

county auditor shall make out a certified statement of the amount of state taxes so abated which statement shall be forwarded to the state auditor, who shall give the county credit for the amount so abated.

§ 2. AMENDMENT.] That Section 3646 of the Compiled Laws of North Dakota for the year 1913 be amended to read as follows:

§ 3646. DUTY OF CITY AUDITOR.] Within ten days after the completion of the equalization of the assessment as herein provided, the city auditor shall deliver the same to the county auditor of the county in which such city is situated, with his certificate that the same is correct as equalized by said board of equalization, and the same shall be accepted by the board of county commissioners of such county in lieu of all other assessment rolls for said property in said city, and the board of equalization of such county may increase or diminish the valuation therein placed on any class of property so as to make such valuation uniform with the valuation of the same class of property throughout such county, but no individual assessment shall be otherwise changed, except upon compliance with section 2165 of this Code, and a failure of any county or city board or equalization to hold its meetings, shall not vitiate or invalidate any assessment or tax except as to the excess of valuation, or tax thereon, shown to have been unjustly made or levied.

§ 3. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1917.

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## TAXATION

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### CHAPTER 228.

[H. B. No. 163—Sandbeck.]

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#### MANNER OF LISTING PROPERTY FOR TAXATION.

An Act to Amend and Re-enact Section 2093 and 2123 of the Compiled Laws of North Dakota for the year 1913, Relating to the Manner of Listing Property for Taxation purposes.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 2093 of the Compiled Laws of North Dakota for the year of 1913 be amended and re-enacted to read as follows:

§ 2093. LISTING OF PROPERTY.] All personal property subject to taxation shall be listed and assessed every year, according to its value on the first day of April preceding the assessment. All real property, subject to taxation shall be listed every odd numbered

year, according to its value on the first day of April preceding the assessment and shall be assessed annually upon said enlistment made in the odd numbered year. Provided, that when any real property has not heretofore been taxable shall become taxable in any even numbered year, or shall have escaped taxation it shall be the duty of the assessor to place such property upon the tax list in such even numbered year and make his return thereon.

§ 2. AMENDMENT.] That Section 2123 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 2123. AUDITOR TO FURNISH BOOKS. REAL PROPERTY. MEETING OF ASSESSORS. COMPENSATION OF ASSESSORS.] The county auditor shall annually provide the necessary books and blanks at the expense of the county for and to correspond with each assessment district or township. He shall in every odd numbered year make out in the real property assessment book a complete list of all lands or lots subject to taxation. Said list shall show the name of the owner, if to him known and if unknown so state, the number of acres and lots and parts of lots or blocks included in each description. The assessment books and blanks shall be in readiness for delivery to the assessors on or before the second Wednesday in April of each year. All of the assessors in each county shall meet at the office of the county auditor at such date, or prior to the second Wednesday in April each year, as shall be designated by the county auditor, and for which meeting previous notice shall be given by said auditor, which meeting shall be for the purpose of receiving such books and blanks and for conference with the auditor in reference to the performance of their duties. Said assessors shall each be allowed for the time they are necessarily employed in attending said meeting the sum of four dollars per day and five cents per mile for the distance necessarily traveled in attendance at such meeting.

Approved March 9, 1917.

## CHAPTER 229.

[H. B. No. 25—Dettler.]

### REVENUE AND TAXATION.

An Act to Amend and Re-enact Section 2095 of the Compiled Laws of North Dakota for the year 1913, Relating to Revenue and Taxation, and Fixing the Situs of Personal Property for Tax Purposes.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 2095 of the Compiled Laws of the State of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 2095. FIXING SITUS AND LIST AND TAXATION OF PERSONAL PROPERTY.] Except as otherwise provided in this chapter, per-

sonal property shall be listed and assessed in the county, town or district where the owner or agent resides; the capital stock and franchises of corporations and persons shall be listed in the county, town or district where the principal office or place of business of such corporation or person is located in this State; and if there be no principal office or place of business in this state where such corporation or person transact business, then personal property pertaining to the business of a merchant or manufacturer or corporation shall be listed in the town or district where his business is carried on. The taxation and revenue laws of this State shall apply with equal force to any person or persons representing in this state business interest that may claim domicile elsewhere, the intent and purpose being that no non-resident, either by himself or through any agent shall transact business within the State without paying to the state a corresponding tax with that exacted of its own citizens; and all bills receivable, obligations or credits arising from business done in this state are hereby declared assessable within this State, and at the business domicile of said non-resident, his agent, or representative; provided, however, no insurance company paying the State a percentage of its gross premiums received in the State shall be subject to the provisions of this act.

Approved March 1, 1917.

## CHAPTER 230.

[S. B. No. 55—Porter and Pendray.]

### TAXATION OF PERSONAL PROPERTY.

An Act Relating to the Taxation of Personal Property known as Money and Credits and Providing for the Assessment of the Same; Prescribing the Manner of Making such Assessment and Providing Penalty for the Failure to List such Personal Property; Fixing a Rate and Providing for the Distribution of such Tax and prescribing the Duties of Public officers with Relation Thereto.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DEFINITION. TAX RATE.] “Money” and “credits” as the same are defined in Section 2074 of the Compiled Laws of 1913, including bonds and stocks, are hereby exempted from taxation other than that imposed by this Act, and shall hereafter be subject to an annual tax of three mills on each dollar of the fair cash value thereof. But nothing in this Act shall apply to money or credits belonging to incorporated banks or building and loan associations situated in this state, nor to any indebtedness on which the tax is paid under a mortgage registration act, or is exempted by statute.

