

eral Fund as soon as the earnings from the facilities to be acquired by the Commission will permit such repayment.

Emergency.

SEC. 17. Section 1 of this act is necessary for the immediate preservation of the public peace, health and safety, and for the support of the state government and its existing public institutions and shall take effect immediately.

Passed the House March 8, 1949.

Passed the Senate March 7, 1949.

Approved by the Governor March 22, 1949.

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CHAPTER 228.

[ H. B. 415. ]

REVENUE AND TAXATION.

AN ACT relating to revenue and taxation; amending sections 4, 5, 6, 7, 16, 19, 21, 31, 32, 35, 37, 40, 53, 82, 83, 87, 91, 92, 96, 99, 188, 189, 191, 192, 193, 202, 203, and 219 of chapter 180, Laws of 1935, as amended; repealing section 14 (a), chapter 180, Laws of 1935, as amended; adding a section 204-A to said chapter 180, Laws of 1935, as amended; and declaring an emergency and providing that this act shall take effect May 1, 1949.

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

Amendment.

SECTION 1. Section 4, chapter 180, Laws of 1935, as last amended by section 1, chapter 156, Laws of 1943, is amended to read as follows:

Business tax.

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:

Measured by gross business.

Persons included.

Extractors.

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

sons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted for sale or for commercial or industrial use, multiplied by the rate of one-quarter of one per cent; Rate.

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

(b) Upon every person except persons taxable under paragraph (2) of subsection (d) below 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, including by-products, manufactured, multiplied by the rate of one-quarter of one per cent; Manufacturers.  
Rate.

The measure of the tax is the value of the products, including by-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; Retailers.  
Rate.

(d) (1) Upon every person engaging within this state in the business of buying wheat, oats, corn and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax herein imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one per cent; Grain wholesalers.  
Rate.

(d) (2) Upon every person engaging within this state in the business of manufacturing wheat into flour; as to such persons the amount of tax with Wheat flour manufacturers.

Rate. respect to such business shall be equal to the value of the flour manufactured, multiplied by the rate of one-eighth of one per cent;

Wholesalers. (e) Upon every person except persons taxable under subsection (d) above 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;

Printers and publishers. Road builders. (f) Upon every person engaging within this state in the business of: (1) printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any publicly owned street, place, road, highway, bridge or trestle which is used, or to be used, primarily for foot or vehicular traffic; 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;

Others. Rate. (g) 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), (e) and (f) 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 (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), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale" as defined herein.

Amendment. SEC. 2. Section 5, chapter 180, Laws of 1935, as last amended by section 1, chapter 249, Laws of 1945, is amended to read as follows:

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

(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."

(b) The word "person" or word "company," herein used interchangeably, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, 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 and the United States or any instrumentality thereof; "Person" or "company."

(c) The word "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under subsection (d) of this section. 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."

The term "casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved. "Casual sale."

(d) The term "sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated or imprinted) other than a sale to one who purchases for the purpose of resale as tangible personal property in the "Retail sale."

regular course of business or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The said term also means every sale of tangible personal property to persons engaged in any business which is taxable under section 4 (f) (2) and section 4 (g) hereof.

Retail sale  
to include.

The term "sale at retail" or "retail sale" shall be construed to include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (1) the installing, repairing, cleaning, altering, imprinting or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds and insects; (2) the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth to the extent necessary for such constructing or improving, unless the charge therefor is stated separately from other charges made in connection with the work performed, under such rules as the Tax Commission may prescribe.

Not included.

The said term shall not include the sale of or charge made for labor and services rendered in respect to the mere cleaning, fumigating, razing, or moving of existing buildings or structures, or the

building, repairing or improving of any publicly owned street, place, road, highway, bridge or trestle which is used or to be used primarily for foot or vehicular traffic, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey or other substances obtained from animals, birds or insects.

(e) The term "sale at wholesale" or "wholesale sale" means any sale of tangible personal property and any sale of or charge made for labor and services rendered in respect to real or personal property, which is not a sale at retail; "Sale at wholesale."

