

support of county government and its public departments and shall take effect immediately.

Passed the House March 14, 1935.

Passed the Senate March 14, 1935.

Approved by the Governor, with the exception of section 2, which is vetoed, March 23, 1935.

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## CHAPTER 180.

[H. B. 237.]

### REVENUE ACT OF 1935.

AN ACT relating to revenue and taxation; providing for the levy and collection of a tax or excise upon the act or privilege of engaging in business activities; providing for the levy and collection of a tax upon retail sales; providing for the levy and collection of a tax upon the use of personal property; providing for the levy and collection of a tax or excise upon the act or privilege of engaging in public utility business; providing for the levy and collection of a tax upon admissions to any place; providing for the levy and collection of a tax upon sales of liquor; providing for the levy and collection of a tax upon conveyances; providing for the levy and collection of a tax upon stock issues and transfers; providing for the levy and collection of a tax or excise upon the business of engaging in radio broadcasting; providing for the levy and collection of a tax upon the sale, use or distribution of fuel oil and diesel oil; providing for the levy and collection of a tax upon the sale, use, consumption or distribution of cigarettes; providing for the levy and collection of a tax upon the sale, use, consumption or distribution of proprietary medicines and toilet preparations; providing for the levy and collection of a store license tax; providing for the levy and collection of a tax on inheritances; providing for the levy and collection of a tax on gifts; providing for the levy and collection of a tax according to or measured by the net income of banks and corporations; providing the necessary administrative machinery for the collection and enforcement of the taxes hereunder; providing for certain exemptions and deductions; declaring certain acts in connection therewith unlawful and providing penalties; making appropriations; providing for the distribution of revenue derived hereunder; providing for shortening the operative period of chapter 191, Laws of 1933, as amended; providing for the amendment of sections 1, 2, 8, 12, 13, 15 and

18, chapter 55, Laws of 1901, as amended, section 4, chapter 146, Laws of 1917, as amended, section 95, chapter 156, Laws of 1917, as amended, section 5, chapter 205, Laws of 1929, and sections 4 and 7, chapter 134, Laws of 1931; providing for the repeal of section 1, chapter 135, Laws of 1929, sections 1 and 2, chapter 202, Laws of 1929, as amended, sections 28, 29, 30, 31 and 32, chapter 130, Laws Extraordinary Session 1925, and all acts and parts of acts in conflict therewith; declaring an emergency and that this act shall take effect immediately.

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

TITLE I. INTRODUCTORY PROVISIONS.

SECTION 1. The provisions of this act are herein classified and designated as follows: Classifica-  
tion of  
provisions.

Sections 1 to 3, inclusive: Title I.

—Introductory Provisions.

Sections 4 to 15, inclusive: Title II.

—Business and Occupation Tax.

Sections 16 to 30, inclusive: Title III.

—Tax on Retail Sales.

Sections 31 to 35, inclusive: Title IV.

—Compensating Tax.

Sections 36 to 43, inclusive: Title V.

—Public Utility Tax.

Sections 44 to 50, inclusive: Title VI.

—Admissions Tax.

Sections 51 to 52, inclusive: Title VII.

—Liquor Tax.

Sections 53 to 60, inclusive: Title VIII.

—Tax on Conveyances.

Sections 61 to 73, inclusive: Title IX. } } Vetoed.

—Tax on Stock Issues and Transfers.

Sections 74 to 77, inclusive: Title X.

—Radio Tax.

Sections 78 to 81, inclusive: Title XI.

—Fuel Oil Tax.

Sections 82 to 95, inclusive: Title XII.

—Tax on Cigarettes.

Vetoed with the exception of §§ 104, 106, 107, 108, 111, 112, 113, 114, 115 and 121 to 127 inc. of Title XV.

- Sections 96 to 98, inclusive: Title XIII.  
—Tax on Proprietary Medicines and Toilet Preparations.
- Sections 99 to 103, inclusive: Title XIV.  
—Store License Tax.
- Sections 104 to 127, inclusive: Title XV.  
—Inheritance Tax.
- Sections 128 to 158, inclusive: Title XVI.  
—Gift Tax.
- Sections 159 to 184, inclusive: Title XVII.  
—Corporate Net Income Tax.
- Sections 185 to 210, inclusive: Title XVIII.  
—Administrative Provisions.
- Section 211 Title XIX.  
—Allocation of Revenue.
- Sections 212 to 218, inclusive: Title XX.  
—General Provisions.

Purpose of act.

SEC. 2. The limitations on the taxing power of the various municipalities of the state make it imperative that the state assume a larger part of the expense necessary to provide reasonable support for public education and for the care of indigent persons and the unemployed. To meet the obligations so imposed, and better to distribute the burden of taxation, the State of Washington hereby declares its purpose to levy a tax on persons engaged in business activities and upon commodities, estates and gifts as enumerated in this act and in the manner hereinafter in this act set forth.

Definitions:

SEC. 3. For the purpose of the entire act and, unless otherwise required by the context:

"Tax Commission;"

(a) The term "Tax Commission" or the word "Commission" means the tax commission of the State of Washington;

"taxpayer."

(b) The word "taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax here-

under, or who engages in any business or performs any act for which a tax is imposed by this act;

(c) 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.

## TITLE II. BUSINESS AND OCCUPATION TAX.

SEC. 4. From and after the first day of May, 1935, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in business activities. Such tax shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be, as follows:

Business  
and occupa-  
tion tax.

Measure-  
ment of tax.

(a) Upon every person engaging within this state in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products extracted for sale or commercial use, multiplied by the rate of one-quarter of one per cent;

Extractors.

The measure of the tax is the value of the products so extracted, regardless of the place of sale or the fact that deliveries may be made to the points outside the state;

(b) Upon every person engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-quarter of one per cent;

Manufac-  
turers.

The measure of the tax is the value of the products so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state;

(c) Upon every person engaging within this state in the business of making sales at retail; as to such persons, the amount of tax with respect to such

Retailer.

business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of one-quarter of one per cent.

Wholesaler.

(d) Upon every person engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of one-quarter of one per cent.

Distributors.

The tax imposed under this subsection (d) shall likewise be imposed upon persons engaged in distributing articles of tangible personal property owned by them from a warehouse or other central location to a group of retail stores, the intent hereof being to impose the wholesaling tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales; as to such persons, the amount of tax, with respect to such business, shall be equal to the value of the articles distributed, multiplied by the rate of one-half of one per cent; this value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such value. If the provisions of this paragraph, for any reason, shall be adjudged invalid, such judgment shall not invalidate the provisions of the first paragraph of this subsection.

Other  
business  
enterprises.

(e) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in subsections (a), (b), (c) and (d) above; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one-half of one per cent. This subsection includes, among others, and without limiting the

scope hereof, persons engaged in the following businesses (whether or not title to materials used in the performance of such businesses passes to another by accession, confusion or other than by outright sale); repairing, personal, business, professional, mechanical and educational service businesses; abstract and title, insurance, financial, brokerage, construction contracting and sub-contracting, advertising and hotel businesses.

SEC. 5. For the purpose of this title, unless Definitions :  
otherwise required by the context :

(a) 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" or "taxable year ;"

(b) The word "person" or word "company," herein used interchangeably, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint-stock company, business trust, municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, co-operative, fraternal, non-profit or otherwise ; "person" or "company ;"

(c) The word "sale" means any transfer of the ownership of, or title to, property for a valuable consideration. It includes conditional sale contracts, leases with option to purchase and any other contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It shall also be construed to include the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not ; "sale ;"

(d) The term "sale at retail" or "retail sale" means every sale of tangible personal property other than a sale to one who purchases for the purpose of resale in the regular course of business or "sale at retail" or "retail sale ;"

for the purpose of consuming the property purchased in producing for sale a new article or substance, of which such property is an ingredient or component, or a chemical used in processing same. The term shall not be construed to include sales of feed to persons producing for sale milk, eggs, wool, fur, meat or other substances obtained from livestock, animals or poultry.

Construc-  
tion of  
"retail sale"  
or "sale  
at retail;"

The term "sale at retail" or "retail sale" shall be construed to include all sales of tangible personal property to persons: (1) who use such property in the business of erecting buildings or otherwise improving, altering, or repairing real property of others; (2) who use such property in connection with the business of cleaning, decorating, beautifying, repairing, curing, healing or otherwise improving or altering the person or personal property of others;

"sale at  
wholesale"  
or "whole-  
sale sale;"

(e) The term "sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a sale at retail;

"gross  
proceeds  
of sales;"

(f) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses;

"gross  
income of  
business;"

(g) The term "gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the

cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(h) The term "value proceeding or accruing" means the consideration, whether money, credits, rights or other property, expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The tax commission may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due;

"value proceeding or accruing;"

(i) The word "extractor" means every person who, from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber or other natural product, or takes, cultivates, or raises fish, shell fish or other sea or inland water foods or products; it does not include persons performing under contract the necessary labor or mechanical services for others;

"extractor;"

(j) The word "manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures [manufactures] for sale or commercial use from his own materials or ingredients any articles, substances or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a por-

"manufacturer;"



tion of the materials that become a part or whole of the manufactured article, the tax commission shall prescribe equitable rules for determining tax liability. The word shall be construed to include the business of printing and of publishing magazines, newspapers and periodicals;

“manufacture;”

(k) The term “to manufacture” embraces all activities of a commercial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced;

“commercial use;”

(1) The term “commercial use” means the following uses of products by the extractor or manufacturer thereof;

(1) Manufacturing of articles, substances or commodities from extracted products;

(2) Leasing or renting of extracted or manufactured products;

(3) Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts;

(4) Using products extracted or manufactured when similar products are extracted or manufactured for sale by the taxpayer;

“business;”

(m) The word “business” includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly;

“engaging in business;”

(n) The term “engaging in business” means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business;

“cash discount;”

(o) The term “cash discount” means a deduction from the invoice price of goods or charge for

services which is allowed if the bill is paid on or before a specified date;

(p) The term "tuition fee" shall be construed to include library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution;

"tuition fee;"

(q) The word "successor" means any person who shall, through direct, or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares or merchandise of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business.

"successor."

SEC. 6. Every person engaging in activities which are within the purview of the provisions of two or more of paragraphs (a), (b), (c), (d) and (e) of section 4 shall be taxable under each paragraph applicable to the activities engaged in: *Provided, however,* That persons taxable under paragraphs (a) or (b) of said section shall not be taxable under paragraph (d) of said section with respect to making sales at wholesale of products extracted or manufactured within this state by such persons.

Taxable according to activities enumerated.

SEC. 7. The value of products extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof, except:

Determination of tax on manufacturers and extractors.

(a) Where such products are extracted or manufactured for commercial use;

(b) Where such products are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

Determina-  
tion of tax  
on whole-  
salers.

SEC. 8. With respect to persons buying grain, hay, fruit, vegetables, and other agricultural products (including milk, canned milk, butter and cheese but not including other articles manufactured or processed from agricultural products) and selling the same at wholesale to any person other than a person selling such products at retail, the tax herein imposed shall be equal to the gross earning upon such sales multiplied by the rate of one-half of one per cent, the intent hereof being that tax measured by gross proceeds of sales shall be imposed only with respect to persons making the last of a succession of wholesale sales of such products. The term "gross earnings," as used in this section, shall mean the gross proceeds of sales less the amount of the purchase price paid for the products herein mentioned.

"Gross  
earnings."

Resale  
certificate.

SEC. 9. Unless a seller shall have taken from the purchaser a resale certificate signed by, and bearing the name and address and registration number of the purchaser to the effect that the property was purchased for resale, or unless the nature of the transaction is clearly shown as a sale at wholesale by the books and records of the taxpayer in such other manner as the tax commission shall by regulation provide, the burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it.

Agents or  
salesmen.

SEC. 10. Every consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having pos-

session of the documents of title thereto, with power to sell such tangible personal property in his or its own name and actually so selling, shall be deemed the seller of such tangible personal property within the meaning of this title; and further, the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer.

The burden shall be upon the taxpayer in every case to establish the fact that such taxpayer is not engaged in the business of selling tangible personal property but is acting merely as broker or agent in promoting sales for a principal; such claim will be allowed only when the taxpayer's accounting records are kept in such manner as the tax commission shall by general regulation provide.

Burden of proof rests on such persons.

Not applicable to:

SEC. 11. The provisions of this title shall not apply to:

(a) Any person engaging in the business of selling at retail whose gross proceeds of sales is less than one thousand (\$1,000.00) dollars, and any person engaging in any other business activity whose value of products, gross proceeds of sales or gross income of the business is less than four hundred (\$400.00) dollars, for a bi-monthly period: *Provided, however,* That where one person engages in more than one business activity and the combined measures of tax applicable to such businesses exceed four hundred (\$400.00) dollars, or where one of such business activities is that of selling at retail, one thousand (\$1,000.00) dollars, for the taxable bi-monthly period, no exemption or deduction from the amount of tax is allowed by this provision: *Provided, further,* That any person claiming exemption under the provisions of this subsection may be required to file returns as provided herein even though no tax may be due;

Minimum gross proceeds.

Liable under  
title V.

(b) Any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of title V of this act;

Insurance  
business.

(c) Any person in respect to insurance business upon which a tax based on gross premiums is paid to the State of Washington: *Provided, however,* That the provisions of this subsection shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies;

Horticulture  
or agri-  
culture  
products.

(d) Any person in respect to the business of growing or cultivating for sale any agricultural or horticultural products, or crops, or breeding or raising any fowl, animals or livestock for sale or for the milk, eggs, wool, fur or other substance obtainable therefrom, or in respect to the sale of such products at wholesale by the grower or producer thereof. This exemption does not apply to any person selling such products at retail; nor to any person purchasing and feeding or fattening livestock; nor to any person growing, raising or cultivating trees, shrubs, bushes, plants, bulbs, flowers and the like, either as forest, greenhouse or nursery products; nor to any association of persons whatever, whether mutual, co-operative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this title;

Athletic  
exhibitions.

(e) Any person in respect to the business of conducting boxing contests and sparring and/or wrestling matches and exhibitions for the conduct of which a license must be secured from the state athletic commission;

Race meets.

(f) Any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission;

(g) Any person in respect to his employment in the capacity of an employee or servant as distinguished from that of an independent contractor; Employees.

(h) Fraternal benefit societies, as defined in Rem. Comp. Stat., section 7259, fraternal fire insurance associations, as described in subdivision Third of Rem. Comp. Stat., section 7131, and beneficiary corporations of societies organized under and existing by virtue of Rem. Comp. Stat., sections 3872 to 3883, inclusive; Fraternal benefit societies.

(i) Any person in respect to the business of operating a hospital; Hospitals.

(j) Amounts derived from the lease, rental or sale of real estate: *Provided, however,* That nothing herein shall be construed to allow a deduction of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted, or to allow a deduction of amounts received as commissions from the sale or rental of real estate. Lease or rental of real estate.

SEC. 12. In computing tax there may be deducted from the measure of tax the following items: Deductions.

(a) Amounts derived by persons, other than those engaging in banking, loan, security or other financial businesses, from investments or the use of money as such; Investments.

(b) Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds. The provisions of this paragraph shall not be construed to exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others: *Provided,* That dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder; Dues, contributions, donations, etc.

Cash discounts.

(c) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive and/or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of section 7;

Credit losses.

(d) The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

Motor vehicle fuel.

(e) So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the State of Washington or the United States government upon the sale thereof;

Unconstitutional taxes.

(f) Amounts derived 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.

Horticultural products.

(g) Amounts derived by any person as compensation for the receiving, washing, sorting and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in subsection (d) of section 11, this title, either, as agent or as independent contractor.

Bi-monthly returns.

SEC. 13. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in title XVIII of this Act. The tax com-

May require verified annual returns.

mission may, in its discretion, require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

SEC. 14. It is not the purpose of this title that the taxes herein levied upon persons engaging in business shall be construed as taxes upon the purchasers or customers, but it is the intention that such taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes shall constitute a part of the operating overhead of such persons engaging in business.

Purchasers  
or cus-  
tomers.

SEC. 15. All of the provisions contained in title XVIII of this Act shall have full force and application with respect to taxes imposed under the provisions of this title.

Title XVIII  
applicable.

### TITLE III. TAX ON RETAIL SALES.

SEC. 16. From and after the first day of May, 1935, there is hereby levied and there shall be collected a tax on each retail sale in this state equal to two per cent of the selling price.

Effective  
date.

SEC. 17. For the purposes of this title, unless otherwise required by the context:

Definitions:

(a) The term "selling price" means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered, by a buyer to a seller for the transfer of the ownership of, or title to, property, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses;

"Selling  
price;"

(b) The term "seller" means every person engaged in the business of making sales at retail or retail sales, whether as agent, broker, or principal;

"seller;"



"tax year,"  
"sale," "re-  
tail sale,"  
etc.

(c) The meaning attributed, in title II of this act, to the words and terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale sale," "business," "engaging in business," "cash discount," and "successor" shall apply equally in the provisions of this title.

Agent sellers.

SEC. 18. Every consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such property and, so selling, shall be deemed the seller of such tangible personal property within the meaning of this title.

Not applicable.

SEC. 19. The tax hereby levied shall not apply to the following sales:

Casual or isolated sales.

(a) Casual and isolated sales by a person who is not engaged in the business of selling tangible personal property at retail;

Taxable sales under title V.

(b) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under title V of this act, when the gross proceeds from such sales must be included in the measure of the tax imposed under said title V:

Newspapers.

(c) The distribution and news stand sale of newspapers;

Unconstitutional taxes.

(d) Sales which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States;

Motor vehicle fuel.

(e) Sales of motor vehicle fuel taxable under chapter 58 of the Laws of 1933 section 5, (being Rem. Rev. Stat., section 8327-5);

Relief vouchers.

(f) Sales made on relief vouchers issued by the department of public welfare or by any county or city or other welfare agency;

(g) Sales of fresh sweet milk, raw unprocessed fruits and vegetables, butter, eggs, cheese, canned milk and unsweetened bread in loaf form (including rolls and buns), sold for consumption off the premises. Food.

SEC. 20. The following item shall not be considered a part of the selling price within the meaning of this title: The amount of cash discount actually taken by a buyer. Cash discount.

SEC. 21. The tax hereby imposed shall be paid by the buyer to the seller, and it shall be the duty of each seller to collect from the buyer the full amount of the tax payable in respect to each taxable sale. The amount of tax shall be paid by the buyer in cash, or by token or in scrip having the face value of either the purchase price or that portion of the purchase price for which the tax has not been paid in cash. In case any seller fails to collect the tax herein imposed he shall be personally liable to the state for the amount of such taxes as he fails to collect. The amount of tax, until paid to the seller, shall constitute a debt from the buyer to the seller and all amounts collected by the seller shall be deemed held in trust for the state. Collection of tax by seller.

SEC. 22. The tax commission shall procure, make available and sell to buyers scrip or tokens which shall be accepted by sellers in the payment of tax imposed under this title. Tax scrip or tax tokens shall be issued by the commission, in such denominations as the commission may deem necessary, not less than one-tenth cent, to enable buyers to pay the amount of the tax upon transactions of all sizes. Tax scrip or tax tokens, whichever may be issued, shall bear prominently upon the face thereof the amount of the selling price for which such scrip or token will be accepted in payment of tax. Tax scrip or tokens.