§ 2. How LISTED.] All “money” and all “credits” taxable under this Act shall be listed in the manner provided in Section 2095 of the Compiled Laws of 1913, but such listing shall be upon a separate blank from that which other personal property is listed.

§ 3. NOTICE BY ASSESSOR. LIST.] Before making an assessment of "money" and "credits" under this Act the assessor shall give seasonable notice to the property owners of his district in the manner prescribed in Section 2127 and 2128 of the Compiled Laws of 1913. He shall require each individual, co-partnership, company, association or corporation in his district to bring in before a date therein specified and not later than the first day of July, a true list of all their "money" and "credits" taxable under this Act.

§ 4. TAX COMMISSION TO PREPARE INSTRUCTIONS. FORM OF RETURN. BLANKS.] The North Dakota Tax Commission shall annually prepare instructions for bringing in the list required by the preceding section. They shall prepare and distribute through the county auditors to the assessors, a form for the returns which the taxpayers are required to make by this Act, and this form shall be printed on a separate sheet, and shall be entirely distinct from the forms prepared for the returns of other classes of property. This form shall require the taxpayers to make a return of the total amount of his "money" and "credits" taxable under this Act. The North Dakota Tax Commission shall cause to be printed and shall furnish the county auditors for the use of the assessors blank lists for the return of property taxable under this Act, and the assessor shall distribute a blank list to every person liable to taxation.

§ 5. LIST TO BE UNDER OATH. INSPECTION. PENALTY FOR UNAUTHORIZED DISCLOSURE.] The assessor shall in all cases require a person bringing in a list to make oath that it is as nearly correct as he is able to make it and this oath shall be attached to and be a part of such list. Such list shall be open to the inspection of the assessor, county auditor, and their deputies, the board of review, and the board of equalization and the members of the North Dakota Tax Commission, but the details of the lists made by taxpayers shall be disclosed to no other person except by order of court, and any assessor or other person who shall disclose such details shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars. The lists shall be delivered by the assessor to the county auditor and by him preserved in confidence in harmony with the provisions of this Act.

§ 6. WHEN TO BE RECEIVED AS TRUE.] The assessors shall receive as true except as to valuations, the list brought in by each person, unless on being thereto required by the assessor he refuses to answer on oath all reasonable and necessary inquiries as to the nature and amount of his property taxable under the provisions of this Act.

§ 7. FAILURE TO LIST. ASSESSOR TO ESTIMATE. PENALTY.] The Assessor shall ascertain as nearly as possible the particulars of the personal estate subject to taxation under this Act, of any person who has not brought in such list, and shall estimate its just value according to his best information and belief. He shall also

add thereto, fifty per cent of the estimated value of such property as a penalty; and such estimate, with the penalty of fifty per cent, shall be entered in the valuation books, and shall be conclusive upon any person who has not seasonably brought in a list of his estate, unless he can show reasonable excuse for the omission. Provided that no such penalty shall be added until the person liable to such penalty, has been given ten days' notice thereof, and at the expiration of said ten days, such person shall be given a hearing thereon if he appears and so demands.

§ 8. ESTIMATE. HOW MADE. ERROR.] In making such estimate, the assessor shall specify the amount of "money" and "credits" separately and shall enter the same upon the books furnished under the provisions of Section 10, of this Act. An error or over-estimate, or either, shall not be taken in account in determining whether a person is entitled to abatement, but only the aggregate amount of such estimate.

§ 9. WHAT AMOUNT ASSESSABLE. CHANGE OF DOMICILE. DUTIES OF ASSESSORS.] After property taxable under the provisions of this Act has been legally assessed to any person, including any executor, administrator, trustee, company or corporation, an amount of not less than that last assessed by the assessor of such district in respect of such property shall be deemed to be the sum assessable, until a true list of such property is brought in to the assessor in accordance with the provisions of Section 3 of this Act. When a person liable to be taxed for personal property included within the provisions of this Act, changes his domicile, the assessor of the district to which he removes shall assess him for an amount not less than that for which he was assessed in the district from which he removed, until he filed the list required by Section 3, of this Act. The duties of assessors under this section shall be the same as prescribed in Section 2106 of the Compiled Laws of 1913, and whoever neglects to perform any duty imposed upon him by this section shall be guilty of a misdemeanor.

§ 10. PROPERTY TO BE LISTED IN SEPARATE BOOK. WHAT SHALL BE SHOWN. DUTIES OF ASSESSORS AND AUDITOR.] Property taxable under this Act shall not be included in the valuation list which assessors are required to make under the provisions of Section 2135 of the Compiled Laws of 1913, but shall be listed in a separate book or in a supplement to the regular assessment book which the county auditor shall provide for each assessor on or before the first day of May each year, and that the valuation of property included in this Act shall not be added to the valuation of property as provided for in Section 2135, nor for the purpose of fixing salaries or clerkhire, making tax levies or fixing debt limits. The book supplement shall show the total amount of "money" and "credits" assessed to each taxpayer under the provisions of this Act, and shall not disclose further details of his assessment. It shall contain also a summary showing the number of individuals, firms, associations and trustees, assessed for such property and the

total amount of "money" and "credits" taxable under the provisions of this Act. When making the returns to the county auditor provided for by Section 2135 of the Compiled Laws for 1913, the assessor shall file with the county auditor the valuation book, or supplement, together with the summary of the same and the listing blanks filled out by each taxpayer assessed under the provisions of this Act.

