

Tax in  
addition to  
any other.

Section 100. Gross operating income taxable under the provisions of this title shall not be taxable under the provisions of Title II of this act, but the tax imposed by this title shall be in addition to any other tax to which the taxpayer may be subject under the laws of this state or any subdivision thereof. The state does not by this title preempt the field of imposing taxes or license fees with respect to mechanical devices hereby taxed, and this title shall not be construed to bar counties and incorporated cities or towns from regulating or prohibiting the operation of any such mechanical devices.

Cities may  
regulate.

Section 101. All of the provisions contained in Title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

Effective  
immediately.

SEC. 2. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately.

Passed the Senate March 13, 1941.

Passed the House March 12, 1941.

Approved by the Governor March 21, 1941.

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## CHAPTER 119.

[S. B. 262.]

### TAXATION OF CERTAIN GIFTS.

AN ACT relating to revenue and taxation; providing for the levying and collection of an excise tax on the privilege of transferring property by gift, providing for penalties, and providing that this act shall take effect immediately.

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

Gift tax.

SECTION 1. (a) For year 1941 and each calendar year thereafter a tax, computed as provided in this act, shall be imposed upon the privilege of transfer-

ring property by gift during such calendar years, by any individual resident or non-resident of the State of Washington; which tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; as to residents of this state, the tax shall apply to the transfer by gift of any property whatsoever, excepting only property, real or tangible personal permanently located outside this state; but, in the case of a non-resident, shall apply to a transfer only if the property is real or tangible personal, permanently located within the State of Washington; the tax shall not apply to a transfer made on or before the effective date of this act.

All property  
in state.

(b) In case of a transfer of community property, real or personal, tangible or intangible, by one spouse or by both spouses to a person other than a member of the community, two gifts shall be deemed to have been made, one by each spouse and each for one-half of the whole value of the property transferred.

Community  
property,  
how trans-  
ferred.

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

Exception.

SEC. 2. A gift tax shall be imposed on the aggregate total of all net gifts for each calendar year and all prior years subject to this act at the following

Classification.

rates: Class A. Any gift made to or for the use or benefit of a grandfather, grandmother, father, mother, husband, wife, child, or step-child, or any lineal descendant of the donor is hereby denominated as Class A. On any amount passing to Class A, the tax shall be ninety per cent (90%) of the amount of a tax computed at the following rates: on any amount up to and including \$25,000, 1%; on any amount in excess of \$25,000 up to and including \$50,000, 2%; on any amount in excess of \$50,000 up to and including \$100,000, 4%; on any amount in excess of \$100,000 up to and including \$200,000, 7%; on any amount in excess of \$200,000 up to and including \$500,000, 9%; on any amount in excess of \$500,000, 10%: *Provided*, That there shall be exempt \$10,000 of any amount passing to Class A, which exemption shall be taken from the first \$25,000.

A. Rate.

Exemption.

B. Rate.

Class B. Any gift made to or for the use or benefit of a brother or sister is denominated Class B. On any amount passing to Class B the tax shall be ninety per cent (90%) of the amount of a tax computed at the following rates: on any amount up to and including \$5,000, 3%; on any amount in excess of \$5,000 up to and including \$10,000, 4%; on any amount in excess of \$10,000 up to and including \$30,000, 7%; on any amount in excess of \$30,000 up to and including \$50,000, 10%; on any amount in excess of \$50,000 up to and including \$100,000, 15%; on any amount in excess of \$100,000, 20%: *Provided*, That there shall be exempt \$1,000 of any amount passing to Class B, which exemption shall be taken from the first \$5,000.

Exemption.

C. Rate.

Class C. Any gift to or for the use or benefit of any person or body politic or corporate other than mentioned in Class A and Class B herein, is hereby denominated Class C. On any amount passing to Class C the tax shall be ninety per cent (90%) of

the amount of tax computed at the following rates: **Rate.**  
 on any amount up to and including \$10,000, 10%;  
 on any amount in excess of \$10,000 up to and including \$25,000, 15%; on any amount in excess of \$25,000 up to and including \$50,000, 20%; on any amount in excess of \$50,000, 25%.