The commission shall have power to provide means for the distribution of tax scrip or tax tokens Distribution of same.

to buyers throughout the state, including the right to place scrip or tokens on consignment, to require sufficient bond from consignees, and to require that persons making retail sales shall purchase and keep on hand scrip or tokens for the purpose of supplying buyers therewith.

Bi-monthly  
returns.

SEC. 23. Each seller, on or before the fifteenth day of the month succeeding the end of each bi-monthly period, shall make out a return for the preceding bi-monthly period, upon forms to be provided by the tax commission, setting forth the amount of all sales, nontaxable sales, all taxable sales, the amount of tax thereon and such other information as the tax commission may require, sign and transmit the same to the tax commission. The tax commission may, in its discretion, require annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. The tax collected by a seller or accrued under the provisions of this title shall be paid by the seller to the tax commission in bi-monthly installments at the time of transmitting the return above provided for. Remittances in the amount of the tax collected or accrued may be made in the form provided in section 191 of this act; *Provided, however,* That the commission shall have full power to provide, by regulation, methods by which scrip or tokens shall be redeemed, accepted, transmitted or cancelled in satisfaction of tax imposed under the provisions of this title.

Redemption,  
cancellation,  
etc., of scrip  
or tokens.

Prepayment  
of taxes on  
certain items.

SEC. 24. The commission may authorize a seller to prepay the tax levied under this title upon sales made through vending machines or similar devices, and waive the collection of the tax from the customer. No such authority shall be granted except upon application to the commission and unless the commission, after hearing, shall find that the condi-

tions of the applicant's business are such as to render impracticable the collection of the tax in the manner otherwise provided under this title. The commission, by regulation, may provide that the applicant, under this section, furnish a proper bond sufficient to secure the prepayment of taxes levied hereunder and print upon the property sold a statement to the effect that the tax has been paid in advance.

SEC. 25. In the case of installment sales and leases with an option to purchase, the commission, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due.

Installment sales.

The tax commission, by general regulation, may provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his cash receipts for each bi-monthly period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period.

Cash receipt records.

SEC. 26. In the case of a person who has no fixed place of business and sells from one or more vehicles, each such vehicle shall constitute a "place of business" within the meaning of section 187 of this act.

Place of business.

SEC. 27. Whoever, excepting as expressly authorized pursuant to this act, refunds, remits or rebates to a buyer, either directly or indirectly and by whatsoever means, all or any part of the tax levied by this title, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the buyer by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever shall be guilty of a misdemeanor.

Unauthorized refunds, remits or rebates.

Misde-meanor.

False scrip  
or tokens.

SEC. 28. Whoever falsely or fraudulently makes, forges, alters, or counterfeits any scrip or token prescribed by the commission under the provisions of this title, or knowingly and wilfully utters, publishes, passes, or tenders as true, any false, altered, forged or counterfeited scrip or token shall be guilty of a felony.

Felony.

State only  
may tax  
retail sales.

SEC. 29. The state does hereby preempt the field of imposing tax upon retail sales of tangible property as included under the provisions of this title and no county, city, town or other municipal subdivision shall have the right to impose, levy or collect taxes upon retail sales as herein defined.

§ 9, title  
II, and  
title XVIII  
applicable.

SEC. 30. The provisions of section 9 of title II and all of the provisions contained in title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

#### TITLE IV. COMPENSATING TAX.

Tax levied.

SEC. 31. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state any article of tangible personal property purchased subsequent to April 30, 1935. Such tax shall be levied and collected in an amount equal to the purchase price paid by the taxpayer multiplied by the rate of 2%.

Exemptions.

SEC. 32. The provisions of this title shall not apply:

Non-  
residents.

(a) In respect to the use of any article of tangible personal property brought into the State of Washington by a non-resident thereof for his or her use or enjoyment while within the state;

Property  
purchased  
other than  
at retail.

(b) In respect to the use of tangible personal property purchased other than at retail;

(c) In respect to the use of any article of tangible personal property the sale or use of which has already been subjected to a tax equal to or in excess of that imposed by this title whether under the laws of this state or of some other state of the United States;

Property subject to tax in excess of tax levied by this title.

(d) In respect to the use of tangible personal property purchased during any calendar month, the total purchase price of which is less than twenty (\$20.00) dollars.

Purchase price less than \$20.00.

SEC. 33. If any article of tangible personal property has already been subjected to a tax by this or any other state in respect to its sale or use in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed.

Property subject to tax less than tax levied by this title.

SEC. 34. Each taxpayer subject to the provisions of this title shall, on or before the fifteenth day of every calendar month, file a return with the commission showing in detail the total quantity of tangible personal property used by him within the state during the preceding calendar month subject to the tax herein imposed, and such other information as the commission may deem pertinent. Each taxpayer shall remit to the commission with each such return the amount of tax shown thereon to be due.

Monthly return.

SEC. 35. For the purposes of this title:

(a) The term "purchase price" shall mean the consideration paid or given or contracted to be paid or given by any person to the seller of an article or tangible personal property for the article purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state.

Definitions: "Purchase price."

Words here-  
inbefore  
defined.

(b) The meaning ascribed to words and phrases in titles II and III and all the provisions of title XVIII of this act, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this title: *Provided, however,* That in applying the provisions of section 202, the warrant shall direct the sheriff to levy upon and sell only the personal property the use of which is subject to tax under this title, and the lien therein provided for shall attach only to such property.

#### TITLE V. PUBLIC UTILITY TAX.

Effective  
date, busi-  
nesses and  
amount  
of taxes.

SEC. 36. From and after the first day of May, 1935, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. Such tax shall be equal to the gross operating revenue of the business, multiplied by the rate set out after the business, as follows:

I. Railroad, express, railroad car, water distribution, light and power, telephone and telegraph businesses: three per cent;

II. Gas distribution business: two per cent;

III. Urban or interurban transportation business: one-half of one per cent;

IV. Vessels under sixty-five (65) feet in length operating upon the waters within the State of Washington, one-half of one per cent ( $\frac{1}{2}$  of 1%);

V. Highway transportation and all public service businesses other than ones mentioned above: one and one-half per cent.

Definitions:

SEC. 37. For the purposes of this title, unless otherwise required by the context:

"Railroad  
business";

(a) The term "railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance

of persons or property for hire: *Provided, however,* That it shall not include any business herein defined to be an urban or interurban transportation business;

(b) The term "express business" means the business of carrying freight, merchandise or property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business; "express business;"

(c) The term "railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business; "railroad car business;"

(d) The term "water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale; "water distribution business;"

(e) The term "light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale; "light and power business;"

(f) The term "telephone business" means the business of operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording telephonic communication for hire. It includes cooperative or farmer line telephone companies or associations operating an exchange; "telephone business;"

(g) The term "telegraph business" means the business of affording telegraphic communication for hire; "telegraph business;"

(h) The term "gas distribution business" means the business of operating a plant or system for the "gas distribution business;"



production or distribution for hire or sale of gas, whether manufactured or natural;

"highway transportation business;"

(i) The term "highway transportation business" means the business of operating any motor propelled vehicle, as an auto transportation company, certified freight carrier, contract hauler or for hire carrier as defined in chapter 111, Laws of 1921, page 338, section 1, and chapter 166, Laws of 1933, page 613, section 1 and section 13, as amended by chapter 55, Laws of 1933, page 138, Extraordinary Session, section 1 and section 5;

"urban or interurban transportation business;"

(j) The term "urban or interurban transportation business" means:

(1) The business of operating any railroad, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any one city or town;

(2) The business of operating any electric interurban railroad for public use in the conveyance of persons or property for hire primarily between cities or towns within this state or between cities and towns in this state and an adjoining state;

(3) The business of operating any motor propelled vehicle for public use in the conveyance of persons, operating within the limits of any city or town or within the limits of contiguous cities or towns. Included herein are such means of conveyance as busses, hotel busses, jitneys, sight-seeing busses, taxicabs or any other passenger motor vehicles operated for public hire, if not operating between fixed termini or over regular routes and if operating entirely within the limits of any city or town, or contiguous cities or towns or within 3 miles of such limits;

"public service business;"

(k) The term "public service business" means any business subject to control by the state, or hav-

ing the powers of eminent domain and the duties incident thereto, or any business hereafter declared to be of a public service nature by the legislature of this state. It includes, among others, without limiting the scope hereof: airplane transportation, boom, dock, ferry, pipe line, public warehouse, toll bridge, toll logging road, water transportation and wharf businesses;

(l) The term "gross operating revenue" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

"gross  
operating  
revenue."

(m) The meaning attributed, in title II of this act, to the words or phrases: "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "cash discount" and "successor" shall apply equally in the provisions of this title.

Words  
hereinbefore  
defined.

SEC. 38. Every person engaging in businesses which are within the purview of two or more of schedules I, II, III, IV, and V of section 36 shall be taxable under each schedule applicable to the businesses engaged in.

Taxed as per  
schedules  
of § 36.

SEC. 39. The provisions of this title shall not apply to: Persons engaging in one or more businesses taxable under this title whose total gross operating revenue is less than one thousand (\$1,000.00) dollars for the taxable bi-monthly period or portion thereof: *Provided, however,* That any person claiming exemption under the provisions of this section may be required to file returns as provided herein even though no tax may be due. If

Exemptions.

the total gross operating revenue for a taxable bi-monthly period is one thousand (\$1,000.00) dollars, or more, no exemption or deductions from the gross operating revenue is allowed by this provision.

Deductions.

SEC. 40. In computing tax there may be deducted from the gross operating revenue the following items:

(a) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof;

(b) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas, or any other commodity in the performance of public service business;

(c) Amounts actually paid by a taxpayer to another person taxable under this title as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross operating revenue reported for tax by the former;

(d) The amount of cash discount actually taken by the purchaser or customer;

(e) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(f) Amounts derived 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;

(g) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes.

SEC. 41. Nothing herein shall be construed to exempt persons taxable under the provisions of this title from tax under any other titles of this act with respect to activities other than those specifically within the provisions of this title.

Does not exempt from taxes under other titles.

SEC. 42. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in title XVIII of this Act. The tax commission may, in its discretion, require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Bi-monthly returns.

SEC. 43. All of the provisions contained in title XVIII of this Act shall have full force and application with respect to taxes imposed under the provisions of this title.

Title XVIII applicable.

#### TITLE VI. ADMISSIONS TAX.

SEC. 44. (a) From and after the first day of May, 1935, there is hereby levied and there shall be collected a tax of one cent for each twenty (20) cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in the case the amount paid for admission is less than ten (10¢) cents, no tax shall be imposed. In the case

For each 20 cents or fraction thereof.

**Exceptions.**

of persons (except bona fide employees, state or municipal officers on official business, and children under twelve (12) years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is less than ten (10¢) cents;

Tickets sold elsewhere than ticket office.

(b) Upon tickets or cards of admission to places of amusement sold elsewhere than at the ticket offices of such places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices, plus the amount of any tax imposed under paragraph (a) of this section, a tax equivalent to ten (10%) per cent of the amount of such excess; such tax to be returned and paid in the manner provided in section 47 hereof, by the person selling such tickets;

Tickets sold in excess of regular price.

(c) A tax equivalent to fifty (50%) per cent of the amount for which proprietors, managers, or employees of any place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor, such tax to be returned or paid in the manner provided in section 47 hereof, by the person selling such tickets;

Permanent reservations.

(d) In the case of persons having the permanent use of boxes or seats in any place of amusement or a lease for the use of such box or seat (in lieu of the tax imposed by paragraph (a) of this section), a tax equivalent to ten (10%) per cent of the amount for which a similar box or seat is sold for each performance or exhibition at which

the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder;

(e) A tax of one and one-half ( $1\frac{1}{2}\phi$ ) cents for each ten ( $10\phi$ ) cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshments, service or merchandise; the amount paid for such admission to be deemed to be twenty (20%) per cent of the amount paid for refreshment, service or merchandise. Where the amount paid for admission is twenty ( $20\phi$ ) cents or less, no tax shall be imposed.

Cover charges.

SEC. 45. For the purposes of this title, unless required by the context:

Definitions:

(a) The term "admission" includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor:

"Admission;"

(b) The word "person" and "successor" shall have the same meaning as is attributed to such words in title II of this act.

"person" and "successor."

SEC. 46. The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place of amusement. Whoever sells an admission ticket or card on which the name of the vendor or the price is not so printed, stamped, or written or at a price in excess of the price so printed, stamped or written thereon, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not more than one hundred (\$100.00) dollars.

Price of admission plainly printed on ticket.

Misdemeanor.

SEC. 47. Every person receiving any payment for admissions, taxable under this title, shall collect

Collection of tax.

Bi-monthly  
returns.

the amount of tax imposed hereby from the person making such payments. The taxes imposed hereunder shall be due and payable to the state in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which the tax is collected or accrued. The person receiving any payment for admissions on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of tax upon admissions for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in section 191 of this act. The tax commission may, in its discretion, require verified annual returns from any taxpayer setting forth such additional information as it may deem necessary to determine correctly tax liability.

Temporary  
places of  
amusement.

SEC. 48. Whenever a certificate of registration is obtained for operating or conducting temporary places of amusement by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, or whenever the business is permitted to be conducted, without the procurement of a certificate, the tax imposed by this title shall be returned and paid as provided in section 47 hereof, by said owner, lessee or custodian, unless paid by the person conducting the place of amusement.

Application  
for tem-  
porary  
certificate.

The applicant for a temporary certificate shall furnish with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the commission of the issuance of such certificate, and the joint liability for such tax.

The tax commission may declare the tax upon temporary or itinerant places of amusement to be immediately due and payable and collect the same, when in its discretion it believes there is a possibility that the tax imposed hereunder will not be paid.

SEC. 49. No tax shall be levied under this title in respect of any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, or admissions to any exhibits, entertainment, or other pay feature conducted by such association as part of any such fair—if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs. Agricultural fairs.

SEC. 50. All of the provisions of title XVIII of this act shall have full force and application with respect to the taxes imposed under the provisions of this title. Title XVIII applicable.

#### TITLE VII. LIQUOR TAX.

SEC. 51. From and after May 1, 1935, there is hereby levied and there shall be collected a tax at the rate of 10% upon the retail selling price of all alcoholic liquors sold by the liquor control board of the State of Washington. Such tax shall be added to the price of all alcoholic liquor sold by the board and shall be collected from the purchaser by the board. Tax on retail selling price.

SEC. 52. The liquor control board, within fifteen days of the end of each calendar month, shall remit the tax so collected on liquor sold during the preceding calendar month to the state treasurer and the state treasurer shall deposit the tax so remitted to the credit of such funds and in such proportion as provided in section 211 of this Act. Liquor board to remit monthly.



## TITLE VIII. TAX ON CONVEYANCES.

Tax levied on conveyances.

SEC. 53. From and after the first day of May, 1935, there is hereby levied and there shall be collected a tax upon conveyances: deed, instrument, or writing (unless deposited in escrow before May 1, 1935), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons by his, her or its direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds one hundred (\$100.00) dollars and does not exceed five hundred (\$500.00) dollars or fractional part thereof, 50 cents; and for each additional \$500.00 or fractional part thereof, 50 cents. This section shall not apply to any installment or writing, given to secure a debt.

Amount.

Defining "person."

SEC. 54. For the purposes of this title, unless otherwise required by the context: The word "person" shall have the same meaning as is attributed to such word in title II of this act.

Tax stamps.

SEC. 55. The tax commission shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on any instrument, document, or paper, to which the same may be affixed, and shall prescribe such method for the affixing of said stamps as it may deem expedient.

Cancellation of stamps.

SEC. 56. Whenever any stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person using or affixing the same shall write or stamp, or cause to be written or stamped, thereon, the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*,

That the tax commission may prescribe such other method for the cancellation of such stamps as it may deem expedient.

SEC. 57. The tax commission, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any tax, as may have been spoiled, destroyed or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which, through mistake, have been improperly or unnecessarily used, or where the returns or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed or by refunding the amount of value to the owner thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the commission, or until satisfactory proof has been made showing the reason why the same cannot be returned: *Provided, further,* That no claim for the redemption of or allowance for stamps shall be allowed unless presented within two years after the purchase of said stamps from the tax commission. Redemptions.

SEC. 58. To forge or counterfeit any stamp of the kind herein provided is hereby declared to be a felony. Forgery of stamps felony.

SEC. 59. Each of the following acts is hereby declared to be a gross misdemeanor and punishable as such: (a) to take, sign, issue, or accept, or cause to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of the tax thereon being duly paid; (b) to fraudulently cut, tear, or remove from any instrument, document, or paper, upon which any tax is imposed by Gross misdemeanor.

this title, any stamp or the impression of any stamp, die, plate, or other articles provided, made, or used in the pursuance of this title; (c) to wilfully remove, or alter the cancellation or defacing marks of, or otherwise prepare any stamp, with intent to use, or cause the same to be used, after it has already been used, or knowingly or wilfully buy, sell, offer for sale, or give away, any such washed or restored stamp to any person for use, or knowingly use the same; (d) for any person other than the tax commission or its duly authorized agent to sell any stamp provided for herein, not affixed to any conveyance taxed herein, whether said stamp be genuine or counterfeit.

Title XVII  
applicable.

SEC. 60. All of the applicable provisions contained in title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

#### TITLE IX. TAX ON STOCK ISSUES AND TRANSFERS.

SEC. 61. From and after the first day of May, 1935, there is hereby levied and there shall be collected a tax:

(a) On each original issue, whether an organization or reorganization, of shares or certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any bonds or stock (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title), on each \$100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 10 cents: *Provided*, That where such shares or certificates are issued without

Vetoed.

par or face value, the tax shall be 10 cents per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of \$100 per share, in which case the tax shall be 10 cents on each \$100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than \$100 per share, in which case the tax shall be 2 cents on each \$20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued):

The stamps representing the tax imposed by this subsection shall be attached to the stock books or corresponding records of the organization and not to the certificates issued.

(b) On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to stock (or to rights to subscribe for or to receive such stock, whether made upon or shown by the books of the corporation or other organization), whether made by any assignment in blank or by any delivery or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such stock interest or rights, or not) on each \$100 of the par or face value or fraction of the certificates of such corporation or other organization (or of the shares where no certificates were issued), 4 cents; and where such shares or certificates are without par or face value, the tax shall be 5 cents on the transfer or sale or agreement to sell each share: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of stock as collateral security for money loaned thereon, which stock is not actually sold, nor upon the delivery or transfer for such purpose of stock so deposited (nor upon the return of stock loaned): *Provided, further*, That the tax

Vetoed.

shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided, further,* That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such stock continues to be held by such nominee for the same purpose for which it would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided, further,* That in case of a sale of stock where the evidence of transfer is shown only by the books of the corporation or other organization, the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers.

Vetoed.

SEC. 62. For the purpose of this title, unless otherwise required by the context:

(a) The word "stock" means shares or certificates of stock or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subsection

or subsection (b) below (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title).

(b) The word "bond" means all bonds, debentures, or certificates of indebtedness issued by any corporation, and all instruments, however termed, issued by any corporation with interest coupons or, in registered form, known generally as corporate securities.

(c) The word "person" as used herein shall have the same meaning as attributed to it in section 5 (b) title II of this act.