The county auditor, when compiling the returns of assessors, shall include, under a separate heading the aggregate assessment in each district of property assessed under the provisions of this Act.

§ 11. REVIEW OF EQUALIZATION.] The assessment under this Act shall be reviewed and equalized the same as the assessment of other personal property is reviewed and equalized.

§ 12. AUDITOR TO COMPUTE TAXES. LIST. COLLECTION.] The county auditor of each county shall compute the taxes under this Act each year against each individual, co-partnership, company, association or corporation and he may include such tax on the personal property tax list with the other personal property tax levied against such individual, co-partnership, company, association or corporation where the assessment is made.

The tax levied under this Act shall be collected by the county treasurer, or sheriff, the same as other personal property taxes are collected.

§ 13. APPORTIONMENT OF RECEIPTS.] All taxes paid to the county treasurer under the provisions of this Act shall be apportioned, one-sixth to the general fund of the state of North Dakota, one-sixth to the county general fund, one-third to the general fund of the city, village or township and one-third to the general fund of the school district in which the property is assessed, provided that in unorganized townships the amount of the tax apportioned to such unorganized township shall be paid into the general fund of the county.

§ 14. REPEAL.] All Acts and parts of Acts insofar as they are in conflict with the provisions of this Act, are hereby repealed.

Approved March 9, 1917.

## CHAPTER 231.

[S. B. No. 227—Allen.]

## TAXATION.

An Act Providing for the Taxation of Inheritance Devises, Bequests, Legacies, and Gifts and Fixing the Rate thereof, and Providing for the Manner of Payment and Manner of Enforcing the Payment Thereof.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. TAX ON TRANSFERS, EXCEPTIONS.] A tax shall be and is hereby imposed upon any transfer of property, real, personal, or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporations within the state, for strictly county, town or municipal purposes, and corporations of this state organized under its laws solely for religious, charitable or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, in the following cases, except as hereinafter provided:

1. By a Resident of State. When the transfer is by will or by the interstate laws of this state from any person dying possessed of the property while a resident of the state.

2. Non-Resident's Property within State. When a transfer is by will or interstate law, of property within the state or within its jurisdiction and the decedent was a non-resident of the state at the time of his death.

3. In Contemplation of Death. When the transfer is of property made by a resident or by a non-resident when such non-resident's property is within the state or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale, or gift, made within six years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this section.

4. When Imposed. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy to any property or the income thereof by any such transfer whether made before or after the passage of this Act.

5. Transfer Under Power of Appointment. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this Act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this

Act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and has been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this Act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

6. On Clear Market Value. The tax so imposed shall be upon the clear market value of such property at the rates hereinafter prescribed and only upon the amount in excess of the exemptions hereinafter granted.

§ 2. PRIMARY RATES, WHERE NOT IN EXCESS OF \$25,000.] When the property of any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars the tax hereby imposed shall be:

1. One Per Centum, Where. Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal issue; lineal ancestor of the decedent or any child adopted as such in conformity with the laws of this state, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, at the rate of one per centum of the clear value of such interest in such property.

2. One and One-half Per Centum, Where. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of one and one-half per centum of the clear value of such interest in such property.

3. Three Per Centum, Where. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother or a descendant of a brother or sister of the father or mother of the decedent, at the rate of three per centum of the clear value of such interest in such property.

4. Four Per Centum, Where. Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the grandfather or grandmother or a descendant of the brother or sister of the grandfather or grandmother of the



decedent at the rate of four per centum of the clear value of such interest in such property.

5. Five Per Centum, Where. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of five per centum of the clear value of such interest in such property.

§ 3. OTHER RATES. WHERE IN EXCESS OF \$25,000.] The foregoing rates in Section 2 are for convenience termed the primary rates.

Where the amount of the clear value of such property or interest exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

1. Rate, Where Amount \$25,000 to \$50,000. Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars one and one-half times the primary rates.

2. Rate Where Amount \$50,000 to \$100,000. Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, two times the primary rates.

3. Rate Where Amount \$100,000 to \$500,000. Upon all in excess of one hundred thousand dollars and up to five hundred thousand dollars, two and one-half times the primary rates.

4. Rate Where Amount over \$500,000. Upon all in excess of five hundred thousand dollars, three times the primary rates.

§ 4. EXEMPTIONS DEFINED. FROM FIRST \$25,000.] The following exemptions from the tax, to be taken out of the first twenty-five thousand dollars, are hereby allowed.

1. Transfers Totally Exempt. All property transferred to municipal corporations within the state for strictly county, town or municipal purposes, or to corporations of this state organized under its laws solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization within the state shall be exempt.

2. \$10,000; \$2,000 Exempt, When. Property of the clear value of ten thousand dollars transferred to the husband or wife of the decedent, and two thousand dollars transferred to each of the other persons described in the first sub-division of Section 2 shall be exempt.