Any gift of any property or income therefrom passing in trust shall be classified and taxed in accordance with relationship of the cestui que trust. **Trust property passing included.**

In each calendar year a deduction shall be allowed from the gross tax as computed under this section in an amount equal to the total of all gift taxes previously paid to the State of Washington by the taxpayer on gifts subject to this act. **Deductions.**

**SEC. 3.** Where property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeded the value of the consideration, in money or money's worth, for the purpose of the tax imposed by this act, shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year. **True value considered.**

**SEC. 4. (a)** The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 5; **Definition.**

(b) In the case of gifts made to any person or body politic or corporate by the donor during any calendar year, the first three thousand (\$3,000) dollars of such gifts to such person or body politic or corporate shall not, for the purpose of this act, be included in the total amount of gifts made during such year. **Exemption.**

**SEC. 5.** In computing net gifts for any calendar year there shall be allowed as deductions in case of a resident or non-resident of the State of Washington, the amount of all gifts made during the year of property situated within or under the juris- **Deductions.**

Charitable  
gifts  
deducted.

diction of the State of Washington when the same are for one of the following charitable purposes, namely, the relief of the aged, indigent and poor people, maintenance of sick or maimed, the support or education of orphans or indigent children, and all gifts made to the United States of America, to the State of Washington, or to any county, incorporated city or town or school district therein, or to any public park or playground within the State of Washington, whether municipal or otherwise, and all gifts made to any municipal corporation within the State of Washington for eleemosynary, charitable, educational or philanthropic purposes, and all gifts made to schools and colleges in the state supported in whole or in part by gifts, endowments or charity, the entire income of which said school or college, after paying the expenses thereof, is devoted to the purposes of such institution and which is open to all persons upon equal terms, and any property in this state which has been given is hereby declared to be exempt from the payment of such tax: *Provided*, That all such gifts be limited for use within the State of Washington: *Provided further*, That all such gifts, for such purposes which pass out of the State of Washington to a corporation, society, institution or association organized or existing under the laws of a territory or state of the United States (other than Washington) shall be exempt if at the date of making such gift the said state or territory under the laws of which such corporation, society, institution or association was organized or existing did not impose a gift tax of any character in respect of property transferred for such purposes to a corporation, society, institution or association organized or existing under the laws of this state, or if at the date of making such gift the laws of the state or territory under which such corporation, society, institution or association organized

Provisos.

Gifts passing  
outside state.

or existing contained a reciprocal provision under which a gift for such purpose to a corporation, society, institution or association organized or existing under the laws of another state or territory were exempted from gift taxes of every character if such other state or territory allowed a similar exemption for such purpose to such a corporation, society, institution or association organized or existing under the laws of another state or territory; and all gifts made to or for the use of (a) any religious or non-sectarian organization or association, organized and conducted primarily and chiefly for religious purposes and not for profit, where such religious or non-sectarian organization or association is supported in whole or in part by gifts, endowments or charity, and where the entire income of such religious or non-sectarian organization or association, after paying the expenses thereof, is devoted wholly to the use of such organization or association, or for the educational, benevolent, protective or social departments growing out of, or related to, the religious work of such organization or association, (b) any corporation or association organized and existing under the laws of the State of Washington primarily and chiefly for educational, artistic or scientific purposes and for the maintenance and exhibition of scientific, artistic or historical collections for the benefit of the general public and not for profit, shall be exempt from the payment of a gift tax: *Provided*, That all such gifts be limited for use within the State of Washington: *Provided, further*, That all such gifts to such religious or non-sectarian organization or association which pass out of the State of Washington to such religious or non-sectarian organization or association organized or existing or hereafter organized under the laws of a territory or state of the United States (other than Washington) shall be exempt if at the date of making such gift

Deductions.

Religious  
non-profit  
purpose.

Education.

Proviso.

the said state or territory under the laws of which such religious or non-sectarian organization or association was organized or existing did not impose a gift tax of any character in respect of property transferred to such a religious or non-sectarian organization or association organized or existing under the laws of this state, or if at the date of making such gift the laws of the state or territory under which such religious or non-sectarian organization or association was organized or existing contained a reciprocal provision under which a gift to such a religious or non-sectarian organization or association organized or existing under the laws of another state or territory were exempted from gift taxes of every character if such other state or territory allowed a similar exemption to such a religious or non-sectarian organization or association organized or existing under the laws of another state or territory.