(f) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered 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 proceeds of sale."

(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; "Gross income of the business."

(h) The term "value proceeding or accruing" means the consideration, whether money, credits, "Value proceeding or accruing."

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;

"Extractor."

(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 for commercial or industrial 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 products, 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;

"Manufacturer."

(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 for commercial or industrial 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;

"To manufacture."

(k) The term "to manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machin-

ery, 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 and shall include the production or fabrication of special made or custom made articles;

(1) The term "commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

"Commercial" or "Industrial use."

(1) Any use as a consumer; and

(2) The manufacturing of articles, substances or commodities from extracted products, including by-products.

(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;

"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;

"Engaging in business."

(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;

"Cash discount."

(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 or those institutions which are not operated

"Tuition fee."



for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions;

"Successor."

(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, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor;

"Consumer."

(r) The word "consumer" means the following:

(1) Any person who purchases, acquires, owns, holds or uses any article of tangible personal property other than for the purpose of resale as tangible personal property in the regular course of business or for the purpose of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in the business of rendering professional or personal services to persons (as distinguished from services rendered to property of persons) and who are taxable under section 4 (g) hereof;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any publicly owned street, place, road, highway, bridge or trestle which is used or to be used primarily for foot or vehicular traffic, in respect, how-

ever, only to tangible personal property used or consumed in such business;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real or personal property which is being constructed, repaired, improved, cleaned, imprinted or otherwise altered by a person engaged in business, excluding only the United States of America, the State of Washington and its political subdivisions in respect to labor and services rendered to their real property which is used or held for public road purposes;

(s) The term "in this state" or "within this state" as used herein includes all Federal areas lying within the exterior boundaries of the State of Washington;

"In this State."

(t) The term "by-product" means any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.

"By-product."

SEC. 2-A. Section 6, chapter 180, Laws of 1935, as last amended by section 3, chapter 156, Laws of 1943, is amended to read as follows:

Amendment.

Section 6. Every person engaging in activities which are within the purview of the provisions of two or more of paragraphs (a), (b), (c), (d), (e), (f), and (g) of section 4, shall be taxable under each paragraph applicable to the activities engaged in: *Provided, however,* That persons taxable under paragraphs (a), (b) or (d) (2) of said section shall not be taxable under paragraphs (c) or (e) of said section with respect to making sales at retail or wholesale of products extracted or manufactured within this state by such persons.

Persons taxable.

Exemptions.

SEC. 3. Section 7, chapter 180, Laws of 1935, as amended by section 4, chapter 178, Laws of 1941, is amended to read as follows:

Amendment.

Value of products.

Section 7. The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller, except:

Exceptions.

(a) Where such products, including by-products, are extracted or manufactured for commercial or industrial use;

(b) Where such products, including by-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, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. The Tax Commission shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

Commission to prescribe rules.

Amendment.

SEC. 4. Section 16, chapter 180, Laws of 1935, as last amended by section 5, chapter 156, Laws of 1943, is amended to read as follows:

3% retail sales tax.

Section 16. From and after the first day of May, 1943, there is hereby levied and there shall be collected a tax on each retail sale in this state equal to three per cent of the selling price. The tax imposed under this title shall apply to successive retail sales of the same property and to the retail sale of in-

toxicating liquor by the Washington state liquor stores.

SEC. 5. Section 19, chapter 180, Laws of 1935, as last amended by section 5, chapter 249, Laws of 1945, is amended to read as follows: Amendment.

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

(a) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under titles II, V, or XIII of this act: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by title IV of this act; Casual sales.

(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 newsstand sale of newspapers; 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 taxable under chapter 58 of the Laws of 1933, section 5, (section 8327-5 of Remington's Revised Statutes); Sale of motor vehicle fuel.

(f) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to a person for use in conducting any business defined in subdivisions (a), (b), (c), (d), (e), (f), (g), or (h) of section 37 of title V of this act; Sale of public utility.

(g) Auction sales made by or through auctioneers of tangible personal property (including house- Auction sales.

hold goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

Sales not taxable.

