

CHAPTER 227.

[S. B. 256.]

REVENUE ACT.

AN ACT relating to taxation amending sections 4, 5, 6, 11, 19, 21, 24, 27, 36, 37, 40, 44, 45, 49, 187, 188, 192, 200, 202, 211 and 212 of chapter 180, Laws of 1935; (sections 8370-4, 8370-5, 8370-6, 8370-11, 8370-19, 8370-21, 8370-24, 8370-27, 8370-36, 8370-37, 8370-40, 8370-44, 8370-45, 8370-49, 8370-187, 8370-188, 8370-192, 8370-200, 8370-202, 8370-211, 8370-212, Remington's Revised Statutes) and adding three new sections thereto and declaring that this act shall take effect May 1st, 1937.

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

Amends
§ 8370-4, Rem.
Rev. Stat.
(§ 7030-64,
P. C.)

SECTION 1. That section 4 of chapter 180, Laws of 1935, (section 8370-4, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Tax on
business
activities.

Section 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:

Persons
liable, rate.

(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;

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 points outside the state;

Manufactur-
er.

(b) Upon every person engaging within this state in business as a manufacturer; as to such per-

sons 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;

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

Sales at retail.

(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;

Sales at wholesale.

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-quarter 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

Distribution of articles of tangible property.

paragraph, for any reason, shall be adjudged invalid, such judgment shall not invalidate the provisions of the first paragraph of this subsection;

Printing and publishing.

(e) Upon every person engaging within this state in the business of printing and of publishing newspapers, periodicals or magazines; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of one-quarter of one per cent;

Other activities.

(f) Upon every person engaging within this state in any business activity other than or in addition to those enumerated in subsections (a), (b), (c), (d) and (e) 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.

Amends § 8370-5, Rem. Rev. Stat. (§ 7030-65, P. C.)

SEC. 2. That section 5 of chapter 180, Laws of 1935, (section 8370-5, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Section 5. For the purposes of this title, unless otherwise required by the context:

"Tax year" or "taxable year."

(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;

(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, cooperative, fraternal, non-profit or otherwise;

"Person."
"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 for the purpose of consuming the property purchased in the 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 "sale at retail" or "retail sale" shall be construed to include the production, fabrication or printing of tangible personal property for consumers upon special order and shall also include the production, fabrication or printing of tangible personal property for consumers who furnish either directly or indirectly the materials used in such work. 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;

"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."

(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 sale."

(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;

"Value proceeding or accruing."

(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;

(i) The word "extractor" means every person "Extractor." 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;

(j) The word "manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, 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 portion of the materials that become a part or whole of the manufactured article the tax commission shall prescribe equitable rules for determining tax liability; "Manufacturer."

(k) The term "to manufacture" embraces all "To manufacture." 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) Any other use of products extracted or manufactured on a commercial scale under such rules and regulations as the tax commission shall prescribe;

"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;

"Tuition fee."

(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: *Provided*, That the term "educational institution," as used herein, shall be construed to mean only those institutions created or generally

accredited as such by the state and offering to students an educational program of a general academic nature but not including specialty schools, business colleges, trade schools or similar institutions;

(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. 3. That section 6 of chapter 180, Laws of 1935, (section 8370-6, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends
§ 8370-6,
Rem. Rev.
Stat. (§ 7030-
66, P. C.)

Section 6. Every person engaging in activities which are within the purview of the provisions of two or more paragraphs (a), (b), (c), (d), (e) and (f) 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.

Activities
taxable
under two or
more
provisions.

SEC. 4. That section 11 of chapter 180, Laws of 1935, (section 8370-11, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends
§ 8370-11,
Rem. Rev.
Stat. (§ 7030-
71, P. C.)

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

Persons to
whom tax
is not
applicable.

(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: *Pro-*

Minimum.

vided, 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;

Specific tax imposed.

(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.

(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;

Agricultural 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, cooperative or otherwise, engaging in any business

activity with respect to which tax liability is imposed under the provisions of this title;

(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; Boxing contests.

(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; Race meets.