Gift in property to be computed as fair value.

Commission to determine.

Appeal.

SEC. 6. If the gift is made in property other than money, the amount thereof shall be its true and fair value in money, less any encumbrance thereon at the time such gift is made, and such value shall be determined by the Tax Commission, and any party in interest may, within thirty days, appeal to the Superior Court from such determination. If the gift is made by transfer of property in trust or otherwise and constitutes a present or future interest less than a fee simple interest therein, the value thereof shall be computed in the same manner as provided by statute for the determination of inheritance taxes on like interests at the time the gift is made.

Donor to make sworn return.

Contents of return.

SEC. 7. (a) Any individual who within the calendar year of 1941 or any calendar year thereafter makes any transfers by gift (except those which under section 4 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year

which under section 4 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 5; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law;

(b) The return shall be filed on or before the fifteenth day of March following the close of the calendar year in which the gift is made with the Tax Commission of the State of Washington. When filed.

SEC. 8. (a) BY DONOR. Every person liable to any tax imposed by this act or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Tax Commission may from time to time prescribe; Donor to keep record.

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

SEC. 9. (a) The tax imposed by this act shall be paid by the donor on or before the fifteenth day of March following the close of the calendar year in which the gift is made. Date tax due.

(b) All moneys to be paid under this act shall be paid to the State Treasurer. Paid to State Treasurer.

SEC. 10. The tax imposed by this act is a lien on any personal property embraced in a gift from the time the gift is made and until ten years after the time the tax becomes delinquent. The lien hereby imposed shall be subordinate to the lien of a mortgage or pledge of any part mortgaged or pledged by the donee or his successor in interest to a bona fide mortgagee or pledgee; and any part of the per- Tax is lien upon gift.  
Lien subordinate to mortgage.



Bona fide sale divests lien.

After sale lien attaches to all property of donee.

Lien subordinate to mortgage.

May file lien notice if tax not paid.

Tax is lien upon real estate.

Commission may release.

sonal property, embraced in a gift, which is sold by the donee or his successor in interest to a bona fide purchaser for an adequate and full consideration in money or money's worth is divested of the lien hereby imposed and, in lieu thereof, the lien shall attach to all property of the donee (including after-acquired property), except any part thereof sold by the donee or his successor in interest to a bona fide purchaser for an adequate and full consideration in money or money's worth, and such lien shall be subordinate to the lien of a mortgage or pledge of any part of such property mortgaged or pledged by the donee or his successor in interest to a bona fide mortgagee or pledgee.

SEC. 10-a. In any case in which any tax, interest, or penalty imposed by this act is not paid when due, the Tax Commission may file for record in the office of the County Auditor of any county a certificate giving the name of the donor and the donee or either of them and the amount of taxes, interest and penalties due. From the time of the recording of any such certificate the amount of the tax, interest and penalties therein set forth shall constitute a lien upon any real property then owned or thereafter acquired by any donor or donee named in such certificate located in the county in which said certificate is recorded, which lien shall have the same force, effect and priority as a lien created by the recording of a judgment. Said lien shall continue, however, for ten years after the time the tax becomes delinquent or until the tax is paid, the property sold for the non-payment thereof until the lien is released or otherwise extinguished.

SEC. 10-b. If the Tax Commission is satisfied that the gift tax liability of any person has been provided for or will be provided for or that no gift tax liability exists, it may issue its certificate releasing

any property of such person from the lien imposed by this act.

SEC. 11. As soon as practicable after the return is filed the Tax Commission shall examine it and shall determine the correct amount of the tax.

Commission  
to examine  
return.

SEC. 12. As used in this act in respect of the tax imposed by this act the term "deficiency" means:

Definition.  
"Deficiency".