(h) Sales to corporations which have been incorporated under any act of the Congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

Livestock for breeding.

(i) Sales of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association;

Interstate commerce.

(j) Sales of tangible personal property (other than the type referred to in subdivision (k) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by title IV of this act;

(k) Sales of airplanes, locomotives, railroad cars, or water craft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the State of Washington; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or water craft in the course of constructing, repairing, cleaning, altering or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering or improving;

(l) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce: *Provided*, That the purchaser must be the holder of a carrier permit issued by the Interstate Commerce Commission, and that said vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the Director of Licenses pursuant to the provisions of section 17, chapter 188, Laws of 1937, as amended by section 15, chapter 200, Laws of 1947, or any law amendatory thereto;

One-transit permit for motor vehicles.

(m) Sales of motor vehicles and trailers to non-residents of this state for use outside of this state, even though delivery be made within this state, but only when (1) said vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the Director of Licenses pursuant to the provisions of section 17, chapter 188, Laws of 1937, as amended by section 15, chapter 200, Laws of 1947, or any law amendatory thereto, or (2) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence and will not be required to be registered and licensed under the laws of this state.

One-transit permit.

SEC. 6. Section 21, chapter 180, Laws of 1935, as last amended by section 3, chapter 76, Laws of 1941, is amended to read as follows:

Amendment.

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 upon sales amounting to thirty

Tax to be paid by buyer.

Duty of seller to collect.

How paid.

cents or more and by token to be issued by the Tax Commission upon sales amounting to twenty-nine cents or less. The tax required by this title, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the Tax Commission, and any seller who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed in this act shall be guilty of a misdemeanor and punished in the manner prescribed by law. 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, whether such failure be the result of his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of such tax. The amount of tax, until paid by the buyer to the seller or to the Tax Commission, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required under this title with intent to violate the provisions of this act or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this title shall be guilty of a misdemeanor and punishable in the manner prescribed by law. Where a buyer has failed to pay to the seller the tax imposed by this title and the seller has not paid the amount of said tax to the Tax Commission, the Commission may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten per cent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the Commission; and all of the provisions of title XVIII of this act, including those relative to interest and penalties, shall apply in ad-

Tax deemed held in trust for State.

Penalty for conversion.

Seller personally liable for failure to collect.

Refusal to collect.

Refusal to pay.

Commission may proceed against buyer.

dition; and, for the sole purpose of applying the various provisions of title XVIII, the fifteenth day of the month following the bi-monthly tax period in which the purchase was made shall be considered as the due date of the tax. Due date.

SEC. 7. Section 31, chapter 180, Laws of 1935, as last amended by section 8, chapter 156, Laws of 1943, is amended to read as follows: Amendment.

Section 31. From and after the first day of May, 1943, 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 as a consumer any article of tangible personal property purchased at retail, or acquired by lease or by gift, or extracted or produced or manufactured by the person so using the same: *Provided*, That the tax liability imposed by this title upon the use of tangible personal property by a lessee thereof shall not be construed as affecting the primary liability under this title of the lessor of said property. This tax will not apply with respect to the use of any article of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within the State of Washington. Except as provided in section 32 (b), payment by one purchaser or user of tangible personal property of the tax imposed by title III or title IV of this act shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by said Excise tax levied.

Not to affect primary liability of lessor.

When applied to goods brought into State.



**Rate.** titles. Such tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of three per cent.

**Amendment.** SEC. 8. Section 32, chapter 180, Laws of 1935, as last amended by section 6, chapter 249, Laws of 1945, is amended to read as follows:

**Property not taxable.** Section 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 use or enjoyment while temporarily within the state unless such property is used in conducting a non-transitory business activity within the state; or in respect to the use by a non-resident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state: *Provided*, Such use was actual and substantial and such articles were acquired at least three months prior to the time he became a resident of this state;

**Property already taxed.** (b) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease or by gift if the sale thereof to, or the use thereof by, the present user or his lessor or donor has already been subjected to tax under title III or title IV of this act and such tax has been paid by the present user or by his lessor or donor;