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

(h) Fraternal benefit societies, as defined in Rem. Rev. Stat., section 7259, fraternal fire insurance associations, as described in subdivision third of Rem. Rev. Stat., section 7131, and beneficiary corporations or societies organized under and existing by virtue of Rem. Rev. Stat., sections 3872 to 3883 inclusive, for the purpose of paying death benefits, as provided in Rem. Rev. Stat. of Washington, section 3879; Fraternal societies, etc.

(i) Any person in respect to the business of operating a hospital: *Provided*, That no exemption is granted to hospitals organized for profit or where the income therefrom inures to the benefit of any physician, surgeon, stockholder or individual by virtue of ownership or control of such hospital: *And provided further*, The word "hospital" shall not be construed to include clinics and resorts or spas, even though health attractions shall be operated in conjunction therewith; 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 Lease, rental or sale of real estate.

is granted, or to allow a deduction of amounts received as commissions from the sale or rental of real estate;

Banks.

(k) National banks, state banks, trust companies, mutual savings banks, building and loan and savings and loan associations with respect to their banking business, trust business or savings and loan business but not with respect to engaging in any other business taxable hereunder, even though such other business be conducted primarily for the purpose of liquidating the assets thereof.

Adds
§ 8370-15a,
Rem. Rev.
Stat.
(§ 7030-75a,
P. C.)

SEC. 5. That chapter 180, Laws of 1935, be amended by adding thereto a new section following section 15 thereof to be designated as section 15(a) (section 8370-15a, Remington's Revised Statutes) and to read as follows:

Public work
contract,
contractor
required to
pay taxes be-
fore receiv-
ing final
payment.

[Section] 15(a). Any state, county or municipal officer charged with the duty of disbursing or authorizing the payment of public funds shall, before making final payment to any person performing any public works contract, require such person to secure from the tax commission a certificate that all taxes due with respect to such contract have been paid in full.

SEC. 6. That section 19 of chapter 180, Laws of 1935, (section 8370-19, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

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

Vetoed.

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

(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;

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

(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;

(e) Sales of motor vehicle fuel upon which the state tax of five cents per gallon, imposed under chapter 58, Laws of 1933, has been paid and not refunded: *Provided*, That where the five cents gallonage tax is refunded the department of licenses shall deduct the retail sales tax from the amount of refund and remit the same to the tax commission and in computing the amount of the deduction may use five per cent of the gallonage refund in lieu of two per cent of the purchase price. Vetoed.

SEC. 7. That section 21 of chapter 180, Laws of 1935, (8370-21, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends
§ 8370-21,
Rem. Rev.
Stat.
(§ 7030-81,
P. C.)

Section 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 or having collected the tax, fails to pay the same to the tax commission in the manner prescribed by this act, he shall be personally liable to the state for the amount of such tax. The amount of tax, until paid to the seller, shall constitute a debt from the buyer to the seller and any buyer who refuses to pay any tax due under

Seller to
collect tax,
liability.

Penalty for
failure to
pay.

this title shall be guilty of a misdemeanor and punishable in the manner prescribed by law.

Amends
§ 8370-24,
Rem. Rev.
Stat.
(§ 7030-84,
P. C.)

SEC. 8. That section 24 of chapter 180, Laws of 1935, (section 8370-24, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Prepayment
of tax.

Section 24. The commission may authorize a seller to pay the tax levied under this title upon sales made through vending machines and similar devices or where sales are made under conditions of business such as to render impracticable the collection of the tax as a separate item and waive 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 conditions 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 payment of the tax.

Application.

Section 24. The commission may authorize a seller to pay the tax levied under this title upon sales made through vending machines and similar devices or where sales are made under conditions of business such as to render impracticable the collection of the tax as a separate item and waive 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 conditions 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 payment of the tax.

Bond.

Amends
§ 8370-27,
Rem. Rev.
Stat.
(§ 7030-87,
P. C.)

SEC. 9. That section 27 of chapter 180, Laws of 1935, (section 8370-27, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Refunds and
rebates
unlawful.

Section 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.

Amends
§ 8370-36,
Rem. Rev.
Stat.
(§ 7030-96,
P. C.)