SEC. 63. Adhesive stamps for the purpose of paying the tax under this title shall be prepared by the tax commission in such form, of such denominations and in such quantities as it may prescribe. The tax commission shall make provisions for the sale of such stamps in such places and at such times as it deems necessary. It shall be a misdemeanor for any person to sell any stamp in violation of the provisions prescribed for such sale by the tax commission.

Vetoed.

SEC. 64. Whenever an adhesive stamp is used under this title, the person using or affixing it shall write or stamp thereon the initials of his name and the date on which the same is affixed or used and shall cut and perforate the stamp in a substantial manner so that it cannot be used again: *Provided*, That the tax commission may prescribe such other method for the cancellation of such stamps as it may deem expedient.

SEC. 65. The tax commission may provide by general regulation for redeeming or allowing for such stamps issued hereunder as may have been spoiled, destroyed, or rendered useless or unfit for the purposes intended, or for which the owner may have no use, or which have been erroneously affixed. The tax commission, upon presentation of a claim

Vetoed.

for the amount of such stamps, and upon the production of evidence satisfactory to it that such stamps were affixed erroneously so as to cause loss to the person making the claim by said amount, or such part thereof as it may allow, shall refund the amount so erroneously paid by means of vouchers and by issuance of state warrants drawn upon and payable from such funds as the legislature may provide. Such claims shall be presented to the tax commission in writing duly verified, shall state the full name and address of the claimant, the date of the erroneous affixing, and the face value of the stamps, shall describe the document to which the stamps were affixed, and shall contain such evidence as may be available upon which the demand for repayment is based. Such claims shall be presented within ninety days after the alleged erroneous affixing. If the tax commission rejects a claim or any part thereof, the claimant may appeal to the superior court of Thurston county, within thirty days after the date of the rejection. The appeal shall be perfected by serving a copy of the notice of appeal upon the tax commission within time herein provided and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing notice of such appeal, the claimant shall file with the clerk of the superior court a good and sufficient security company bond payable to the State of Washington in the sum of two hundred (\$200.00) dollars, 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. A trial in the superior court on appeal shall be de novo and without the necessity of any proceedings other than the notice of appeal. In such proceedings the taxpayer shall be deemed the plaintiff, and the State of Washington, the defendant; and both parties shall be en-

titled to subpoena and require the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant and material. Either party shall be allowed to appeal to the supreme court in the same manner as other civil actions are appealed to that court. No court action or proceeding of any kind shall be maintained by the taxpayer to recover any amount under this title, except as herein provided.

SEC. 66. No sale, transfer or agreement to sell stock made after the first day of May, 1935, on which a tax is imposed by this title, which tax is not paid at the time of such transfer, shall be made the basis of any action or legal proceeding nor shall proof thereof be offered or received in evidence in any court in this state: *Provided*, That nothing contained in this paragraph shall apply to proceedings authorized by this title.

Where, through accident, mistake or inadvertence and without any intent to evade this title the said tax is not paid at the time of transfer, the tax commission may allow the tax to be paid at a later time under such rules and regulations as it may from time to time establish, and if so paid the penalty provided for failure to pay the tax shall not be enforced and any transfer on which the tax shall so have been paid shall have the same legal effect as if the tax had actually been paid at the time of the transfer and shall not be subject to the provisions of the first paragraph of this section.

Vetoed.

SEC. 67. Every person making a sale, agreement to sell, deliver or transfer stock, or conducting or transacting a brokerage business, shall keep or cause to be kept at some accessible place within the state a true book of accounts wherein shall be recorded, plainly and legibly, the date of making every sale, agreement to sell, delivery or transfer of stock, and every transaction in relation to any of such stock;



and also the number of shares, the face value, the selling price, the name of the stock, the name of the seller, the name of the purchaser, and the face value of the stamps affixed to the instrument, certificate or memorandum as provided in section 61. Such book shall be preserved for two years after the date of the last entry therein.

SEC. 68. Every corporation or association shall keep or cause to be kept at some accessible place within the state a stock certificate book, transfer ledger, or register, wherein shall plainly and legibly be recorded, in separate columns, the date of making every transfer of stock, the name and the number of shares thereof, the name of the party surrendering the certificates, the name of the party to whom certificates are issued in exchange therefor, and evidence of the payment of the tax imposed by section 61, which evidence, however, shall be furnished in one of the following manners, to-wit:

Vetoed.

(a) By attaching to the stock certificate surrendered for transfer the stamps required for such transfer, or

(b) If the stamps are not attached to the certificate but are attached to the memorandum of sale effecting or evidencing the transfer of such certificate, by attaching to the certificate said memorandum of sale with stamps attached.

The corporation or association shall retain and keep all surrendered or cancelled shares or certificates of stock and all bills or memoranda relating to the cancelled shares or certificates of stock and all bills or memoranda relating to the issue, sale or transfer of stock for at least two years after the date of the delivery thereof, and it shall also keep, for at least two years after the date of the last entry thereon the stock certificate book or transfer ledger provided for by this section.

SEC. 69. If any person, subject to the provisions of this title or any rules and regulations promulgated by the tax commission under authority hereof, shall be found to have failed to affix the stamps required, or to have the same affixed as herein provided, or to pay any tax due hereunder, or to have violated any of the provisions of this title or rules and regulations promulgated by the tax commission in the administration hereof, there shall be assessed and collected from such person, as tax and penalty, in addition to any tax that may be found due, a sum equal to the amount of any tax found to be due plus a penalty of twenty-five per cent and interest thereon at the rate of one per cent for each thirty days or portion thereof from the date the tax became due, and upon notice mailed to the last known address of the taxpayer said amount shall become due and payable in ten days, at which time the tax commission, or its duly authorized agent, may make immediate demand upon such taxpayer for the payment of all such taxes and penalties: *Provided*, That the tax commission, for good reason shown, may remit all or any part of the penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of one per cent for each thirty days or portion thereof.

Vetoed.

SEC. 70. Any person liable to pay the tax imposed by this title, anyone who acts in the matter as agent or broker for such person, who makes any issue, sale, transfer or delivery of stock without paying said tax, and whenever in pursuance of any sale, transfer or agreement, delivers any such instrument or evidence of sale or transfer of or agreement to sell any stock, or bill of memorandum thereof, or transfers or causes the same to be transferred upon the books or records of the association or corporation, without having the stamps required by this title affixed thereto, and any association or

corporation whose stock is so sold or transferred, which shall transfer or cause the same to be transferred upon its books without having such stamps so affixed shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred (\$500.00) dollars.

Vetoed. SEC. 71. Whoever wilfully removes or alters or knowingly permits to be removed or altered the cancelling or defacing marks of any stamps provided for by this title with the intent to use such stamps, or knowingly or wilfully buys, prepares for use, uses, has in possession, or suffers to be used, any washed, restored or counterfeit stamps and whoever intentionally removes or causes to be removed or knowingly permits to be removed, any stamp affixed pursuant to this title shall be punished by a fine of not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars, or by imprisonment for not more than one year, or both.

SEC. 72. Whoever fraudulently makes use of an adhesive stamp to denote the payment of the tax imposed by this act without effectually cancelling it in accordance with section 64, shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred (\$500.00) dollars.

SEC. 73. All of the provisions contained in title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title: *Provided*, That the following sections of said title XVIII shall not apply hereto: Sections 188, 190, 193 and 203.

#### TITLE X. RADIO BROADCASTING TAX.

Tax levied.

SEC. 74. From and after the first day of May, 1935, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in the business of radio broadcasting. As to such persons the amount of the tax

with respect to such business shall be equal to the gross income of the business multiplied by the rate of one-half of one per cent.

One-half of one per cent on gross income.

SEC. 75. For the purposes of this title, unless otherwise required by the context, the word "person" as used herein shall have the same meaning as attributed to it in section 5 (b), title II of this act.

Defining "person."

SEC. 76. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which the tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of tax for which it is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount.

Bi-monthly returns.

SEC. 77. The provisions of title XVIII which relate to the assessment and collection of taxes are hereby extended to, and made a part of, this title as far as applicable for the purpose of collecting the taxes levied under this title.

Title XVIII applicable.

#### TITLE XI. FUEL OIL TAX.

SEC. 78. From and after the first day of May, 1935, there is hereby levied and there shall be collected, in addition to any other taxes provided by law, an excise tax upon every distributor at the rate of one-quarter ( $\frac{1}{4}$ ) cent for each gallon of fuel oil and/or diesel oil sold, distributed, withdrawn or used by him in the State of Washington. The tax herein imposed shall be collected by the director of licenses of this state and shall be paid by every distributor but once in respect to any fuel oil and/or

Tax levied.

Collected by director of licenses.

diesel oil, sold, distributed, withdrawn or used by him.

Bills rendered by distributors.

Bills shall be rendered by distributors to all purchasers of fuel oil and/or diesel oil of fifty (50) gallons or more and to all purchasers of smaller quantities upon request containing a statement that the distributor has assumed the tax thereon.

Definitions :

SEC. 79. For the purposes of this title, unless otherwise required by the context:

"Fuel oil;"

(a) The term "fuel oil" shall mean and include an oil of fourteen degrees to nineteen degrees American Petroleum Institute gravity and with a viscosity range of twenty-six to fifty Saybolt Furol at a temperature of one hundred twenty-two degrees or any other refined or partially refined petroleum product other than gasoline or diesel oil;

"diesel oil;"

(b) The term "diesel oil" shall mean and include an oil from twenty-seven degrees to thirty-four degrees American Petroleum Institute gravity and with a viscosity range of forty-one to forty-eight Saybolt Universal at a temperature of one hundred degrees;

"distributor;"

(c) The word "distributor" shall mean and include every person who refines, manufactures, produces or compounds fuel oil and/or diesel oil and sells, distributes, or in any manner uses the same in this state; also any person who imports any fuel oil and/or diesel oil into this state and stores, withdraws, sells, distributes, or in any manner uses the same in this state whether in the original package or container in which it is imported or otherwise; also any person who having acquired in this state in the original package or container fuel oil and/or diesel oil, shall distribute or sell the same, whether in such original package or container in which the same was imported or otherwise, or in any manner uses the same;

(d) The words "sale," "sale at retail" or "retail sale," "person" and "successor" shall have the same meaning as is attributed to such words in title II of this act;

"sale," "sale at retail," "person" and "successor;"

(e) The words "director" and "department" shall have the same meaning as is attributed to such words in section 1, of chapter 58, of the Laws of Washington, 1933.

"director" and "department."

SEC. 80. It is hereby provided that section 2, chapter 58, Laws of Washington, 1933, shall be applicable to the taxes imposed under this title: *Provided*, That the total amount of the bond or bonds required therein to be fixed by the director of licenses shall not be less than one thousand (\$1,000.00) dollars.

§ 2, ch. 58, Laws 1933, applicable.

Bonds not less than \$1,000.

Exemptions for fuel oil and for diesel oil exported by distributors shall be allowed in the manner provided in paragraph 3 of section 17, chapter 58, Laws of Washington, 1933.

Exemptions allowed.

SEC. 81. All of the provisions of chapter 58, Laws of Washington, 1933, except sections 1, 5, 6, 18, 20, 23, 25, 26 and 27 thereof shall have full force and application to this title as fully as though the words "fuel oil and/or diesel oil" appeared therein.

Ch. 58, Laws of 1933, with exceptions, applicable.

TITLE XII. TAX ON CIGARETTES.

SEC. 82. From and after the first day of May, 1935, there is hereby levied, and there shall be collected as hereinafter provided in this title, a tax upon the sale, use, consumption, handling or distribution of all cigarettes, in an amount equal to one-twentieth of one cent for each cigarette, unless the intended retail selling price for each cigarette shall be more than one cent, in which event, the tax shall be ten per cent of such intended retail selling price.

Tax levied.

(a) In order to enforce collection of the tax hereby levied, the tax commission is authorized and

Tax stamps.

required to design and have printed stamps of such size and denominations as may be determined by the commission, said stamps to be affixed on the smallest container or package that will be handled, sold, used, consumed or distributed, to permit the commission to readily ascertain by inspection, whether or not such tax has been paid as provided in this title. Every person shall cause to be affixed on every package of cigarettes, as defined in this title, on which a tax is due, stamps of an amount equaling the tax due thereon before such person sells, offers for sale, uses, consumes, handles, removes, or otherwise disturbs and distributes the same;

Affixed on package.

Wholesaler to stamp.

Interstate business.

(b) Every wholesaler in this state shall immediately, after receipt of any of the articles taxed herein, cause the same to have the requisite denomination and amount of stamps affixed to represent the tax as stated herein: *Provided, however,* That any wholesaler engaged in interstate business, who shall furnish surety bond in a sum satisfactory to the commission, shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this title. Said interstate stock shall be kept separate and apart from stamped stock. Every wholesaler shall, at the time of shipping or delivering any of the articles taxed herein, make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable articles, and shall retain the same subject to the use and inspection of the tax commission;

Retailer to stamp.

(c) Every retailer shall, except as to those articles on which the tax has been paid by the proper affixing of stamps by a wholesaler, as herein provided, affix the stamps for the denomination and amount necessary to represent the tax on each indi-

vidual package or container, the same to be done, in all cases, immediately upon receipt by the retailer of the unstamped articles ;

(d) Said stamps shall be affixed in such manner that they cannot be removed from the package or container without said stamp being mutilated or destroyed, which stamps so affixed shall be evidence of the tax imposed ; and such stamps may be cancelled by the use of a rubber stamp bearing the certificate number of such wholesaler or retailer as shown by the certificate of registration issued to him by the tax commission, as provided in title XVIII of this act, and such stamps may be cancelled as soon as they shall be affixed to the package or container ;

Manner affixed.

Cancellation of.

(e) In the case of cigarettes contained in individual packages, usually sold to consumers, as distinguished from cartons or larger units, the stamps shall be affixed securely on the face of each individual package ;

Individual packages.

(f) Wholesalers and retailers subject to the provisions of this title shall be allowed as compensation for their services in affixing the stamps herein required, a sum equal to five (5) per cent of the face value of the stamps purchased by them ;

Compensation for affixing stamps.

(g) It is the intent and purpose of this title to levy a tax on all of the articles taxed herein, sold, used, consumed, handled or distributed within this state and to collect the same from the person who first sells, uses, consumes, handles or distributes the same in the State of Washington. It is further the intent and purpose of this title that whenever any of the articles herein taxed are given away for advertising or any other purpose whatsoever, the same shall be taxed in the same manner as if they were sold, used, consumed, handled or distributed in this state.

Intent of title.



## Definitions :

SEC. 83. For the purposes of this title, unless otherwise required by the context :

"Wholesaler ;"

(a) The word "wholesaler" means and includes every person who purchases, sells or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only ;

"retailer ;"

(b) The word "retailer" means and includes every person, other than a wholesaler, who shall purchase, sell, offer for sale or distribute any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales ; and all persons operating under a retailer's registration certificate ;

"retail selling price ;"

(c) The words "retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, before the tax levied by this title has been paid ;

"cigarette ;"

(d) The word "cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco ;

"stamp ;"

(e) The word "stamp" as used herein means the stamp or stamps by use of which the tax levy under this title is paid ;

"person,"  
"sale,"  
"business"  
and "successor."

(f) The meaning attributed, in title II of this act, to the words "person," "sale," "business" and "successor" shall apply equally in the provisions of this title.

Wholesaler  
and retailer  
to keep  
records.

SEC. 84. It shall be the duty of every wholesaler or retailer subject to the provisions of this title to keep and preserve for a period of five years an accurate set of records, showing all transactions had with reference to the purchase and sale of any of the articles taxed herein and such persons shall keep

also separately all invoices, and shall keep a record of all stamps purchased, and all such records and all such stock of taxable articles on hand shall be open to inspection at all reasonable times to the tax commission or its duly authorized agent: *Provided, however,* That all retailers purchasing or receiving any of the articles taxed herein from without the state, whether the same shall be ordered through a wholesaler or jobber in this state, or by drop shipment or otherwise, immediately upon receipt of the same, shall mail a duplicate invoice of all such purchases or receipts to the tax commission and failure to furnish such duplicate invoices shall be deemed a violation of this title.

Receiving goods from outside of state.

SEC. 85. To forge or counterfeit any stamp of the kind herein provided is hereby declared to be a felony.

Forgery of stamps felony.

SEC. 86. Each of the following acts is hereby declared to be a gross misdemeanor and punishable as such:

Gross misdemeanor, violations.

(a) To sell, except as a registered wholesaler engaged in interstate commerce as to the article being taxed sold in interstate commerce, any of the articles taxed herein, without the stamp being provided for first being affixed and cancelled as herein provided;

To sell article without stamp.

(b) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;

Possess forged stamps.

(c) For any person other than the tax commission or its duly authorized agent to sell any stamps provided for herein, not affixed to any of the articles taxed herein whether the said stamps be genuine or counterfeit;

Unauthorized sale of stamps.

(d) To violate any of the provisions of this title;

Violate provisions.

(e) To violate any lawful rule or regulation made and published by the tax commission;

Violate rules.

Use stamp  
more  
than once.

(f) To use any stamps more than once or to have in one's possession any stamps that have been used;

Alter  
cancelled  
stamps.

(g) To remove, erase, alter, or deface the cancellation marks on any stamp or to have in possession any stamp on which the cancellation mark has been removed, erased, altered or defaced;

Refusal to  
submit to  
inspection.

(h) To refuse to allow on demand of the tax commission, or any duly authorized agent thereof, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

Conceal  
violations.

(i) To use any artful device or deceptive practice to conceal any violations of this title or to mislead the tax commission or any duly authorized agent thereof in the enforcement of this title;

Unstamped  
articles.

(j) For any retailer to have in possession in any place of business any of the articles herein taxed, unless the same shall have the proper stamps attached;

False  
invoice.

(k) For any person to make, use or present or exhibit to the tax commission, or any duly authorized agent thereof, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

Failure to  
produce  
invoice.

(l) For any wholesaler or retailer or his agent or employees to fail to produce on demand of the tax commission all invoices of all the articles herein taxed and/or stamps bought by him or received in his place of business within one (1) year prior to said demand unless he can show by satisfactory proof that the non-production of said invoices was due to providential or other causes beyond his control;

Evasion  
of tax.

(m) For any person to receive in this state any shipment of any of the articles taxed herein, when

the same are not stamped, for the purpose of avoiding payment of tax.

All agents, employees and others who aid, abet or otherwise participate in any way in the violation of the provisions of this title, or in any of the offenses herein described shall be guilty and punishable as principals, to the same extent as any wholesaler or retailer violating the provisions of the title.

SEC. 87. If any wholesaler or retailer, subject to the provisions of this title or any rules and regulations promulgated by the tax commission under authority hereof, shall be found to have failed to affix the stamps required, or to have the same affixed as herein provided, or to pay any tax due hereunder, or to have violated any of the provisions of this title or rules and regulations promulgated by the tax commission in the administration hereof, there shall be assessed and collected from such wholesaler or retailer, as tax and penalty, in addition to any tax that may be found due, a sum equal to the amount of any tax found to be due plus a penalty of twenty-five per cent and interest thereon at the rate of one per cent for each thirty days or portion thereof from the date the tax became due, and upon notice mailed to the last known address of the taxpayer said amount shall become due and payable in ten days, at which time the tax commission, or its duly authorized agent, may make immediate demand upon such wholesaler or retailer for the payment of all such taxes and penalties: *Provided*, That the tax commission, for good reason shown, may remit all or any part of penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of one per cent for each thirty days or portion thereof. The keeping of any unstamped articles coming within the provisions of this title shall be prima facie evidence of the intent to violate the provisions of this title.