**Otherwise taxable.** (c) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under title V of this act;

**Interstate commerce.** (d) In respect to the use of any airplane, locomotive, railroad car, or water craft used primarily in

conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the State of Washington, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or water craft, and in respect to the use of any motor vehicle the first use of which within the state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the Director of Licenses pursuant to the statutory provisions cited in section 19 (1) of this act;

(e) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the constitution of the state or under the constitution or laws of the United States;

(f) In respect to the use of motor vehicle fuel taxable under chapter 58 of the Laws of 1933, section 5 (section 8327-5, Remington's Revised Statutes); Motor fuel.

(g) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by a person in conducting any business defined in subdivisions (a), (b), (c), (d), (e), (f), (g), or (h) of section 37 of title V of this act; Public utilities.

(h) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity: *Provided*, Such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise; Farm auctions.

(i) In respect to the use of tangible personal property by corporations which have been incor-

porated under any act of the Congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

Livestock  
for breeding.

(j) In respect to use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association;

(k) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same.

Amendment.

SEC. 9. Section 35, chapter 180, Laws of 1935, as last amended by section 8, chapter 249, Laws of 1945, is amended to read as follows:

Definitions.

Section 35. For the purposes of this title:

"Value of the  
article used."

(a) The term "value of the article used" shall mean the consideration paid or given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this title. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under

Commission  
to prescribe  
rules.

such rules and regulations as the Tax Commission may prescribe;

(b) The terms "use," "used," "using" or "put to use" mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property, and shall include installation, storage, withdrawal from storage or any other act preparatory to subsequent actual use or consumption within this state;

"Use,"  
"used,"  
"using" and  
"put to use."

(c) The word "taxpayer" and the word "purchaser" as used in this title, shall include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in titles II and III of this act;

"Taxpayer"  
and  
"purchaser."

(d) The word "retailer," as used in this title, shall mean every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this title;

"Retailer."

(e) The meaning ascribed to words and phrases in titles I, II and III and all the provisions of titles XVIII, XIX and XX of this act, in so far as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this title.

SEC. 10. Section 37, chapter 180, Laws of 1935, as last amended by section 10A, chapter 156, Laws of 1943, is amended to read as follows:

Amendment.

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

Definitions.

(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 op-

"Express  
business."

erated in this state, when such common 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 "highway 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 III, Laws of

1921, page 338, section 1, and chapter 184, Laws of 1935, page 384, section 2 and amendments thereto and includes the business of so operating within and between incorporated cities and towns whose corporate limits are more than five miles apart;

(j) The term "urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, in so far as (A) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (B) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pick-up or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property;

"Urban transportation business."

(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 incidental thereto, but without any deduction on account of the

"Gross operating revenue."

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;

Others. (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," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provision of this title.

Amendment. SEC. 11. Section 40, chapter 180, Laws of 1935, as amended by section 12, chapter 227, Laws of 1937, 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;

Computation  
of tax  
deductions.

(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 this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto, from points of origin in the State of Washington, and thereafter forwarded by water carrier, in their original form, to interstate or foreign destinations: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town.

SEC. 12. Section 53, chapter 180, Laws of 1935, as amended by section 1, chapter 126, Laws of 1945, is amended to read as follows: Amendment.



Tax on conveyances.

Section 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 instrument or writing, given to secure a debt, nor to any conveyance to the State of Washington.

Exemption.

Amendment.

SEC. 13. Section 82, chapter 180, Laws of 1935, as last amended by section 11, chapter 156, Laws of 1943, is amended to read as follows:

Cigarette tax.

Section 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 cent upon each ten cents or fraction thereof of the intended retail selling price of the smallest container or package in which the cigarettes are contained.

Rate.

Tax stamps for packages.

