

CHAPTER 191.

[S. H. B. 92.]

OCCUPATION TAX.

AN ACT relating to taxation; imposing taxes upon the privilege of engaging in business activities and providing for the ascertainment, assessment, collection and distribution thereof; providing for the administration and enforcement of this act; providing penalties; making appropriations; and declaring that this act shall take effect immediately.

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

SECTION 1. For the purposes of this act unless otherwise required by the context: Definitions:

(1) The word "commission" or the term "tax commission" shall mean the tax commission of the State of Washington. "Commission."
"Tax commission."

(2) The word "taxpayer" shall mean any person liable for any tax hereunder. "Taxpayer."

(3) The term "tax year" or "taxable year" shall mean either the calendar year, or the taxpayer's fiscal year when permission is obtained from the tax commission to use a fiscal year in lieu of the calendar year. "Tax year."
"Taxable year."

(4) The word "person" or the word "company," herein used interchangeably, shall mean and include any individual, firm, copartnership, joint venture, association, corporation, trust or any other group or company acting as a unit, whether mutual, cooperative or otherwise. "Person."
"Company."

(5) The word "sale" includes the exchange of property as well as the sale thereof for money. Every closed transaction shall constitute a sale. "Sale."

(6) The term "gross income" means the value proceeding or accruing from the sale of tangible property, real or personal, or service or both and all receipts, actually received by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, "Gross income."

fees or other emoluments however designated and without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest or discount paid or any other expenses whatsoever and without any deduction on account of losses: *Provided*, The term "gross income" shall not include any payments received on accounts or notes outstanding at the time this act goes into effect.

Outstand-
ing notes."

"Business."

(7) The word "business" shall include all activities engaged in with the object of gain, benefit or advantage either direct or indirect, and not excepting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activities shall be considered business engaged in taxable in the class in which it falls.

"Gross
proceeds
of sales."

(8) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of property without any deduction on account of the cost of property sold, expenses of any kind, or losses.

"Whole-
saler."

(9) The word "wholesaler" or the word "jobber" or the term "wholesaler or jobber" shall mean only a person doing a regularly organized jobbing business, known to the trade as such, or any firm doing a similar business as defined by the state tax commission.

(10) Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

Business
activities.

SEC. 2. (1) Business activities, for the purpose of this act, are hereby declared to consist of the five separate and distinct functions, to-wit:

- (a) The extractive function;
- (b) The manufacturing and/or producing function;

- (c) The wholesaling and/or jobbing function;
- (d) The function of retail distribution;
- (e) The function of performing and rendering services.

The taxes hereinafter imposed shall apply to all business activities within the state and to each function thereof, whether carried on separately or in combinations of two or more functions. Scope of tax.

(2) From and after the first day of August, 1933, and until the thirty-first day of July, 1935, there is hereby levied and there shall be collected from every person an annual tax or excise for the privilege of engaging in business activities. Such tax or excise shall be measured by the application of rates against values, gross proceeds of sales, or gross income, as the case may be, as follows: Tax levied.

(a) Upon every person engaging or continuing within this state in the business of mining and producing for sale, profit or use any coal, oil, natural gas, metals, limestone, sand, gravel or other mineral products and/or felling and producing timber for sale, profit or use and/or seining, trapping or catching fish, shell fish, or other sea foods or products for sale, profit or use; as to such persons the amount of the tax or excise shall be equal to the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer (except as hereinafter provided) multiplied by the respective rates as follows: Computation of rates:

- I. Coal: three-tenths of one per cent; Coal.
- II. Oil: one per cent; Oil.
- III. Natural gas: one per cent; Natural gas.
- IV. Metals, limestone, sand, gravel, clay, and any earth or mineral products: three-tenths of one per cent; Metals.
- V. Timber: three-tenths of one per cent; Timber.

Fish.

VI. Fish, shell fish or other sea foods or products: three-tenths of one per cent;

Other extractive products.

VII. All other extractive products not herein covered or mentioned: three-tenths of one per cent.

The measure of this tax is the value of the entire production in this state regardless of the place of sale or the fact that deliveries may be made to points outside the state.

Manufacturing.

(b) Upon every person engaging or continuing within this state in the business of manufacturing, compounding or preparing for sale, profit or use any article or articles, substance or substances, commodity or commodities; as to such persons the amount of the tax or excise shall be equal to the value of the articles manufactured, compounded or prepared for sale, as shown by the proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same (except as hereinafter provided) multiplied by the rate of twenty-five one-hundredths of one per cent.