Failure to  
affix stamp.

Penalty.

Remission  
of penalties.

Contra-  
band goods.

Seizure of.

Sale of.

Proceeds  
of sale.

Forfeited  
property val-  
ued more  
than \$25.00.

Description  
and ap-  
praisement.

SEC. 88. Any articles taxed herein found at any point within this state, which articles shall be held, owned, possessed or in the control of any person for a period of time longer than the time to affix the stamps and not having affixed to the packages or container as above defined the stamps as above provided, are hereby declared to be contraband goods, and the same may be seized by the commission, or its duly authorized agent, or by any peace officer of the state, when directed by the commission so to do, without a warrant, and said goods shall be offered by the commission for sale at public auction to the highest bidder after due advertisement, but the commission before delivering any of said goods so seized shall require the person, so holding, owning, possessing or controlling the said articles, to affix the proper amount of stamps as required by this title. The proceeds of sale of any goods sold hereunder shall be paid to the tax commission: *Provided*, That the cost of confiscation and sale shall be paid out of the proceeds derived from such sale before making said remittance: *Provided, further*, That any vehicle, not a common carrier, which may be used in transporting for the purpose of violating the provisions of this title any of the articles taxed herein shall likewise be subject to confiscation and sale in the same manner as above provided.

SEC. 89. In all cases of seizure of any property made subject to forfeiture under the provisions of this title, which, in the opinion of the person making the seizure, is of the appraised value of twenty-five (\$25.00) dollars, or more, the said person shall proceed as follows:

(a) He shall cause a list containing a particular description of the property seized to be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers to be selected by him, who shall be respectable and disinterested citizens of this

state, residing within the county where the seizure was made. Said list and appraisalment shall be properly attested by the said person and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one (\$1.00) dollar per day for not exceeding two days, to be paid as other costs;

(b) If the property seized is believed, by the person making the seizure, to be of less value than twenty-five (\$25.00) dollars, no appraisalment shall be made;

No appraisalment if valued less than \$25.00.

(c) The person making the seizure shall proceed to give notice thereof for five days, in writing, at three places in the county where the seizure is made. One of the notices shall be posted at the county court house; another at the place where the goods were seized; and the other at some public place. The notice shall describe the property seized, and the time and place and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized, and shall require any person claiming it to appear and make such claim in writing, within five days from the date of the first posting of such notice. Such person making the seizure shall also deliver to the person from whom the property was seized, and also to the owner, if known, a copy of the said notice;

Notice of seizure.

(d) Any person claiming the said property seized as contraband, within the time specified in the notice, may file with the tax commission a claim, in writing, stating his interest in the property seized, and may execute a bond to the tax commission in a penal sum equal to double the value of the property so seized, but in no case shall said bond be less than one hundred (\$100.00) dollars, with sureties to be approved by the clerk of the superior court in the county in which the property is seized, conditioned that in case of condemnation of the property seized,

Claims on property.

Bond required.

Prosecution  
of case  
to secure  
forfeiture.

the obligor shall pay to the tax commission the full value of the property so seized, and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And, upon delivery of such bond to the tax commission, it shall transmit the same with the duplicate list or description of the property seized to the prosecuting attorney of the county in which such seizure was made, and said prosecuting attorney shall prosecute the case to secure the forfeiture of said property in the court having jurisdiction. Upon filing the bond aforesaid, the said property shall be delivered to the claimant pending the outcome of the case, provided that he shall at once affix the required stamps thereto;

No claim  
or bond  
entered.

(e) If no claim is interposed and no bond is filed within the time above specified, such property shall be forfeited, without further proceedings, and the same shall be sold as herein provided, and the proceeds of sale when received by the tax commission shall be paid into the state treasury as are other funds collected: *Provided*, That in seizures of property of less value than twenty-five (\$25.00) dollars, the same may be advertised with other quantities at Olympia by the tax commission and disposed of as hereinbefore provided;

Value of  
property  
determines  
jurisdiction.

(f) In proceedings to secure a confiscation of the property hereinbefore mentioned, where the value of the goods seized at one time is one hundred (\$100.00) dollars, or less, the justice court of the place where the property is situated, shall have jurisdiction to try the cause. Where the value of the property seized at one time is more than one hundred (\$100.00) dollars, then the superior court of the county where the property is seized shall have jurisdiction to try the cause.

Proceeding  
in rem.

The proceedings against property seized, according to the provisions of this act, shall be considered

a proceeding in rem unless otherwise herein provided.

Within ten days after filing the bond provided for in subdivision (d) hereof, the claimant shall file a petition in the court having jurisdiction of the cause, and the tax commission or other party authorized to prosecute the confiscation of said property, shall plead to it as if it were an ordinary action at law, and the same rules of pleading and procedure applicable to actions in the justice court or superior shall be observed in this action, and the costs shall be adjudged as in other actions: *Provided, however,* That neither the state, nor the tax commission, nor any other person representing the state shall be liable for the costs in event the court shall not confiscate the property in controversy.

Claimant to  
file petition.

State not  
liable  
for costs.

SEC. 90. The tax commission may, in its discretion, return any property confiscated under the provisions of this title, or any part thereof, when it is shown that there was no intention to violate the provisions of this title: *Provided,* That when any property is confiscated, under the provisions of this title, the tax commission may, in its discretion, return such goods to the parties from whom they were confiscated, if and when, such parties affix the proper amount of stamps thereto, and pay to the tax commission as penalty an amount equal to twenty-five per cent of the amount of tax due and interest thereon at the rate of one per cent for each thirty days or portion thereof from the date the tax became due, and in such cases, no advertisement shall be made nor notices posted in connection with said confiscation.

Tax commis-  
sion may  
return  
property.

SEC. 91. When the tax commission has good reason to believe that any of the articles taxed herein are being kept, sold, offered for sale, or given away in violation of the provisions of this title or regulations issued under authority hereof, it may make

Tax commis-  
sion may  
demand  
search  
warrant.



affidavit of such fact, describing the place or thing to be searched, before any justice of peace, mayor of any city, town or village, or judge of any court in this state, and such justice, mayor or judge shall issue a search warrant directed to the sheriff, any constable, police officer, or duly authorized agent of the tax commission commanding him diligently to search any building, room in a building, place or vehicle as may be designated in the affidavit and search warrant, and to seize such tobacco so possessed and to hold the same until disposed of by law, and to arrest the person in possession or control of the same. If upon the return of such warrant, it shall appear that any of the articles taxed herein, unlawfully possessed, were seized, the same shall be sold as provided in the preceding section.

Tax commission to make rules for refunding cost of stamps to dealers.

SEC. 92. The tax commission may promulgate rules and regulations providing for the refund to dealers for the cost of stamps affixed to articles taxed herein, which by reason of damage become unfit for sale and are destroyed by the dealer or returned to the manufacturer or jobber. In the case of any articles to which stamps have been affixed, and which articles have been sold and shipped to a regular dealer in such articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the stamps so affixed, upon condition that the seller in this state shall make affidavit that the articles were sold and shipped outside of the state and that he has received from the purchaser outside the state a written acknowledgment that he has received such articles with the amount of stamps affixed thereto, together with the name and address of such purchaser: *Provided, however,* That the stamps so affixed for which the refund is claimed have been marked void by the seller in this state with the name and address of the seller stamped thereon together with the voidance on the

certificate from the purchaser without the state; otherwise, no refund shall be made. The tax commission is hereby authorized to redeem any unused stamps purchased from it.

Redemption  
of unused  
stamps.

SEC. 93. Every person in this state who sells any of the articles taxed herein by means of any vending machine of any kind or character shall be required before engaging in such business to apply to and obtain from the tax commission a certificate to engage in business as a retailer, and shall obtain a separate certificate for each machine used in vending or selling any of the articles taxed herein and each machine so used shall be considered a separate place of business. Such certificate shall be issued upon application in the same manner as provided in section 187 of title XVIII of this act. Any articles taxed herein vended by means of any such machine shall bear stamps as evidence that the tax herein imposed has been paid.

Certificate  
to engage  
in business  
as a retailer.

Articles to  
bear stamps.

SEC. 94. The provisions of this title shall not apply in any case in which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or the laws of the United States.

Not  
applicable.

SEC. 95. All of the provisions contained in title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title: *Provided*, That the following sections of said title XVIII shall not apply hereto: sections 188, 190, 193, 205.

Provisions  
in title 18  
have full  
force.

Exceptions.

TITLE XIII. TAX ON PROPRIETARY MEDICINES AND  
TOILET PREPARATIONS.

SEC. 96. From and after the first day of May, 1935, there is hereby levied and there shall be collected, as hereinafter provided in this title, a tax upon the sale, use, consumption, handling or distribution of proprietary medicines and toilet preparations in an amount equal to ten (10%) per cent of the intended retail selling price thereof. Only one sale of the same article shall be used in computing the amount of tax hereunder.

SEC. 97. For the purposes of this title, unless otherwise required by the context:

(a) The words "person," "sale," and "successor" shall have the same meaning as is attributed to such words in title II of this act;

(b) The words "retailer," "wholesaler" and "stamp" shall have the same meaning as is attributed to such words in title XII of this act;

Vetoed.

(c) The term "toilet preparations" includes all cosmetics and perfumes, essences, extracts, toilet waters, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet powders, and any similar substances, articles, or preparations, by whatsoever name known or described, to be used or applied for toilet purposes but not including soaps; "soaps" include all articles containing saponaceous materials excepting dentifrices, tooth pastes, shampoos and shaving soaps or creams, which said excepted articles shall be considered as "toilet preparation;"

(d) The term "proprietary medicines" includes all manufactured medicines that some person or persons have an exclusive right to make or sell;

(e) The term "medicines" means and includes any substance or preparation sold to be used in the

prevention, cure or alleviation of any disease or ailment;

(f) The term "package" means the individual package, bottle, or other container in or from which retail sales of proprietary medicines and toilet preparations are normally made or intended to be made;

(g) The term "retail selling price" means the ordinary, customary, or usual price paid by the customer or consumer.

SEC. 98. The taxes imposed under this title shall be enforced and collected in the same manner as the taxes imposed under title XII of this act and all of the provisions of said title XII shall have full force and application with respect to taxes imposed under this title, excepting sec. 82 (e) and 83 thereof

#### TITLE XIV. STORE LICENSE TAX.

SEC. 99. There is hereby imposed upon every person opening, establishing, operating or maintaining in this state two or more stores under single ownership, an annual tax for each calendar year during any part of which such stores are operated or maintained, which tax shall be payable at the time of making the application for licenses required under the provisions of section 100 to be determined as follows:

(1) Upon two stores, twenty-five (\$25.00) dollars for each store;

(2) Upon each store in excess of two, but not to exceed five, fifty (\$50.00) dollars for each such additional store;

(3) Upon each store in excess of five, but not to exceed ten, one hundred (\$100.00) dollars for each such additional store;

(4) Upon each store in excess of ten, but not to exceed twenty, one hundred fifty (\$150.00) dollars for each such additional store;

Vetoed.

(5) Upon each store in excess of twenty, but not to exceed fifty, two hundred (\$200.00) dollars for each such additional store;

(6) Upon each store in excess of fifty, two hundred fifty (\$250.00) dollars for each such additional store.

Vetoed. } SEC. 100. Every person subject to the tax imposed by section 99 shall apply to the tax commission for a license for each store within this state under single or common ownership, supervision or management. The application for a license shall be made on a form which shall be prescribed and furnished by the tax commission, and shall set forth the name of the owner, manager, lessee or other person desiring such license; the name of such store; the location, including the street number of such store; and such other facts as the tax commission may require. One application blank may contain the application for any number of licenses.

SEC. 101. As soon as practicable after the receipt of any application, the tax commission shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination thereof, the tax commission shall find that any such application is not in proper form and does not contain the necessary and requisite information, such application shall be returned for correction. If an application is found to be satisfactory, and if the tax prescribed in section 99 shall have been paid, the tax commission shall issue to the applicant a license for each store for which an application for a license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued. Any person, having securing [secured] a license as required herein, desiring to change the location of the store

for which the license shall have been issued, shall make application to the tax commission, on a form provided therefor by the tax commission, to have such license corrected so as to show the new location of the store theretofore licensed. Such application shall be accompanied by the license previously issued, but no additional tax shall be assessed under the provisions of section 99 because of such change of location.

SEC. 102. All licenses shall be so issued as to expire on the thirty-first day of December of each year. On or before the thirty-first day of December of each year, every person having a license, shall apply to the tax commission for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the tax commission. Each such application for a renewal license shall be accompanied by a remittance for the amount of the tax due under the provisions of section 99.

Vetoed.

SEC. 103. For the provisions of this title unless otherwise required by the context:

(a) The term "store" means and includes any place of business or mercantile establishment, leased department, stall or stand, in or from which goods, wares, merchandise or commodities of any kind are sold at retail: *Provided, however,* That the word "store" shall not be construed to include warehouses used exclusively for the storage of goods, wares, merchandise or commodities which are withdrawn therefrom in consummation of sales made at a central store: *Provided, further,* That where goods, wares, merchandise or commodities are sold under single or common ownership or supervision from more than one room, building or place, all of which are located within a radius of five hundred feet of a common center and used as inter-related and dependent departments of one unified business

establishment, such combination of rooms, buildings or places, for the purposes of this act, shall be construed to be but one store;

(b) The term "single ownership" means not only legal ownership by one person, but also control, supervision, domination or management by one person through legal or equitable ownership, ownership or control of corporate stock or other shares, holding companies, voting trust agreements, trust arrangements, leasing or consignment agreements or any other device whatsoever whereby control, supervision, domination or management is effected or whereby the gross revenue, net revenues or profits from store operations, directly or indirectly, immediately or ultimately, are made available for the beneficial uses or directly or indirectly, inure to the immediate or ultimate benefit of one person.

Vetoed.

(c) The meaning ascribed to the words "person," "sale," and "sale at retail" in title II and all the provisions of title XVIII of this act insofar as applicable shall have full force and effect with respect to the taxes imposed under the provisions of this title.

#### TITLE XV. INHERITANCE TAX.

SEC. 104. That section 1 of chapter 55 of the Laws of 1901, as amended (section 11201, Rem. Rev. Stat.), is amended to read as follows:

Section 1. All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the statutes of inheritance of this or any other state, or by deed, grant, sale or gift made in contemplation of the death of the grantor or donor, or by deed, grant or sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor, or by deed, grant or

Amends § 1,  
ch. 55, Laws  
of 1901, as  
amended.

Making of  
inheritance  
tax.

sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor to any person in trust or otherwise, shall, for the use of the state, be subject to a tax as provided for in section 2, after the payment of all debts owing by the decedent at the time of his death, the local and state taxes due from the estate prior to his death, and a reasonable sum for funeral expenses, monument or crypt, court costs, including cost of appraisement made for the purpose of assessing the inheritance tax, the fees of executors, administrators or trustees, reasonable attorney's fees, and family allowance not to exceed \$1,000.00, and no other sum, but said debts shall not be deducted unless the same are allowed or established within the time provided by law, and all administrators, executors, and trustees, and any such grantee under a conveyance, and any such donee under a gift, made during the grantor's or donor's life, shall be respectively liable for all such taxes to be paid by them, with interest as hereinafter provided until the same shall have been paid. The inheritance tax shall be and remain a lien on such estate from the death of the decedent until paid. And whenever property, real or personal, other than real property held by the entirety, is held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving joint tenant or tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant

After payment of debts and costs.

Lien on such estate.

Transfer taxable.



or tenants, person or persons, by such deceased joint tenant or joint depositor by will, excepting therefrom such parts thereof as may be shown to have originally belonged to such surviving joint tenant, joint depositor or person, and never to have been acquired from the decedent for less than a fair consideration in money or money's worth, and if said property shall have been acquired from decedent for less than such fair consideration, there shall be excepted from the value of said property a portion equal to the amount of the consideration so furnished.

SEC. 105. That section 5 of chapter 205 of the Laws of 1929, as amended (section 11201-a Rem. Rev. Stat.), is amended to read as follows:

Vetoed.

Section 5. Any transfer of property, made by a decedent by deed, grant, sale or gift within four years prior to said decedent's death, without a valid and adequate consideration therefor, shall be presumed to have been made in contemplation of death.

SEC. 106. That section 2 of chapter 55 of the Laws of 1901, as amended (section 11202, Rem. Rev. Stat.), is amended to read as follows:

Amends § 2, ch. 55, Laws of 1901, as amended.

Rates of inheritance tax.

Section 2. An inheritance tax shall be imposed on all estates subject to this act and other inheritance tax acts of the State of Washington, at the following rates:

Class A. Any devise, bequest, legacy, gift or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any grandfather, grandmother, father, mother, husband, wife, child or stepchild, or any lineal descendent of the deceased is hereby denominated as class A. On any amount passing to class A in excess of \$10,000 up to and including \$25,000, 1%; on any amount in excess of \$25,000 up to and including \$50,000, 2%; on any amount in excess of \$50,000 up to and includ-

ing \$100,000, 4% ; on any amount in excess of \$100,000 up to and including \$200,000, 7% ; on any amount in excess of \$200,000 up to and including \$500,000, 9% ; on any amount in excess of \$500,000, 10% ;

Class B. Any devise, bequest, legacy, gift, or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any sister or brother is denominated class B. On any amount passing to class B in excess of \$1,000 up to and including \$5,000, 3% ; on any amount in excess of \$5,000 up to and including \$10,000, 4% ; on any amount in excess of \$10,000 up to and including \$30,000, 7% ; on any amount in excess of \$30,000 up to and including \$50,000, 10% ; on any amount in excess of \$50,000 up to and including \$100,000, 15% ; on any amount in excess of \$100,000, 20% ;

Class C. Any inheritance, devise, bequest, legacy, gift or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any person or body politic or corporate other than mentioned in class A and class B herein, is hereby denominated class C.

On any amount passing to class C up to and including \$10,000, 10% ; on any amount in excess of \$10,000 up to and including \$25,000, 15% ; on any amount in excess of \$25,000 up to and including \$50,000, 20% ; on any amount above \$50,000, 25% .

The taxes imposed and the exemption with respect to each class of beneficiaries shall be apportioned between the beneficiaries in such class in proportion to the amount receivable by such beneficiary.

Apportionment between beneficiaries.

SEC. 107. (a) All the powers of a referee of the superior court having jurisdiction of the estate of a decedent shall be vested in the tax commission and its supervisor shall have jurisdiction to require the attendance before him of the executor or administrator of said estate or any person interested therein

Tax commission given powers of a referee.

Supervisor's  
power to  
require  
attendance  
of interested  
party.

or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent or knowledge of any property transferred by said decedent within the meaning of this title or knowledge of any facts that will aid the supervisor or the court in the determination of said tax, but no person shall be required to attend at any place outside of the country in which such decedent resided at the time of his death or in which letters of administration could lawfully issue upon the estate of such decedent;

Issuance of  
subpoenas.

