name and address and amount paid each person to whom a sum of eight hundred dollars or more shall have been paid for services during the assessment year. No deduction shall be allowed under this section for any amounts expended for personal, living or family expenses.

Necessary
expenses ac-
tually paid.

(2) The ordinary and necessary expenses actually paid within the year in carrying on the profession, occupation or business from which the income is derived, including a reasonable allowance for depreciation by use, wear and tear of the property from which the income is derived, and in the case of mines and quarries an allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or the equivalent of cash.

Losses
sustained.

(3) Losses actually sustained within the year and not compensated by insurance or otherwise: *Provided*, That no loss resulting from the operation of business conducted without the state, or the ownership of property located without the state, may be allowed as a deduction: *And provided further*, That no loss may be allowed on the sale of property purchased and held for pleasure or recreation and which was not acquired or used for profit, but this proviso shall not be construed to exclude losses due to theft or to the destruction of the property by fire, flood or other casualty. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substan-

tially identical property and the property so acquired is held by the taxpayer for any period after such sale or other disposition.

(4) Dividends, except those provided in section 2 (2) (b) 2 and 3, received from any corporation conforming to all of the requirements of this subsection. Such corporation must have filed income tax returns as required by law and the income of such corporation must be subject to the income tax law of this state. The principal business of the corporation must be attributable to Washington and for the purpose of this subsection any corporation shall be considered as having its principal business attributable to Washington if fifty per cent or more of the entire net income or loss of such corporation after adjustment for tax purposes (for the year preceding the payment of such dividends) was used in computing the average taxable income provided by this act. If the net incomes of several affiliated corporations have been combined for the purpose of determining the amount of income subject to taxation under the statute, the location of the principal business of such group shall determine the taxable status of dividends paid, but inter-company dividends passing between affiliated corporations whose incomes are included in the taxable income of the group, shall not be assessed as group income.

Dividends,
when
deductible.

(5) Interest paid within the year on existing indebtedness: *Provided*, The debtor reports the amount so paid, the form of the indebtedness, together with the name and address of the creditor. But no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance or improvement of property, or for the conduct of a business, unless the income from such property or business would be taxable under this act.

Interest paid
on existing
indebtedness.

Taxes paid. (6) Taxes other than inheritance and assessments for local improvements upon the property or business from which the income hereby taxed is derived paid by such persons during the year, including therein taxes imposed by the State of Washington or the United States government as income taxes: *Provided*, That such portion of the deduction for federal income taxes as may be allowable shall be confined to cash payments made within the year covered by income tax return: *And provided further*, That income taxes imposed by the State of Washington shall accrue for the purposes of this subsection only in the year in which such taxes are assessed.

Contributions. (7) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to any corporation, community chest fund, foundation, or association operating within this state, organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum of the taxpayers' net income of the calendar or fiscal year as computed without the benefit of this subsection.

Exemptions: SEC. 5. (1) There shall be exempt from taxation under this act income as follows, to-wit:

Pensions; Inheritances; (a) Pensions received from the United States.
(b) All inheritances, devises, bequests, and gifts received during the year.

Insurance. (c) All insurance received by any person or persons in payment of a death claim by any insurance company, fraternal benefit society or other insurer, except insurance paid to a corporation or partnership upon the policies on the lives of its officers, partners or employees.

(d) Income of all mutual savings banks, mutual loan corporations, building and loan or savings and loan associations or societies (except sums credited to guaranty fund, contingent fund or other reserves of all such corporations or associations), religious, scientific, educational, benevolent or other corporations or associations of individuals not organized or conducted for pecuniary profit.

Further exemptions.

(e) Income received by the United States, the state and all counties, cities, villages, school districts or other political units of this state.

(f) All other income which may be exempt from a state income tax under the constitution and laws of the United States or constitution of the State of Washington.

(2) There shall be deducted from the tax, after the same shall have been computed according to the rates in section 6, a personal exemption for natural persons:

Personal exemptions:

(a) For an individual, eight dollars.

Individual;

(b) For husband and wife or head of a family, seventeen dollars and fifty cents. For the purpose of this act, the term "head of a family" means a natural person who maintained a household and supported therein himself and one or more persons who were dependent upon him for support.

"Head of family;"

(c) For each child under the age of eighteen years who is actually supported by and dependent upon the taxpayer for his support, an additional four dollars.

Children under 18;

(d) For each additional person who, by reason of mental or physical disability, is actually supported by and entirely dependent upon the taxpayer for his support an additional four dollars. In computing taxes and the amount of taxes payable by persons residing together as members of a family, except as provided in section 8 (4) (c), the income of the wife and the income of each child

Dependents.

under eighteen years of age shall be added to that of the husband or father, or if he be not living, to that of the head of the family and assessed to him except as hereinafter provided. The taxes levied shall be payable by such husband or head of the family, but if not paid by him may be enforced against any person whose income is included within the tax computation provided for separate returns.

Determina-
tion of
exemption.

(e) The personal exemptions provided by this section shall be determined by the personal status of a taxpayer on the last day of the year included in the computation of income except as otherwise provided in this act.

Tax paid on
residence.

(3) (a) There shall be deducted from the tax payable by any natural person, after the tax shall have been computed according to the rates in section 6, a sum equal to the *ad valorem* tax accruing and paid by such taxpayer, during the year for which the return is made, on the premises, either urban or rural, occupied by him as a residence during such taxable year, such deduction, however, not to exceed the sum of fifty dollars. This deduction shall not apply as to taxes paid on premises rented or leased to the taxpayer.

Tax paid on
real and
personal
property.