(a) In order to enforce collection of the tax hereby levied, the Tax Commission is authorized and 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: *Provided*, That where it is established to the satisfaction of the Tax Commission that it is impractical to affix such stamps to the smallest container or package, the Tax Commission may authorize the affixing of stamps of appropriate denomination to a larger container or package;

(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 imposed herein: *Provided, however*, That any wholesaler engaged in interstate business, who shall furnish surety bond in the 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: *Provided, further*, That every wholesaler shall, at the time of shipping or delivering any of the articles taxed herein to a point outside of this state, make a true duplicate invoice of the same which shall show full and complete details of the interstate sale or delivery, and shall transmit said true duplicate invoice to the main office of the Tax Commission, at Olympia, not later than the fifteenth day of the following calendar month, and for failure to comply with the requirements of this proviso the Tax Commission may revoke the permission granted to the taxpayer to maintain an interstate stock of goods to which the stamps required by this title have not been affixed.

Wholesaler  
to affix  
stamps.

Except as to  
interstate  
sales.

Interstate  
stock to  
be kept  
separate.

Retailer to affix stamps.

Except as to interstate sales.

Interstate stock to be kept separate.

Manner of affixing.

Individual packages.

(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 individual package or container, the same to be done, in all cases, immediately upon receipt by the retailer of the unstamped articles: *Provided, however,* That any retailer 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: *Provided, further,* That every retailer shall, at the time of shipping or delivering any of the articles taxed herein to a point outside of this state, make a true duplicate invoice of the same which shall show full and complete details of the interstate sale or delivery, and shall transmit said true duplicate invoice to the main office of the Tax Commission, at Olympia, not later than the fifteenth day of the following calendar month, and for failure to comply with the requirements of this proviso the Tax Commission may revoke the permission granted to the taxpayer to maintain an interstate stock of goods to which the stamps required by this title have not been affixed.

(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;

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

(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.

(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 act.

Advertising stocks to be taxed.

(h) The Tax Commission shall have authority to authorize the use of meter stamping machines for imprinting stamps, which imprinted stamps shall be in lieu of those otherwise provided for under this title, and if the same be authorized, shall provide reasonable rules and regulations with respect to the use thereof.

Stamp machines authorized.

SEC. 14. Section 83, chapter 180, Laws of 1935, is amended to read as follows:

Amendment.

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

Definitions.

(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;

"Wholesaler."

(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;

"Retailer."

"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, less the tax levied by this title and less any similar tax levied by this state;

"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 or meter impressions by use of which the tax levy under this title is paid;

Others.

(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.

Amendment.

SEC. 15. Section 87, chapter 180, Laws of 1935, as amended by section 25, chapter 225, Laws of 1939, is amended to read as follows:

Penalty for  
violation of  
rules and  
regulations  
or provi-  
sions of act.

Section 87. 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, in addition to any tax that may be found due, a penalty equal to the amount of any tax found to be due plus 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 person 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.

SEC. 16. Section 91, chapter 180, Laws of 1935, Amendment.  
is amended to read as follows:

Section 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 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 this title.

Commission  
may demand  
search  
warrant.

Amendment. SEC. 17. Section 92, chapter 180, Laws of 1935, as amended by section 17, chapter 178, Laws of 1941, is amended to read as follows:

Refund for stamped unsalable goods.

Section 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, less the affixing discount, 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. The Tax Commission is hereby authorized to redeem any unused stamps purchased from it at the face value thereof less the affixing discount as provided in section 82 (f).

Redeem unused stamps.

Amendment.

SEC. 18. Section 96, chapter 180, Laws of 1935, as enacted by section 1, chapter 118, Laws of 1941, and as amended by section 1, chapter 248, Laws of 1947, is amended to read as follows:

Tax on pin ball machines.

Section 96. From and after the first day of May, 1941, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in business as an operator of certain mechanical devices irrespective of whether such activity shall be legal or illegal under the laws of this state or any subdivision thereof: *Provided, however,* Nothing in this act shall be construed to legalize any activity now or hereafter declared to

Act not to legalize any activity.

be in violation of the laws of this state or any subdivision thereof, but the illegality of any such activity shall not be a defense or bar to the collection of any tax imposed thereon by this act. Such tax shall be measured by the application of rates against the gross operating income of the business as follows:

Illegality no bar to collection.