Evidence.

Contempt.

Filing of  
findings of  
investigation.

(b) For the purpose of compelling the attendance of such person or persons, and for the purpose of appraising any property or interest subject to or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the tax commission through its supervisor is hereby authorized to issue subpoenas compelling the attendance of witnesses before said supervisor. The supervisor may examine and take evidence of such witnesses or of such executor or administrator, or other person under oath concerning such property and the value thereof, and concerning the property or the estate of such decedent subject to probate. Any person or persons who shall be subpoenaed by the said supervisor to appear and testify or to produce books and papers, and who shall refuse and neglect to appear and produce books relative to such appraisement shall be guilty of contempt;

(c) Upon the completion of the investigation by the supervisor he shall file his findings with the clerk of the superior court in the matter of the estate of the decedent, showing the value of the estate and the amount of inheritance tax chargeable against or a lien upon such interest, acquired by virtue of said probate proceedings or by any transfer within the meaning of this act, to any person, institution or corporation acquiring any property by virtue of said

probate proceedings, or by any transfer within the meaning of this title, and shall find the total amount of tax due the State of Washington, which shall be a claim against the estate and a lien upon all the property of the estate until same is paid;

Claim  
against  
estate.

(d) Upon filing said report the clerk of said superior court shall on said day or the next succeeding judicial day give notice of such filing to all persons interested in such proceeding by causing notice thereof to be posted at the court house in the county where the court is held, and in addition thereto shall mail to all persons chargeable with any tax in said report, who have appeared in such proceedings, a copy of said notice;

Notice of  
filing  
posted.

(e) At any time after the expiration of thirty days thereafter, if no objection to said report be filed, the said superior court or a judge thereof, shall, without further notice, give and make its order confirming said report and fixing the tax in accordance therewith;

If no objec-  
tion in 30 day  
limit; order  
confirming  
report.

(f) At any time prior to the making of such order any person interested in such proceeding may file objections in writing with the clerk of the superior court, and serve a copy thereof upon the supervisor, and the same shall be noted for trial before the court and a hearing had thereon as provided for hearings in probate matters;

Filing of  
objections.

(g) Upon the hearing of said objections, the court shall make such order as to it may seem meet and proper in the premises: *Provided*, That for the purposes of said hearing the report of the supervisor shall be presumed to be correct and it shall be the duty of the objector or objectors to proceed in support of said objection or objections;

Hearing of  
objections.

(h) If it shall appear that any transfer has been made within the meaning of this title, and the taxability thereof and the liability for such tax and the amount thereof have not been determined and

Citation ordering persons interested to appear before commission.

Examination under oath.

Examination.

Filing of findings.

that no proceedings are pending in any court in this state wherein the taxability of such transfer and liability therefor and the amount thereof may be determined, the tax commission through its supervisor shall issue a citation ordering and directing the persons who may appear liable therefor or known to own any interest in or part of the property transferred to appear before the said supervisor or other duly authorized agent of the tax commission in any county in which, under the law, letters of administration could issue upon the estate of the decedent, at a time and place in said citation named not less than ten days nor more than thirty days from the issuance of such citation to be examined under oath by said supervisor or agent concerning property transferred and the character and value thereof;

(i) The said supervisor or agent at the time and place in said citation named, or at such time and place to which he may adjourn said hearing, shall proceed to examine said person or persons, and such witnesses as he may subpoena before him and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said supervisor or agent shall have the powers of a superior court to issue subpoenas compelling the attendance of witnesses before him and to administer oaths and take the evidence of such witnesses under oath concerning such property and the value thereof, and concerning such transfer. Said supervisor or agent shall enter his findings and conclusions in relation to said transfer and said tax, fix and determine the amount of inheritance tax, if any, due the State of Washington, and file his findings in which shall be set forth the amount of inheritance tax due the State of Washington, with the clerk of the superior court of such county. The procedure subsequent to such filing shall conform

with the procedure outlined in subdivision (d) of this section and shall have the same effect as provided in subdivision (e) herein and the same shall be a final determination of the tax, subject to such exception as is found in subdivisions (f) and (g) herein, and subject to such procedure as therein outlined;

Conform  
with certain  
procedure.

(j) Should the court determine that the property described in the findings is subject to the lien of the said tax and that said property has been transferred within the meaning of this title, the court shall afford affirmative relief to the state in said action and a judgment shall be rendered therein in favor of the state ascertaining and determining the amount of said tax, and the person or persons liable therefor and the property chargeable therewith or subject to lien therefor.

Findings  
of court.

Judgment.

No fee shall be charged against the state, the tax commission or the supervisor by any officer in this state in any proceeding taken under this title, nor shall any bond or undertaking be required in any such proceeding.

No fee.

The orders, decrees, and judgments, fixing tax or determining that no tax is due, shall have the force and effect of judgments in civil actions, and the state or any interested party may appeal to the supreme court;

Right to  
appeal.

(k) Actions may be brought against the state by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this title, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this title. No such action shall be maintained where any proceedings are pending in any court or before the tax commission or the supervisor thereof in this state wherein the taxability of such transfer and the liability therefor and the

Actions  
against  
the state.

Summons.

amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the state in said action shall be served upon the tax commission by delivering a copy thereof to the supervisor.

Court enter order for hearing.

Upon the filing of the complaint the court shall enter an order directing the supervisor to hear said matter and to report to the court thereon, and shall direct notice of such time and place to be given for such hearing as the court shall deem proper, and shall refer said matter to said supervisor, who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (b) of this section. The procedure subsequent to said reference to said supervisor shall conform to the provisions of subdivisions (c), (d), (e), (f), and (g) of this section. Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this title, the court shall grant affirmative relief to the state in said action and judgment shall be rendered therein in favor of the state, ascertaining and determining the amount of said tax and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor. If the court shall determine that such property or estate is not liable to be charged with any tax under the provision of this title, it shall enter its decree quieting title to such property against any and all such taxes, and discharging such person or persons from liability therefor;

Procedure.

Decision.

Federal estate tax statute.

(1) If after the values have been determined under the state statute for inheritance tax purposes, the same estate is valued under the Federal estate tax statute and the value of the property, or any

portion thereof, fixed under the Federal law, is increased above the value fixed under the state statute as provided in section 5, chapter 134, Laws of 1931 (section 1120 2-B, Rem. Rev. Stat.), and this valuation under the Federal estate tax is accepted by the estate either by agreement or through final determination in the Federal court, then in that event, the value as fixed under the state statute upon such property or portion thereof shall be increased to this amount for state inheritance tax purposes;

(m) Where there is property belonging to decedent both within the State of Washington and without the State of Washington exemptions allowed under this title shall be prorated, and that portion allowed in the State of Washington shall be in that proportion that the value of the property within the State of Washington bears to all the property within and without the State of Washington. In order to secure an exemption where the property is thus situated, the representative must file with the inheritance tax division of the tax commission a certified copy of the inventory of all the properties without the State of Washington, and upon his failure so to do, no exemptions will be allowed in this state, whether there is property within this state or without this state;

Exemptions  
prorated.

Certified  
copy of  
inventory.

(n) An executor, administrator or trustee shall not be discharged from liability for such inheritance tax, nor shall a decree of distribution be entered, nor said estate, nor any part of said estate, be distributed until a receipt signed by the state treasurer showing that the inheritance tax is paid, or written waiver executed by the supervisor showing that the estate is not subject to inheritance tax, is filed with the clerk of the court, or the court having jurisdiction over such estate shall have determined as herein provided that such estate is not liable to pay an inheritance tax;

Receipt  
by state  
treasurer.



(o) When it shall appear that a part or portion of decedent's estate is being administered upon in any other state or territory of the United States, no decree of distribution shall be signed by any court in this state until there has been a receipt filed with the clerk of the superior court showing that the inheritance tax has been paid in full or that there is no tax due in the estates being administered without the State of Washington: *Provided, however,* That this section shall apply only to estates that are being administered in the territories or states of the United States having adopted a similar provision;

Decree of distribution signed by court.

Applicable only in territories of U. S.

(p) It is further provided, that there shall be no exemption allowed where the decedent was not a resident of a territory or state of the United States, and the property of such decedent shall be taxable whether same is tangible or intangible property, including certificates of stock, bonds, bill, notes, bank deposits, and other written evidences of intangible property which are physically situated within the State of Washington, or where the domicile of the debtor is in the State of Washington;

No exemption where decedent not resident of U. S.

(q) There shall be no attorney's fees, witness' fees, or other costs taxed in favor or against the State of Washington, or the tax commission or supervisor thereof nor in favor of or against any party to any proceeding before the tax commission, supervisor or any court under the provisions of this title;

No attorney's fees or costs.

(r) Whenever the supervisor shall have reasonable cause to believe that a tax is due under the provisions of this act, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody or control of any books, accounts, papers, or documents relating to or evidencing such transfer, the supervisor or his duly authorized agent, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of

Belief that tax is due.

Inspection of records.

any such person, firm, institution, company, association or corporation, including the stock transfer book of any corporation, and to administer oaths to and examine any such person or any officer or agent of such firm, institution, company, association or corporation, for the purpose of acquiring any information deemed necessary or desirable by said supervisor or his assistants, for the proper enforcement of this act, and for the collection of the full amount of the tax which may be due the state hereunder. Any and all information and records acquired by said supervisor, or his assistants, shall be deemed and held by said supervisor and said supervisor's assistants and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except insofar as may be necessary for the enforcement of the provisions of this act. Any supervisor or assistant supervisor, or ex-supervisor or ex-assistant supervisor, or inheritance tax attorney, or ex-inheritance tax attorney, or assistant inheritance tax attorney, or ex-assistant inheritance tax attorney, who shall divulge, disclose, or make known any information acquired by such inspection and examination aforesaid, except in so far as the same may be necessary for the enforcement of the provisions of this act, shall be guilty of a gross misdemeanor.

Confidential information.

Gross misdemeanor.

(s) An officer or agent of any firm, institution, company, association or corporation having or keeping an office within this state, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the supervisor, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys, lawfully demanding as provided in this

Liabie  
to penalty.

section, during office hours to inspect or take a copy of the same, or any part thereof, for the purposes hereinabove provided, a reasonable opportunity so to do, shall be liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under this act on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the supervisor in any court of competent jurisdiction.

Amends § 4,  
ch. 134,  
Laws of  
1931.

SEC. 108. That section 4 of chapter 134 of the Laws of 1931 (section 11202-A, Rem. Rev. Stat.), is amended to read as follows:

Transferred  
property.

Section 4. All property transferred by a decedent to a father, mother, grandfather, grandmother, husband, wife, lineal descendant, stepchild, adopted child, or lineal descendant of a stepchild or adopted child: *Providing*, The same was transferred to such decedent not more than one year prior to his death by another decedent of the class hereinabove described and a tax paid thereon to the State of Washington, shall be exempt: *Provided*, That this exemption only applies to transfers upon which an inheritance tax was paid in the estate of the first decedent, and where the property so transferred and taxed has increased in value, the increase in value shall be taxed.

Property  
exempted  
identified.

Property exempted under this section must be identified as having been received from the first decedent or as having been acquired in exchange therefor, and the value of such property so exempted shall not be in excess of the value determined for the estate of the first decedent.

Vetocd.

SEC. 109. That section 12 of chapter 55 of the Laws of 1901, as amended (section 11210, Rem. Rev. Stat.), is amended to read as follows:

Section 12. All taxes imposed by this act shall take effect and accrue upon the death of the decedent

or donor. If such tax is not paid within ten months from the accruing thereof, interest shall be charged and collected at the rate of six per centum per annum unless by reason of necessary litigation, claims upon the estate or other unavoidable delay, such tax cannot be determined and paid as herein provided, in which case interest at the rate of six per centum per annum shall be charged upon such tax from and after the time when the cause of such delay is removed.

SEC. 110. That section 15 of chapter 55 of the Laws of 1901, as amended (section 11213, Rem. Rev. Stat.), is amended to read as follows:

Section 15. Upon the filing of any petition for letters of administration or for the probate of any will, the petitioner shall file with the clerk of the court a statement in such form as the tax commission may prescribe, which statement shall contain a list of names, ages, and the respective addresses of the heirs, legatees and devisees of said estate, if known, and the relationship which each bears to the decedent, together with a statement of the location, nature and probable value of the entire estate, and an estimate of the amount or value of each distributive share, the residence and date of death of decedent, and shall state whether such deceased died testate or intestate, and shall also contain a list and description of all transfers of property, in trust or otherwise, made by the decedent within four years prior to his death as a division or distribution of his estate in contemplation of death or intended to take effect at or after decedent's death so far as shall be known to such petitioner.

Vetoed.

SEC. 111. That section 18 of chapter 55 of the Laws of 1901, as amended (section 11217, Rem. Rev. Stat.), is amended to read as follows:

Amends § 18,  
ch. 55, Laws  
of 1901, as  
amended.

Section 18. Administrators, executors and trustees of the estates subject to the inheritance tax

Certified  
copies of ad-  
ministrator's  
reports.

shall, when demanded by the tax commission, send certified copies of such parts of their reports as may be demanded by it, and upon refusal of said parties to comply with such demand, it is the duty of the clerk of the court to furnish such copies, and the expense of making the same shall be charged against the estate as are other costs in probate, and such administrator, executor, or trustee, shall also upon request of the tax commission, furnish copies of all deeds, mortgages, trust agreements, insurance policies, and other instruments in writing that within his judgment are necessary for the determination of the inheritance taxes due the State of Washington. And it shall be the duty of the tax commission to exercise general supervision of the collection of the inheritance taxes provided in this act, and in the discharge of such duty the tax commission through its supervisor may institute and prosecute such suits or proceedings in the courts of the state as may be necessary and proper, appearing therein for such purpose; and it shall be the duty of the several county attorneys to render assistance therein when called upon by the tax commission so to do. The tax commission shall keep a record in which shall be entered memoranda of all the proceedings had in each case, and shall also keep an itemized account showing the amount of such taxes collected, in detail, charging the state treasurer therewith.

General  
supervision  
of collection  
of inher-  
itance taxes.

Amends § 8,  
ch. 55, Laws  
of 1901, as  
amended.

SEC. 112. That section 8 of chapter 55 of the Laws of 1901, as amended (section 11205, Rem. Rev. Stat.), is amended to read as follows:

Section 2 [8]. When the estate of a deceased person shall be subject to an inheritance tax, and there be an annuity, life estate or an estate for a term of years given to one or more persons and the remainder to another or others, the entire estate shall be appraised as other estates are required to be appraised by the laws of this state. The value of the

Appraisal  
of estate.

annuity, life or term estate shall be determined according to the rules or standards of mortality and of value commonly used in actuaries' combined experience tables on the basis of four per centum annual interest, and the value of the remainder shall be determined by deducting the amount found to be the value of the annuity, life or term estate from the whole estate. After the values shall have been determined as provided in this section, the tax shall be computed and collected in the same manner that the tax on other estates is computed and collected. The state insurance commissioner is hereby directed to obtain and publish for the use of courts and appraisers throughout the state tables showing the average expectancy of life and values of annuities and of life and term estates.

Determina-  
tion of  
values.

SEC. 113. That section 13 of chapter 55 of the Laws of 1901, as amended (section 11211, Rem. Rev. Stat.), is amended to read as follows:

Amends § 13,  
ch. 55, Laws  
of 1901, as  
amended.

Section 13. The superior court having jurisdiction, shall appoint three suitable, disinterested persons to appraise the estate and effects of deceased persons for inheritance tax purposes, and unless otherwise provided by order of the court, the appraisers appointed under the probate law to appraise the estate and effects of deceased persons, shall be and constitute the appraisers under the provisions of this act: *Provided, however,* That one of such appraisers shall be recommended by the supervisor, and appointed by the court as one of the three appraisers, and shall receive a like compensation as each of the other appraisers.

Superior  
court to  
appoint  
three  
appraisers.

Supervisor.

Anyone may file exceptions to the appraisement with the supervisor, which shall be heard and determined by him. If upon hearing the supervisor finds the amount at which the property is appraised is its market value and the appraisement was fairly and in good faith made he shall approve such appraise-

Filing of  
exceptions  
to appraise-  
ment.

ment; but if he finds that the appraisement was made at a greater or less sum than the market value of the property or the same was not fairly or in good faith made, he shall set aside the appraisement and determine such value. Anyone interested in the property appraised may appeal to the superior court from the order of the supervisor in the premises.

Right to appeal.

Amends § 7, ch. 134, Laws of 1931.

SEC. 114. That section 7 of chapter 134 of the Laws of 1931 (section 11211-A, Rem. Rev. Stat.), is amended to read as follows:

Improvements of estate appraised.

Section 7. All real estate and the improvements thereon, of the estate of a deceased person, for the purpose of computing the inheritance tax, shall be valued and appraised at the fair market value thereof on the day of the death of the decedent owner thereof. The executor, administrator or trustee in preparing the inventory in all probate cases, shall insert at the right of each real estate tract, the assessed valuation of such tract and of the improvements thereon for the information of the appraisers and other interested parties.

Insurance payable upon death deemed part of estate.

SEC. 115. Insurance payable upon the death of any person shall be deemed a part of the estate for the purpose of computing the inheritance tax and shall be taxable to the person, partnership or corporation entitled thereto. Such insurance shall be taxable irrespective of the fact that the premiums of the policy have been paid by some person, partnership or corporation other than the insured, or paid out of the income accruing from principal provided by the assured for such payment, whether such principal was donated in trust or otherwise: *Provided, however,* That there is exempt from the total amount of insurance, regardless of the number of policies, the sum of forty thousand dollars and no more: *Provided, however,* That in the case of insurance upon the life of a decedent officer or employee of a corporation, payable to the corporation,

Taxable.

Exemption.

Insurance payable to a corporation or partner.

or upon the life of a decedent, employee of or partner in a business enterprise, payable to one or more of the partners, where all the premiums upon such policy have been paid exclusively by such beneficiary, upon the death of the decedent the amount only of the proceeds of the policy in excess of the cash surrender value immediately preceding the death of the decedent shall be deemed a part of the estate for the purpose of computing the inheritance tax, and taxed as provided in class A, section 106 of this title.

Where more than one beneficiary is entitled to the benefit of the provisions of this section exempting forty thousand dollars of the proceeds of insurance policies, payable upon death, the benefit of such exemption shall be apportioned among such beneficiaries ratably and proportionately: *Provided*, That where there is fraternal benefit society insurance payable upon the death of the decedent and other insurance payable upon the death of the decedent, the forty thousand dollars exemption shall first be taken from the fraternal benefit society insurance and if the same does not equal forty thousand dollars, then the balance of the forty thousand shall be prorated among other policies.

The inheritance tax upon the proceeds of any insurance policy shall be a lien upon the proceeds of such policy in the hands or possession of the estate of the deceased insured or in the hands or possession of any other beneficiary under such policy to whom such proceeds may have been paid; *Provided*, That when proceeds of insurance payable upon death, or receivable by a beneficiary other than the executor or representative, the executor or representative shall recover from such beneficiary the tax due upon such proceeds of such policy or policies. The supervisor shall have power to release such lien with respect to all or any part of such proceeds if

Exemption apportioned among beneficiaries.

Fraternal benefit society insurance.

Inheritance tax lien upon proceeds of policy.

Recovery of tax.