(b) There shall be deducted from the tax payable by any person, after the same shall have been computed according to the rates in section 6, a sum equal to the *ad valorem* taxes (less the amount of any deduction for tax paid on the taxpayer's home) on real and tangible personal property accruing and paid by the taxpayer to the State of Washington or any taxing unit therein, during the year for which the return is made: *Provided, however,* That such sum deducted shall in no event exceed 50 per cent of the tax otherwise payable.

SEC. 6. (1) The tax to be assessed, levied and collected annually upon the taxable incomes of all

persons shall be computed at the following rates; to-wit:

(a) On the first one thousand dollars of taxable income or any part thereof, at the rate of one per cent. Rate of tax.

(b) On the second one thousand dollars or any part thereof, one and one-fourth per cent.

(c) On the third one thousand dollars or any part thereof, one and one-half per cent.

(d) On the fourth one thousand dollars or any part thereof, two per cent.

(e) On the fifth one thousand dollars or any part thereof, two and one-half per cent.

(f) On the sixth one thousand dollars or any part thereof, three per cent.

(g) On the seventh one thousand dollars or any part thereof, three and one-half per cent.

(h) On the eighth one thousand dollars or any part thereof, four per cent.

(i) On the ninth one thousand dollars or any part thereof, four and one-half per cent.

(j) On the tenth one thousand dollars or any part thereof, five per cent.

(k) On the eleventh one thousand dollars or any part thereof, five and one-half per cent.

(l) On the twelfth one thousand dollars or any part thereof, six per cent.

(m) On any sum of taxable income in excess of twelve thousand dollars, seven per cent.

(2) (a) In assessing back taxes interest shall be added to such taxes at the rate of six per cent per annum from the fifteenth day of March following the year they first became assessable to the date on which such back taxes when subsequently assessed will become delinquent, if unpaid. Interest on back taxes.

(b) In crediting overpayments of income tax against underpayments or against taxes to be subsequently collected and in making refunds of such Credits for overpayment, interest on.

taxes, interest shall be added at the rate of six per cent per annum from the fifteenth day of March following the date of the payment of such taxes until the date on which such overpayment was entered on the tax roll.

Expenses of
administration.

SEC. 7. The salaries of all deputies, assistants or other employees of the state tax commission shall be fixed by the tax commission and all such salaries, with all other expenditures necessary in the enforcement of this act, shall be audited and paid out of the state treasury in the same manner as other similar salaries and state expenses are audited and paid. In the case of hearing held in any county, the board of the county commissioners when requested so to do by the tax commission shall provide a suitable room or rooms in the court house or other convenient building at the county seat for the commission's use and the county shall be entitled to a reasonable rental therefor.

Assessed by
tax commis-
sion.

SEC. 8. (1) The tax commission shall assess incomes as provided in this act and in the performance of such duty shall make such rules as shall be necessary and not in conflict with this act and shall provide necessary forms and blanks which shall be used by persons reporting incomes.

Moving into
or out of
state, tax
liability.

(2) Liability to taxation for income which follows the residence of the recipient in the case of persons other than corporations, who move into or out of the state within the year, shall be determined for such year by the ratio of time which the residence of such taxpayer in the state bears to the entire calendar or fiscal year. The deductions for personal exemptions provided for in section 5 shall be prorated on the basis of the time of residence within and without the state. The net income of such person assignable to the state for such year shall be used in determining the income subject to assessment under this act.

(3) Every corporation, whether taxable under this act or not, shall furnish to the tax commission on forms provided by it a true and accurate statement, on or before March fifteenth of each year (except that returns for fiscal years ending on some other date than December thirty-first, shall be furnished within seventy-five days after the last day of such fiscal year) in such manner and form and setting forth such facts as said commission shall deem necessary to enforce the provisions of this act. Such statement shall be made upon the oath or affirmation of the president, vice-president, or other principal officer and the treasurer of said corporation, and in the case of corporations in liquidation or in the hands of a receiver, such return shall be made upon the oath or affirmation of the person responsible for the conduct of the affairs of such corporation. All corporations doing business in this state shall also file with the tax commission on or before March fifteenth of each year on forms prescribed by the tax commission, a statement of such transfers of its capital stock as have been made by or to residents of this state during the preceding calendar year. Such schedule shall contain the name and address of the seller and the purchaser, date of transfer, and the number of shares of stock transferred; and such corporations shall also file with the tax commission on or before March fifteenth of each year any information relative to payments made within the preceding calendar year to residents of this state, of salaries, wages, fees, rents, royalties, interest, dividends and liquidating dividends in amounts and in the manner and forms prescribed by the tax commission. Any corporation failing to file any such statement or form shall be subject to a fine of not more than five hundred dollars.

Corporations,
returns.

In liquida-
tion.

Information
required.

Penalty.

Persons
other than
corporations,
returns of.

(4) (a) Whenever in the judgment of the tax commission any person other than a corporation shall be subject to income tax under the provisions of this act, the tax commission shall notify such person to make report to it on or before March fifteenth of each year in such manner and form as the tax commission shall prescribe, specifying in detail the amounts of income received by him from all sources, together with the amounts of income received by his dependents, his wife, (except as provided in section 8 (4) (c)) and each child under eighteen years of age residing with him as members of the family, and such other information as the commission shall deem necessary to enforce the provisions of this act. Every person other than a corporation who receives during the year a net income of eight hundred dollars or over, if single; seventeen hundred fifty dollars or over, if married; or a gross income of twenty-five hundred dollars or over, regardless of the amount of his net income, must on or before March fifteenth of each year, report the same in the manner and form herein provided to the tax commission whether notified to do so or not, on forms provided by the tax commission and shall be subject to the same penalties for failure to report as those who receive notice: *Provided, however,* That nothing contained in this section shall preclude the tax commission from requiring any person other than a corporation to file an income tax return when in the judgment of the tax commission a return should be filed.

Failure to
file returns,
penalty.