3. \$500 Exempt, When. Property of the clear value of five hundred dollars transferred to each of the persons described in the second sub-division of Section 2 shall be exempt.

4. \$250 Exempt, When. Property of the clear value of two hundred and fifty dollars transferred to each of the persons described in the third sub-division of Section 2 shall be exempt.

5. \$150 Exempt, When. Property of the clear value of one hundred and fifty dollars transferred to each of the persons described in the fourth sub-division of Section 2 shall be exempt.

6. \$100 Exempt, When. Property of the clear value of one hundred dollars transferred to each of the persons and corporations described in the fifth sub-division of Section 2 shall be exempt.

7. Property Without the State Exempt, When. No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located and which tax has actually been paid, provided such property is not without this state temporarily nor for the sole purpose of deposit or safe-keeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state.

§ 5. WHEN TAX DUE. TO BE A LIEN.] All taxes imposed by this Act shall be due and payable at the time of the transfer, except as hereinafter provided; and every such tax shall be and remain a lien upon the property transferred until paid, and the person to whom the property is transferred and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

§ 6. COUNTY TREASURER'S RECEIPTS.] The tax shall be paid to the treasurer of the county in which the county court is situated having jurisdiction as herein provided; and said treasurer shall make duplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax, with the amount thereof, and the other receipt shall be delivered to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts.

§ 7. FINAL ACCOUNTING ON FILING RECEIPT.] But no executor, administrator, or trustee shall be entitled to a final accounting of an estate in settlement of which a tax is due under the provisions of this Act, unless he shall produce such receipts.

§ 8. PENALTY, WHEN.] If such tax is not paid within one year from the accruing thereof, interest shall be charged and collected thereon at the rate of ten per centum per annum from the time the tax accrued; unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax shall not be determined and paid as herein provided, in which case interest at the rate of six per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten per centum shall be charged.

§ 9. POWERS OF EXECUTORS, ETC.] Where Legacy Not in Money. Every executor, administrator, or trustee shall have full power to sell so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate. Any such administrator, executor, or trustee, having in

charge or in trust any legacy or property for distribution, subject to such tax, shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer, as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof, from the person entitled thereto. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this Act, to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such real property until paid. If any such legacy shall be given in money to any such person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting to him to make an apportionment if the case require it, of the sum to be paid into the hands of such legatees, and for such further order relative thereto as the case may require.

§ 10. SUBSEQUENT DEBTS. STATE TREASURER MAY REFUND TAX.] If any debt shall be proved against the estate of the decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share and such person is required by the order of the county court having jurisdiction thereof on notice of the state treasurer to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to such person by the executor, administrator, trustee or officer to whom said tax has been paid.

§ 11. HOW REFUND OF TAX MADE.] When any amount of said tax shall have been paid erroneously into the state treasury, it shall be lawful for the state treasurer upon receiving a transcript from the county court record showing the facts to refund the amount of such erroneous or illegal payment to the executor, administrator, trustee, person or persons, who have paid any such tax in error, from the treasury; or the said state treasurer may order, direct, and allow the treasurer of any county to refund the amount of any illegal or erroneous payment of such tax out of the funds in his hands or custody to the credit of such taxes, and credit him with the same in his account rendered to the state treasurer under this Act. Provided, however, that all applications for such refunding of erroneous taxes shall be made within one year from the payment thereof, or within one year after the reversal or modification of the order fixing such tax.

§ 12. BEQUESTS TO EXECUTORS FOR SERVICE] If a testator bequeaths property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed

by law for an executor or trustee, the excess in value of the property so bequeathed, above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable by this Act.

§ 13. REPORT OF ESTATE OF NON-RESIDENT DECEDENT TO BE FILED WITH STATE TAX COMMISSION.] Every executor or administrator of the estate of a non-resident decedent shall file with the state tax commission a list of the property owned by said non-resident decedent in this state; provided, that said list need not be filed in cases in which ancillary probate proceedings are instituted in the courts of this state for the purpose of probating said estate.

§ 13a. CONTENTS OF REPORT. TIME OF FILING. DUTY OF TAX COMMISSION.] Said list shall be in the form of an affidavit and shall be sworn to by the executor or administrator of said estate, and shall contain a detailed description of the property and the value thereof, owned by said non-resident decedent in this state as of the date of his death. If such property consists in whole or in part of mortgages secured upon real or personal property situated in this state said list shall enumerate each mortgage separately stating the name and post office address of the mortgagor, the county in which the mortgaged property is situated, the date of the execution of said mortgage, the amount of which such mortgage was given, the rate of interest and the amount due on said mortgage at the time of the death of the decedent, and in addition if said mortgaged property consists of real estate, the legal description of the same shall be given. If such property consists in whole or in part of debt evidenced in any other manner than by mortgages secured on real or personal property said list shall contain the name of the debtor, the amount of the debt as of the date of the death of the decedent and the nature of said debt. Said list shall be filed with the state tax commission within thirty days of the issuing of the letters testamentary or letters of administration as the case may be. Upon receipt of said list in proper form the state tax commission shall proceed to determine the amount of the inheritance tax, if any, due the State of North Dakota from said estate and upon such determination shall notify the administrator or executor of said estate immediately whether the same is taxable or exempt and if taxable the amount for which said estate is liable, also the manner in which the tax shall be paid.