The measure of the tax is the value of the entire product manufactured, compounded or prepared for sale, profit or use in the state, regardless of the place of sale or the fact that deliveries may be made to points outside the state.

Vetoed.

(ba) Upon every person engaging or continuing within this state in the business of growing or raising for sale, profit or use, any article, substance, commodity, product, or crop; as to such person, the amount of the tax or excise shall be equal to the value of the articles, substances, commodities, products, or crops produced, grown, or raised for sale, as shown by the proceeds derived from the sale thereof by the grower, raiser or producer (except as hereinafter provided) multiplied by the rate of one-tenth of one per cent.

The measure of the tax is the value of the entire article, substance, commodity, product, or crop, grown, raised or produced for sale, profit or use in the state regardless of the place of sale or the fact that deliveries may be made to points outside the state.

Vetoed.

(c) Upon every person engaging or continuing within this state in the business of selling, as a wholesaler or jobber, any tangible property, real or personal (except, however, bonds or other evidences of indebtedness or stocks); as to such persons the amount of the tax or excise shall be equal to the gross proceeds of sales of the business multiplied by the rate of two-tenths of one per cent.

Selling at wholesale.

(d) Upon every person engaging or continuing within this state in the business of selling at retail, or other than as a wholesaler or jobber, any tangible property whatever, real or personal (except, however, bonds or other evidences of indebtedness or stocks); as to such persons the amount of the tax or excise shall be equal to the gross proceeds of sales of the business multiplied by the rate of five-tenths of one per cent.

Selling at retail.

(e) Upon every person engaging or continuing within this state in the following businesses; as to such persons the amount of tax or excise shall be equal to the gross income of the business multiplied by the rate set out after the business, as follows:

I. National banking associations, state banks, trust companies, mutual savings banks, building and loan or savings and loan associations, industrial loan companies: four-tenths of one per cent;

Banks.

II. Stock brokers and security houses: two per cent;

Stock brokers.

III. Steam railways: one and one-half per cent;

Steam railways.

IV. Electric interurban railways, street railways, and all automotive transportation systems

Electric and street railways.

operating entirely within the limits of any city or town or contiguous cities or towns: five-tenths of one per cent;

Light and power.
Telephone and telegraph.

V. Light and power companies: three per cent;

VI. Telephone and telegraph companies: three per cent;

Water.

VII. Water companies, except, however, irrigation companies and district: three per cent;

Manufactured gas.

VIII. Manufactured gas companies: two per cent;

Express.

IX. Express companies: two per cent;

Car companies.

X. Car companies: two per cent;

Highway transportation.

XI. Passenger and freight highway transportation companies including certificated, contract and for hire carriers: one and one-half per cent;

Other public service.

XII. All other public service companies and utilities: one and one-half per cent;

Finance.

XIII. Finance companies engaged in the business of loaning money on retail sales or of discounting or rediscounting conditional or other sales contracts: two per cent.

Municipal corporations.

The terms of this subdivision shall apply with equal force to any municipal corporation or district engaging in any of the business activities herein mentioned: *Provided, however,* That moneys received from tax sources shall not be included in computing the gross proceeds of sales or gross income upon which such tax shall be based. This paragraph shall be so interpreted as to give effect to the intent of this act which is declared to be to impose upon municipally owned and/or operated utilities and businesses coming within the purview of this subdivision an excise at the same rate as is herein imposed upon privately owned utilities or businesses of the same type.

Tax monies.

Theatre.

(ea) Upon every person engaging in or continuing within this state in the business of operating or conducting a theater, moving or talking pic-

ture theater, athletic contest, exhibition, dance, fair, carnival or other place of recreation or amusement; as to such persons the amount of the tax or excise shall be equal to the gross income derived from admissions, multiplied by the rate of one and one-half per cent.

(eb) Upon every person engaging in or continuing within this state in the business of outdoor advertising; as to such persons the amount of the tax or excise shall be equal to the gross income of the business, multiplied by the rate of one per cent.

Outdoor advertising.

(ec) Upon every person engaging in or continuing within this state in the business of publishing newspapers, periodicals or magazines; as to such persons the amount of the tax or excise shall be equal to the gross income of business, multiplied by the rate of twenty-five one hundredths of one per cent.

Publishing.

(ed) Upon every person engaging in or continuing within this state in the business of radio broadcasting; as to such persons the amount of the tax or excise shall be equal to the gross income of the business, multiplied by the rate of one per cent.

Radio broadcasting.