(b) If any person required under this chapter to file an income tax return fails to file such return within the time prescribed by law, or as extended under the provisions of subsection (7) of this section, the tax commission shall add to the tax of such person ten dollars in the case of corporations and five dollars in the case of persons

other than corporations; and if no tax is assessed against such person the amount of this fee shall be collected as income taxes are collected, and no person shall be allowed in any action or proceeding to contest the imposition of such fee.

(c) Husband and wife may file separate returns or join in a single joint return, each treating one-half of the community income as his or her respective income and, in that event, the exemptions and deductions provided for in subsections (2) and (3) of section 5 shall be allowed but once and divided equally. When separate returns are made, separate tax statements shall be issued to husband and wife.

Husband
and wife,
returns of.

(5) Every partnership shall furnish to the tax commission a true and accurate statement, on or before March fifteenth of each year, except that returns for fiscal years ending on some other date than December thirty-first, shall be furnished within seventy-five days after the last day of such fiscal year, in such manner and form and setting forth such facts as the tax commission shall deem necessary to enforce the provisions of this chapter. Such statement shall be made upon the oath or affirmation of one of the members of said partnership.

Partnerships,
returns of.

(6) In case of the failure on the part of any person to make a report of income within the time and in the manner prescribed by law, the tax commission may enter an assessment against said person upon ten days' notice in writing in such sum as the tax commission may deem just and equitable. After the entry on such assessment the person assessed shall be forever barred from questioning the correctness of the same in any action or proceeding.

Failure to
report
income,
penalty.

(7) In case of neglect occasioned by the sickness or absence of a person, or of an officer of any corporation required to file a return, or for other

Time
extended.

sufficient reason, the tax commission may on written request allow such further time for making and delivering such return as they may deem necessary not to exceed thirty days.

Penalty,
incomplete
return.

(8) Any person required to make an income tax return, who shall fail, neglect or refuse to do so in the manner and form and within the time prescribed by this act, or shall make a return that does not disclose his entire taxable income, shall be assessed by the tax commission according to its best judgment.

Penalty,
intentional
evasion.

(9) Any person failing to make an income tax report or making an incorrect income tax report, with intent in either case to defeat or evade the income tax assessment required by law, shall be assessed at twice the normal income tax rate by the proper taxing authority. Such increased assessment shall be in addition to all other penalties of section 8. The statute of limitations shall not begin to run as against any such taxpayer until the proper taxing authority shall have made the assessment as herein provided.

Penalty,
falsification.

(10) If any person, with intent to defeat or evade the income tax assessment required by law, shall fail or refuse to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such person shall be liable to a penalty of not less than one hundred dollars and not to exceed five thousand dollars at the discretion of the court.

Penalty,
officer of
corporation
upon
conviction.

(11) Any officer of a corporation required by law to make, render, sign or verify any return, who makes any false or fraudulent return or statement, with intent to defeat or evade the assessment required by this act to be made, shall upon conviction be fined not to exceed five hundred dollars or be imprisoned not to exceed one year, or both, at

the discretion of the court, with the cost of prosecution.

(12) Any person, other than a corporation, who fails or refuses to make a return at the time hereinbefore specified in each year or shall render a false or fraudulent return shall upon conviction be fined not to exceed five hundred dollars, or be imprisoned not to exceed one year, or both, at the discretion of the court, together with the cost of prosecution.

Penalty,
individual,
upon
conviction.

(13) Whenever in the judgment of the tax commission, it is deemed necessary that a person subject to an income tax should keep records to show whether or not such person is liable to tax, the tax commission may serve notice upon such person and require such records to be kept as will include the entire net income of such person and will enable the tax commission to compute the taxable income. Thereafter, any taxes assessed upon information not contained in such records shall carry a penalty of twenty-five per cent of the amount of the tax. Such penalty shall be in addition to all other penalties provided in this act.

Records,
when
necessary.

Penalty.

SEC. 9. (1) (a) Every executor and administrator shall file an income tax return with the tax commission. Such executor or administrator shall include in such return:

Executors
and adminis-
trators,
returns of.

1. All income received by the decedent during that portion of the year covered by the return preceding the demise of the decedent.

2. All receipts by him from the estate of the deceased during the year covered by the return, if such receipts would have been taxable as income to the decedent, had he survived.

3. All receipts by him during the year from the estate of the deceased accrued at the date of death of the decedent but not reported by the decedent on the accrual basis, if such receipts would have been

taxable as income to the decedent had he survived and made the return.

Income reported on deferred basis.

(b) If any person has been reporting income from any transaction on a deferred basis, the executor or administrator of the estate of such person shall during the administration of the estate of such person, account for the income arising from such transaction on the same basis as such transaction was reported by the decedent prior to his death and in the same manner as the decedent would have accounted for such income, had he survived and made the return. If all of such deferred income has not been reported and accounted for in the income tax returns before the executor or administrator is discharged, he shall report in his last income tax return as income the present value of such deferred income as yet unreported.

First return.

(c) The first return of an executor or administrator shall be filed in the form and manner and within the time that a return should have been filed by the decedent had he survived. Subsequent returns of such executor or administrator shall be filed in the form and within the time that the returns of income are required from persons other than corporations. The first return of such executor or administrator shall include the income received by the decedent during the portion of the year preceding the demise of deceased and also items specified in section 9 (1) (a), 9 (1) (b) and 9 (1) (e).

Subsequent returns.

Personal exemptions.

(d) The same personal exemption shall be deducted from the tax of the executor or administrator as would have been deductible from the tax of the decedent under section 5 had he or she survived and made the return, except that,

1. No personal exemption under section 5 (2) (a) and 5 (2) (b) for the decedent shall be allowed except for the year of death.