Supervisor power to release lien.



he be satisfied that the collection of the tax will not thereby be jeopardized.

No preven-  
tion of  
payment  
by insurance  
companies.

Nothing in this act shall prevent the payment by any insurance company, association or society of the proceeds of any policy upon the death of a decedent to the person entitled thereto, but every insurance company, association or society, whether authorized to transact business within this state or not, having a policy or policies of insurance or death benefit or certificate or certificates in an aggregate amount of one thousand dollars or more payable upon the death of a decedent, a resident of this state, shall give a written notice of the death of the decedent and the amount of the policies issued and the names of the beneficiaries to the supervisor in such form as the supervisor may prescribe, within three days after receiving notice of the death of such decedent. Any insurance company, association or society failing, neglecting or refusing to give such notice to the supervisor as above provided shall be personally liable for the payment of the inheritance tax herein provided.

Written  
notice of  
death.

Liability for  
payment of  
inheritance  
tax.

SEC. 116. No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons without first giving notice to the supervisor of such transfer, in case the transferee is a resident of this state, or without obtaining the written consent of the supervisor, in case the transferee is a non-resident of this state.

Vetoed.

SEC. 117. No safe deposit company, bank, trust company, corporation, or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar char-

acter shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify in writing such safe depository bailee or lessor, from whom such box or receptacle is rented of the death of any person having the right of access thereto, before securing access to such box or receptacle after the death of such person; and all persons having the right of access to any such safe deposit box or receptacle upon the death of such other person having access thereto, before securing access to such box or receptacle shall notify in writing such safe depository, bailee, or lessor, from which such box or receptacle is rented of the death of such person; and it shall be unlawful for any safe deposit company, trust company, bank, corporation or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle, to permit access thereto by anyone after the death of any person who at the time of his death had the right or privilege of access thereto, of which death said safe deposit company, trust company, bank, corporation, or other institution, person or persons, has knowledge without giving ten days' notice in writing to the supervisor of the time and place when such box or receptacle will be opened, and without permitting the supervisor, or some person by him in writing authorized, to be present, at the opening of such safe deposit box or receptacle and to examine and list contents thereof.

Vetoed.

SEC. 118. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or a non-resident or belonging to, or

standing in the joint names of such decedent and one or more persons, including the shares of the capital stock of, or other interest in the safe deposit company, trust company, corporation, bank, or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators, legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor or survivors when held in the joint name of a decedent and one or more persons, or upon their order or request, with knowledge of the death of said decedent, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this title and unless notice of the time and place of such delivery or transfer be served upon the supervisor at least ten days prior to said delivery or transfer: *Provided*, That the supervisor, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank, or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposit or other assets in their possession or control: *Provided further*, That nothing in this section shall prevent any bank, trust company or other institution from immediately paying over to the surviving spouse an amount not exceeding one thousand dollars from a joint account of a husband and wife. It shall be lawful for the tax commission, through its supervisor and its duly authorized agents or representatives to examine said securities, deposits or assets at the time of said delivery or otherwise.

Vetoed.

SEC. 119. Failure to comply with the provisions of sections 116, 117 or 118 shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than one thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under the inheritance tax laws of the State of Washington, on said securities, deposits, or other assets above mentioned, and said penalties and liabilities of said safe deposit company, trust company, corporation, bank or other institution, person or persons for the violation of this title may be enforced in an action brought by the tax commission in any court of competent jurisdiction in the State of Washington.

Vetoed.

SEC. 120. Any safe deposit company, trust company, bank, corporation or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle neglecting or failing to comply with the provisions of section 117 of this title shall be guilty of a misdemeanor.

SEC. 121. Whenever any of the real estate of which any decedent may die seized shall pass to any body politic or corporate, or to any person or persons, or in trust for them, or some of them, it shall be the duty of the executor, administrator, or trustee of said decedent to give information thereof in writing to the tax commission within three months after they undertake the execution of their expected duties, or if the fact be not known to them within that period, then within one month after the same shall have come to their knowledge.

Passing on of real estate.

SEC. 122. In case of any property belonging to a foreign estate, which estate in whole or in part

Property belonging to a foreign estate.

is liable to pay an inheritance tax in this state, the said tax shall be assessed upon the market value of said property remaining after the payment of such debts and expenses as are chargeable to the property under the laws of this state. In the event that the executor, administrator, or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction, and with the tax commission duly certified statements exhibiting the true market value of the entire estate of the decedent owner, and the indebtedness for which the said estate has been adjudged liable, which statement shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate.

Amends § 95,  
ch. 156, Laws  
of 1917, as  
amended.

SEC. 123. That section 95 of chapter 156 of the Laws of 1917, as amended (section 1465, Rem. Rev. Stat.), is amended to read as follows:

Inventory of  
property of  
estate by  
executor.

Appraisal of  
property.

Compensa-  
tion for  
appraisers.

Section 95. Every executor, or administrator shall make and return upon oath, into the court within one month after his appointment a true inventory of all of the property of the estate which shall have come into his hands, and within thirty days after filing such inventory he shall make application to the court to appoint three disinterested persons to appraise the property so inventoried, and it shall be the duty of the court to appoint such appraisers. Such appraisers shall receive as compensation for their services each an amount as to the court shall seem just and reasonable, not to exceed \$5.00 per day for the time spent in making such appraisement: *Provided*, That in all estates where an inheritance tax is payable, the court shall fix the compensation of each appraiser at such an

amount as the court may deem just and reasonable notwithstanding the foregoing limitation. If any part of the estate shall be in another county than that in which the letters are issued, appraisers residing in such county may be appointed by the court having jurisdiction of the case, or, if most advisable, the same appraisers may act: *Provided, however,* That the court may appoint persons to appraise the estate at the time or at any time after the appointment of the administrator.

SEC. 124. The provisions of the title, except section 115, shall apply to all cases pending in the inheritance tax and escheat division and to all cases pending in any of the courts of this state, whether on appeal or otherwise, at the time this act takes effect, whether the death of the decedent occurred prior to the passage of this act or subsequent thereto: *Provided, however,* That the inheritance tax now due before the passage of this act may be paid under the law effective immediately before the passage of this act if paid within ten months from the time this law becomes effective: *Provided, further,* That if a portion of the inheritance tax is paid in any estate now pending within the ten months as herein provided, then the increased rates under this title shall apply only upon the proportionate part of such estate remaining unpaid.

Pertaining to inheritance taxes.

SEC. 125. Section 1 of chapter 135 of the Laws of 1929, section 1 of chapter 202 of the Laws of 1929, as amended, and section 2 of chapter 202 of the Laws of 1929, as amended (sections 11201-1, 11203-1, 11203-2, Rem. Rev. Stat.), and each of them, is hereby repealed. All acts and parts of acts in conflict with the provisions of this title are hereby expressly repealed.

Repeal of sections in former acts.

SEC. 126. The word "supervisor," as used in this title, means and refers to the supervisor of

"Supervisor."

the inheritance tax and escheat division of the tax commission of the State of Washington.

Effective im-  
mediately.

SEC. 127. The provisions of this title and each of them shall be effective immediately upon the approval of this act.

#### TITLE XVI. GIFT TAX.

SEC. 128. (a) For the year 1935 and each calendar year thereafter, a tax, computed as provided in this title, shall be imposed upon the transfer during such calendar year by any individual, resident, or non-resident, of property by gift, which tax shall apply whether the gift is in trust or otherwise, whether the gift is direct or indirect, whether the property is real or personal, tangible or intangible, and whether located within or without the State of Washington. But in the case of a non-resident not a citizen of the State of Washington, the tax shall apply to the transfer only if the property is situated within the State of Washington. The tax shall not apply to a transfer made on or before the operative date of this title;

Vetoed.

(b) The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

SEC. 129. The tax for each calendar year shall be an amount equal to the excess of:

(a) A tax, computed in accordance with the rate schedule hereinafter set forth, on the aggre-

gate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(b) A tax, computed in accordance with the rate schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

*Rate Schedule.* Class A. Any gift made to or for the use or benefit of a grandfather, grandmother, father, mother, husband, wife, child or stepchild, or any lineal descendant of the donor is hereby denominated as class A. On any amount passing to class A the tax shall be ninety per cent of the amount of a tax computed at the following rates: on any amount up to and including \$25,000, 1%; on any amount in excess of \$25,000 up to and including \$50,000, 2%; on any amount in excess of \$50,000 up to and including \$100,000, 4%; on any amount in excess of \$100,000 up to and including \$200,000, 7%; on any amount in excess of \$200,000 up to and including \$500,000, 9%; on any amount in excess of \$500,000, 10%;

Vetoed.

Class B. Any gift made to or for the use or benefit of a brother or sister is denominated class B. On any amount passing to class B the tax shall be ninety per cent of the amount of a tax computed at the following rates: on any amount up to and including \$5,000, 3%; on any amount in excess of \$5,000 up to and including \$10,000, 4%; on any amount in excess of \$10,000 up to and including \$30,000, 7%; on any amount in excess of \$30,000 up to and including \$50,000, 10%; on any amount in excess of \$50,000 up to and including \$100,000, 15%; on any amount in excess of \$100,000, 20%;

Class C. Any gift to or for the use or benefit of any person or body politic or corporate other than mentioned in class A and class B herein, is hereby denominated class C. On any amount passing to class C the tax shall be ninety per cent of the amount of a tax computed at the following rates: on any



amount up to and including \$10,000, 10%; on any amount in excess of \$10,000 up to and including \$25,000, 15%; on any amount in excess of \$25,000 up to and including \$50,000, 20%; on any amount above \$50,000, 25%.

SEC. 130. Where property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeded the value of the consideration, for the purpose of the tax imposed by this title, shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

SEC. 131. (a) The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 132;

Vetoed. (b) In the case of gifts (other than of future interest in property) made to any person by the donor during the calendar year, the first three thousand dollars (\$3,000) of such gifts to such person shall not, for the purposes of this title, be included in the total amount of gifts made during such year.

SEC. 132. In computing net gifts for any calendar year there shall be allowed as deductions:

(a) In the case of (1) gifts to donees listed in class A of section 129 a specific exemption of ten thousand dollars and (2) gifts to donees listed in class B of section 129 a specific exemption of three thousand dollars, less the aggregate of the amounts claimed and allowed as specific exemption for the preceding calendar years;

(b) In case of a resident or non-resident not a citizen of the State of Washington, the amount of all gifts made during that year of property situated within or under the jurisdiction of the State of Washington shall be exempt from the payment of any tax when the same are for one of the following

charitable purposes, namely, the relief of the aged, indigent and poor people, maintenance of sick or maimed, the support or education of orphans or indigent children, and all gifts made to the State of Washington, or to any county, incorporated city or town or school district therein, or to any public park or playground within the State of Washington, whether municipal or otherwise, and all gifts and transfers made to any municipal corporation within the State of Washington for eleemosynary, charitable, educational or philanthropical purposes, and all gifts, bequests, devises, and transfers made to schools and colleges in the state supported in whole or in part by gifts the entire income of which said school or college, after paying the expenses thereof, is devoted to the purposes of such institution and which is open to all persons upon equal terms, and any property in this state which has been given for such purposes is hereby declared to be exempt from the payment for such tax: *Provided*, That all such gifts be limited for use within the State of Washington, and all gifts made to or for the use of any religious or non-sectarian organization or association, organized under the laws of the State of Washington and conducted primarily and chiefly for religious purposes and not for profit, where such religious or non-sectarian organization or association is supported in whole or in part by gifts, endowments or charity, and where the entire income of such religious or non-sectarian organization or association, after paying the expenses thereof, is devoted wholly to the use of such organization or association, or for the educational, benevolent, protective or social departments growing out of, or related to, the religious work of such organization or association, shall be exempt from the payment of this gift tax: *Provided*, That

Vetoed.

all such gifts be limited for use within the State of Washington.

SEC. 133. If the gift is made in property, the value thereof at the time of the gift shall be considered the amount of the gift.

SEC. 134. (a) Any individual who within the calendar year of 1935 or any calendar year thereafter makes any transfers by gift (except those which under section 132 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under section 131 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 132; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law;

Vetoed.

(b) The return shall be filed on or before the first day of February following the close of the calendar year with the tax commission.

SEC. 135. (a) *By Donor.* Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the tax commission may from time to time prescribe;

(b) Whenever it is necessary in the judgment of the tax commission it may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the tax commission deems sufficient to show whether or not such person is liable to tax under this title.

SEC. 136. (a) The tax imposed by this title shall be paid by the donor on or before the first day of February following the close of the calendar year;

(b) A tax imposed by this title may be paid, at the election of the donor, prior to the date prescribed for its payment;

(c) All moneys to be paid under this title shall be paid to the state treasurer.

SEC. 137. The tax imposed by this title shall be a lien upon each gift made during the calendar year for the proportion of such tax that the amount of the gift (less the \$1,000 exemption) bears to the net gifts, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such proportion of such tax. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gifts, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the tax commission is satisfied that the tax liability has been fully discharged or provided for, it may, under regulations prescribed by it, issue its certificate, releasing any or all of the property from the lien herein imposed.

Vetoed

SEC. 138. As soon as practicable after the return is filed the tax commission shall examine it and shall determine the correct amount of the tax.

SEC. 139. As used in this title in respect of the tax imposed by this title the term "deficiency" means:

(a) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assess-

ment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

**Vetoed.** SEC. 140. (a) If the tax commission determines that there is a deficiency in respect to the tax imposed by this title, it is authorized to send notice of such deficiency to the donor by registered mail. Within thirty days after such notice is mailed the donor may have the decision of the tax commission reviewed by filing a petition in the superior court for Thurston county, Washington, for determination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title, and no distraint or proceeding in court for its collection shall be made, begun or prosecuted until such notice has been mailed to the donor, nor until the expiration of such thirty days; nor if a petition be filed with the superior court for review until the decision has become final;

(b) If the donor files a petition for review, the entire amount redetermined as a deficiency by the decision of the court shall become final and shall be assessed and shall be paid upon notice and demand from the tax commission. No part of the amount determined as a deficiency by the tax commission, but disallowed as such by the decision of the court, shall be assessed or collected by distraint or by proceedings in court without assessment;

(c) If the donor does not file a petition for review as provided herein within the time prescribed, the deficiency, notice of which has been mailed to the donor, shall be assessed and shall be paid upon notice and demand of the tax commission;

(d) The donor shall at any time have the right, by a signed notice in writing filed with the tax commission, to waive the restrictions provided herein on the assessment and collection of the whole or any part of the deficiency;

(e) The tax commission shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the tax commission at or before the hearing or rehearing;

(f) If the tax commission has mailed to the donor notice of a deficiency as provided herein, and the donor files a petition with the tax commission within the time prescribed, the tax commission shall have no right to determine any additional deficiency in respect to the same calendar year, except in the case of fraud, and except as provided in this section, relating to assertion of greater deficiencies before the tax commission, or the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this title) as a notice of a deficiency, and the donor shall have no right to file a petition with the tax commission based on such notice, nor shall such assess-

Vetoed.

ment or collection be prohibited by the provisions hereof;

(g) The tax commission in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether the tax for any other calendar year has been overpaid or underpaid;

(h) For the purposes of this title the date of the decision of the superior court shall be final unless there is an appeal taken to the supreme court;

Vetoed. (i) Where it is shown to the satisfaction of the tax commission that the payment of the deficiency upon the date prescribed for the payment thereof, will result in undue hardship to the donor, the tax commission, except where the deficiency is due to negligence, to intentional disregard of the rules and regulations, or to fraud with intent to evade the tax, may grant an extension for the payment of such deficiency or any part thereof, for a period not in excess of six months. It [If] an extension is granted, the tax commission shall require the donor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the tax commission deems necessary conditioned upon the payment of the deficiency in accordance with the terms of the extension;

(j) In the absence of notice to the tax commission of the existence of a fiduciary relationship notice of a deficiency in respect of the tax imposed by this title, if mailed to the donor at his last known address, shall be sufficient for the purposes of this title, even if such donor is deceased, or is under a legal disability.

SEC. 141. (a) If the tax commission believes that the assessment or collection of a deficiency will

be jeopardized by delay, it shall immediately assess such deficiency (together with all interest, additional amounts or additions to the tax provided for by law) and notice and demand shall be made by the tax commission for the payment thereof;

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed, then the tax commission shall mail a notice within sixty days after the making of the assessment;

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of this title prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the superior court;

(d) When a jeopardy assessment has been made, the donor, within ten days after notice and demand for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the tax commission a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the tax commission deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the superior court which has become final, together with interest thereon as provided herein;

Vetoed.

(e) If the bond is given before the donor has filed his petition with the superior court the bond shall contain a further condition that if a petition is not filed within the period provided in this title, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of six per



cent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection;

(f) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the tax commission determines that the amount assessed is greater than the amount which should have been assessed then when the decision of the superior court is rendered the bond shall, at the request of the donor, be proportionately reduced;

Vetoed.

(g) When the petition has been filed with the superior court and when the amount which should have been assessed has been determined by a decision of the court which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded by the State of Washington. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the tax commission.

SEC. 142. No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 143. (a) Except as otherwise herein provided, the amount of taxes imposed by this title shall be assessed within one year after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed;

(b) In the case of false or fraudulent return with intent to evade tax or of failure to file return the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time;

(c) Where the assessment of any tax imposed by this title has been made within the statutory period of limitation properly applicable thereto such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the tax commission and the donor.

Vetoed.

SEC. 144. The running of the statute of limitations provided herein on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of notice) be suspended for the period during which the tax commission is prohibited from making the assessment or beginning distraint or a proceeding in court, and for sixty days thereafter.

SEC. 145. In case of any failure to make and file a return required by this title, within the time prescribed by law or by the tax commission in pursuance of law, twenty-five per cent of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to wilful neglect no such addition shall be made to the tax. The amount so added to any tax shall be col-

lected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 146. (a) If any part of any deficiency is due to negligence or intentional disregard of rules and regulations but without intent to defraud, five per cent of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions relating to interest on deficiencies shall not be applicable;

(b) If any part of any deficiency is due to fraud with intent to evade the tax, then fifty per cent of the total amount of the deficiency (in addition to such deficiency) shall be so assessed and collected, and paid, in lieu of the fifty per cent addition to the tax provided.

Vetoed.

SEC. 147. (a) If the time for payment of the amount determined as the tax by the donor is extended under the authority of this title, there shall be collected as a part of such amount interest thereon at the rate of six per cent per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension;

(b) In case an extension for the payment of a deficiency is granted, there shall be collected as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of six per cent per annum for the period of extension, and no other interest shall be collected on such part of the deficiency for such period.

SEC. 148. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand

from the tax commission, and shall be collected as a part of the tax, at the rate of six per cent per annum from the due date of the tax to the date the deficiency is assessed, or, in case of waiver under section 140 (d) of this title, to the thirtieth day after the filing of such waiver or the date the deficiency is assessed, whichever is the earlier.

SEC. 149. In the case of the amount collected under section 141 (d) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of six per cent per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 141 (g), or, in case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 148.

SEC. 150. (a) Where the amount determined by the donor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest, upon the unpaid amount at the rate of one per cent per month from the due date until it is paid;

Vetoed.