§ 13b. STATE TREASURER SHALL ISSUE RECEIPT AND CERTIFIED STATEMENT.] The State treasurer shall upon receipt of the total amount of the tax due from said estate issue to the administrator or executor, paying the same, his receipt therefor and in addition to said receipt shall at the same time issue to said administrator or executor a certified statement bearing the seal of his office to the effect that the full amount of the inheritance tax due from the said estate to the State of North Dakota has been paid.

§ 13c. STATE TAX COMMISSION SHALL ISSUE CERTIFIED STATEMENT, WHEN.] The State tax commission shall upon de-

termining that any such estate is exempt from the payment of any inheritance tax to the State of North Dakota cause a certified statement of such fact to be executed by one of its members in the name of the State tax commission and shall send such certified statement to the executor or administrator of said estate.

§ 14. DUTY OF REGISTER OF DEEDS AS TO SATISFACTIONS AND ASSIGNMENTS.] No register of deeds shall cause to be recorded or filed in his office any satisfaction or assignment of any real or personal property mortgaged executed by a foreign executor or administrator unless said satisfaction or assignment shall be accompanied, for his inspection, by either the certified statement of the state treasurer that the inheritance tax due the State of North Dakota from such estate has been paid, or by the certified statement of the state tax commission that said estate has been determined to be exempt from the payment of any inheritance tax to the State of North Dakota.

§ 14a. TRANSFER OF ASSETS BY FOREIGN EXECUTOR OR ADMINISTRATOR.] No safe deposit company, trust company, corporation, bank or other institution, person or persons having in their possession or under their control securities, deposits or other assets belonging to the estate of such non-resident decedent shall deliver or transfer any assets belonging to the estate of such non-resident decedent to the administrator or executor of such estate or to any other person or persons upon the order of said administrator or executor unless said administrator or executor or such other person holding such order for the transfer or delivery of such assets shall submit to said safe deposit company, trust company, corporation, bank or other institution, person or persons having in their possession or under their control such assets belonging to the estate of the decedent either the certified statement of the state treasurer to the effect that the inheritance tax due the State of North Dakota from said estate has been paid, or the certified statement of the state tax commissioner to the effect that said estate is exempt from paying any inheritance tax to the state of North Dakota.

§ 14b. PENALTY.] Any register of Deeds, safe deposit company, trust company, corporation, bank or other institution, person or persons, violating the provisions of this Act shall be liable to the State for the amount of the tax.

§ 15. CORPORATE PROPERTY TO BE APPORTIONED.] Where stocks, bonds, mortgages or other securities of corporations organized under the laws of this state shall have been transferred by a non-resident decedent, the tax shall be upon such proportion of the value thereof as the property of such corporation in this state bears to the total property of the corporation issuing such stocks, bonds, mortgages, or other securities.

§ 16. HOLDING COMPANY. APPORTIONMENT.] If any stocks, bonds, mortgages or other securities of a holding company or other corporation are based upon or represent in whole or in part the

value of any stocks, bonds, mortgages, or other securities of a North Dakota corporation either directly or indirectly, the transfer of the stocks, bonds, mortgages or other securities of such holding company or other corporation shall be subject to the inheritance tax in the proportion which the North Dakota property bears to the total property represented by or subject to the total stocks, bonds, mortgages, or other securities of which those so transferred are a part.

§ 17. DEBTS, EXEMPTIONS, ETC., TO BE APPORTIONED.] Whenever a tax is due from any resident or non-resident upon the transfer of any property or estate which is partly within and partly without the state, or upon any stocks, bonds, mortgages or other securities representing any such property partly within and partly without this state, such person shall be entitled to deduct from the value of such property so transferred only a proportion of the debts, expenses or administration and exemptions, equal to the proportion which the North Dakota property bears to the entire estate of the decedent.

§ 18. INFORMATION TO COMMISSION. RETAINING AMOUNT OF TAX.] The tax commission shall require such reports and information, and shall make such orders, rules and regulations as it may deem necessary to enable the commission to secure the necessary information from corporations, domestic and foreign, and to ascertain the amount of and collect such tax; and no holding company or other corporation subject to the provisions of this section shall deliver or transfer any such stocks, bonds, mortgages or other securities of a non-resident decedent based upon or representing in whole or in part, directly or indirectly, the value of North Dakota property, or stocks, bonds, mortgages or other securities of a North Dakota corporation without retaining a sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of such transfer, except upon order of the proper court or a certificate of the tax commission.

§ 19. PENALTIES.] Any corporation or holding company violating the provisions of this section shall be liable to the state for the amount of tax; and for wilful violation of its provisions shall forfeit its charter or its license to do business within this state upon complaint of the tax commissioner, and conflietion thereunder.

§ 20. JURISDICTION. ANCILLARY LETTERS.] The county court of every county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under the inheritance tax laws, or to appoint a trustee of such estate or any party thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of the inheritance tax laws, and to do any act in relation thereto authorized by law to be done by a county court in other matters or proceedings coming within its jurisdiction; and if two or more

county courts shall be entitled to exercise any such jurisdiction, the county court first acquiring jurisdiction hereunder, shall retain the same to the exclusion of every other county court.