2. If the decedent at the time of death was actually supporting children under the age of eighteen years, or was actually supporting any other dependent person or persons, the personal exemption deductible under section 5 shall be allowed to the executor or the administrator until such children shall reach the age of eighteen years or until such other person shall cease to be dependent. Exemption.

(e) During the period of the administration of the estate, unless the surviving spouse elects to make a separate return, as provided in section 8 (4) (c), the executor shall include in his return the income of the surviving spouse and the income of all children under eighteen years of age, together with the income of any persons actually supported by and dependent upon the estate for support. Surviving spouse, return of.

(f) The tax commission shall enter the tax on the income of any decedent or on the income of his executor or administrator, as other taxes are entered and the executor or administrator shall pay such tax when due. Entered as other taxes.

(2) Guardians shall make returns of income to the tax commission only in case the ward if not under disability would have been required to file such return, which returns shall be made at the same time as returns of persons other than corporations are made, and shall show all the income from all sources received by or for the respective wards whom they represent. The net income of a guardian shall be ascertained in the same manner as the income of other persons is ascertained, and shall be subject to the same deductions for personal exemptions which the ward would have been entitled to had he made the return: *Provided*, That if any of such wards are under eighteen years of age and are the children of a person required by this act to file an income tax return, the personal exemption under section 5 shall be allowed to the guardian. The Guardians, returns of.

Ward under 18.

taxable income of such wards under eighteen years of age so ascertained and assessed to the guardian shall be added to the taxable income of the parent or head of a family as provided in section 5, and the taxes shall be computed on the combined taxable income of such wards under eighteen years of age and the parent or head of a family. The tax on the combined taxable income of parent and wards shall be credited with any taxes the guardian may have paid, or is liable for, on the income of any such wards so included in the combined taxable income, and the balance of the tax on such combined taxable income shall be paid as provided in section 5 (2) (d), and if any tax so credited shall not be paid by the guardian when due the parent or head of a family shall pay such tax and such parent shall have the right of reimbursement of such taxes paid as provided in section 9 (5). The taxable income of any ward shall be assessed to the guardian making the report and such guardian shall pay the taxes assessed when due.

Trustees,
returns of.

(3) Trustees of trust estates created by will or by contract or by declaration of trust or implication of law shall annually make a return of all income received by them as such to the tax commission showing the total taxable income received by them during the year, the names and addresses of distributees and the amounts severally distributable to them whether distributed or not and also the amounts to be accumulated by them for unknown or unborn or undisclosed beneficiaries or for other reasons. The net income received by such trustees shall be ascertained in the same manner as the net income of persons other than corporations, except that the personal exemptions under section 5 (2) (a), (b), (c) and (d) shall not be allowed to such trustee. Distributees who receive or who are entitled to receive any part of such net income shall

return the same as income to the tax commission, together with all other income received by them and shall be assessed thereon as provided by this act. Such of said distributees as are non-residents of this state shall be assessed on such income as they receive from the trust estate as the income of non-residents is assessed. No personal exemption shall be allowed either resident or non-resident distributees unless they make a claim therefor in their income tax returns made in accordance with the terms of this act showing the total net income.

(4) All nondistributable, or contingently distributable income not distributed shall be assessed to the trustee in the same manner as income of persons other than corporations is assessed, except that the personal exemptions under section 5 (2) shall not be allowed to such trustee.

Contingently distributable income.

(5) All income taxes levied against the income of beneficiaries shall be a lien on that portion of the trust estate or interest therein from which the income taxed is derived, and such taxes shall be paid by the fiduciary, if not paid by the distributee, before the same becomes delinquent. Every person who as a fiduciary under the provisions of this chapter pays an income tax, shall have all the rights and remedies of reimbursement for any taxes assessed against him or paid by him in such capacity.

Lien on estate.

(6) An executor, administrator, guardian or trustee applying to a court having jurisdiction for a discharge from his trust and a final settlement of his accounts, before his application shall be granted, shall file with the tax commission a return of all incomes received in his representative capacity during the time between the last preceding January 1st and the date of his application for discharge and also similar returns of income received by the deceased during each of the years open to audit under sections 10 and 11 if such returns have

Return before final settlement.

not heretofore been filed. Upon the receipt of such returns, the income tax assessor shall immediately determine the amount of taxes to become due and shall certify such amount to the court and the court shall thereupon enter an order directing the executor, administrator, trustee or guardian, as the case may be, to pay to the tax commission the amount of tax, if any, found due by the tax commission, and take his receipt therefor. The receipt of the tax commission shall be evidence of the payment of the tax and shall be filed with the court before a final distribution of the estate is ordered, and the executor, administrator, trustee or guardian is discharged. Any taxes found to be due from the estate for any of the years open to audit under sections 10 and 11 shall be assessed against and paid by the executor or administrator; any taxes found to be due after the executor or administrator is discharged, shall be assessed against and paid by the beneficiaries in the same ratio that their interest in the estate bears to the total estate.

Returns dispensed with.

(7) Returns of income required to be made by virtue of the next preceding subsection may be dispensed with by order of the court having jurisdiction in cases where it is clearly evident to the court that no income tax is due or to become due from the trust estate.

Non-resident fiduciary.

(8) A resident who received income from a non-resident fiduciary shall be taxed the same as though such income had been received by such resident without the intervention of a fiduciary; and a resident fiduciary receiving income for a non-resident beneficiary shall report such income to the tax commission.

Tax rolls.

SEC. 10. (1) The tax commission shall presume the incomes reported on the current return to be correct for the purpose of preparing initial tax rolls, and shall enter on such rolls the computed

taxable income. Such tax rolls and all subsequent tax rolls shall remain on file in the office of the tax commission. Additional tax rolls shall be prepared from time to time, which shall include office audits of current returns, initial tax omitted from the first initial roll, initial assessments of fiscal year returns, and corrections made after field audits pursuant to sections 10 and 11.