(ee) Societies of authors, composers and publishers who collect license and/or service fees in this state: five per cent.

Authors, composers, etc.

(f) Upon every person engaging in or continuing within this state in any business not included in the preceding subdivisions of this section and upon every person engaging or continuing within this state in the business of rendering, performing or selling services, professional or otherwise; as to such persons the amount of the tax or excise shall be equal to the gross income of the business multiplied by the rate of six-tenths of one per cent.

Vetoed.

(3) If any person liable for any tax under subdivisions (2) (a), (2) (b) or (2) (ba) of this

Products sent out of state before being sold.

section shall ship or transport his products or any part thereof out of the state without making prior sale of such products, the value of the products or articles in the condition or form in which they existed when transported out of the state shall be the basis for the assessment of the tax imposed in said paragraphs: and the tax commission shall prescribe equitable and uniform rules for ascertaining such value.

Sales to affiliated companies.

In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the tax commission shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by the other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

Application.

(4) Every person, except those taxed under subdivisions (2) (e), (ea), (eb), (ec) and (ed) of this section, exercising privileges taxable under two or more of the paragraphs of subdivision (2) of this section, shall be required to make returns on account of the functions engaged in, showing the gross proceeds therefrom, or equivalent thereof, in accordance with uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sales of similar products of like quality and character by other taxpayers, such rules shall be prescribed by the tax commission.

(5) All persons exercising privileges taxable under subdivisions (2) (b), (2) (c), (2) (d), or (2) (f), producing minerals, timber, fish or other natural resource products, the production of which is taxable under subdivision (2) (a), and using or consuming the same in their business, shall be deemed engaged in the business of mining and producing minerals, timber, fish or other natural resource products for sale, profit or use and shall be required to make returns on account of the production of said minerals, timber, fish or other natural resource products showing the gross proceeds therefrom, or the equivalent thereof, in accordance with uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers. Such rules shall be prescribed by the tax commission.

(5½) As to any person exercising any privilege taxable under schedules I, II, or XIII of section 2 (2) (e) the term "gross income" shall be construed to mean the gross earnings of the business from interest, discount, rentals, royalties, fees or other emoluments however designated.

(6) Any person exercising any privilege taxable under subdivision (2) (a), (2) (b) and/or (2) (ba) of this section selling the products mined, caught, felled, produced, manufactured, compounded, prepared, grown or raised to wholesalers, jobbers, retailers, or manufacturers shall not be required to pay the tax imposed in subdivision (2) (c) of this section for the privilege of selling such products at wholesale; but any person exercising any privilege taxable under subdivision (2) (a), (2) (b) and/or (2) (ba) of this section selling his natural resource products or products manufactured, compounded, prepared, grown or raised at

retail in this state, also shall be required to make returns of the gross proceeds of such retail sales and pay the tax or excise imposed in subdivision (2) (d) of this section for the privilege of engaging in the business of selling such natural resource products or products manufactured, compounded, prepared, grown or raised at retail in this state: *Provided, however,* That the sale of products in wholesale quantities by the producer or manufacturer thereof to another manufacturer shall not be construed as a retail sale; the intent hereof being that the producer or manufacturer shall be subject to the producer's or manufacturer's tax only.

Sales by
producer
to other
manufac-
turer.

(6½) As to any person taxable under schedules III to XII, inclusive, of section 2 (2) (e), there shall be exempted from gross income so much thereof as is derived from sales of services or commodities for resale to another person taxable under the same schedule.

Excise less
than \$5.

(7) No person shall be required to file a return or to pay a tax under the provisions of this act unless the amount of the tax or excise, computed at the rates herein provided, for the taxable year shall be five dollars (\$5.00) or more. Any person required to file a return shall be liable for the full amount of the tax or excise computed under the provisions of this act.

Vetoed.

SEC. 2½. In the case of persons taxable under schedules V, VI, VII and VIII of section 2 (2) (e), whose charges for the sale of property or rendering of service are fixed by municipal ordinance, or are fixed or regulated by any other governmental authority, the amount of tax or excise levied under this act shall be added to the charge otherwise payable for such property or service, and paid by the consumer, and shall be plainly shown as such on the bill rendered for such property or service. This

provision shall apply whether such charges or services are made or rendered under the provisions of contract or otherwise. } Vetoed.