(a) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

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

SEC. 13. (a) If the Tax Commission determines that there is a deficiency in respect to the tax imposed by this act, it is authorized to send notice of such deficiency to the donor by registered mail. Within thirty days after such notice is mailed the donor may have the decision of the Tax Commission reviewed by filing a petition in the Superior Court for Thurston County, Washington, for determination of the deficiency. No assessment of a deficiency in respect to the tax imposed by this act, and no distraint or proceeding in court for its collection shall be made, begun or prosecuted until such notice has been mailed to the donor, nor until the expiration of

Notice of  
deficiency.

Court  
review.

No distraint  
until notice.

such thirty days; nor if a petition be filed with the superior court for review until the decision has become final;

Court review  
is final.

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

Donor must  
pay unless  
reviewed.

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

Donor may  
waive re-  
strictions.

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

Commission  
to redeter-  
mine.

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

Restrictions.

(f) If the Tax Commission has mailed to the donor notice of a deficiency as provided herein, and the donor files a petition with the Tax Commission within the time prescribed, the Tax Commission shall have no right to determine any additional deficiency in respect to the calendar year, except in the case of fraud, and except as provided in this section, relating to assertion of greater deficiencies before the

Tax Commission, or the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this act) as a notice of a deficiency, and the donor shall have no right to file a petition with the Tax Commission based on such notice, nor shall such assessment or collection be prohibited by the provisions hereof;

Notice of error in computation.

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

Commission limited to calendar year.

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

Appeal to Supreme Court.

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

Commission may grant extension.

Limit.

May require bond.

payment of the deficiency in accordance with the terms of the extension;

Notice mailed to donor sufficient.

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

May assess deficiency immediately if in jeopardy.

SEC. 14. (a) If the Tax Commission believes that the assessment or collection of a deficiency will be jeopardized by delay, it shall immediately assess such deficiency (together with all interest, additional amounts or additions to the tax provided for by law) and notice and demand shall be made by the Tax Commission for the payment thereof;

Notice.

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

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

Donor may obtain stay.

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

the Superior Court which has become final, together with interest thereon as provided herein;

(e) If the bond is given before the donor has filed his petition with the Superior Court the bond shall contain a further condition that if a petition is not filed within the period provided in this act, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of six per cent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this sub-section;

Bond provisions.

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

Bond stays collection.

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

After judgment collection made upon demand.

Over-assessment refunded.

Under-assessment collected upon demand.

assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Tax Commission.

Vetoed.

SEC. 15. Claims in abatement may be filed in respect of any assessment in respect of any tax imposed by this act.

Assessment to be made within one year.

SEC. 16. (a) Except as otherwise herein provided, the amount of taxes imposed by this act shall be assessed within one year after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed;

Limitation for collection.

In case of fraud collection made without assessment.

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

Limitation where assessment made.

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

Commencement of limitations.

SEC. 17. The running of the statute of limitations provided herein on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of notice) be suspended for the period during which the Tax Commission is prohibited from making the assessment or beginning distraint or a proceeding in court, and for sixty days thereafter.

SEC. 18. In case of any failure to make and file a return required by this act, within the time prescribed by law or by the Tax Commission in pursu-

ance of law, twenty-five per cent of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was not due to willful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Penalty for failure to make return.

SEC. 19. (a) If any part of any deficiency is due to negligence or intentional disregard of rules and regulations but without intent to defraud, five per cent of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions relating to interest on deficiencies shall not be applicable;

Penalty for negligence without fraud.

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

Penalty for fraud.

SEC. 20. (a) If the time for payment of the amount determined as the tax by the donor is extended under the authority of this act, there shall be collected as a part of such amount interest thereon at the rate of six per cent per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension;

Interest to be paid for extension period.

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



Interest  
collectible  
as tax.

SEC. 21. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the Tax Commission, and shall be collected as a part of the tax, at the rate of six per cent per annum from the due date of the tax to the date the deficiency is assessed, or, in case of waiver under section 13 (d) of this act, to the thirtieth day after the filing of such waiver or the date the deficiency is assessed, whichever is the earlier.

Interest on  
jeopardy  
assessment.

SEC. 22. In the case of the amount collected under section 14 (d) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of six per cent per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 14 (g), or, in case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 21.

Interest on  
delinquent  
payment.