(2) The tax commission, upon the completion of the tax roll, shall notify each taxpayer by mail of the amount of income taxes appearing on said roll against him, together with the date when such taxes will be due and payable, and the date when such taxes will become delinquent.

Notice of
taxes due.

(3) All income taxes shall become due and payable as follows:

Payment.

(a) Initial assessments of taxes on incomes of persons who report on a calendar year basis may be paid in two installments, each consisting of one-half of the total amount of the tax. The first installment shall be due and payable on June 1st, and the second installment shall be due and payable on or before six months thereafter; and each installment shall be delinquent if not paid at the date when due, as herein provided: *Provided, however,* That in cases where the tax payable does not exceed ten dollars the installment privilege shall not apply.

Calendar
year basis.

(b) Initial assessments of taxes on incomes of persons who file on a fiscal year basis may be paid in two installments, each consisting of one-half of the total amount of the tax. The first installment shall be due and payable on the first day of the six months after the close of the fiscal year of such person, and the second installment shall be due and payable on or before six months thereafter; and each installment shall be delinquent if not paid at the date when due, as herein provided: *Provided, however,* That in cases where the tax payable does

Fiscal
year basis.

not exceed ten dollars the installment privilege shall not apply.

Back taxes.

(c) Back assessments of income taxes omitted from initial rolls and additional income taxes assessed under sections 10 and 11 shall become due and payable on entry upon the assessment roll.

Delinquent.

(d) Income taxes shall become delinquent if not paid within thirty days after the same are due as provided in this chapter, and when delinquent shall be subject to a penalty of two per cent on the amount of the tax and interest at the rate of one

Penalty.

per cent per month until paid, and the tax commission shall issue a warrant under its official seal directed to the sheriff of the county wherein the taxpayer resides, if a natural person; or wherein his property is located or income is produced, if a non-resident; or to the county wherein the corporation

Levy upon property.

has its principal place of business or has property, or wherein its income is produced, if a corporation; and shall command him to levy upon and sell the real and personal property of the person owing the same, found within this county, for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the tax commission and pay to it the money collected by virtue thereof by a time to be therein specified, not more than sixty days from the date of the warrant. The sheriff shall within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and inter-

est in real property or chattels real of the person against whom it is issued in the same manner as a judgment docketed in the office of such clerk. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the tax commission a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect income taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty. If a warrant be returned not satisfied in full, the tax commission shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax. Action may be brought at any time by the attorney general of the state at the instance of the tax commission, in the name of the state to recover the amount of any taxes, penalties and interest due under this act.

(4) The tax commission shall as soon as practicable after each initial tax roll has been completed, audit each return filed, and if it shall be found from such office audit that a person has been over or underassessed, or if it shall be found that no assessment has been made when one should have been made, the tax commission shall correct or assess the income of such person. Any assessment, correction or adjustment made as a result of such office audit shall be presumed to be the result of an audit of the return only, and such office audit shall not be deemed a verification of any items in said re-

Lien.

Remedies

Office audits.

turn unless the amount of such item and the propriety thereof shall have been determined after hearing and review as provided in section 12; and such office audit shall not preclude the tax commission from making field audits of the books and records of the taxpayer and from making further adjustment, correction and assessment of income.

Field audits.

Notice of corrections.

(5) The tax commission shall notify the taxpayer, as provided in section 12 of any adjustment, correction and assessment made pursuant to subsection 5 of this section.

Hearings.

(a) If the taxpayer requests a hearing, the additional tax or overpayment shall not be placed on the tax roll until after hearing and determination of the tax by the tax commission or the county board of review.

(b) In all cases where there has been no request for hearing, and after decision where a hearing has been requested, the additional tax or overpayment shall be entered on the next tax roll.

(c) If the tax is increased the tax commission shall proceed to collect the additional tax in the same manner as other income taxes are collected.

Refunds.

(d) If the income tax is decreased the treasurer shall refund to the taxpayer such part of the overpayment as was actually paid in cash. Refunds to which any taxpayer may be entitled under this act, due to overpayments or mistakes in computation or otherwise shall be made to the taxpayer by means of vouchers approved by the tax commission and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide.

Verification.

SEC. 11. (1) Whenever in the judgment of the tax commission it is deemed advisable to verify any return directly from the books and records of any person, or from any other sources of infor-

mation, the tax commission may direct any return to be so verified.

(2) For the purpose of ascertaining the correctness of any return or for the purpose of making a determination of the taxable income of any person, the tax commission shall have power to examine or cause to be examined by any agent or representative designated by it, any books, papers, records, or memoranda bearing on the income of such person, and may require the production of such books, papers, records or memoranda, and require the attendance of any person having knowledge in the premises, and may take testimony under oath and require proof material for their information. Upon such information as it may be able to discover, the tax commission shall determine the true amount of income received during the year or years under investigation.

Examination
of records.

(3) If it shall appear upon such investigation that a person has been over or underassessed, or that no assessment has been made when one should have been made, the tax commission shall make a correct assessment in the manner provided in section 10.

(4) Additional assessments and corrections of assessments may be made of income of any taxpayer if such corrections are made within seven years after the close of the period covered by the income tax return.

Corrections.

SEC. 12. No additional assessment by office audit or field investigation shall be placed upon the assessment roll without notice in writing to the taxpayer giving him an opportunity to be heard in relation thereto. Such notice shall be served as a superior court summons or by registered mail. Service of such notice by regular mail shall also be sufficient notice of such assessment if receipt thereof is admitted by the person assessed, or if

Additional
assessment.

Notice.