§ 21. PETITION FOR ANCILLARY LETTERS; NOTICE TO PUBLIC ADMINISTRATOR.] Every petition for ancillary letters testamentary or of administration shall include a true and correct statement of all the decedent's property in this state with the value thereof; upon presentation thereof of the county court shall cause the order for hearing to be served personally upon the public administrator; and upon the hearing, the county court shall determine the amount of the inheritance tax which may be or become due and the decree awarding the letters may contain provisions for the payment of such tax.

§ 22. NON-RESIDENT ESTATES. JURISDICTION.] The county court and the judge thereof at the seat of government shall have jurisdiction to hear and determine all questions relating to the determination and adjustments of inheritance taxes in the estates of non-resident decedents in which tax appears to be due, and in which it does not otherwise appear necessary for regular administration to be had therein. And in such estates the public administrator may be appointed as special administrator for the purposes of such adjustment.

§ 23. SPECIAL APPRAISER MAY BE APPOINTED.] The county court, upon the application of any interested party, including the tax commission, or upon its own motion, shall as often as, and whenever occasion may require, appoint a competent person as special appraiser to fix the fair market value at the time of the transfer thereof of the property of persons whose estate shall be subject to the payment of any tax.

§ 24. SPECIAL APPRAISER. NOTICE. DUTY. COMPENSATION.] Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the public administrator, and to such persons as the county court may by order direct, of the time and place when he will appraise such property. He shall, at such time and place, appraise the same at its fair market value, as herein prescribed, and for that purpose the said appraiser is authorized to issue subpoenas and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof; and he shall make report thereof and of such value in writing, to the said county court, together with the depositions of the witnesses examined, and such other facts in relation thereto and to the said matter as the said county court may order or require. Every appraiser shall be paid on the certificate of the county court at the rate of three dollars per day for every day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and the fees paid such witnesses, which shall be the same as those now paid to witnesses subpoenaed to attend in courts of record, by the

county treasurer out of any funds he may have in his hands on account of any tax imposed under the provisions of this act.

§ 25. HEARING BY THE COURT.] The report of the special appraiser shall be made in duplicate, and not less than twenty days before the hearing thereon; one of said duplicates shall be filed in the office of the county court and the other shall be mailed to the tax commission. The county court shall examine such report, and from the report and other proofs relating to any such estate shall forthwith determine the cash value of such estate and the amount of tax to which the same is liable; or, the county court without appointing such appraiser may at the time so fixed hear evidence and determine the cash value of such estate and the amount of tax to which the same is liable.

§ 26. NOTICE OF HEARING. HOW GIVEN.] Notice of such hearing to determine the inheritance tax shall be given to all persons interested except where it is clearly evident that no tax is due.

§ 27. APPRAISAL AT CLEAR MARKET VALUE. ANNUITIES. HOW COMPUTED.] Whenever a transfer of property is made upon which there is, or in any contingency there may be, a tax imposed such property shall be appraised at its clear market value immediately upon the transfer or as soon thereafter as practicable. The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the American tables of mortality with interest at the rate of six per centum.

§ 28. CONTINGENT INCUMBRANCES.] In estimating the value of an estate or interest in property to the beneficial enjoyment of possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made in respect of any contingent incumbrance thereon, nor in respect of any contingency upon the happening of which the estate or property or some part thereof, or interest therein, might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat, or diminution of such estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax in respect of the amount or value of the incumbrance when taking effect or so much as will reduce the same to the amount which would have been assessed in respect to the actual duration or extent of the estate or interest enjoyed. Such return shall be made in the manner provided in Section 10.

§ 29. INTEREST DETERMINABLE BY DEATH.] Where any property shall, after the passage of this Act be transferred subject to any charge, estate, or interest determinable by the death of any person or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or corporation upon the extinction or determination of such charge, estate



or interest shall be deemed a transfer of property taxable under the provisions of this Act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase of benefit from the person from whom the title to their respective estates or interests is derived.

§ 30. TAX PAYABLE FORTHWITH ON CONTINGENT ESTATE.] When property heretofore or hereafter is transferred in trust or otherwise, and the rights, interests or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such transfer at the lowest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this Act, and such tax so imposed shall be due and payable forthwith out of the property transferred; provided, however, that on the happening of any contingency or condition whereby the said property or any part thereof is transferred to a person or corporation, which under the provisions of this Act is required to pay a tax at a higher rate than the tax imposed, then such transferee shall pay the difference between the tax imposed and the tax at the higher rate, and the amount of such increased tax shall be enforced and collected as herein provided.

§ 31. POSTPONED TAX ON UNDIMINISHED VALUE.] Estates in expectancy which are contingent or defeasible, and in which proceedings for determination of the tax have not been taken, or where the taxation thereof has been held in abeyance, shall be appraised at their full undiminished clear value when the person entitled thereto shall come into the beneficial enjoyment or possession thereof without diminution for or on account of any valuation theretofor made of the particular estates for purposes of taxation upon which said estates in expectancy may have been limited. Where an estate for life or for years can be divested by the Act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

§ 32. ORDER DETERMINING TAX. CONTENTS. NOTICE.] Upon the determination by the county court of the value of any estate which is taxable under the inheritance tax laws, and of the tax to which it is liable, an order shall be entered by the court determining the same, which order shall include a statement of (1) the date of death of the decedent, (2) the gross value of the real and personal property of such estate stating the principal items thereof, (3) the deductions therefrom allowed by the court, (4) the names and relationship of the persons entitled to receive the same, with the amount received by each, (5) the rates and amounts of inheritance tax for which each such person is liable, and the total amount of tax to be paid, (6) a statement of the amount of interest or penalty due, if any. If such estate is not taxable the county court shall issue its order exempting the same. Such orders shall be substantially in the form prescribed by the tax

commission. A copy of the same shall be delivered or mailed to the county treasurer, the state treasurer, and the tax commissioner, and no final judgment shall be entered in such estates until due proof is filed with the court that such copies have been delivered or mailed.