SEC. 23. (a) Where the amount determined by the donor as the tax imposed by this act, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest, upon the unpaid amount at the rate of one per cent per month from the due date until it is paid;

(b) Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 20 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (a) of this section, interest at the rate of one per cent per month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid;

(c) Where a deficiency, or any interest assessed in connection therewith under section 21 or any addi-

tion to the tax provided for in this act, is not paid in full within ten days from the date of notice and demand from the Tax Commission, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid;

Interest on delinquent payments.

(d) If a bond is filed, as provided in section 14 of this act, the provisions of paragraph (a) of this sub-section shall not apply to the amount covered by the bond;

(e) If the part of the deficiency, the time for payment of which is extended as provided in section 13 (i) is not paid in accordance with the terms of the extensions, there shall be collected, as a part of the tax, interest on such amount at the rate of one per cent per month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period;

(f) If the amount included in the notice and demand from the Tax Commission under section 14 (g) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid.

SEC. 24. Any person required under this act to pay any tax or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purpose of the computation, assessment, or collection of any tax imposed by this act who fraudulently fails to pay such tax, make such return, keep such records, or supply such information, or who fraudulently attempts in any manner to evade or defeat any tax imposed by this act, or the payment thereof at the time or times required by law or regulations shall, in addition to other penalties provided by law, be guilty of

Violations.

## Penalties.

a misdemeanor, and upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

## Liabilities to be paid as deficiency.

Sec. 25. (a) The amount of the following liabilities shall, except as hereinafter provided, be assessed, collected and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this act (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

## Transferee of property.

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

## Fiduciary.

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

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

## Limitation of assessment.

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

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

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

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

(d) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after mailing of the notice under section 13 (a) to the transferee or fiduciary, be suspended for the period during which the Tax Commission is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the superior court, until the decision of the court becomes final, and for sixty days thereafter);

Commence-  
ment of  
limitation.

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

No suit to  
restrain  
collection.

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

Definition.

(g) In the absence of notice to the Tax Commission under section 26 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this act, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this act even if such person is deceased, or is under legal disability, or, in the case of a corporation, has terminated its existence.

Notice  
mailed  
sufficient.

SEC. 26. (a) Upon notice to the Tax Commission that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties and privileges of the donor in respect of a tax imposed by this act (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated;

Fiduciary  
to assume  
powers of  
donor.

(b) Upon notice to the Tax Commission that any

Fiduciary  
to assume  
powers after  
notice.

person is acting in a fiduciary capacity for a person subject to the liability of the tax imposed under this act, the said fiduciary shall assume on behalf of such person, the powers, rights, duties, and all the privileges of such person (except, however, that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated;

Notice.

(c) Notice shall be given in accordance with the regulations prescribed by the Tax Commission.

Overpay-  
ment to be  
refunded.

SEC. 27. (a) Where there has been an overpayment of any tax imposed by this act, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded by the State of Washington to the taxpayer;

Limitation  
on refund.

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

Limit of  
refund.

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

No refund  
after defici-  
ency notice.

(c) If the Tax Commission has mailed to the taxpayer a notice of deficiency under section 13 (a) and if the taxpayer files a petition with the Superior Court within the time prescribed in such section, no credit or refund in respect of the tax for the calendar year in respect of which the Tax Commission has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovering of any part of such tax shall be instituted in any court except:

Exceptions.

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

(2) As to any amount collected in excess of an

amount computed in accordance with the decision of the court which has become final; and

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

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

Refund by  
order of  
court.

SEC. 28. The Tax Commission shall prescribe and publish all needful rules and regulations for the enforcement of this act.

Commission  
to make  
rules.

SEC. 29. The term "calendar year" indicates only the calendar year 1941 and succeeding calendar years, and, in the case of the calendar year 1941, includes only the portion of such year after the date of the enactment of this act.

Calendar  
year.

SEC. 30. This act may be cited as the "Gift Tax Act of 1941."

Citation.

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

Effective  
immediately.

Passed the Senate February 27, 1941.

Passed the House March 11, 1941.

Approved by the Governor March 21, 1941, with the exception of section 15, which is vetoed.