Hearing.

there is other satisfactory evidence of the receipt thereof. Any person feeling aggrieved by such assessment shall be entitled to a hearing before the tax commission in the case of corporations or the county board of review in the case of persons other than corporations, if within twenty days after notice of such assessment he shall apply for such hearing in writing, explaining in detail his objections to such assessment. If no request for such hearing is so made, such assessment shall be final and conclusive. If a request for hearing is made the taxpayer shall be heard by the tax commission or the board of review as the case may be and after such hearing the tax commission or the board of review shall render its decision regarding such assessment.

County board
of review.

SEC. 13. (1) The state tax commission shall appoint three resident taxpayers of each county to serve as a county board of review.

County clerk.

(2) The county clerk shall be clerk of such board, and shall keep an accurate record of all proceedings thereof, including a correct record of all changes in the assessment rolls made by the board. The tax commission shall employ a stenographic reporter to take all evidence given before the board and to extend the same in typewritten form. The county clerk shall preserve in his office a record of all such proceedings, minutes and evidence taken, and all documentary evidence offered, and shall notify the parties to the appeal of the decision of the board of review.

Meetings.

(3) (a) The county board of review of each county, shall meet annually on the last Monday of July at ten o'clock a. m., at the court house in said county to hear complaints, make assessments, and review appeals from assessments of persons other than corporations. A majority shall consti-

tute a quorum. The compensation of such board of review shall be fixed by the tax commission. Compen-
sation.

(b) No notice of a county board of review meeting shall be published in a newspaper in the county, but the tax commission shall notify the persons whose appeals are to be heard at any one meeting as provided by section 12. Hearings shall be private and attendance thereat shall be limited to the necessary officers and agents of the tax commission, the interested taxpayers or parties and their attorneys and witnesses in each case, together with necessary stenographic or other reporters. Notice of
hearings.

(c) The board may adjourn after it has disposed of all appeals before it, subject to the call of the tax commission for the consideration of other appeals from time to time until the last Monday of the following July when it shall finally adjourn. Adjourn-
ment.

(d) Attendance of witnesses and the production of books and papers before said board may be compelled by subpoena, issued by the clerk thereof, a justice of the peace or a court commissioner. Witnesses.

(4) (a) The board shall receive any statement of the representative of the tax commission or of any other person regarding assessments or changes in assessments, and shall hear and examine, and permit the representative of the tax commission to examine, upon oath, any aggrieved person, entitled to a hearing under section 12 on his assessment, or any other person who shall appear before it in relation to such assessment, or in relation to the failure of any other person to report income, and the board may direct an assessment to be made or increase or decrease any assessment, if satisfied from the evidence submitted. Hearings.

(b) The board shall not increase any assessments, nor assess any income not assessed by the tax commission unless the person liable for payment of the tax thereon, or his agent, shall have Increased
assessments
only after
hearings.

been heard by the board in relation thereto, or unless such person, after notice of hearing shall have failed to appear before the board in relation to such assessment at the time and place specified in such notice.

Conditions precedent to appeal.

SEC. 14. No person against whom an assessment of income tax has been made shall be allowed in any action or proceeding either as plaintiff or defendant to question any assessment of income, unless written objections thereto shall first have been presented in good faith to the tax commission, and full disclosure made under oath of any and all income of such party liable to assessment, and unless such person shall have availed himself of the remedies provided in section 12.

Appeals to tax commission.

SEC. 15. (1) Any person, including the representative of the tax commission, dissatisfied with any determination of the county board of review may appeal within twenty days after the date of such determination to the tax commission, to whom a copy of the record of the board shall be certified, together with all evidence or a copy thereof, relating to such assessment. A copy of the notice of appeal shall be served upon the tax commission.

Notice.

Review by commission.

(2) The tax commission shall review such assessments from the record thus submitted, and shall make necessary corrections and certify its conclusion to the county clerk, who shall duly notify the person liable for the taxes, and the tax commission shall enter the corrected assessment on the assessment roll.

Court review.

SEC. 16. (1) The provisions for appeal provided in this section shall be the sole and exclusive remedy for court review of any assessment of income made, corrected or confirmed.

Conditions precedent.

(2) No person against whom any assessment of income has been made, corrected or confirmed

shall be allowed in any action or proceedings either as plaintiff or defendant to contest any such assessment unless such person shall first have availed himself of the remedies provided by sections 12, 14 and 15.

(3) Appeals shall be taken to the superior court of the county in which the corporation has its principal place of business or before whose income tax board of review the hearing on the assessment was held. Superior court.

(4) Such appeal shall be taken within thirty days after written notice of the decision of the tax commission has been given to the taxpayer by registered mail. 30 days.

(5) Such appeal may be taken by serving a copy of the notice of appeal on the tax commission and by filing the original with the clerk of the superior court of the proper county. Every such notice of appeal shall recite the order, or decision from which such appeal is taken, and shall clearly specify the objections to such assessment, order or decision to be considered on such appeal; such notice of appeal shall also recite in a clear and concise manner the assignments of error alleged by the appellant to have been committed by the tax commission or the county board of review in determining the tax liability of the appellant, together with a clear and concise statement of the facts upon which the appellant relies as constituting the basis of said appeal and of the propositions of law involved. Notice.
Assignments of error.
Statement of facts.

(6) Within thirty days after the service of such notice of appeal, the tax commission or the county clerk shall return to said court the original, or a certified or photostatic copy of all documents, papers, evidence, statements and exhibits on file in the matter and of all testimony taken therein. Documents, return to court.

Appellant's
brief.

(7) Within thirty days after service of such notice of appeal, the appellant shall serve upon the tax commission a brief in support of the objections to such assessment, and shall at the same time file a copy thereof with the clerk of the court wherein said appeal is pending. Within sixty days after the service of the appellant's brief the tax commission shall serve an answer upon the appellant or the counsel for the appellant, to the objections raised on such appeal, together with a brief in support of such answer and assessment; and upon the service and filing of such answer and brief, the appeal shall be regarded as at issue.