§ 33. REHEARING WITHIN SIXTY DAYS.] The attorney general, tax commission, public administrator, state's attorney, or any person dissatisfied with the appraisal or assessment and determination of such tax may apply for a rehearing thereof before the county court within sixty days from the fixing, assessing, and determination of the tax by the county court as herein provided on filing a written notice which shall state the grounds of the application for a rehearing. The rehearing shall be upon the records, proceedings, and proofs had and taken on the hearing as herein provided and a new trial shall not be had or granted unless specially ordered by the county court.

§ 34. NEGLECT OR REFUSAL TO PAY TAX.] If the treasurer of any county, the public administrator, or the tax commission, shall have reason to believe that any tax is due and unpaid, after the refusal or neglect of any person liable therefor to pay the same, he shall notify the state's attorney of the county in writing of such failure or neglect, and such state's attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the county court for a citation citing the person liable to pay such tax to appear before the court on the day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid; or such citation may be granted on the application of the public administrator or the tax commission. The judge of the county court upon such application and whenever it shall appear to him any such tax has not been paid as required by law, shall issue such citation, and the service of such citation and the time, manner and proof thereof, and the hearing and determination thereof, shall conform as near as may be to the provisions of the laws governing probate practice of this state, and whenever it shall appear that any such tax is due and payable, and the payment thereof cannot be enforced under the provisions of this Act, in said county court, the person or corporation from whom the same is due is hereby made liable to the county of the county court having jurisdiction over such estate or property for the amount of such tax, and it shall be the duty of the State's attorney of said county, in the name of such county, to sue for and enforce the collection of such tax, and it is made the duty of said state's attorney to appear for and act on behalf of any county treasurer, who shall be cited to appear before any county court under the provisions of this Act.

§ 35. SPECIAL ADMINISTRATION TO DETERMINE TAX.] When no application for administration of the estate of any deceased person is made within sixty days after the demise of such person, and such estate appears to come under the provisions of the in-

heritance tax laws, or when administration has been completed without determining the tax, or when no tax is due, and that fact has not been found by the court, or when any certificate of heirship has been applied for or issued, or when any foreign will has been probated, the public administrator of the proper county, or any person interested in such estate, may make application for such special or general administration as may be necessary for the purpose of the adjustment and payment of such tax, if any, or if no tax is due, for an order determining that fact. In cases arising under this and the following sub-sections, the public administrator, if appointed such special administrator, shall be entitled in the discretion of the court to the fees allowed by law to administrators, or to other reasonable compensation, unless it be found that no tax is due.

§ 36. WHERE TRANSFER MADE IN CONTEMPLATION OF DEATH.] Where it appears that the estate of a deceased person subject to the inheritance tax laws was transferred in contemplation of the death of the grantor without the adjustment and payment of the inheritance taxes and no application for such adjustment is made within sixty days after the demise of such grantor, the public administrator of the proper county shall make application for and shall be entitled to such general or special administration as may be necessary for the purpose of the adjustment and payment of the inheritance taxes provided by law and shall administer such estate the same as other estates are administered as though such estate had not been transferred by the grantor.

§ 37. PUBLIC ADMINISTRATOR, DUTIES, COMPENSATION.] It shall be the duty of the public administrator, under the general supervision of the tax commission and with the assistance of the state's attorney, when required by the tax commission or county judge to investigate the estate of deceased persons within his county and to appear for and act in behalf of the county and state in the county court in such estates as the court may in its discretion deem necessary, and for such services the public administrator shall be entitled to five per centum of the gross inheritance tax as determined in each such estate, to be paid by the county treasurer out of the inheritance tax funds upon an order of the county judge, provided that the minimum fee of each such estate shall not be less than three dollars, except that it shall not exceed the amount of such tax, and the maximum fee not more than twenty-five dollars; but in cases of unusual difficulty, in estates of resident decedents, where the tax exceeds five hundred dollars, the county judge may allow the public administrator such additional compensation as he may deem just and reasonable.

§ 38. TAX COMMISSION TO SUPERVISE INHERITANCE TAX.] It shall be the duty of the tax commission to supervise the administration of the inheritance tax laws, and such particular estate to which the inheritance tax laws apply, throughout the various counties of the state, and to cause to be made and filed

in its offices reports of such investigation together with specific information and facts as to particular estates that may seem to require special consideration and attention by the legal department of the state.

§ 39. POWERS AND DUTIES IN NON-RESIDENT ESTATES.] The tax commission shall also gather information and make investigations and reports concerning the estate of non-resident decedents within the provisions of the inheritance tax laws, and shall especially investigate the probate and other records for such probate estates without the state and report thereon from time to time to the legal department of the state and to the public administrator of the proper county court for appropriate legal action.