(b) Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 147 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (a) of this section, interest at the rate of one per cent per month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid;

(c) Where a deficiency, or any interest assessed in connection therewith under section 148 or any addition to the tax provided for in this title, is not

paid in full within ten days from the date of notice and demand from the tax commission, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid;

(d) If a bond is filed, as provided in section 141 of this title, the provisions of paragraph (a) of this subsection shall not apply to the amount covered by the bond;

(e) If the part of the deficiency, the time for payment of which is extended as provided in section 140 (i), is not paid in accordance with the terms of the extensions, there shall be collected, as a part of the tax, interest on such amount at the rate of one per cent per month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period;

Vetoed.

(f) If the amount included in the notice and demand from the tax commission under section 141 (g) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid.

SEC. 151. (a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than ten thousand (\$10,000.00) dollars, or imprisoned for not more

than one year, or both, together with the costs of prosecution;

(b) Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than ten thousand (\$10,000.00) dollars, or imprisoned for not more than five years, or both, together with costs of prosecution.

SEC. 152. (a) The amount of the following liabilities shall, except as hereinafter provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds): Vetoed.

(1) The liability, at law or in equity, of a transferee of property of a donor, in respect to the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title;

(2) The liability of a fiduciary in respect of the payment of any such tax from the estate of the donor;

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax;

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor;

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (1), then within one year after return of execution in such proceeding;

(c) For the purpose of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred;

(d) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 140 (a) to the transferee or fiduciary, be suspended for the period during which the tax commission is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the superior court, until the decision of the court becomes final), and for sixty days thereafter;

Vetoed.

(e) No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under this title; in respect of any such tax;

(f) As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee;

(g) In the absence of notice to the tax commission under section 153 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 153. (a) Upon notice to the tax commission that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties and privileges of the donor in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated;

(b) Upon notice to the tax commission that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 91, the fiduciary shall assume on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated;

(c) Notice shall be given in accordance with the regulations prescribed by the tax commission.

Vetoed.

SEC. 154. (a) Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded by the State of Washington to the taxpayer;

(b) *Limitation on Allowance.* (1) No such credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer;

(2) The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund;

(c) If the tax commission has mailed to the taxpayer a notice of deficiency under section 140 (a)



and if the taxpayer files a petition with the superior court within the time prescribed in such section, no credit or refund in respect of the tax for the calendar year in respect of which the tax commission has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovering of any part of such tax shall be instituted in any court except:

(1) As to the overpayments determined by a decision of the court which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the court which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive;

Vetoed.

(d) If the court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the tax commission determined the deficiency, the court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the court has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is earlier.

SEC. 155. The tax commission shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEC. 156. (a) The term "calendar year" indicates only the calendar year 1935 and succeeding

calendar years, and, in the case of the calendar year 1935, includes only the portion of such year after the date of the enactment of this title;

(b) Stock in a domestic corporation owned and held by a non-resident shall be deemed property situated within the State of Washington.

Vetoed.

SEC. 157. This title may be cited as the "Gift Tax Act of 1935."

SEC. 158. The provisions of this title and each of them shall take effect immediately upon the approval of this act.

#### TITLE XVII. CORPORATE NET INCOME TAX.

SEC. 159. For the purposes of this title, unless otherwise required by the context: Definitions:

(a) The term "taxpayer" means any bank or corporation as hereinafter defined subject to the tax imposed by this title; "Taxpayer;"

(b) The term "corporation" includes every corporation and every company, joint-stock company, joint-stock association, business, trust, society or other association organized for profit and doing business in this state wherein interest or ownership is evidenced by certificates or other written instruments or wherein the interests or rights of shareholders, members, associates or beneficiaries are represented or evidenced by units or shares; "corporation;"

(c) The term "income year" means the calendar year or the fiscal year upon the basis of which the net income is computed under this title; if no fiscal year has been established, it means the calendar year; "income year;"

(d) The term "fiscal year" means an income year ending on any day other than the thirty-first of December; "fiscal year;"

"bank ;"

(e) The term "bank" includes national banking associations ;

"doing business ;"

(f) The term "doing business" includes any transaction or transactions in the course of its business by a national banking association, or by a bank or corporation created under the laws of this state or by a foreign corporation qualified to do and doing business in this state ;

"paid," etc. ;

(g) The term "paid," for the purposes of this title, means "paid or accrued" or "paid or incurred" and the terms "paid or accrued," "paid or incurred" and "incurred" shall be construed according to the method of accounting upon the basis of which net income is computed under this title ;

"received," etc. ;

(h) The term "received" means "received or accrued" and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which net income is computed under this title ;

"domestic corporation ;"

(i) The term "domestic corporation" means any corporation as defined in this title organized and existing under the laws of the State of Washington ;

"foreign corporation ;"

(j) The term "foreign corporation" means any corporation as defined in this title, organized and existing under the laws of any sovereign state, district or territory, other than the State of Washington, or any country other than the United States ;

"annual license fees."

(k) The term "annual license fees" means the annual corporate license fees imposed under the provisions of sections 4 and 5, chapter 227, Laws of 1929, or acts amendatory thereof, or any other similar license fees imposed in lieu of such annual corporate license fees.

Tax on national banks.

SEC. 160. Every national bank or national banking association located within this state shall annually pay to the state a tax according to, or measured by, its net income equal to four per cent of such net income for the preceding calendar year or

fiscal year computed and allocated to this state in the manner hereinafter provided. The state is hereby adopting the fourth method of taxing national banks as authorized by the act of March 25, 1926, amending section 5219 of the Revised Statutes of the United States.

SEC. 161. Every bank and corporation other than a national bank or national banking association, for the privilege of exercising its corporate franchise in this state or for the privilege of doing business in this state, shall annually pay to the state, in addition to annual license fees, a tax according to, or measured by, its net income equal to four per cent of such net income for the preceding calendar year or fiscal year computed and allocated to this state in the manner hereinafter provided.

Banks and corporations other than national.

SEC. 162. Such tax shall be first computed according to, or measured by, the net income of the bank or corporation received during the calendar year ending December 31, 1935, or during any fiscal year ending during such calendar year, and annually thereafter, and shall be assessed, collected and paid at the times and in the manner hereinafter provided.

How computed.

SEC. 163. The following corporations shall be exempt from the tax provided by this title:

Exempt corporations.

(a) Insurance companies taxed on the basis of premiums under the provisions of section 26 of chapter 49 of the Laws of 1911, as amended (Rem. Rev. Stat., section 7071);

Insurance companies.

(b) Labor, agricultural or horticultural organizations;

Agricultural organizations.

(c) Fraternal beneficiary societies, orders, or associations, (1) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (2) providing for the payment of life, sick, ac-

Beneficiary societies.

cident, or other benefits to the members of such society, order, or association or their dependents;

Cemetery  
companies.

(d) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Charitable  
organiza-  
tions.

(e) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

Non-profit  
organiza-  
tions.

(f) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Civic  
leagues.

(g) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

Clubs.

(h) Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(i) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

Local organizations.

(j) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses and expenses;

Farmers' associations.

(k) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or eight per cent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and

Cooperative associations.

maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members: *Provided*, The value of the purchases made for persons who are neither members nor producers does not exceed fifteen per cent of the value of its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(l) Corporations, organized by an association exempt under the provisions of paragraph (k), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or eight per cent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;

(m) Corporations organized for the exclusive purpose of holding title to property, collecting in-

come therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(n) Corporations which the State of Washington is prohibited from taxing under the constitution and laws of the United States;

Non-taxable corporations.

(o) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (1) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (2) eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

Employees' beneficiary associations.

(p) Teachers' retirement fund associations of a purely local character, if (1) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (2) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

Teachers' retirement fund associations.

(q) Fair corporations organized for the purpose of holding agricultural, horticultural, dairy and livestock, educational or manufacturing exhibitions, no part of the net earnings of which inures to the benefit of any private stockholder or individual;

Fair corporations.

(r) The exemptions granted by this section shall not be construed to exempt any of the corporations herein enumerated from the payment of any annual license fee required to be paid by them under any existing statute of this state for the privilege of exercising its corporate franchise in the state or for the privilege of doing business in the state.

Does not exempt from other fees.



"Gross  
income."

SEC. 164. The term "gross income" includes gain, profits and income derived from the business, of whatever kind or in whatever form paid; gains, profits and income from trades, businesses, commerce or sales or dealings in real or personal property; gains, profits and income received as compensation for services, as interest, rent, commissions, brokerage or other fees, or otherwise received in carrying on such business; all interest received on bonds or other evidences of indebtedness, and, except as herein otherwise provided, all dividends received on stocks.

Gross  
income  
shall not  
include:

SEC. 165. The term "gross income" shall not include the following items:

Life  
insurance  
benefits.

(a) Amounts received under life insurance policies paid by reason of the death of the insured, but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income;

(b) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon the surrender of the contract, equal to the total amount of premiums paid thereon. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under this subdivision or subdivision (a) of this section;

Property  
acquired  
by gift.

(c) The value of property acquired by gift, bequest or devise, but the income from such property shall be included in gross income;

Dividends.

(d) Dividends from a corporation taxed under the provisions of this title, but only to the extent

that the income of the corporation paying the dividend has been used as the measure of a tax under this title;

(e) Stock dividends or subscription rights; but gain may be derived or loss sustained by the shareholders from the sale of such stock or of such rights. The amount of gain derived or loss sustained from the sale of such stock or rights or the sale of the stock or rights in respect to which the stock or rights are issued or the sale of the stock acquired with such rights shall be determined as provided in this title for determination of gain or loss.

SEC. 166. The term "net income" means the gross income of a taxpayer less deductions allowed by this title. "Net income."

SEC. 167. In computing net income the following deductions shall be allowed: Deductions:

(a) All ordinary and necessary expenses paid or incurred during the income year in carrying on the business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession, for the purposes of the business, of property to which the taxpayer has not taken or is not taking title or in which it has no equity; Expenses.

(b) All interest paid or accrued within the income year on indebtedness incurred in connection with the business of the taxpayer. Amounts paid or credited on or apportioned by a savings and loan association, mutual savings bank or organization of a like character operating wholly or partly on a mutual plan upon withdrawable shares or deposits in such institutions, shall be construed as interest within the meaning of this provision; Interest.

(c) Taxes paid or accrued within the income year, in respect of the income from the taxpayers' Taxes.

business or in respect of the business or the property used therein or which may be made the condition of carrying on the business, imposed by authority of the United States or the State of Washington, except taxes imposed by this title and taxes assessed for local benefits of a kind tending to increase the value of the property assessed;

Losses.

(d) Losses sustained during the income year and not compensated for by insurance or otherwise, if incurred in connection with the business. In the case of 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, no deduction, for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property than [then] only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the re-purchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the re-purchase price was less than the sale price such basis shall be decreased in the amount of the difference;

(e) Debts ascertained to be worthless and charged off within the income year, or, in the discretion of the commission, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable only in part, the commission may allow such debt to be charged off in part; Worthless debts.

(f) A reasonable allowance for the exhaustion, wear and tear and obsolescence of property to be allowed upon the basis provided in sections 113 and 114 of that certain act of congress of the United States known as the "revenue act of 1934" which are, for the purposes of this subdivision, hereby referred to and incorporated with the same force and effect as though fully set forth herein; Depreciation.

(g) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements according to the peculiar conditions in each instance, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commission. In the case of leases the deduction shall be equitably apportioned between the lessor and lessee. The basis upon which depletion is to be allowed in respect of any property, and the amount of depletion allowable shall be as provided in sections 113 and 114 of the said revenue act of 1934, which are, for the purposes of this subdivision, hereby referred to and incorporated with the same force and effect as though fully set forth herein;

(h) Contributions and gifts made within the income year to or for the use of the United States, the State of Washington or any political subdivision thereof for exclusively public purposes or for the use of any corporation or association operated for religious, charitable, scientific or educational purposes no part of the net earnings of which inures to the benefit of any private shareholder or individual: *Provided*, That the amounts allowed to be deducted Contributions and gifts.

under this subdivision shall not in the aggregate exceed fifteen per cent of the taxpayer's net income as computed without the benefit of this subdivision. Such contributions and gifts shall be allowed as deductions only if verified under rules and regulations of the commission;

Deductions  
adjudged  
invalid.

(i) If any deduction provided for in this section is finally adjudged discriminatory against a national banking association contrary to section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the commission for the income year in question, as of the time of the allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

Deductions  
not allowed:

SEC. 168. In computing net income no deductions shall be allowed in respect of

Improvements.

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property;

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

Premiums  
on insurance.

(c) Premiums paid on any life insurance policy covering the life of any officer or employee or of any person financially interested in the business when the taxpayer is directly or indirectly a beneficiary under such policy;

Other classes  
of income.

(d) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title;

(e) Loss from sales or exchanges of property, directly or indirectly, (1) between members of a family, or (2) except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than fifty per cent in value of the outstanding stock. For the purpose of this paragraph — (3) an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and (4) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

Losses from sales or exchanges.

SEC. 169. The net income shall be computed upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be, in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if such method employed does not clearly reflect the income, the computation shall be made in accordance with such method as the commission may prescribe to clearly reflect the net income. If the taxpayer's annual accounting period is other than a fiscal year, as defined in this title, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. If a taxpayer changes its accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income, with the approval of the commission, shall be computed on the basis of such new accounting period, subject to the provisions of section 177.

Computation of net income.

SEC. 170. For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal or mixed, the basis shall be determined in accordance with the provisions of section 113 of the Federal revenue act

Determination of gain or loss in accordance with § 113, Fed. revenue act.

of 1934 which are hereby referred to and incorporated for the purpose of this section with the same force and effect as though fully set forth herein.

Basis of gain and loss.

(a) Except as otherwise provided in this section the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis herein provided for determining gain, and the loss shall be the excess of the basis herein provided for determining loss over the amount realized;

Items chargeable to capital account.

(b) In computing the amount of gain or loss under subdivision (a) proper adjustment shall be made for any expenditure, receipt, loss or other item properly chargeable to capital account;

Amount realized from disposition of property.

(c) The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received;

Determination under § 171.

(d) In the case of a sale or exchange, the extent to which gain or loss determined under this section shall be recognized shall be determined under the provisions of section 171 of this title;

Property sold under contracts.

(e) Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payments in installments) the inclusion in gross income of that portion of any installment payment representing gain or profit in the year in which such payment is received;

Amounts distributed from liquidation of corporations.

(f) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under this section but shall be recognized only to the extent provided in section 171 of this title;

(g) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock and, if in excess of such basis, such excess shall be included in gross income in the same manner as a gain from the sale or exchange of property. The provisions of this subdivision shall also apply to distributions from depletion reserves based on discovery value of mines.

SEC. 171. Upon the sale or exchange of property the entire amount of the gain or loss, determined under the preceding section, shall be recognized, with the exceptions provided for in section 112 of said "Revenue Act of 1934," which are hereby referred to and incorporated with the same force and effect as though fully set forth herein.

Exceptions provided for in § 112, Revenue act of 1934.

In the case of installment sales the taxpayer may elect to proceed in the manner provided in section 44 of the said "Revenue Act of 1934" in which case the taxpayer shall account for profits on installments received subsequent to December 31, 1934, on sales made prior thereto. If the taxpayer elects to proceed otherwise, the transaction will be deemed to have been closed when the sale was made.

SEC. 172. In the case of property acquired in a manner described in section 113 (a) (2) to (a) (12) of the Federal revenue act of 1934 the basis shall be determined in accordance with the provisions of section 113 of the Federal revenue act of 1934 which are hereby referred to and incorporated for the purpose of this section with the same force and effect as though fully set forth herein.

§ 113, (a) (2) to (a) (12), Revenue Act incorporated herein.

SEC. 173. A bank or a corporation engaged in business solely within the state shall be taxed according to, or measured by, its net income. A bank

Allocation of tax on banks and corporations.



or a corporation 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 allocable to the State of 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, the portion of the net income apportionable to this state shall be determined by an allocation upon the basis of sales, purchases, expenses of manufacture, payroll, value and situs of tangible property, or by reference to any combination of these or other factors, or by such other method of allocation as is fairly calculated to assign to the state the portion of the entire net income of the bank or corporation reasonably attributable to this state. Uniform and equitable rules and regulations, prescribing the methods of allocation, shall be prescribed by the tax commission, such rules and regulations to be so framed as to avoid subjecting the taxpayer to double taxation, in so far as possible.

Filing of  
income  
returns by  
taxpayer.

SEC. 174. Every taxpayer as defined in this title shall, or [on] or before March 31st next after the preceding income year, file with the commission a return, in form to be prescribed by the commission, stating specifically the items of gross income, deductions and such other facts as may be necessary. Each taxpayer shall compute on its return the amount of tax under this title. Every return shall be verified by oath of an officer of the taxpayer. In the case of taxpayers in liquidation or in the hands of a receiver, trustee in bankruptcy or assignee the return shall be made upon the oath or affirmation of the person responsible for the conduct of the affairs of the taxpayer. In case of sickness, absence or other disability or whenever in its judg-

ment good cause exists, the commission may allow further time for filing returns.

SEC. 175. Against the tax computed in conformity with the provisions of this title, the taxpayer shall be entitled to an offset in the amount of current annual license fees actually paid to the state during the income year for which the return is made.

Offset of  
license fees  
paid state.

SEC. 176. If the commission shall be of the opinion that any taxpayer has failed to include in a return filed, either intentionally or through error, any item of income which should be included under the provisions of this act, it may require from such taxpayer a return, or supplementary return, under oath, in such form as it shall prescribe, of all items of income which the taxpayer received during the year for which the return is made, whether or not includible under the provisions of this title. If from a supplementary return, or otherwise, the commission finds that any items of income, includible under this title, have been omitted from the original return, it may require the items so omitted to be disclosed to it, under oath of the taxpayer, and to be added to the original return.

In case of  
omission of  
items, tax-  
payer must  
file supple-  
mental  
return.

SEC. 177. If a taxpayer, with the approval of the commission changes the income year on the basis of which its net income is computed, it shall, at such time and in such manner as the commission may prescribe, make a separate return of its net income received during the period intervening between the end of its former income year and the beginning of its new income year.

Changes of  
income year.

SEC. 178. (a) Any taxpayer capable of exercising either directly or indirectly substantially the entire control of the business of another taxpayer, either by ownership or control of substantially the entire capital stock of such other taxpayer or otherwise, under regulations prescribed by the commis-

Consolida-  
tion of  
returns.

sion, may be permitted to make a consolidated return, showing the consolidated net income and such other information as the commission may require in order to compute the net income properly attributable to the state and to impose the tax upon the taxpayers concerned;

(b) The commission may permit the filing of a consolidated return where substantially the entire control of two or more taxpayers liable to tax under this title is exercised by the same interests;

Distortions of net income by taxpayer.

(c) Where the commission has reason to believe that any taxpayer so conducts its 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 service 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 commission shall have regard to the fair profits which would normally arise from the conduct of the business.

Tax liability attaches regardless of length of income year.

SEC. 179. The tax liability imposed by this title shall attach whether a bank or corporation has an income year of twelve months or less duration.

Remittance to accompany return.