Answering
brief.

Hearing of
appeal.

(8) Said appeal may thereupon be brought on for hearing by either party upon the record made before the tax commission or the county board of review and not otherwise, on ten days' notice to the other, subject, however, to the provisions of law for a change of the place of trial, or the calling in of another judge to preside at such hearing. Upon such hearing the court shall disregard any irregularity, informality or omission not affecting the legal groundwork of the tax, and shall enter an order confirming such assessment and directing judgment in accordance with the terms of said order, unless it shall appear that such assessment was otherwise in whole or in part illegal, and in all actions and proceedings to contest the validity of any such assessment, the proceedings of the tax commission and the county board of review shall be presumed to be legal, and the determination of the tax commission or the county board of review shall not be impaired, vitiated or set aside upon any grounds not affecting the legal groundwork of the tax. If the court shall find that such assessment is in whole or in part illegal, disregarding any irregularity, informality or omission, as hereinbefore provided, it shall direct the tax com-

Presumption.

mission to make such corrections in the assessment as it may in its decision order. Thereupon the court, upon eight days written notice to the adverse party, shall enter judgment in accordance with its decision and such corrected assessment. It shall be the duty of the clerk of any court rendering a decision affecting an income tax assessment to transmit promptly, without charge, two copies of such decision to the tax commission.

(9) Either party may appeal to the supreme court within twenty days after the entry of such judgment in the manner provided for other appeals from the judgment of the superior court, and all such appeals shall be placed on the calendar of the supreme court, and brought to a hearing in the same manner as other state cases on such calendar. If no such appeal be taken within such period the clerk of the court shall forthwith certify such fact to the tax commission and shall return the record to the tax commission.

(10) The attorney general shall appear for the tax commission in all courts.

(11) As soon as the appellant shall have served notice of appeal to the superior court on the parties provided by this section, such notice shall stay all collection proceedings until final determination of the appeal, but shall not operate to stay the delinquent penalty and interest on unpaid amounts as provided in subsections 12 and 13 of this section.

(12) (a) Any person who shall contest an assessment in court shall state in his notice of appeal what portion if any of the tax is admitted to be legally assessable and correct. The appellant shall forthwith pay to the tax commission the portion of the tax admitted to be regularly assessable and correct and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding.

Judgment.

Appeals to
supreme
court.Attorney
General.Stay of
proceedings.Payment of
admitted
portion.

(b) Any part of an income tax assessment which is contested in any appeal in court, which the court after hearing shall order to be paid, shall be considered as a delinquent tax from the date on which it would have become delinquent under section 10 if such appeal had not been taken, and any such tax so ordered to be paid shall be subject to a penalty of two per cent on the amount of the tax and interest at the rate of one per cent per month from the date of such delinquency until paid.

Penalty.

(13) After final decision and return of the record to the tax commission, the tax commission shall proceed to collect the taxes in the same manner as other delinquent income taxes are collected.

Collection.

Refunds
and credits.

SEC. 17. (1) The provisions for refunds and credits provided in this section shall be the only method for filing and review of claims for refund of income and no person shall be allowed to bring any action or proceeding whatever for the recovery of such taxes other than is provided in this section.

(2) No refund shall be made and no credit shall be allowed for taxes overpaid on income for the years not open to audit under section 11.

(3) No refund shall be made and no credit shall be allowed on any item of income or deduction, assessed as a result of an office audit, the assessment of which shall have become final and conclusive under the provisions of sections 12, 13, 14, 15 or 16, and no refund shall be made and no credit shall be allowed for any year, the income of which was assessed as a result of a field audit, and which assessment has become final and conclusive under the provisions of sections 12, 13, 14, 15, or 16.

(4) It shall not be necessary for any person to file a claim for refund or credit after such refund or credit has been entered on the tax roll.

(5) Every claim for refund or credit of income shall be filed with the tax commission and such claim shall set forth specifically and explain in detail the reasons for the basis of such claim. After such claim has been filed it shall be considered and acted upon in the same manner as are additional assessments made under sections 10 and 11 and if any portion of such claim is disallowed the person filing the same shall have the same right of hearing as is provided in section 12. If after hearing as provided in section 12 any portion of the claim is disallowed and the person filing the same shall have availed himself of the remedies provided in sections 14 and 15, such person shall have the right of appeal to the court but only as provided in section 16.

Filing of claim.

Hearing.

Right of appeal.

(6) If the tax commission shall fail or neglect to act on any claim for refund or credit within one year after the receipt thereof, such neglect shall have the effect of allowing such claim and the tax commission shall certify such refund or credit.

Failure to act on claim.

SEC. 18. (1) In their return for purposes of assessment persons deriving incomes from within and without the state shall make a separate accounting of the income derived from without the state in such form and manner as the tax commission may prescribe.

Divisible returns.

(2) The entire taxable income of every person deriving income from within and without the state when such person resides within the state, shall be combined and aggregated for the purpose of determining the proper rate of taxation. The tax commission shall compute the tax on the combined taxable income of such person.

Aggregate returns.

SEC. 19. The tax commission shall on the next business day following the receipt of any payments under this act transmit the same to the state treasurer, who shall, upon receipt thereof deposit the

Disposition of funds.

same in the state treasury to the credit of the state current school fund and the same shall be used exclusively and entirely for the reduction or elimination of the annual state tax on the general property of the state required by law to be levied for said fund: *Provided, however,* That if at the time required by law for the making of the annual property tax levies for state purposes there shall be sufficient revenue to the credit of the state current school fund to make the levy of a state property tax therefor unnecessary, then in that event no such state property tax for the state current school fund shall be levied and any surplus remaining in said fund over and above the amount required to meet the apportionments from said fund required by law, shall be deposited to the credit of the various funds provided for state institutions of higher learning, in relative proportions as the millages provided in section 1, chapter 82 of the Laws of the Extraordinary Session of 1925, and shall be used exclusively and entirely for the reduction or elimination of the annual state tax on the general property of the state required by law to be levied for said funds: *And provided further,* That any balances remaining shall be applied so as to eliminate all other state property tax levies before any amount of said surplus shall be credited to the state general fund.

School fund.

General fund.

Rules and regulations.

Administrative provisions.

SEC. 20. (1) The state tax commission is hereby empowered to make such rules and regulations as it shall deem necessary in order to carry out the provisions of this act.

(2) The state tax commission is hereby authorized to employ such boards of review, attorneys, clerks, specialists and other assistants as are necessary to carry into effective operation this act. Salaries and compensations of such employees shall be charged to the proper appropriation for the tax

commission. All expenses of administration of this act shall be paid out of the general fund.

SEC. 21. Whenever an incorrect income tax assessment has been completed or no assessment has been entered when one should have been entered and such error shall be discovered after the tax roll has been completed, the tax commission may correct such error at any time before the tax becomes delinquent by entering the tax properly due, or if no tax is due, by making an entry to that effect. Errors.

SEC. 22. (1) When any corporation liable to taxation under this act conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof, or any person interested in such business, by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor; or where the tax commission has reason to believe that any taxpayer so conducts the trade or business as either directly or indirectly to distort the true net income and the net income properly attributable to the state, whether by the arbitrary shifting of income, through price fixing, charges for services or otherwise, whereby the net income is arbitrarily assigned to one or another unit in a group of taxpayers carrying on business under a substantially common control or to one or another unit of the business of a taxpayer, it may require such facts as it deems necessary for the proper computation of the entire net income and the net income properly attributable to the state and in determining the same the tax commission shall have regard to the fair profits which would normally arise from the conduct of the trade or business. Corporate
business
practices.

May require
facts.

Affiliated
corporations.

(2) For the purpose of this act, whenever a corporation which is required to file an income tax return, is affiliated with or related to any other corporation through stock ownership by the same interests, or as parent or subsidiary corporations, or whose income is regulated through contract or other arrangement, the tax commission may require such consolidated statements as in its opinion are necessary in order to determine the taxable income received by any one of the affiliated or related corporations.

Partial
validity.

SEC. 23. (1) If any clause, sentence, paragraph, subdivision, section or part of this act shall for any reason be adjudged to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(2) If any tax imposed under this act shall be adjudged to be invalid as to any corporation or class of corporations included within the scope of the general language of the act, such invalidity shall not affect the liability of any corporation or class or [of] corporations as to which such tax has not been adjudged invalid and it is hereby declared that had the invalidity of the tax as to such corporation or class of corporations been considered at the time of the enactment of this act, the tax herein provided for would nevertheless have been imposed upon all other corporations or classes of corporations within the scope of the general language of the act.

(3) If it shall be adjudged that any tax imposed upon any taxpayer under the provisions of this act is invalid because of the inclusion in the net income of the taxpayer according to or by which

the tax is ascertained or measured, income of the taxpayer which is by law exempt from direct taxation, such invalidity shall not affect the liability of the taxpayer to a tax according to, or measured by, so much of the income of the taxpayer as is not exempt by law from direct taxation; and it is hereby declared that had it been considered at the time of the enactment of this act that income within the scope of the general language of this act, but not itself subject to direct taxation, could not lawfully constitute the measure or any part of the measure by which a tax imposed under the provisions of this act is ascertained or measured, the tax herein provided would nevertheless have been imposed upon all taxpayers within the purview of this act, according to and measured by so much of the net income of such taxpayer as may lawfully be included within, or constitute a part of, the measure by which a tax according to or measured by net income may be computed.

SEC. 24. (a) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the commission, any deputy, agent, auditor, county clerk or board of review or other officer or employee, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act. Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom any action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for

Secrecy of
returns.

seven years and thereafter until the commission orders them destroyed.

Penalty.

(b) Any offense against subdivision (a) of this section shall be punished by a fine of not exceeding \$1,000.00, or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender be an officer or employee of the state he shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

Returns open to proper authorities.

(c) Notwithstanding the provisions of this section the commission may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing an income tax similar to that imposed by this act, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted, or such information furnished, to such officer or his representative only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this act. Every taxpayer shall, upon request of the commission, furnish a copy of the return for the corresponding year, which he has filed or may file with the federal government of the United States, showing his net income and how obtained and the several sources from which derived.

Federal income return.

Appropriation.

SEC. 25. There is hereby appropriated from the general fund of the State of Washington, the sum of fifteen thousand dollars, or so much thereof

as may be necessary, for paying the expenses incurred in the administration of this act until provision is made therefor by the legislature.

SEC. 26. This act shall take effect at the time and in the manner provided by law for initiative measures and income earned during the year 1932 shall be taxed under the provisions hereof. 1932 income taxed.

Passed by vote of the people at the General Election November 8, 1932.

Proclamation signed by the Governor December 8, 1932.

CHAPTER 6

[S. B. 2.]

LEGISLATIVE PRINTING.

AN ACT appropriating the sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary for the printing of the twenty-third legislature and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That there be and there is hereby appropriated out of the general fund the sum of fifteen thousand dollars (\$15,000.00), or so much thereof as may be necessary to pay for such printing as may be ordered by the twenty-third legislature, or either branch thereof. Appropriation.

SEC. 2. This act is necessary for the support of state government and shall take effect immediately. Effective immediately.

Passed the Senate January 9, 1933.

Passed the House January 9, 1933.

Approved by the Governor January 10, 1933.