SEC. 3. If any person shall engage or continue in any business or the performance of any function for which a privilege tax is imposed by this act, he shall be deemed to have applied for and to have duly obtained from the State of Washington a license under this act to engage in and to conduct such business or perform such function for the current tax year, upon the condition that he shall pay the tax accruing to the State of Washington under the provisions of this act; and he shall hereby be duly licensed to engage in and conduct such business or perform such a function. Duly licensed.

SEC. 4. The following persons and no others shall be exempted from the provisions of this act: Exemptions:

(1) Religious, scientific, educational, benevolent or other corporations or associations of individuals not organized or conducted for pecuniary profit. Religious, educational, etc.

The exemptions provided for in this subdivision shall not apply to any company, organization, corporation or society organized for profit or to any company, organization, corporation or society any part of the income of which inures to the benefit of any private stockholder or individual: *Provided*, That in lieu of tax on concessions within the fair grounds, agricultural fairs shall pay two-tenths of one per cent. Agricultural fairs.

(2) Insurance companies which pay to the State of Washington a tax upon gross premiums. Insurance.

SEC. 5. In computing the amount of any tax imposed under subdivisions (2) (c), (2) (d), (2) (e) and (2) (f) of section 2 of this act, there shall be excepted from gross proceeds of sales or gross income so much thereof as is derived from Deductions from gross proceeds.

Property
sold outside
of state, to
U. S., to
state of
Washington.

sales of tangible personal property shipped or transported to points outside the State of Washington, from sales to the United States government, or to the State of Washington, their departments or institutions, or from business which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States, and so much thereof as is collected by the taxpayer as an excise upon motor vehicle fuel or as a similar excise.

How
payable.

SEC. 6. The taxes imposed hereunder shall be due and payable in monthly installments on or before the fifteenth day of the month next succeeding the month in which the tax accrued. The taxpayer, on or before said fifteenth day of the month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing his estimate of the amount of the tax for which he is liable for the preceding month, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required by section 20 of this act. Whenever the total tax for which any person is liable under this act does not exceed the sum of ten dollars (\$10.00) for any month, a quarter-yearly return and remittance in lieu of the monthly return may be made on or before the fifteenth day of the month next succeeding the end of the quarter-year for which the tax is due. Whenever the total tax for which any person is liable under this act does not exceed the sum of ten dollars (\$10.00) for any quarter-year an annual return and remittance in lieu of the quarterly return may be made as provided in section 7 of this act. The tax commission, for good cause shown, may extend the time for making and filing any monthly or quarterly return as required under this section, and may grant such reasonable additional time within which to make and file such

return as it may deem proper; but the time for making and filing such return shall not be extended beyond the fifteenth day of the month next succeeding the regular date of the return.

SEC. 7. On or before fifteen days after the end of the tax year, each person liable for the payment of a tax under the provisions of this act shall make a return setting forth the gross proceeds of sales and/or the gross income received and/or accrued during such tax year and such other information as the tax commission may require, compute the amount of tax chargeable against him for such tax year under the provisions of this act, deduct the amount of monthly or quarterly payments, as hereinbefore provided, and transmit the same to the tax commission together with a remittance, in the form required by section 20 of this act, covering the residue of the tax chargeable against him for such year. Such return shall be verified by the oath of the taxpayer, if made by an individual, or by the oath of the president, vice-president, secretary or treasurer of a corporation, if made by a corporation. If made by a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such partnership, joint adventure, association, trust or any other combination acting as a unit shall make the oath on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to make the oath, the same may be made by any duly authorized agent. The tax commission, for good cause shown by any taxpayer, may extend the time for making and filing any annual return and may grant such reasonable additional time within which to make and file the same as may, by it, be deemed advisable.

Return.

Extension
of time.

SEC. 8. If the taxpayer shall make any error in computing any tax or installment assessable

Error.

against him, the tax commission shall correct such error or reassess the proper amount of taxes and notify the taxpayer of its action by mailing to him a notice of the corrected assessment, and any additional tax for which such taxpayer may be liable shall become due and shall be paid within ten days after the day of such notice.

Excess.

If upon examination of any monthly or quarterly return made under this act, it appears that a tax has been paid in excess of that properly due, then the amount of such excess shall be credited against any tax or installment thereof then due or to become due from the taxpayer under any other subsequent return for the same year, and any balance of such excess at the end of the tax year and upon the filing of the taxpayer's annual return, or upon the filing of a final return upon ceasing business, shall be refunded 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. Any tax for which a recovery is granted by any court of competent jurisdiction, not appealed from, in a suit by any taxpayer shall be refunded in like manner, upon the filing with the tax commission of a certified copy of the order or judgment of the court.