SEC. 10. That section 36 of chapter 180, Laws of 1935, (section 8370-36, Remington's Revised Stat-

utes) be and the same hereby is amended to read as follows:

Section 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:

Public utility tax, businesses taxable.

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 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;

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

SEC. 11. That section 37 of Chapter 180, Laws of 1935, (section 8370-37, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends § 8370-37, Rem. Rev. Stat. (§ 7030-97, P. C.)

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

(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 transportation business;

"Railroad 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

"Express business."

carrier is not owned or leased by the person engaging in such business;

"Railroad car 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;

"Water distribution 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;

"Light and power 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;

"Telephone 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;

"Telegraph business."

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

"Gas distribution business."

(h) The term "gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural;

"Highway transportation business."

(i) The term "high way transportation business" means the business of operating any motor propelled vehicle, as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined in chapter 111, Laws of 1921, page 338, section 1, and chapter 184, Laws of 1935, page 884, section 2;

(j) The term "urban transportation business" means: "Urban transportation business."

(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 primarily within any one city or town. The term shall also include any electric interurban railroad operated primarily for the purpose of transporting passengers: *Provided*, The distance between the terminals of such interurban railroad does not exceed fifty miles;

(2) 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 operating entirely within the limits of any city or town, or contiguous cities or towns or within three miles of such limits;

(k) The term "public service business" means any business subject to control by the state, or having 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; "Public service business."

(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 "Gross operating revenue."

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;

Definitions applicable.

(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.

Amends § 8370-40, Rem. Rev. Stat. (§ 7030-100, P. C.)

SEC. 12. That section 40 of chapter 180, Laws of 1935, (8370-40, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Computation of tax, deductions.

Section 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: *Provided*, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(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 businesses;

(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;

(h) Amounts derived from the transportation of commodities from points of origin in the State of Washington into transit stations in Washington and thereafter forwarded, either in like kind or in their original or converted form, to interstate or foreign destinations; amounts derived from the transportation of commodities from points of origin outside the State of Washington into transit stations in Washington and thereafter forwarded, either in like kind or in their original or converted form, to destinations in the State of Washington; and amounts derived from the transportation of commodities from points of origin in the State of Washington to export elevators, docks or ship side on tidewater and the Columbia River and thereafter forwarded, either in like kind or in their original or converted form, to interstate or foreign destinations.

SEC. 13. That section 44 of chapter 180, Laws of 1935, (section 8370-44, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Section 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 (20c) cents or fraction thereof of the amount paid for admission to any place, including admission by season

Amends
§ 8370-44,
Rem. Rev.
Stat. (§ 7030-
104, P. C.)

Admissions
tax, levied.

ticket or subscription, to be paid by the person paying for such admission; except that in the case the amount paid for admission is ten (10c) cents or less, no tax shall be imposed. In the case 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 ten (10c) cents or less;

Excess over
general
admission.

(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;

(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
boxes.

(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 (1½c) cents for each ten (10c) 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 (20c) cents or less, no tax shall be imposed.

SEC. 14. That section 45 of chapter 180, Laws of 1935, (section 8370-45, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends
§ 8370-45,
Rem. Rev.
Stat. (§ 7030-
105, P. C.)

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

(a) The term "admission" includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor. It includes also charges made for the rental or use of equipment or facilities supplied to the person paying for the admission where the rental of such equipment or facilities is necessary to the enjoyment of the privilege for which the admission is charged.

"Admission."

SEC. 15. That section 49 of chapter 180, Laws of 1935, ([section] 8370-49 Remington's Revised Statutes) be and the same is hereby amended to read as follows:

Amends
§ 8370-49,
Rem. Rev.
Stat. (§ 7030-
109, P. C.)

Exemptions. Section 49. No tax shall be levied under this title in respect to any general admission to a *bona fide* agricultural fair if no part of the net earnings thereof inures to the benefit of any stockholder or member of the association conducting the same: *Provided*, That any amount paid for admission to any exhibit, grand stand, entertainment, or other feature conducted within the fair grounds by either the agricultural fair association or others shall be taxable under the provisions of this title.

Amends
§ 8370-187,
Rem. Rev.
Stat. (§ 7030-
247, P. C.)

SEC. 16. That section 187 of chapter 180, Laws of 1935, (section 8370-187, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Annual regis-
tration
certificates.

Section 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. Said registration certificate shall be personal and non-transferable and shall be valid as long as the taxpayer shall continue in business and pay 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: *Provided, however,* The tax commission, by general regulation, may provide for the issuance of certificates of registration to temporary places of business without requiring the payment of any fee.

Each vending machine, slot machine or similar mechanical device, except where used in conducting a public utility business, shall be considered a separate place of business and it shall be unlawful for any person to operate such machine or permit the same to be operated on his premises unless a certificate of registration has been obtained and is conspicuously displayed upon such machine or for any person upon making application for a certificate of registration to fail or refuse to give any information requested by the tax commission or to give false information with intent to conceal the true name, or address, of the owner or operator of such machine. Any person violating the provisions of this paragraph shall be guilty of a misdemeanor and any machine described herein which does not display a certificate of registration, as provided herein, is hereby declared to be contraband goods and the same may be seized by the tax commission or its duly authorized agent, or by any peace officer of the state, when directed by the commission so to do, without warrant, and said goods shall be offered for sale by the tax commission in the same manner as property distrained under warrant for the satisfaction of delinquent taxes as provided in section 202, and the proceeds from such sale shall be paid to the tax commission and credited to the account of miscellaneous revenue: *Provided,* That the costs of the confiscation and sale shall be paid out of the proceeds before making the remittance. Any money

Each vending machine or slot machine construed a separate place of business.

Certificate displayed.

Penalty for violation.

contained in said vending machines or mechanical devices may be removed before the machine is offered for sale and the amount thereof shall be considered as part of the proceeds of the sale.

Amends
§ 8370-188,
Rem. Rev.
Stat. (§ 7030-
248, P. C.)

SEC. 17. That section 188 of chapter 180, Laws of 1935, (section 8370-188, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Errors in
returns.

Section 188. If, upon examination of any returns it appears that a tax or penalty has been paid less than that properly due, the tax commission shall notify the taxpayer by mail of such additional amount and the same 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. If payment is not received by the tax commission by the due date of such notice, the tax commission may add a penalty of ten per cent of the amount of the additional tax found due.

If, upon examination of any returns it appears that a tax has been paid in excess of that properly due, the tax commission shall notify the taxpayer by mail and 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 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.

Amends
§ 8370-192,
Rem. Rev.
Stat. (§ 7030-
252, P. C.)

SEC. 18. That section 192 of chapter 180, Laws of 1935, (section 8370-192, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

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

Extension of
time for
payment.

SEC. 19. That section 200 of chapter 180, Laws of 1935, (section 8370-200, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Amends
§ 8370-200,
Rem. Rev.
Stat. (§ 7030-
260, P. C.)

Section 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: *Provided,* That the tax commission may impose such conditions as in its discretion may be deemed just and equitable and may

Collections
in abeyance
pending
contest.

require the payment of interest at the rate of one half of one per cent of the amount of the tax for each thirty days or portion thereof from the date upon which such tax became due.

Amends
§ 8370-202,
Rem. Rev.
Stat. (§ 7030-
262, P. C.)

SEC. 20. That section 202 of chapter 180, Laws of 1935, (section 8370-202, Remington's Revised Statutes) be and the same hereby is amended to read as follows:

Default in
payment.

Section 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 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. If, however, the tax commission in its discretion believes that a taxpayer subject to the provisions of this act is about to cease business, leave the state or remove or dissipate the assets out of which taxes or penalties might be satisfied and that any tax or penalty imposed under this act will not be paid when due, it may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

Warrant.

Levy and
sale.

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, prior to all other liens except prior tax liens, upon all goods, wares, merchandise, fixtures, equipment or other personal property used in the conduct of the business of the taxpayer against whom such warrant is issued and no sale or transfer of such personal property shall in any way affect such lien. 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 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. 21. That chapter 180, Laws of 1935, be amended by adding thereto a new section following section 210 thereof to be designated as section 210(a) (section 8370-210a, Remington's Revised Statutes) and to read as follows:

Section 210(a). Any tax or penalty due under the provisions of this act or under chapter 191, Laws of 1933, as amended by chapter 57, Laws of 1933, Extraordinary Session, which the tax commission deems to be uncollectible, may be charged off accounts receivable subject to approval upon examination by the budget division of the department of finance, budget and business of the State of Washington: *Provided, however,* That such amount charged off shall continue to be a debt due the State of Washington from the taxpayer and may at any time be transferred back to accounts receivable for the purpose of collection.

Adds
§ 8370-210a,
Rem. Rev.
Stat. (§ 7030-
270a, P. C.)

Uncollectible taxes
charged off
accounts
receivable.

SEC. 22. Section 211 of chapter 180, Laws of 1935, (section 8370-211 of Remington's Revised Statutes), is hereby amended to read as follows:

Amends
§ 8370-211,
Rem. Rev.
Stat. (§ 7030-
271, P. C.)

Section 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 except Title XV, 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 and shall deposit the balance thereof to the credit of the following funds:

Allocation
of receipts.

- 49.00% thereof to the state current school fund;
- 2.18% thereof to the University of Washington fund;
- .72% thereof to the Washington State College fund;
- .03% thereof to the Bellingham Normal School fund;
- .11% thereof to the Cheney Normal School fund;
- .19% thereof to the Ellensburg Normal School fund;
- 47.77% thereof to the state general fund:

Provided, That the allocations hereby made to each of the first six funds above enumerated shall never during any biennium, in the aggregate, when added to resources or receipts derived from all other sources during such biennium, exceed the total requirements of each of said funds as measured by the biennial legislative appropriations payable therefrom and whenever such limit has been reached, any monies which would otherwise be allocable to such funds shall be deposited to the credit of the state general fund.

SEC. 23. That section 212 of chapter 180, Laws of 1935, (section 8370-212, Remington's Revised Stat-

Amends
§ 8370-212,
Rem. Rev.
Stat. (§ 7030-
272, P. C.)

utes) be and the same hereby is amended to read as follows:

Partial
invalidity.

Section 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, 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.

Adds
§ 8370-219,
Rem. Rev.
Stat. (§ 7030-
279, P. C.)

SEC. 24. That chapter 180, Laws of 1935, be amended by adding thereto a new section following section 218 thereof to be designated as section 219 (section 8370-219, Remington's Revised Statutes) and to read as follows:

State pre-
empts right
to impose
revenue
taxes.

Section 219. The state does hereby preempt the field of imposing taxes on admissions, conveyances and cigarettes, as included under chapter 180, Laws of 1935, Title VI, sections 44 to 50 inclusive, Title VIII, sections 53 to 60 inclusive, Title XII, sections 82 to 95 inclusive, and no county, town or other mu-

municipal subdivision shall have the right to impose taxes of the nature therein defined.

SEC. 25. This act shall take effect May 1, 1937.

Effective
May 1, 1937.

Passed the Senate February 19, 1937.

Passed the House March 10, 1937.

Approved by the Governor March 23, 1937 with the exception of section 6, which is vetoed.

CHAPTER 228.

[S. B. 291.]

EXCISE TAX ON PRIVATE MOTOR VEHICLES.

AN ACT relating to taxation; providing for an excise tax upon private motor vehicles in lieu of property taxes thereon and for the allocation of revenues therefrom to the state school equalization fund for the relief of counties from the burden of common school support; limiting the county property tax levy for support of the common schools to one and one fourth mills; making an appropriation from the state school equalization fund of \$1,500,000.00, and prescribing the duties of certain state and county officers in relation to said excise tax.

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

SECTION 1. Except as otherwise indicated by the context the term "vehicle," "motor vehicle" or "private motor vehicle" shall be construed to mean and include all motor vehicles used for the convenience or pleasure of the owner and carrying a licensing classification other than motor vehicle trailer or semi-trailer, motor vehicle for hire, auto stage, auto stage trailer, motor truck, motor truck trailer or dealer's licenses. It shall not include any vehicle entitled to an exempt motor vehicle license.

Definitions.

SEC. 2. An excise tax is hereby imposed for the privilege of using in the State of Washington any private motor vehicle. The annual amount of such

Excise tax.