SEC. 180. (a) A remittance for the full amount of the tax as shall appear from the face of the return, shall accompany the return, except in the cases specified in subdivision (b) of this section. If the time for filing the return shall be extended, interest at the rate of six per cent per annum from the date when the return was originally required to

be filed to the time of payment shall be added and paid;

(b) The taxpayer may elect to pay the tax in two equal installments, in which case one-half thereof shall be paid in the time, place and manner provided in subdivision (a) of this section and the remaining one-half shall be paid in like manner on or before six months thereafter: *Provided*, That in case the total amount of the tax shall be twenty-five (\$25.00) dollars or less the whole amount thereof shall be paid at the time required for filing the return: *Provided further*, That no taxpayer shall be entitled to pay the tax in two installments as provided in this subdivision unless it shall have paid one-half of the total amount thereof at the time of filing the return.

Tax payable  
in two  
installments.

SEC. 181. If any return required by this title is not filed, or any tax due is not received by the tax commission, within ten days of the due date as set forth in this title, there may be added to such tax a penalty of ten per cent of the amount of said tax.

Penalty for  
delinquency.

SEC. 182. Taxes imposed by this title shall be in addition to any and all other licenses, taxes and excises levied or imposed by the state or any municipal subdivision thereof.

Taxes under  
this title  
additional to  
all other  
levies.

SEC. 183. Sections 28, 29, 30, 31, and 32 of chapter 130 of the Laws of the Extraordinary Session of 1925, and all acts or parts of acts in conflict herewith are hereby repealed.

Conflicting  
statutes  
repealed.

SEC. 184. All of the provisions of title XVIII of this act, except sections 187, 197, and 205 shall have full force and application with respect to the taxes imposed under this title.

## TITLE XVIII. GENERAL ADMINISTRATIVE PROVISION.

SEC. 185. The provisions of this title shall not apply with respect to the administration of the taxes imposed under titles XV and XVI, herein, but shall apply with respect to the taxes imposed under all other titles of this act, in such manner and to such extent as is indicated in the last section of each of such titles.

SEC. 186. For the purposes of this title, unless otherwise required by the context:

The meaning attributed in the foregoing titles of this act to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "admission charges," "taxpayer," and "value of products" shall apply equally in the provisions of this title.

Registration  
certificates.

SEC. 187. If any person shall engage in any business or perform any act for which a tax is imposed by this act, he shall, whether taxable or not, under such rules and regulations as the commission shall prescribe, apply for and obtain from the commission, upon the payment of a fee of one dollar, a registration certificate for each calendar year, or portion thereof. Said registration certificate shall be personal and non-transferable and shall expire on the last day of the calendar year for which issued and shall be renewed annually upon the condition that the taxpayer shall pay the aforesaid registration fee and the tax accrued to the state under the provisions of this act. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required, but for such additional certificates no fee shall be required. Each certificate shall

be numbered and shall show the name, residence and place and character of business of the taxpayer and such other information as the tax commission shall deem necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the tax commission the existing certificate, and a new certificate will be issued for the new place of business free of charge. No person shall engage in any business taxable hereunder without being registered in compliance with the provisions of this section.

SEC. 188. If the taxpayer shall make an error in computing any tax due from him, the tax commission shall correct such error and notify the taxpayer of its action by mailing to him a notice of the correction.

Errors in  
computing  
tax.

If, upon examination of any returns it appears that a tax has been paid less than that properly due, the tax commission may add a penalty of ten per cent of the amount of the additional tax found due and shall add thereto interest at the rate of one per cent per month of the amount of such additional tax for each thirty days, or portion thereof, from the date upon which such tax became due as provided by this act, and shall notify such taxpayer by mail of the total amount of such tax, penalties and interest and the total amount shall become due and shall be paid within ten days from the date of such notice, or within such further time as the tax commission may provide.

Deficiency in  
taxes paid.

If, upon examination of any returns 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 such tax year, or upon

Taxes paid  
in excess.

Refunded by  
warrants.

the filing of a final return upon ceasing business, shall be refunded on request of 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.

Money paid  
in error  
refunded.

SEC. 189. Any money paid to the tax commission through error and not in payment of any tax due hereunder, upon the request of the person by whom such payment was made, shall be refunded as provided in the foregoing section.

Judgments.

Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, interest, penalties, and costs in a suit by any taxpayer shall be paid in like manner, upon the filing with the tax commission of a certified copy of the order or judgment of the court.

Taxpayer  
to keep  
records.

SEC. 190. 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, such suitable records 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 books, records and invoices shall be open for examination at any time by the commission or its duly authorized agent. In the case of an out-of-state person or concern which does not keep the necessary books and records within the State of Washington, it shall be sufficient if it produces within the state such books and records as shall be required by the tax commission, or bears the cost of examination by an agent authorized or designated by the tax commission at the place where such books and records are kept. Any person who shall fail to comply with the requirements 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. 191. Payment of the tax may be made by uncertified check under such regulations as the commission shall prescribe, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such check had not been tendered.

Payment  
of tax by  
check.

The tax commission shall keep full and accurate records of all funds received and disbursed by it under the provisions of this act.

Tax commis-  
sion to keep  
records.

SEC. 192. The tax commission, for good cause shown, may extend the time for making and filing any return as required under this act, and may grant such reasonable additional time within which to make and file such returns as it may deem proper: *Provided, however,* That any extension in excess of thirty days shall be conditional on payment of interest of one-half of one per cent for each thirty days or portion thereof of the amount of the tax from the date upon which such tax became due. If payment of any tax due under this act is not received by the tax commission within ten days of the due date of such tax, as set forth in this act, there shall be added to such tax a penalty of ten per cent of the amount of said tax, but in no case shall the penalty be less than one (\$1.00) dollar. If any taxpayer fails to file any return required by this act within ten days of the date provided for filing such return, and it appears that there was no tax due or paid for the period for which no return was filed, the tax commission shall assess against such taxpayer a penalty not to exceed three (\$3.00) dollars for such failure. The tax commission shall notify the taxpayer by mail of the amount of any penalties so added or as-

Extension  
of time  
to make  
returns.



sessed and the same shall become due and shall be paid within ten days from the date of such notice.

Failure or refusal by taxpayer to make return.

SEC. 193. 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 its estimate of the tax herein prescribed; and to this end the tax commission by itself or its duly appointed agent may 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 its duly authorized agent.

Penalties.

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, it shall proceed to determine and assess against such person the tax and penalties provided for by this act, but such action shall not deprive such person from appealing to the superior court as hereinafter provided. To such assessment the commission may add a further penalty of ten per cent of the amount of the tax for failure or refusal to make a return and shall add thereto interest at the rate 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 is due as provided by this act, and shall notify such taxpayer by mail of the total amount of such tax, penalties and interest and the total amount shall become due and shall be paid within ten days from the date of such notice.

Assessments and corrections of assessment may be made by the commission at any time within four years after the close of the tax year.

Examination of records.

SEC. 194. The tax commission or its duly authorized agent may examine any books, papers, records,

other data or stock of merchandise bearing upon the amount of any tax payable or 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 persons summoned may be required to testify and produce any books, papers, records, or data 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 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 questions, or to produce any book, record, paper, or data when required to do so, he shall be guilty of contempt and it shall be the duty of the tax commission to thereupon institute proceedings in the superior court of Thurston County or of the county in which such person resides to punish any such person as 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.

Attendance  
of witnesses.

Failure  
to obey  
summons.

SEC. 195. All officers empowered by law to ad-

Oaths.

minister oaths, the members of the commission and

such officers as it may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by this act or the rules and regulations of the commission.

Mailing of  
notice or  
order to  
taxpayer.

SEC. 196. 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 as 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. 197. 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; and any person who shall become a successor to such business shall become liable for the full amount of such tax and 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 the full amount of such tax, and the payment thereof by such purchaser or successor shall, to the extent thereof be deemed a payment upon the purchase price, and if such payment is greater in amount than the pur-

chase price the amount of the difference shall become a debt due such purchaser or successor from the taxpayer.

SEC. 198. All taxes, penalties and interest 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, penalties or interest. 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.

Payment  
condition  
precedent  
to court  
action.

SEC. 199. Any person, having paid any tax, original assessment, 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 one year after such payment, 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 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 190 hereof, or in section 84, title XII, of this act, having paid any tax as required by this act and feeling aggrieved by the amount of the

Appeal to  
superior  
court.

tax may appeal to the superior court of Thurston county, within one year after the payment of such tax, or within thirty days after the date of the notice denying such 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, which he concedes 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 of Thurston county. 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 bond payable to the State of Washington in the sum of two hundred (\$200.00) dollars, 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. It shall not be necessary for the taxpayer to protest against the payment of any tax or to make

Surety bond.

Trial  
de novo.

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. 200. The tax commission, by its order, may hold in abeyance the collection of tax from any taxpayer or any group of taxpayers when a question bearing on their liability for tax hereunder is pending before the courts.

Holding in abeyance the collection of tax.

SEC. 201. When any assessment or additional assessment has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods of time as the tax commission may by general regulation provide, of the whole or any part of such assessment, by filing with the tax commission a bond in such amount, not exceeding double the amount as to which the stay is desired, and with sureties as the tax commission deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, together with interest thereon at the rate of one per cent of the amount of such assessment for each thirty days or portion thereof from the due date of such assessment until paid.

Stay of collection.

SEC. 202. If any tax, increase or penalty imposed by this act, or any portion of such tax, increase or penalty is 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 interest thereon at the rate of one per cent of the amount of such warrant for each thirty

Non-payment.

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.

Sheriff,  
filing of  
warrant.

The sheriff, within thirty 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 and shall be the same as a judgment in a civil case duly docketed in the office of such clerk, and the sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to executions or other process issued against rights or property upon judgments of said superior court. The sheriff shall be entitled to fees as provided by law for his services in levying execution on a superior court judgment and the clerk shall be entitled to a filing fee of one (\$1.00) dollar, 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 the same as

Fees.

Proceeds  
of sale.

Surplus.

a judgment against the taxpayer which may be collected in the same manner as the original amount of such warrant. If any warrant issued under this section is not paid within thirty days after the same has been filed with the clerk of the superior court, the tax commission may by order issued under its official seal, revoke the certificate of registration of the taxpayer against whom said warrant was issued and, if such order is entered, a copy thereof shall be posted in a conspicuous place at the main entrance to said taxpayer's place of business and shall remain posted until such time as said warrant has been paid.

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 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. 203. Any tax due and unpaid under this act, and all increases and penalties thereon, shall constitute a debt to 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 all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayer hereunder, the claim of the state for said taxes and all increases and penalties thereon shall be a lien prior to all other liens, except prior tax liens, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in

Court proceedings to collect unpaid taxes.

Insolvency, priority.



bankruptcy or assignees for the benefit of creditors, to notify the tax commission of such administration, receivership or assignment within thirty days from the date of their appointment and qualification. Any administrator, executor, guardian, receiver or assignee for the benefit of creditors not giving the notification as provided for above shall become personally liable for payment of said taxes and all increases and penalties thereon.

Liability for  
payment  
of taxes.

SEC. 204. In the case of any corporation organized under the laws of this state, the courts of this state shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state the secretary of state shall withhold the issuance of any certificate of withdrawal 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.

Dissolution.

SEC. 205. The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his business, keeps books reflecting the same on a basis other than the calendar year, he may, with consent of the tax commission, make his returns, and pay taxes hereunder, upon the basis of his accounting period as shown by the method of keeping the books of his business.

Calendar  
year basis.

SEC. 206. 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.

Taxes  
of this act  
additional.

SEC. 207. It shall be unlawful for any person to engage in business without having obtained a certificate of registration as provided herein; or to engage in business after his certificate of registration shall have been revoked by order of the tax commission; or to tear down or remove any order or notice posted by the tax commission pursuant to the provisions of 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 the president, vice-president, secretary, treasurer or other officer of any company to carry on the business of any company which has not obtained a certificate of registration or whose certificate of registration has been revoked by order of the tax commission; or for any purchaser to fraudulently sign a resale certificate without intent to resell the property purchased; or for any person to fail or refuse to permit the examination of any book[, ] paper, account, record, or other data of 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

Violations.

Penalty.

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 (\$1,000.00) dollars. All penalties or punishments provided in this section shall be in addition to all other penalties provided in this act.

Administra-  
tion of act  
by tax  
commission.

SEC. 208. 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 determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed hereunder. The tax commission shall make and publish rules and regulations, not inconsistent with this act, necessary in enforcing its provisions, which rules and regulations shall have the same force and effect as if specifically included herein, unless declared invalid by the judgment of a court of record not appealed from. The 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 the commission and shall be charged to the proper appropriation for the tax commission. It shall be the duty of the tax commission to exercise general supervision of the collection of taxes provided in this act, and, in the discharge of such duty, the tax commission may institute and prosecute such suits or proceedings in the courts of this state as may be necessary and proper, appearing therein for such purpose.

When recovery is had in any suit or proceeding against an officer, agent or employee of the tax commission for any act done by him or for the recovery of any money exacted by or paid to him and by him paid over to the tax commission, in the performance of his official duty, and the court certifies that there was probable cause for the act done by such officer, agent or employee, or that he acted under the direction of the tax commission or proper officer thereof, no execution shall issue against such officer, agent or employee, but the amount so recovered shall, upon final judgment, be paid by the tax commission as an expense of operation.

Recovery  
in suit or  
proceeding.

SEC. 209. 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.

Transmittal  
of payments.

SEC. 210. Except as hereinafter provided it shall be unlawful for the tax commission or any member, deputy, clerk, agent, employee or representative thereof or any other person to make known or reveal any facts or information contained in any return filed by any taxpayer pursuant to the provisions of this act or disclosed in any investigation or examination of the taxpayer's books and records made in connection with the administration of this act. The foregoing, however, shall not be construed to prohibit the tax commission or a member or employee thereof from: (a) giving such facts or information in evidence in any court action involving tax imposed under this act or involving a violation of the provisions of this act or involving another state department and the taxpayer, if such facts and information are relevant to the issues in such case; (b) giving such facts and information to the taxpayer or his duly authorized agent; (c) publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

Secrecy of  
information.

Exceptions.

(d) giving such facts or information, for official purposes only, to the governor, attorney general or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions; (e) permitting its records to be audited and examined by the proper state officer, his agents and employees; or (f) giving any such facts or information to the commissioner of internal revenue of the United States or to the proper officer of any state tax department, for official purposes, but 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 officers of this state. Any person acquiring knowledge of such facts or information in the course of his employment with the tax commission and any person acquiring knowledge of such facts and information as provided under (d), (e) and (f), above, who shall reveal or make known any such facts or information to another not entitled to knowledge of such facts or information under the provisions of this section, shall be punished by a fine of not exceeding one thousand (\$1,000.00) dollars and, if the offender or person guilty of such violation be an officer or employee of the state, shall forfeit 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.

Violation.

Penalty.

#### TITLE XIX. ALLOCATION OF REVENUES.

SEC. 211. The state treasurer, upon receipt of any payments of tax, penalty, interest or fees collected under the provisions of this act and of the several titles hereof, shall first deposit to the credit of the general fund the amount of any expenditures from said fund, not previously repaid, on account of refunds of taxes, interest and costs appropriated

General  
Fund.

under the provisions of section 215 of this act and shall deposit the balance thereof to the credit of the following funds: Distribution  
of balance.

17.91% thereof to the state emergency relief fund;

58.51% thereof to the state current school fund;

19.05% thereof to the state general fund;

3.47% thereof to the University of Washington fund;

0.46% thereof to the Washington State College fund;

0.265% thereof to the Bellingham Normal School fund;

0.045% thereof to the Cheney Normal School fund;

0.28% thereof to the Ellensburg Normal School fund.

#### TITLE XX. GENERAL PROVISIONS.

SEC. 212. If any title, section, subdivision of a section, paragraph, sentence, clause or word of this act for any reason shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the title, section, subdivision of a section, paragraph, sentence, clause or word of the act directly involved in the controversy in which such judgment shall have been rendered. If any tax imposed under this act shall be adjudged invalid as to any person, corporation, association or class of persons, corporations or associations included within the scope of the general language of this act such invalidity shall not affect the liability of any person, corporation, association or class of persons, corporations or associations as to which such tax has not been adjudged invalid. It is hereby expressly declared that had any title, section, subdivision of a section, paragraph, sentence, clause, Partial  
invalidity.

word or any person, corporation, association or class of persons, corporations or associations as to which this act is declared invalid been eliminated from the act at the time the same was considered the act would have nevertheless been enacted with such portions eliminated: *Provided, however,* That if the provisions of section 4(e) shall be declared invalid as to a national banking association, state bank, mutual savings bank or building and loan or savings and loan association the provisions of said section 4(e) shall be deemed inoperative as to all institutions of the types hereinabove mentioned.

Appropriation for tax commission.

SEC. 213. There is hereby appropriated from the general fund, for the fiscal biennium beginning April 1, 1935, and ending March 31, 1937, for the tax commission, the sum of eight hundred twenty-seven thousand five hundred dollars (\$827,500.00), or so much thereof as shall be necessary, to carry out the provisions of this act and of chapter 191, Laws of 1933, and amendment thereto.

Appropriation for department of licenses.

SEC. 214. There is hereby appropriated from the general fund, for the fiscal biennium beginning April 1, 1935, and ending March 31, 1937, for the department of licenses, the sum of twenty-two thousand five hundred dollars (\$22,500.00), or so much thereof as shall be necessary, to carry out the provisions of title XI of this act.

Appropriation.

SEC. 215. There is hereby appropriated from the general fund, for the fiscal biennium, beginning April 1, 1935, and ending March 31, 1937, the sum of two million (\$2,000,000.00) dollars, or so much thereof as shall be necessary, for the purpose of refunding taxes, penalties and interest collected under the provisions of this act, either upon vouchers approved by the tax commission, as provided in this act, or upon judgment rendered against the state ordering the repayment and refunding of taxes, penalties and interest collected under the provisions

Purpose of.

of this act and any costs and interest assessed against the state in such judgments.

SEC. 216. No tax shall be imposed under the provisions of chapter 191, Laws of 1933, as amended by chapter 57, Laws of 1933, Extraordinary Session, with respect to the period beginning May 1, 1935, and ending July 31, 1935, and the provisions of such act shall be deemed amended in conformity herewith. Nothing contained in this section shall affect the liability of any person subject to the provisions of said chapter 191, as amended, for the payment of tax imposed thereunder for any period prior to May 1, 1935, and no action or proceeding for the collection of tax, lien or claim for tax or action involving the validity of tax imposed under the provisions of said act shall be affected hereby and all remedies for the assessment and collection of taxes, penalties and interest under the provisions of said act shall be and remain in effect until such time as all taxes imposed thereunder shall have been paid or collected.

No tax imposed under provisions of ch. 191, Laws of 1933, as amended, with respect to certain period.

SEC. 217. All taxes imposed by chapter 191, Laws of 1933, as amended by chapter 57, Laws of 1933, Extraordinary Session, which may be received or collected after June 30, 1935, shall be deposited in the state treasury to the credit of the state general fund and the provisions of said chapter 191 shall be deemed amended in conformity herewith.

Deposit of taxes received after June 30, 1935.

SEC. 218. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately upon its approval.

Effective immediately.

Passed the House March 14, 1935.

Passed the Senate March 14, 1935.

Approved by the Governor with the exception of sections 61 to 73 inc., 96 to 98 inc., 99 to 103 inc., 105, 109, 110, 116 to 120 inc. and 128 to 158 inc., which are vetoed, March 25, 1935.