Records.

SEC. 9. It shall be the duty of every person liable for any fee or tax imposed by this act to keep and preserve, for a period of five years, suitable records of gross proceeds of sales and/or gross income and such other books or records of account as may be necessary to determine the amount of any tax for which he may be liable under the provisions of this act; and all such books, records and invoices shall be open for examination at any time by the commission or its duly authorized agent. Any person who shall fail to comply with the require-

ments of this section shall be forever barred from questioning, in any court action or proceeding, the correctness of any assessment of taxes made by the tax commission and based upon any period for which such books, records and invoices have not been so kept and preserved.

SEC. 10. If any person shall fail or refuse to make any return required by this act, the tax commission shall proceed, in such manner as it may deem best, to obtain facts and information on which to base the assessment of the tax herein prescribed; and to this end the commission may by itself or its duly appointed agent make examination of the books, records and papers of any such person and may take evidence, on oath, of any person, relating to the subject of inquiry. The oath may be administered by any member of the commission or by any agent designated by it for that purpose.

Failure or
refusal to
make return.

As soon as the tax commission shall procure such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, the commission shall proceed to determine and assess the tax against such person but such action shall not deprive such person from appealing to the superior court as hereinafter provided. To such tax the commission may add a penalty of ten per cent thereof for failure or refusal to make a return and likewise shall add a further penalty of one per cent per month of the amount of the tax for each thirty days or portion thereof from the date upon which the tax was due as provided by this act, and shall notify such taxpayer by mail of the total amount of such tax and added penalties and such total amount shall become due and shall be paid within ten days after the date of such notice.

Penalty.

Notice not received.

SEC. 11. Any notice or order required by this act to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the address of the taxpayer shown by the records of the tax commission, or, if no such address is shown, to such address as the tax commission is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such notice or order mailed shall not release the taxpayer from any tax or any increases or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this act.

Disposing of business.

SEC. 12. Whenever any taxpayer shall quit business, or shall sell out, exchange or otherwise dispose of his business or his stock of goods, wares or merchandise, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due in the manner provided in section 7 hereof, and any person who shall purchase such business or such stock of goods, wares or merchandise, or shall succeed to such business shall withhold from the purchase price a sum sufficient to pay any tax due from such taxpayer until such time as the taxpayer shall produce a receipt from the tax commission showing payment in full of any such tax due from the taxpayer or a certificate that no tax is due, and if such tax is not paid by the taxpayer within ten days from the date of such sale, exchange or disposal, such purchaser or successor shall likewise thereupon become liable for the payment of such tax, and payment thereof by such purchaser or successor shall, to the extent thereof, be deemed a payment upon the purchase price.

Payment condition precedent to court action.

SEC. 13. All taxes imposed under the provisions of this act shall be paid in full before any action may be instituted in any court to contest all or any part of such tax. No restraining order or injunction shall be granted or issued by any court

or judge to restrain or enjoin the collection of any tax or penalty imposed by this act, or any part thereof, except upon the ground that the assessment thereof was in violation of the constitution of the United States or that of the State of Washington.

SEC. 14. Any person, having paid any original assessment or additional assessment or corrected assessment of any tax made by the tax commission under the provisions of this act, may apply to the tax commission by petition in writing, within twenty days after notice is mailed to him, for a hearing and a correction of the amount of the tax so assessed upon him, in which petition he shall set forth the reasons why such hearing should be granted, and the amount in which such tax should be reduced. The commission shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be notified by mail thereof forthwith; if granted, the commission shall notify the petitioner by mail of the time and place fixed for such hearing. After such hearing the commission may make such order as may appear to it just and lawful and shall mail a copy of such order to the petitioner.

Hearing:
petition for.

Any person, except one who has failed to keep and preserve books, records and invoices as provided in section 9 hereof, having paid any tax as required by this act and feeling aggrieved by the amount of the tax may appeal to the superior court of the county in which the taxpayer resides or in which the taxpayer's principal place of business is situated, or, at his election, to the superior court of Thurston county, within thirty days after the payment of such tax, or within thirty days after the date of the notice denying a hearing or after the date of the order provided in this section. In the appeal the taxpayer shall set forth the amount of the tax imposed upon him, what he concedes

Appeal to
superior
court.

to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the tax commission within the time herein provided and by filing the original thereof with proof of service with the clerk of the superior court to which the appeal may be taken. Within ten days after filing notice of such appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety company bond payable to the State of Washington in the sum of two hundred dollars (\$200.00), conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained. The trial in the superior court on the appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by him is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the State of Washington, the defendant; and both parties shall be entitled to subpoena and require the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant and material to determine the correct amount of the tax that should be paid by the taxpayer under this act. Either party shall be allowed to appeal to the supreme court in the same manner as other civil actions are appealed to that court, but no appeal shall lie to the supreme court where the difference between the amount of the tax which the taxpayer concedes to be correct and the amount of the tax as determined by the tax commission and paid by the taxpayer is less than two hundred dollars (\$200.00). It shall not be necessary for the taxpayer to protest against the payment of any tax or to make

Bond.

Appeal to
supreme
court.

any demand to have the same refunded or to petition the tax commission for a hearing in order to appeal to the superior court as herein provided; but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

SEC. 15. If any tax, increase or penalty imposed by this act or any portion of such tax, increase or penalty be not paid within fifteen days after the same shall become due, the tax commission shall issue a warrant under its official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and/or personal property of the taxpayer found within his county, or so much thereof as may be necessary, for the payment of the amount of such warrant, together with a further penalty of one per cent of the amount of the tax as determined by the tax commission for each thirty days or portion thereof after the date of such warrant, plus the cost of executing said warrant, and return such warrant to the tax commission and pay to it the money collected by virtue thereof within sixty days after the receipt of such warrant.

The sheriff, within three days after the receipt of said warrant, shall file with the clerk of the superior court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the tax or portion thereof and any increases 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 interest in real and personal property of the taxpayer against whom it is issued in the same manner as a judgment in a civil case duly docketed in the office of such clerk,

Non-payment.

Filing of warrant.

Lien on property.

and the sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments of said superior court. The sheriff shall be entitled to the fees provided by law for his services in levying execution on a superior court judgment, which shall be added to the amount of such warrant. The proceeds received from any sale shall be credited upon the amount due under the warrant and when the final amount due is received, together with interest, penalties and costs, the judgment docket shall show the claim for taxes to be satisfied and the clerk of the court shall so note upon the docket. Any surplus received from any sale of property shall be paid to the taxpayer. If the return on the warrant shall show that the same has not been satisfied in full, the amount of the deficiency shall remain in judgment against the taxpayer which may be collected in the same manner as the original amount of such warrant.

In the discretion of the tax commission a warrant of like terms, force and effect may be issued and directed to any agent of the commission authorized to collect income taxes or taxes under this act, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of such warrant.

SEC. 16. Any tax due and unpaid under this act and all increases and penalties thereon shall constitute a debt due the State of Washington and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies. In case of insolvency or bank-

Sale.

Surplus.

Unpaid
taxes.

ruptcy proceedings said tax and all increases and penalties thereon shall have the same priority as other taxes of the State of Washington in such proceedings.

Insolvency,
priority.

SEC. 17. Any person against whom a tax shall have been imposed as herein provided may be restrained and enjoined, upon the order of the tax commission by proceedings instituted by the attorney general in the name of the State of Washington in the superior court of the county in which the taxpayer resides or in which he has his principal place of business, from engaging and/or continuing in any business for which a privilege tax is required by the provisions of this act, until such tax shall have been paid and/or until such person shall have complied with the provisions of this act.

Restrained
from
business
activities
for non-
payment.

SEC. 18. The assessment of taxes herein made and the returns required therefor shall be for the year ending on the thirty-first day of December; but if any taxpayer in transacting his business keeps the books reflecting the same on a basis other than the calendar year, he may, with consent of the tax commission, make his annual returns and pay taxes hereunder for the year covered by his accounting period as shown by the method of keeping the books of his business.

Tax year.

SEC. 19. Taxes imposed by this act shall be in addition to any and all other licenses, taxes and excises levied or imposed by the state or any municipal subdivision thereof.

Additional
tax.

SEC. 20. All remittances of taxes imposed by this act shall be made to the tax commission by bank draft, certified check, cashier's check, money order or certificate of deposit and the tax commission, when requested, shall issue its receipts therefor to the taxpayer. The tax commission shall keep full and accurate records of all funds received and disbursed by it under the provisions of this act.

Remittance:
how made.

Disposition
of monies.

SEC. 21. The tax commission, on the next business day following the receipt of any payments under this act, shall transmit the same to the state treasurer, taking his receipt therefor. The state treasurer, upon receipt thereof, shall first deposit to the credit of the current state school suspense fund, which fund is hereby created, so much of any sums received as may be necessary to bring the total amount available in said fund to the sum of fifty thousand dollars (\$50,000.00) and thereafter to maintain the said fund in said sum as a revolving fund for the payment of sums appropriated under sections 28, 29 and 29-A of this act and shall deposit the balance of all sums received to the credit of the current state school fund: *Provided*, That when the total sum deposited to the current state school fund, together with all other revenues credited to said fund, shall have reached the sum of twelve million five hundred thousand dollars (\$12,500,000.00) in any year beginning on the first day of April and ending on the 31st day of March of the succeeding year, then any surplus over and above said sum of twelve million five hundred thousand dollars (\$12,500,000.00) received during such year shall be deposited to the credit of the state general fund.

Corpora-
tions: disso-
lution of.

SEC. 22. The courts of this state shall not enter or sign any decree of dissolution in case of any corporation organized under the laws of this state and the secretary of state shall withhold the issuance of any certificates of withdrawal in case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state until proof, in the form of a certificate from the tax commission, has been furnished, by the applicant for such dissolution or withdrawal, that every license fee, tax, increase or penalty imposed under this act has been paid or provided for.

SEC. 23. It shall be unlawful for any person to fail or refuse to obtain the license, or to fail or refuse to make any return provided for in this act; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or any part thereof imposed by this act; or for any person to aid or abet another in any attempt to evade the payment of such tax or any part thereof; or for the president, vice-president, secretary, treasurer or other officer of any company to make or permit to be made for any company any false return, or any false statement in any return required by this act, with intent to evade payment of any tax hereunder; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the commission or its duly appointed agent, as required by this act; or to fail or refuse to permit the inspection or appraisal of any property by the commission or its duly appointed agent; or to refuse to offer testimony or produce any record as required in this act. Any person violating any of the provisions of this section shall be guilty of a gross misdemeanor and punishable in the manner provided by law. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of perjury in the second degree and, on conviction thereof, shall be punished in the manner provided by law; and any company for which a false return, or a return containing a false statement as aforesaid shall be made, shall be punished, upon conviction thereof, by a fine of not more than one thousand dollars (\$1,000.00). All penalties or punishments provided in this section shall be in addition to all other penalties provided in this act.

Violations.

Penalty.

Administra-
tion.

SEC. 24. The administration of this act shall be vested in and exercised by the tax commission which shall prescribe forms and rules of procedure in conformity with this act for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed hereunder: The state tax commission is hereby authorized to employ such clerks, specialists and other assistants as are necessary to carry this act into effective operation. Salaries and compensation of such employees shall be fixed by such commission and shall be charged to the proper appropriation for the tax commission.

Examination
of records.

SEC. 25. The tax commission or its duly authorized agent may examine any books, papers, records or other data bearing upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made, as required by this act; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the tax commission. The person summoned may be required to testify and produce any books, papers, records, data or documents as required by the tax commission with respect to any tax, or the liability of any person therefor, under this act. The secretary of the tax commission, or any member, or any duly authorized agent thereof, shall have power

Attendance
of witnesses.

Oath.

to administer an oath to the person required to testify; and any person giving any false testimony after the administration of such oath shall be guilty of perjury in the first degree and, upon conviction thereof, shall be punished in the manner provided by law. If any person summoned as a witness before the tax commission, or its authorized agent, shall fail or refuse to obey the summons, or shall refuse to testify or answer any material question, or to

produce any book, record, paper or other data when required to do so, it shall be the duty of the attorney general to thereupon institute proceedings in the superior court of Thurston county to punish any such person for contempt of court for failure to obey such summons and appear as a witness, or for refusal to testify or answer any material question, or for refusal to produce any book, record, paper or other data, as required by the tax commission, or its authorized agent.

Failure
to obey
summons.

Attorney
general.

SEC. 26. If it shall appear at any time that any person has been over or under assessed, or that no assessment has been made when one should have been made, the tax commission shall make a correct assessment. Additional assessments and corrections of assessment may be made by the commission at any time within four years after the close of the period covered by the annual return.

Additional
assessments
and cor-
rections.

SEC. 27. Except in accordance with proper judicial order or as otherwise provided by law and except to members and employees of the tax commission, and the income tax department thereof, for the purpose of checking, comparing and correcting returns made under this act or any taxation act based upon or measured by income adopted in this state, or for other official purposes of the tax commission, it shall be unlawful for the tax commission, or any member thereof, or any deputy, clerk, agent or representative thereof or any other officer or employee, to divulge or make known in any manner the amount of gross proceeds of sales and/or gross income of any taxpayer or the tax paid by any taxpayer or any particulars set forth or disclosed in any report or return required under this act. The officers charged with the custody of such reports and returns shall not be required to produce any of them or give evidence of anything contained in them in any action or proceeding in any court, ex-

Secrecy of
information.

cept on behalf of the tax commission in an action or proceeding under the provisions of this act to which it is a party or on behalf of any party to any action or proceeding under the provisions of this act when the reports or facts shown are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence so much of said reports or returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return or report filed by it, or 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 assessment of any tax or penalty imposed by this act, or against whom an action or proceeding has been instituted in accordance with the provisions of this act. Reports and returns shall be preserved for three years and thereafter until the tax commission shall order them to be destroyed. Any wilful violation of the provisions of this section shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) and if the offender or person guilty of such violation be an officer or employee of the state he shall be dismissed from such office or employment, and shall be incapable of holding any public office or employment in this state for a period of two years thereafter. 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 a tax similar to that imposed by this act, or any income tax or tax measured by income

Violation.
Penalty.

or the authorized representative of either of such officers, to inspect any report or return made under this act by any taxpayer, or may furnish to such officer or his authorized representative an abstract of any report or return or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation in connection therewith; 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.

SEC. 28. There is hereby appropriated from the current state school suspense fund the sum of ten thousand dollars (\$10,000.00), or so much thereof as shall be necessary for the purpose of making refunds as provided by this act. Appropriation.

SEC. 29. There is hereby appropriated from the current state school suspense fund the sum of four hundred fifty thousand dollars (\$450,000.00) or so much thereof as shall be necessary to carry out the provisions of this act. Appropriation.

SEC. 29-A. To provide for necessary expenditures, prior to the time when revenues from this act shall become available, there is hereby appropriated from the state general fund the sum of fifty thousand dollars (\$50,000.00), which sum shall become available immediately, and any portion of such sum not expended during the present biennium shall be and hereby is re-appropriated for the same purposes for the ensuing biennium: *Provided*, That the said sum of fifty thousand dollars (\$50,000.00), or so much thereof as shall be expended, shall be repaid to the state general fund, and there is hereby appropriated from the current state school suspense Appropriation.

Appropriation.

fund the sum of fifty thousand dollars (\$50,000.00), or so much thereof as may be necessary to repay the state general fund for any monies so expended, such repayments to be made in five equal monthly installments on the first day of each calendar month beginning on the first day of December, 1933, and the state treasurer shall charge and credit the respective funds accordingly.

Partial invalidity.

SEC. 30. If any clause, sentence, paragraph, subdivision, section or part of this act shall for any reason be adjudged 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.

Of tax.

If any tax imposed under this act shall be adjudged invalid as to any person, 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 person, corporation, or class 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 person, 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 persons, corporations or classes of corporations within the scope of the general language of the act: *Provided, however,* That this paragraph shall not be effective with respect to subdivision (2) (e) I of section 2 and if the provisions of said subdivision shall be declared unconstitutional or invalid as to any one of the classes of taxpayers therein named said clause shall thereupon be deemed inoperative as to all other taxpayers mentioned in said subdivision.

SEC. 31. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately. Effective immediately.

Passed the House March 9, 1933.

Passed the Senate March 9, 1933.

Approved by the Governor March 21, 1933, with the exception of section 2½ and items (ba) and (f) of section 2 (2), which are vetoed.

CHAPTER 192.

[S. B. 381.]

APPROPRIATIONS.

AN ACT making appropriations for the payment of salaries of certain officers and employees of the state and for the operation, maintenance and other expenses of certain state institutions, departments and offices, for the purchase and improvement of land, the construction of buildings and improvements for the various state institutions designated and mentioned, and for emergencies, and for sundry civil expenses of the state government, and for public schools, and for purposes specified in certain acts of congress, and for miscellaneous purposes, for the fiscal biennium beginning April 1, 1933, and ending March 31, 1935, except as otherwise provided, and empowering the governor to suspend certain sections of the military code, and declaring that this act shall take effect immediately.

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

SECTION 1. The words "capital outlay" whenever used in this act, shall mean and include the purchase and improvement of land and erection of buildings, including necessary salaries and wages incident thereto. "Capital outlay."

The words "salaries and wages" whenever used in this act, shall mean and include salaries of executive officers and employees of state offices, departments and institutions, and all compensation for direct labor or personal service rendered to the state, including salaries of state examiners. "Salaries and wages."