Rate.

(a) Upon every person engaging within this state in business as an operator of any pinball machine, iron claw machine, traveling crane or other similar mechanical device wherein the element of skill or a combination of the elements of chance and skill is involved in determining a pay-out to the player, as to such persons the amount of tax on such business shall be equal to the gross operating income of the business multiplied by the rate of twenty per cent: *Provided*, That this paragraph shall not be applicable to devices which require more than one operation by the player and where the result of any such operation by the player is determined by chance alone;

20% of gross income where skill involved.

(b) Upon every person engaging within this state in business as an operator of (1) any mechanical device wherein only the element of chance determines a pay-out to the player, or (2) any mechanical device which requires more than one operation by the player and where the result of any such operation by the player is determined by chance alone, without regard to whether or not an element of skill is involved in any other operation of the device by the player; as to such persons the amount of tax on such business shall be equal to the gross operating income of the business multiplied by the rate of forty per cent.

40% where chance only is involved.

SEC. 19. Section 99, chapter 180, Laws of 1935, as enacted by section 1, chapter 118, Laws of 1941, is amended to read as follows:

Amendment.

Section 99. The taxes imposed hereunder shall be due and payable in bi-monthly installments and

Tax payable bi-monthly.



remittance therefor shall be made on or before the fifteenth day of each odd-numbered month of each calendar year 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 and sign 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 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 sworn returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. A return shall be filed for each mechanical device registered with the Tax Commission, whether or not the machine was in actual operation during the bi-monthly period for which the return is made, and whether or not any tax liability was incurred with respect to the operation of the machine during said bi-monthly period, and for failure to file a return for any such machine the Tax Commission may assess a penalty in the amount of not to exceed twenty-five dollars (\$25.00) for each machine not reported, which penalty shall be collected in the same manner as the taxes imposed by this act: *Provided*, That a taxpayer may report any number of machines on a single return if appropriate information is attached to such single return stating the registration number of each machine reported, the location at which it was operated, and the gross operating income therefrom.

Return to be filed for each machine.

Penalty for failure to file return.

Amendment.

SEC. 20. Section 188, chapter 180, Laws of 1935, as last amended by section 9, chapter 249, Laws of 1945, is amended to read as follows:

Assessments of additional tax due.

Section 188. If, upon examination of any returns or from other information obtained by the Tax Com-

mission it appears that a tax or penalty has been paid less than that properly due, the Tax Commission shall assess against the taxpayer such additional amount found to be due and may add thereto interest at the rate of not more than six per cent (6%) per annum from the respective due dates of such additional amount until date of such assessment. 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 the Tax Commission finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty per cent (50%) of the additional tax found to be due may be added.

Notice of additional Assessment.

Penalty.

No assessment or correction of an assessment for additional taxes due may be made by the Commission more than four years after the close of the tax year, except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer.

No assessment after four years save on showing of fraud.

SEC. 21. Section 189, chapter 180, Laws of 1935, is amended to read as follows:

Amendment.

Section 189. If, upon application by a taxpayer for a refund or for an audit of his records, or upon an examination of the returns or records of any taxpayer, it shall be determined by the Tax Commission that within the year immediately preceding the receipt by the Commission of the application by the taxpayer for a refund or for an audit, or, in the absence of such an application, within the year immediately preceding the commencement by the Tax Commission of said examination, a tax has been paid in excess of that properly due, the excess amount

Taxes paid in excess.

To be refunded or credited.

Limitation  
on credit  
or refund.

U. S.  
contracts.

Refunded by  
warrants.

Judgments.

paid within said period of one year shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at his option. No refund or credit shall be allowed with respect to any payments made to the Tax Commission more than one year before the date of such application or examination: *Provided, That*, where a refund or credit for any period may not be made because of the lapse of said one year period, the amount of the refund or credit which would otherwise be allowable may be offset against the amount of any tax deficiency which may be determined by the Tax Commission for the same period: *Provided, That* notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of the United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which taxpayer is required by contract or applicable Federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the Tax Commission within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: *Provided, further*, That no interest shall be allowed on such refund. Any such refunds shall be made by means of vouchers approved by the Tax Commission and by the issuance of state warrants drawn upon and payable from such funds as the Legislature may provide.

Any judgment for which a recovery is granted by any Court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, 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. Interest at the rate of three

per cent (3%) per annum shall be allowed by the Tax Commission and by any Court on the amount of any refund or recovery allowed to a taxpayer for taxes, penalties or interest paid by him after May 1, 1949, and interest at the same rate shall be allowed on any judgment recovered by a taxpayer for taxes, penalties or interest paid after said date.

3% interest allowed for refund or judgment.

SEC. 22. Section 191, chapter 180, Laws of 1935, is amended to read as follows: Amendment.

Section 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 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. Commission to keep records.

The Tax Commission may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon. When such return is not accepted, the taxpayer shall be deemed to have failed or refused to file a return, and shall be subject to the penalties provided in section 193. In any such case, the taxpayer shall, in the discretion of the Tax Commission, be subject to a penalty in the amount of ten per cent (10%) of the tax or of one dollar (\$1.00), plus interest thereon at the rate of one per cent per month, even though the remittance, transmitted separately, be received by the Commission before or at the same time as the return was received, and even though such remittance be received before the due date of the tax. Return without remittance.

Penalty.

SEC. 23. Section 192, chapter 180, Laws of 1935, as amended by section 18, chapter 227, Laws of 1937, is amended to read as follows: Amendment.

Extension of  
time for  
payment.

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 may be added to such tax a penalty of ten per cent of the amount of said tax, but in no case shall the penalty, if assessed, be less than one (\$1.00) dollar. 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.

Amendment.

SEC. 24. Section 193, chapter 180, Laws of 1935, as amended by section 28, chapter 225, Laws of 1939, is amended to read as follows:

Failure or re-  
fusal to make  
return.

Section 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.

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 pay-

able 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, in addition to the penalty provided in section 192, a further penalty of ten per cent of the amount of the tax for failure or refusal to make a return and may add thereto interest at the rate of one per cent per month of the amount of the tax on each thirty days or portion thereof from the date upon which the tax is due as provided by this act. 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 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.

Right to appeal.

Further penalty.

Notification by mail.

No assessment or correction of an assessment may be made by the Commission more than four years after the close of the tax year, except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer.

No assessment after four years save for fraud.

SEC. 25. Section 202, chapter 180, Laws of 1935, as amended by section 20, chapter 227, Laws of 1937, is amended to read as follows:

Amendment.

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 may issue a warrant under its official seal directed to the Sheriff of any county of the state, commanding

Default in payment.

Warrant.

Levy and  
sale.

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 such 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 tax 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.

Tax to be  
immediately  
due.

The Sheriff 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 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, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of such personal property shall in any way affect such lien. Said lien shall not be superior, however, to *bona fide* interests of third persons which had vested prior to the filing of the warrant when such third

Lien on  
taxpayer's  
property.

persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment. The amount of such warrant so docketed shall also become a lien upon the title to and interest in all other 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 execution or other process issued against rights or property upon judgments of said Superior Court, and such warrants so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the state in the manner provided by law in the case of judgments wholly or partially unsatisfied. 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 or to any lien holder entitled thereto. 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

Lien same  
as civil  
judgment.

Sheriff  
entitled  
to fees.

Proceeds of  
sale credited  
on amount  
due.

Surplus to  
taxpayer or  
lien holder.



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.

Agent of Commission to have powers of Sheriff.

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.

Amendment.

SEC. 26. Section 203, chapter 180, Laws of 1935, is amended to read as follows:

Court proceedings to collect unpaid taxes.

Section 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 upon all real and personal property of the taxpayer, 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 bankruptcy or assignees for the benefit of creditors, to notify the Tax Commission of such administration, receivership or assignment within

Probate, insolvency, etc., to create lien without prior action by state.

Executors, administrators, etc., to notify Commission of appointment.

thirty days from the date of their appointment and qualification. The lien provided for by this section shall attach as of the date of the assignment for the benefit of creditors or of the initiation of the probate, insolvency, or bankruptcy proceedings: *Provided*, That this sentence shall not be construed as affecting the validity or priority of any earlier lien that may have attached previously in favor of the state under any other section of this act. 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.

When lien attaches.

Personal liability of administrators, executors, etc.

SEC. 27. There is hereby added to title XVIII, chapter 180, Laws of 1935, as amended, an additional section, to be known as section 204-A, reading as follows:

Amendment.

Section 204-A. The amount of all taxes, increases and penalties due or to become due under any title of this act from a contractor or his successors or assignees with respect to a public improvement contract wherein the contract price is \$5,000.00 or more shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract, and the amount of all other taxes, increases and penalties due and owing from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

Public improvement contract.

Any state, county or municipal officer charged with the duty of disbursing or authorizing the payment of public funds in payment of any such public improvement contract shall, before making final payment of the retained percentage to any person performing any such contract or to any of his successors or assignees, require the person to secure

Disbursing officer to require certificate of tax payment.

from the Tax Commission a certificate that all taxes, increases and penalties due from such person, and all taxes to become due with respect to such contract have been paid in full or that they are, in the Commission's opinion, readily collectible without recourse to the Commission's lien on the retained percentage and that said lien is therefore released.

Non-payment  
by con-  
tractor.

If within thirty (30) days after receipt of notice by the Tax Commission of the completion of the contract the amount of all taxes, increases and penalties due from the contractor or any of his successors or assignees or to become due with respect to such contract have not been paid, the Tax Commission may at any time after the expiration of said thirty day period, certify to the disbursing officer the amount of all taxes, increases and penalties due from such taxpayer together with the amount of all taxes to become due with respect to such contract and may request payment thereof to the Tax Commission in accordance with the priority provided by this section. The disbursing officer shall within ten (10) days after receipt of said certificate and request pay to the Tax Commission the amount of all taxes, increases and penalties certified to be due or to become due with respect to the particular contract, and, after payment of all claims which by statute are a lien upon the retained percentage withheld by the disbursing officer, shall pay to the Tax Commission the balance, if any, or so much thereof as shall be necessary to satisfy the claim of the Tax Commission for the balance of all taxes, increases or penalties shown to be due by the certificate of the Tax Commission.

Amendment.

SEC. 28. Section 219, chapter 180, Laws of 1935, as amended by section 32, chapter 225, Laws of 1939, is amended 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 the use of tangible per-

sonal property, conveyances, and cigarettes, as included under chapter 180, Laws of 1935, title IV, sections 31 to 35, inclusive, title VIII, sections 53 to 60, inclusive, title XII, sections 82 to 95, inclusive, and no county, town or other municipal subdivision shall have the right to impose taxes of the nature therein defined.

SEC. 29. Section 14(a), chapter 180, Laws of 1935, as renumbered and last amended by section 7, chapter 178, Laws of 1941, is hereby repealed. Repealing clause.

SEC. 30. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect May 1, 1949. Emergency.

Passed the House March 10, 1949.

Passed the Senate March 10, 1949.

Approved by the Governor March 22, 1949.

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## CHAPTER 229.

[ H. B. 502. ]

### STATE ASSISTANCE—PUBLIC SCHOOL PLANT FACILITIES.

AN ACT providing funds for the construction of public school plant facilities; authorizing the issuance and sale of state general obligation bonds and providing ways and means to pay said bonds; making an appropriation; providing for submission of this act to a vote of the people, and declaring an emergency.

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

SECTION 1. For the purpose of furnishing funds for state assistance in providing public school plant facilities under the provisions of chapter 278, Laws of 1947, the State Finance Committee is hereby authorized to issue, at any time prior to January 1, 1960, general obligation bonds of the State of Washington in the sum of forty million dollars (\$40,000,000), or so much thereof as shall be required to finance the Bond issue to provide funds for state assistance for public school plant facilities.

Amount.