§ 40. DUTY OF LEGAL DEPARTMENT.] It shall be the duty of the legal department of the state to carry out and enforce the recommendations and directions of the tax commission in all matters pertaining to the conduct of inheritance tax affairs; and in every estate in which the amount of inheritance tax collectable shall exceed or probably exceed the sum of one thousand dollars, there shall be no compounding, composition, or settlement of the taxes under the authority conferred by this Act or otherwise, until the tax commission shall have investigated such estate and made a report thereon, nor until the commission consents to such compounding, compromise, or settlement.

§ 41. FORMS AND BLANKS.] The tax commission shall prescribe such forms and prepare such blanks as may be necessary in inheritance tax proceedings; and such blanks shall be printed at the expense of the state, payable out of the general fund, and furnished to the respective officials upon request.

§ 42. QUARTERLY REPORTS. TAX TO BE PAID TO STATE.] Each county treasurer shall make a report under oath, to the state auditor of all taxes received by him under the inheritance tax laws, stating for what estate paid, which report shall be made at the same time and in the same manner as other taxes are reported, and the county treasurer shall pay to the state auditor all such inheritance tax at the same time and in the same manner as other taxes are paid. The county judge shall likewise make a report to the tax commission of all cases filed in his court wherein an executor, administrator, or guardian has been appointed or an application made to determine heirship, whether the same are taxable or not, and he shall report such other and further information as may be required by the tax commission. The register of deeds shall likewise report to the tax commission all transfers filed in his office made in contemplation of the death of the donor or grantor, and he shall report such other and further information as may be required by the tax commission.

§ 43. TWENTY-FIVE PER CENT TO BE RETAINED BY THE COUNTY.] The county treasurer shall retain for the use of the county, out of all taxes paid and accounted for by him each year

under this Act twenty-five per cent on all sums so collected by or paid to said treasurer.

§ 44. COMPOSITION AND COMPROMISE.] The tax commission is authorized to enter into an agreement with the executor, administrator or trustee of any estate therein situate, in which remainders or expectant estates have been of such nature or so disposed and circumstanced that the taxes therein were held not presently payable or where the interests of the legatees or devisees are not ascertainable under the provisions of this Act, or whenever a tax is claimed on account of the transfer of a non-resident decedent, and to compound such taxes upon such terms as may be deemed equitable and expedient and to grant discharges to said executors, administrators, or trustees upon the payment of the taxes provided for in such composition, provided, however, that no such composition shall be conclusive in favor of said executors, administrators, trustees, as against the interest of such cestui que trust as may possess either present rights or enjoyment or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto personally when competent or by guardian. Composition or settlement made or effected under the provisions of this section shall be executed in triplicate and one copy shall be filed in the office of the tax commission; one copy in the office of the judge of the county court in which the tax was paid; and one copy to be delivered to the executors, administrators, or trustees, who shall be parties thereto.

§ 45. TAX. HOW APPLIED. DEDUCTIONS.] All taxes levied and collected under this Act, less any expenses of collection, the percentage to be retained by the county, and the deduction authorized under this Act, shall be paid into the treasury of the state for the use of the state, and shall be applicable to the expenses of the state government and to such other purposes as the legislature may by law direct.

§ 46. TERMS DEFINED.] The words "estate" and "property" as used in this Act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state. The word "transfer" as used in this Act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future by inheritance descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein prescribed. The word "decedent" as used in this Act shall include the testator, intestate, grantor, bargainor, vendor, or donor. The words "county treasurer," "public administrator," and "attorney" as used in this Act shall be taken to mean the treasurer, public administrator and

attorney of the county of the county court having jurisdiction. All money invested in this state including stock of domestic corporations shall be deemed to be property within the jurisdiction of this state.

§ 47. HEARINGS BY TAX COMMISSION. WITNESSES' CONTEMPT, ETC.] Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by the secretary of the commission or by any member thereof. In case any witness shall fail to obey any summons to appear before said commission or shall refuse to testify or answer any material question or to produce records, books, papers or documents when required so to do, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to compel obedience for any summons or order of the commission or to punish witnesses for any such neglect or refusal. Any person who shall testify falsely in any material matter under the consideration of the commission shall be guilty of and punished for perjury. In the discretion of the commission, officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation, as officers and witnesses in the district court.

§ 48. REPEAL.] Section 8976, 8977, 8978, 8979, 8980, 8981, 8982, 8983, 8984, 8985, 8986, 8987, 8988, 8989, 8990, 8991, 8992, 8993, 8994, 8995, 8996, 8997, 8998, 8999 and 9000 of the Compiled Laws of the State of North Dakota for the year 1913, are hereby repealed.

Approved March 9, 1917.

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## TAX COMMISSION

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### CHAPTER 232.

[S. B. No. 62—Wenstrom and Gronvold.]

#### TAX COMMISSION:

An Act to Amend and Re-enact Section 2088 of the Compiled Laws of North Dakota for the year 1913, Relating to Powers and Duties of the Tax Commission.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 2088 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 2088. POWERS AND DUTIES OF TAX COMMISSION.] It shall be the duty of the commission and it shall have power and authority: