

Board in order to protest such action. It shall be unlawful for any Tax Supervisor to disclose any information secured from any person, corporation, co-partnership or association in the performance of his official duties, except to the State Tax Commissioner, to district or county boards of equalization, to the State Board of Equalization, to any officer, board or commission to whom he may be required by law to make reports, or in any judicial proceeding in a lawfully constituted court involving the assessment or taxation of any such person, corporation, co-partnership or association. Any Tax Supervisor found guilty of violating the provisions of this Act shall be subject to a fine of not less than \$25 nor more than \$500.

Sec. 5. The Tax Supervisor shall receive an annual salary, to be paid in monthly installments from the County Treasurer upon the warrant of the County Auditor, equal to the salary of the Clerk of the District Court, in or for such county. The Board of County Commissioners shall provide for the payment of the actual expenses of the Supervisor, incurred in the discharge of his duties, not to exceed a maximum of \$300 per annum, which expenses shall be approved and certified by said Board to the County Auditor and paid out of the county treasury on the Auditor's warrant. The Supervisor shall have his office in the county seat, in quarters to be provided by the Board of County Commissioners.

Sec. 6. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 5, 1919.

TAXATION

CHAPTER 220.

(S. B. No. 43—Taxes and Tax Laws Committee.)

ASSESSMENT OF PROPERTY.

An Act to Amend and Re-enact Chapter 59, Laws of North Dakota, 1917, Relating to the Classification of Property for Assessment.

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

Sec. 1. Chapter 59 of the Laws of North Dakota, 1917, is hereby amended and re-enacted to read as follows:

Sec. 1. All real and personal property subject to a general property tax, not exempt by law, not subject to any gross sales or other lieu tax, is hereby classified for purposes of assessment for taxation as follows:

Class 1. Class one shall include the following, which shall be valued and assessed at 100 per cent of the full and true value thereof:

(a) All Railroads and other Public Utilities, together with franchises, and all real and personal property employed in connection therewith.

(b) All land, exclusive of structures and improvements thereon.

(c) All bank stocks.

(d) All flour mills, elevators, warehouses and store houses of all kinds; buildings and improvements upon railway rights-of-way or sites leased from railway companies or other public utility corporations, and structures and improvements on town and city lots used for business purposes.

Class 2. Class two shall include the following, which shall be valued and assessed at 50 per cent of the full and true value thereof:

All live stock, agricultural and other tools and machinery; gas and other engines and boilers; threshing machines and outfits used therewith; all vehicles, automobiles, motor trucks, and other power driven cars; boats and all water craft, harness, saddlery and robes; structures and improvements used for homes upon town and city lots; and all property not herein specifically mentioned.

Sec. 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 24, 1919.

CHAPTER 221.

(S. B. No. 33—McNair.)

LISTING PROPERTY OF CORPORATIONS, ETC.

An Act to Amend and Re-enact Section 2110, Compiled Laws of North Dakota, 1913, Relating to the Listing of the Property of Corporations, Joint-Stock Companies or Associations for Taxation.

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

Sec. 1. AMENDMENT.) Section 2110 of the Compiled Laws of North Dakota, 1913, is hereby amended and re-enacted to read as follows:

Sec. 2110. The President, Secretary or other principal accounting officer of any corporation, joint-stock company or association, whether incorporated or not, except banking corporations, whose taxation is especially provided for in this article, shall make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

1. The name and location of the corporation, joint-stock company or association.

2. The amount of capital stock authorized and the number of shares into which said capital stock is divided.

3. The amount of capital stock paid up.

4. The market value, or if they have no market value, then the actual value of the shares of stock.

5. The total amount of all indebtedness except the indebtedness of current expenses.

6. The value of all its real property, if any.

7. The value of its tangible personal property.

The aggregate amount of the 6th and 7th items shall be deducted from the aggregate amount of the 4th and 5th, and the remainder, if any, shall be listed as "bonds or stocks," under subdivisions 21 and 23 of Section 2103.

The real and the tangible personal property of each corporation, joint-stock company or association shall be listed and assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, corporation, joint-stock company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

Sec. 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6, 1919.

CHAPTER 222.

(H. B. No. 47—Committee on Taxes and Tax Laws.)

TAX ON SHARES OF STOCK

An Act to Provide for Defraying the General Expenses of the State Government, by Imposing a Tax on the Shares of Stock and the Bond Issues of Corporations Organized or Doing Business in the State, and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

Sec. 1. On and after January first, 1919, taxes shall be and hereby are imposed annually as follows:

(1) Every corporation, joint-stock company or association, now or hereafter organized in the State for profit and having a capital stock represented by shares or issuing bonds, shall pay annually a special excise tax with respect to the carrying on or doing business in the State by such corporation, joint-stock company or association during the previous calendar year, equivalent to 50 cents for each \$1000.00 of the fair value of its capital stock or bonds issued; and in estimating the value of capital stock, the surplus and undivided profits of such corporation, joint-stock company or association shall be included. The amount of such annual tax shall in all cases be computed on the basis of the fair average value of the capital stock and bonds for the preceding year; provided, that for the purpose of this tax an exemption of \$10,000.00 shall be allowed from the capital stock of any such corporation, joint-stock company or association.

(2) Every corporation, joint-stock company or association, now or hereafter organized under the law of any other state, the United States or a foreign country, and engaged in business in the State during the previous calendar year, shall pay annually a special excise tax with respect to the carrying on or doing business in the State by such corporation, joint-stock company or association, equivalent to 50 cents for each \$1000.00 of the capital actually invested in the transaction of business in the State; provided, that in the case of a corporation engaged in business partly within and partly without the State, investment within the State shall be held to mean that proportion of its entire stock and bond issues which its business within the State bears to its total business within and without the State and where such business within the State is not otherwise more easily and certainly separable from such entire business within and without the State, business within the State shall be held to mean such proportion of the entire business within and without the State, as the property of such corporation within the State bears to its entire property employed in such business both within and without the State; provided, that in the case of a railroad, telephone, telegraph, car or freight-line, express company or other common carrier, or a gas, light, power or heating company, having lines that enter into, extend out of or across the State, property within the State shall be held to mean that proportion of the entire property of such corporation engaged in such business which its mileage within the State bears to its entire mileage within and without the State. The amount of such annual tax shall in all cases be computed on the basis of the average amount of capital so invested during the preceding calendar year; provided, that for the purpose of this tax an exemption of \$10,000.00 from the amount of capital invested in the State shall be allowed; provided, further, that this exemption shall be allowed only if such corporation, joint-stock company or association furnish to the Tax Commissioner all the information necessary to its computation.

Sec. 2. There shall not be taxed under this Act any—

- (1) Labor, agricultural, or horticultural organization;
- (2) Mutual savings bank not having a capital stock represented by shares;
- (3) Fraternal beneficiary society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order or association, or other dependents;
- (4) Domestic insurance company or building or loan association or co-operative bank, organized and operated for mutual purposes and without profit;

(5) Cemetery company owned and operated exclusively for the benefit of its members;

(6) Corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stock holder or individual;

(7) Business League, Chamber of Commerce, or Board of Trade, not organized for profit and no part of the net income of which inures to the benefit of any private stock holder or individual;

(8) Civic league or organization not organized for profit, but operated exclusively for the promotion of general welfare;

(9) Club organized and operated for pleasure, recreation or other non-profitable purposes, no part of the net income of which inures to the benefit of any private stock holder or member;

(10) Farmers' or other mutual hail, cyclone, crop or fire insurance company, mutual or co-operative telephone or like organization of a purely local character, the income of which consists solely of assessments, dues or fees collected from members for the sole purpose of meeting its expenses;

(11) Farmers' mutual warehouse, elevator, creamery, packing or canning company or like organization; farmers' or like association organized and operated as a sales agent for the purpose of marketing the products of its members, or any other organization having a membership and not conducted for profit but for the service of its members or the public;

(12) Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this Act;

(13) Federal Land Bank or National Farm Loan Association, as provided in Section 26 of the Act of Congress approved July 17, 1916, entitled, An Act to provide capital for agricultural developments, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositories and financial agents for the United States, and for other purposes;

(14) Corporation owned and operated by the State.

Sec. 3. Every corporation, joint-stock company or association subject to the tax herein imposed, shall, on or before the first day of August, 1919, and on or before the first day of March each year thereafter, make a report to the State Tax Commissioner, which shall include the following:

(1) The name of the corporation, joint-stock company or association, the place where incorporated, the date of incorporation and the purpose for which incorporated;

(2) The names and addresses of the President or Vice-President, Secretary, Treasurer and the General Manager or chief representative in the State, or, if no representative in the State, then the General Manager or chief representative elsewhere;

(3) The principal place of business in the State, or if no place of business in the State the chief place of business outside of the State;

(4) The number of shares of stock issued, the number subscribed and paid up and the par and actual or market value of the same, and all issues of stock during the previous calendar year;

(5) All bond issues previous to the date of making return, and all bond issues during the previous calendar year.

Such return shall be sworn to by the President, Vice-President or other principal officer, and by the Treasurer or Assistant Treasurer, and may be made to the Commissioner or to his authorized agent in the district in which is located the principal office of the corporation, joint-stock company or association. Such report shall be made in the form and manner prescribed by the Commissioner, who shall furnish to each corporation, joint-stock company or association coming within the provisions of this Act all necessary forms and blanks upon which to make the return; provided that such blanks and forms shall be, insofar as practicable, similar to those prescribed by Congress for making returns to the United States Commissioner of Internal Revenue for the purposes of the Federal tax on corporations, joint-stock companies and associations; provided, further, that every such corporation, joint-stock company or association shall file with the State Tax Commissioner a duplicate of the return made by it to the United States Commissioner of Internal Revenue, and shall in addition furnish to the Commissioner all other information required by this Act, and all information reasonably necessary to enable the Commissioner to carry out its provisions.

Sec. 4. The tax herein imposed shall be assessed by the State Tax Commissioner, on or before the fifteenth day of August, 1919, and on or before the first day of August of each year thereafter, who shall certify the amount of such tax in each case to the State Auditor; and within Twenty days thereafter the Auditor shall make his draft upon such corporation, joint-stock company or association for the amount of the tax due as certified and shall present the same to the State Treasurer for collection. Within Twenty days thereafter the State Treasurer shall make demand for the payment of such warrant; and if any such corporation, joint-stock company or association shall fail to pay

the same within thirty days after such demand, a penalty of 10 per cent thereof shall immediately accrue, and thereafter 1 per cent for each month after the tax becomes delinquent, while the same remains unpaid. Such tax being delinquent and unpaid shall be a first lien upon all and singular the property, estates and effects of such corporation, joint-stock company or association within the State, and shall take precedence over all other demands and judgments against the same; and the certificate of the Tax Commissioner that such tax is due, and the unpaid draft of the State Auditor issued in pursuance thereof, shall be sufficient warrant for the Attorney General to institute proceedings for the collection of said tax and penalty by the sale of said property or otherwise; and the Attorney General shall enter such proceedings on the certification of the State Auditor that such tax is due and unpaid 30 days after demand for payment has been made as herein provided. Such penalty shall be added to the tax and shall be demanded and paid in the same manner as provided for the tax itself. When any such tax shall have been delinquent for ninety days it shall, in case of a North Dakota corporation, constitute sufficient ground for the annulment of the existence of such corporation in an action instituted by the Attorney General for that purpose, and in the case of a foreign corporation, on the certificate of the Tax Commissioner that such tax has been due for Ninety days and remains unpaid, the Secretary of the State shall cancel the registration of such corporation and notify it that all of its privileges under the laws of the State are suspended until such tax, together with all penalties provided in this Act, has been paid.

Sec. 5. All moneys collected under the provisions of this Act shall be paid into the State Treasury to be used for the defraying of the general expenses of the State Government.

Sec. 6. All administrative, special and general provisions of law, including the general tax laws of the State, insofar as consistent with the provisions of this Act, are hereby extended and made applicable to all the provisions herein contained.

Sec. 7. If any clause, sentence, paragraph or part of this Act, shall for any reason be declared invalid by a court of competent jurisdiction, such judgment shall not impair or invalidate any other clause, sentence, paragraph or part thereof, but any such part shall be of full effect and validity, as if no such decision had been rendered.

Sec. 8. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved March 7, 1919.

CHAPTER 223.

(S. B. No. 44—Taxes and Tax Laws Committee.)

EXEMPTION OF PROPERTY FROM TAXATION.

An Act to Amend and Re-enact Section 2078, Compiled Laws of North Dakota for the Year 1913, Relating to the Exemption of Property from Taxation.

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

Sec. 1. AMENDMENT.) That Section 2078 of the Compiled Laws of North Dakota, for the year 1913, is hereby amended and re-enacted to read as follows:

Sec. 2078. All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

1. All public school houses, academies, colleges, institutions of learning, with the books and furniture therein, and the grants attached to such buildings necessary for their proper occupancy, use and enjoyment, and not leased or otherwise used with a view to profits; also all houses used exclusively for public worship and lots and parts of lots upon which such houses are erected.
2. All land used exclusively for burying grounds, or cemeteries.
3. All property, whether real or personal, belonging to the State.
4. All buildings, belonging to the counties, used in holding courts, for jails, for county offices, with the ground, not exceeding in any county ten acres, on which such buildings are erected.
5. All land, houses and other buildings belonging to any county, township or town, used exclusively for the accommodation or support of the poor.
6. All buildings, and contents thereof, belonging to institutions of public charity, including public hospitals under the control of religious or charitable societies, used wholly or in part for public charity, together with the land actually occupied by such institution, not leased or otherwise used with a view to profit; and all money and credits appropriated solely to sustaining, and belonging exclusively to such institutions; also all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes, for use of students in attendance upon any of the State educational institutions; provided, that such dormitories and boarding halls be not managed or used for the purpose of making a profit over and above the cost of maintenance and operation.
7. All properties belonging to counties, towns and townships and to municipal corporations and used for public purposes.
8. The real and personal property of any agricultural fair association, duly incorporated for the exclusive purpose of holding agricultural fairs and not conducted for the profit of any of its members.

9. The personal and real property owned by lodges, chapters, commanderies, consistories, farmers clubs, commercial clubs, and like organizations and associations, grand or subordinate, not organized for profit and used by them for places of meeting and for conducting their business and ceremonies; and all personal and real property owned by any fraternity, sorority or organization of college students; provided, however, that such property as enumerated in this subsection shall be used exclusively for such purposes.

10. All structures and improvements on agricultural lands.

11. Structures and improvements, used as a place of residence by the owner on village, town or city lots to the amount of one thousand dollars (\$1,000).

12. Household goods and furnishings to the amount of \$300; provided, that this paragraph shall not be construed so as to exempt from taxation any furniture or furnishing of any cafe, restaurant, hotel or other establishment conducted for profit.

13. Clothing or other personal belongings of each individual subject to taxation to the amount of \$300.

14. The tools of a working man or mechanic, to the amount of \$300.

15. The tools, implements or other equipment of a farmer, to the amount of \$1,000.

Sec. 2. Exemptions provided for in this Act shall be made in each case on the basis of the full cash valuation both of the exemption and of the valuation of the property upon which such exemption is allowed.

Sec. 3. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 27, 1919.

CHAPTER 224.

(S. B. No. 37—Taxes and Tax Laws Committee.)

INCOME TAX.

An Act for the Purpose of Raising Revenue to Defray the General Expenses of the State Government by Providing for a Tax on the Income of Persons, Corporations, Joint Stock Companies or Associations in the State of North Dakota; classifying and Graduating Incomes for the Purpose of Taxation; Providing for Exemptions and Deductions in Certain Cases; Prescribing a Method of Assessing and Collecting Said Tax; Prescribing Penalties for Non-Conformance with the Provision of this Act and Repealing all Acts and Parts of Acts in Conflict Herewith.

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

Sec. 1. DEFINITIONS.) The word "income" when used in this Act and not otherwise defined, shall mean any earnings, wages, profits or increase, from whatever source derived.

"Earned Income," as used in this Act, shall mean any income received as wages, salary or fees for personal services, or any sum or sums receiving according to the terms of any contract for personal services, or the profits from any business personally managed or conducted, as an individual business or in partnership, but not including the business of corporations, joint-stock companies or associations.

"Unearned Income," as used in this Act, shall mean any income derived from rents of land or other property; interest on mortgages, notes or bonds, or other interest bearing obligations; dividends on shares of stock or other interest in any business or industry not personally conducted by the tax-payer; from annuities; from any source whatsoever other than the labor, skill or personally conducted business or industrial enterprise of the person receiving the income.

The word "state" when used alone in this Act shall mean the State of North Dakota.

The word "commissioner" when used alone in this Act shall mean the Tax Commissioner of the State of North Dakota.

Sec. 2. For the purpose of providing revenue to defray the general expenses of the state government, there shall be levied, assessed, collected, and paid annually upon the entire net income of every individual, a resident or non-resident of the State of North Dakota, except as hereinafter provided, from all sources within the State, including interest on bonds, notes or other interest bearing obligations of any corporation, joint-stock company or association organized or doing business or owning property within the state, a tax in accordance with the following schedule:

(a) On Unearned Income:

On the first \$1,000 or fraction thereof a tax of $\frac{1}{2}$ of 1 per cent;

On the 2nd \$1,000 or fraction thereof a tax of 1 per cent;

On the 3rd \$1,000 or fraction thereof, a tax of $1\frac{1}{2}$ per cent;

On the 4th \$1,000 or fraction thereof, a tax of 2 per cent;

On the 5th \$1,000 or fraction thereof, a tax of $2\frac{1}{2}$ per cent;

On the 6th \$1,000 or fraction thereof, a tax of 3 per cent;

On the 7th \$1,000 or fraction thereof, a tax of $3\frac{1}{2}$ per cent;

On the 8th \$1,000 or fraction thereof, a tax of 4 per cent;

On the 9th \$1,000 or fraction thereof, a tax of $4\frac{1}{2}$ per cent;

On the 10th \$1,000 or fraction thereof, a tax of 5 per cent;

On all net income in excess of \$10,000 and not in excess of \$20,000, a tax of 6 per cent;

On all net income in excess of \$20,000 and not in excess of \$30,000, a tax of 8 per cent, and on all net incomes in excess of \$30,000, a tax of 10 per cent;

(b) On Earned Incomes:

On the 1st \$1,000 or fraction thereof, a tax of $\frac{1}{4}$ of 1 per cent;

On the 2nd \$1,000 or fraction thereof, a tax of $\frac{1}{2}$ of 1 per cent;

On the 3rd \$1,000 or fraction thereof, a tax of $\frac{3}{4}$ of 1 per cent;

On the 4th \$1,000 or fraction thereof, a tax of 1 per cent;

On the 5th \$1,000 or fraction thereof, a tax of $1\frac{1}{4}$ per cent;

On the 6th \$1,000 or fraction thereof, a tax of $1\frac{1}{2}$ per cent;

On the 7th \$1,000 or fraction thereof, a tax of $1\frac{3}{4}$ per cent;

On the 8th \$1,000 or fraction thereof, a tax of 2 per cent;

On the 9th \$1,000 or fraction thereof, a tax of $2\frac{1}{4}$ per cent;

On the 10th \$1,000 or fraction thereof, a tax of $2\frac{1}{2}$ per cent;

On the 11th \$1,000 or fraction thereof, a tax of $2\frac{3}{4}$ per cent;

On the 12th \$1,000 or fraction thereof, a tax of 3 per cent;

On the 13th \$1,000 or fraction thereof, a tax of $3\frac{1}{4}$ per cent;

On the 14th \$1,000 or fraction thereof, a tax of $3\frac{1}{2}$ per cent;

On the 15th \$1,000 or fraction thereof, a tax of $3\frac{3}{4}$ per cent;

On the 16th \$1,000 or fraction thereof, a tax of 4 per cent;

On the 17th \$1,000 or fraction thereof, a tax of $4\frac{1}{4}$ per cent;

On the 18th \$1,000 or fraction thereof, a tax of $4\frac{1}{2}$ per cent;

On the 19th \$1,000 or fraction thereof, a tax of $4\frac{3}{4}$ per cent;

On the 20th \$1,000 or fraction thereof, a tax of 5 per cent;

On all net income in excess of \$20,000 and not in excess of \$30,000, a tax of 6 per cent;

On all net income in excess of \$30,000 and not in excess of \$40,000, a tax of 8 per cent;

On all net income in excess of \$40,000, a tax of 10 per cent.

The foregoing taxes shall apply to the entire net income, except as herein elsewhere provided, received by every taxable person for the calendar year, 1919, and for each year thereafter.

Sec. 3. (a) Subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits and income derived from salaries, wages, or compensation for personal services of any kind, and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales or dealings in property, real or personal, growing out of the ownership or interest in real or personal property; also from interest, rent, dividends, or securities, or the transaction of any business carried on for gain or profit, or income derived from any source whatsoever; provided, that the term "dividends," as used in this Act shall be held to mean any distribution, made or ordered to be made, by a corporation, joint-stock company or association, out of its earnings or profits from property existing or business carried on within the state accrued since January 1, 1919, and payable to its share owners, whether in cash or in stock of the corporation, joint-stock company or association, and any such stock dividend shall be considered income to the amount of earnings or profits so distributed; provided, further that any distribution made to the

shareholders of a corporation, joint-stock company or association in the year nineteen hundred and nineteen or subsequent tax years, shall be deemed to have been made from the net income of the year in which such distribution is made or, if such income is insufficient, from the most recently accumulated undivided profits or surplus, and shall constitute a part of the annual income of the shareholder for the respective years in which earned by the corporations, joint-stock company or association, and shall be taxed to the shareholder at the rate prescribed by law for such years.

(b) Incomes received by the estates of deceased persons during the period of administration or settlement of the estate, including such income of any such estates or of any kind of property held or accumulated in trust, for the benefit of any unborn or unascertained person or persons with contingent interest, and income held for future distribution under the terms of the will or trust, shall be subject to the tax herein provided, the tax in each instance, except when the income is returned for the purpose of a tax by the beneficiary, to be assessed to the executor, administrator, or trustee, as the case may be; provided, that where the income is to be distributed annually or regularly to the existing heirs or legatees or beneficiaries, the method of computing the tax shall be based in each case upon the amount of the individual share to be distributed.

Such trustees, executors, administrators, or other fiduciaries, are hereby indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this Act, and they shall have credit for the amount of such payments against the beneficiary in any accounting which they may make as such trustees or other fiduciaries.

(c) For the purpose of ascertaining the gain derived from a sale or other disposition on any property, real, personal or mixed, acquired before January 1, 1919, the fair market price or value of such property as of January 1st, 1919, shall be the basis for determining the amount of such gains derived.

Sec. 4. For the purpose of the tax on unearned income, the taxable income of any individual shall include the share to which he would be entitled to the gains and profits, if divided or distributed, whether divided or distributed or not, of any corporation, joint-stock company or association, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains or profits to accumulate instead of being divided or distributed, and the fact that any such corporation, joint-stock company or association is a mere holding company,

or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus, shall not be construed as evidence of a purpose to escape the said tax in such case, unless the Tax Commissioner shall certify that in his opinion such accumulation is unreasonable for the purpose of the business. When requested by the Commissioner, or any district assessor of state taxes acting by his authority, such corporations, joint-stock company or association, shall forward to him a statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed.

Sec. 5. The following income shall be exempt from the provisions of this Act:

The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured as a return of any premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at maturity of the term mentioned in the contract, or upon the surrender of the contract, the value of any property acquired by gift, bequest, or descent; (but the income from all the above enumerated property shall be taxable) interest upon the obligations of the United States or its possessions; securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916, and amendments thereto, or from bonds of the State of North Dakota, or income from loans on North Dakota real property; and the compensation of all officers and employees of the United States, except such part thereof as may be paid by the State.

Sec. 6. (a) In computing net income there shall be allowed as deductions:

1. The necessary expenses actually paid in carrying on any business or trade, not including personal, living or family expenses.

2. All interest paid within the year on tax-payer's indebtedness, except on indebtedness incurred for the purchase of obligations or securities, the interest on which is exempt from taxation under this Act.

3. Taxes paid within the year imposed by the authority of the United States, its territories, or possessions or any foreign country, or under the authority of any state, county, school district, or municipality, or any taxing subdivision of any state, including those assessed against local benefits.

4. Losses actually paid during the year, incurred in business or trade, or arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated

for by insurance, or otherwise; provided, that for the purpose of ascertaining the loss sustained in the sale or other disposition of property, real, personal or mixed, acquired before January 1, 1919, the fair market price or value thereof as of January 1, 1919, shall be the basis for determining the amount of such loss sustained.

5. In transactions entered into for profit, but not connected with business or trade, the losses actually sustained therein during the year, to an amount not exceeding the profits arising therefrom.

6. Debts due to the tax payer actually ascertained to be worthless and charged off during the year.

7. A reasonable allowance for the exhaustion, wear and tear, and the obsolescence of property, arising out of its use of employment in business or trade: provided, that no deduction on account of the abandonment or "scrapping" of any property or equipment shall be allowed, unless such abandonment is intended to be permanent and is made in good faith for the improvement of the business.

(b) All income from sources without the state; provided, that where business is carried on partly within and partly without the state, the total income derived from such business shall be taxable in that proportion which the business within the state bears to the total business within and without the state, and provided, that where such business within is not more easily and certainly separable from such total business within and without the state, business within the state shall be held to mean that proportion of such total business within and without the state which the property engaged in such business within the state bears to the total property so engaged within and without the state; provided, further, that where such business is that of a railroad or other common carrier or other public utility, with lines entering into, extending out of or crossing the state, property within the state shall be held to mean that proportion of the entire property employed in such business, which its mileage within the state bears to its entire mileage within and without the state; and provided, further; that the deductions provided for in this section shall be allowed on such taxable proportion as thus determined, only if the tax payer furnish to the Commissioner all the information necessary to its calculation.

(c) The tax payer shall be credited, as against the total tax due under the provisions of this Act, with the amount paid by him to the state or any taxing subdivision thereof, as a tax on personal property; provided, that to obtain such credit, the tax payer shall present to the Commissioner or his authorized agent a receipt for the payment of such tax on personal property, signed by the official who collected the same.

Sec. 7. (a) Exemption in the nature of deduction, from

the amount of total net income from all sources shall be allowed as follows:

1. To every person subject to a tax hereunder, \$1,000.00.
2. To every head of a family, or other person responsible for the support of one or more dependent persons, \$1,000.00 additional.
3. To every person described in subsection two hereof, \$200 additional for each dependent person more than one.

Provided, that none of the exemptions provided herein shall operate in favor of more than one such person on account of other persons dependent upon him for support; and provided, further, that the deduction in any case shall be from the total net income of all persons or groups of persons in favor of whom the same is allowed.

(b) A resident or non-resident individual may receive the benefit of the exemption provided for in this section only by filing or causing to be filed with the Commissioner, a true and accurate return of his total income received from all sources, corporate or otherwise, within or without the State, in the manner prescribed by this Act; and in case of his failure to file such return, the tax on such income from all sources within the state shall be collected, and all property within the state belonging to such resident or non-resident individual shall be liable to distraint for the tax.

Sec. 8. (a) The tax shall be computed upon the net income, as thus ascertained, of each person subject thereto, received in each preceding calendar year ending December 31st.

(b) On or before the first day of March in each year, a true and accurate return under oath shall be made by each person of lawful age, except as hereinafter provided, on all income received during the previous calendar year, to the Tax Commissioner, or his agent for the district in which such person has his legal residence or his principal place of business, or if there be no legal residence or place of business in the State, then with the Commissioner at the Capitol, in such form as the Commissioner shall prescribe, setting forth specifically the gross amount of income from all separate sources, and from the total thereof deducting the aggregate items of allowance herein authorized; provided, that the Commissioner shall have authority to grant a reasonable extension of time, in meritorious cases, for filing returns of income by persons residing or travelling abroad, who are required to make out and file returns of income and who are unable to file such returns on or before the dates herein specified; provided, further, that the aforesaid, return may be made by an agent, when by reason of illness, absence or non-residence, the person liable for said return is unable to make and render the same, the agent assuming the responsibility of making the return and incurring the penalties provided for erroneous, false or fraudulent return.

(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity shall make and render a return of the income of every person, trust or estate for whom or which they act and be subjected to all the provisions of this Act which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of any such person, trust, or estate to enable him to make such return and that the same is to the best of his knowledge and belief, true and correct, provided, that a return made by one of two or more joint fiduciaries filed in the county where such fiduciary resides or with the Commissioner under such regulations as he may prescribe, shall be a sufficient compliance with the requirements of this paragraph.

(d) All corporations, joint-stock companies or associations, in whatever capacity acting, trustees, executors, administrators, receivers, conservators and all officers and employees of the state having the control, receipt, custody, disposal or payment of interest, dividends, profits, premiums, or annuities, payable to any person, corporation, joint-stock company or association, are hereby authorized and required to deduct and withhold from such payment, such sum as will, in each case, be sufficient to pay the tax imposed thereon by this Act, and shall pay the amount withheld to the officer of the state authorized to receive the same; and they are each hereby made personally liable for such tax, and are each hereby indemnified against the demand of every person, corporation, association or any demand whatsoever for all payments which they shall make in pursuance and by virtue of this Act.

(e) The tax shall be withheld and paid and a return made thereon to the proper state officer by all corporations, joint-stock companies or associations, owing payments of interest, dividends or other profit or increase from business or property within the state to persons, companies or corporations without the state, and likewise by corporations, associations, trustees, conservators or others entrusted with the collection or payment of such income, or undertaking as a matter of business or profit the collection and payment of such interest, dividends, gains, or profit for persons, corporations or associations without the state; where payment of dividend, interest or other increase of profits from property or business within the state are payable without the state the person, corporation or association responsible for the payment of the same shall withhold and pay to the state the tax thereon, and in case of failure to do so, such business or property within the state shall be liable by forfeiture of the franchise or privileges of such business or by the destraint of such property; and they are hereby made personally and severally liable for the

collection and payment of such tax, and are hereby indemnified against the demand of every person, corporations or association, any demand whatsoever, for all payments which they shall make in pursuance and by virtue of this Act.

(f) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this Act; provided, that from the net distributive interests on which the individual members shall be liable for tax, there shall be made all deductions and exemptions hereinbefore provided in favor of individual tax payers. Such partnership, when requested by the Commissioner or his authorized agent, shall render a correct return of the earnings, profits and income of the partnership, setting forth the item of the gross income and the deductions and credits and exemptions allowed by this Act and the names and addresses of the individuals who would be entitled to the net earnings, profits and income, if distributed. A partnership shall have the same privilege of fixing and making returns upon the basis of its own fiscal year as is accorded to corporations under this Act.

Sec. 9. (a) All assessment shall be made by the State Tax Commissioner, who, on or before the first day of May of each year, shall certify such assessment to the State Treasurer, by whom all persons shall be notified of the amounts for which they are respectively liable, on or before the thirtieth day of June of each successive year, and likewise, every person, corporation, company or association, required by the provisions of this Act to withhold and pay the tax at the source shall be notified of the amount of the tax in each case that shall be withheld and paid to the state. Said amounts shall be paid on or before the fifteenth day of July, except in cases of refusal or neglect to make proper returns and in cases of erroneous, false or fraudulent returns, in which cases the Commissioner, upon the discovery thereof, shall at any time within thirty days after said return is due, or has been made, make a return upon information obtained as provided for in this Act or by existing law, or require the necessary corrections to be made and the assessment made by the Commissioner thereon shall be paid by such person, corporation, company or association immediately upon the notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, and for ten days after notice and demand thereof by the Treasurer, there shall be added the sum of five per cent upon the amount of tax unpaid and interest at the rate of one per cent per month upon said tax from the time the said became due, except from the estates of insane, deceased, or insolvent persons.

(b) Where the income tax is paid or to be paid at the source, the deductions or exemptions provided for in this Act may be obtained by any tax payer by making application for each deduction or exemptions to the Commissioner or his authorized agent for the district in which the tax is to be paid. Such application shall set forth:

- (1) The total net income of such person from all sources;
- (2) The separate items for which he claims exemption, deduction or credit;
- (3) Such other information as the Commissioner shall deem necessary for the computation of such exemptions, deductions or credits.

If such person is absent from the state, or is unable owing to serious illness to make the return and application above provided for, the return and applications may be made by an agent, he making oath that he has sufficient knowledge of the affairs and property of his principal to enable to make a full and complete return, and that the return and application made by him are full and complete.

(d) The amount of the tax hereinbefore imposed shall be deducted and withheld from fixed or determinable annual or periodical gains, profits, or other income derived from dividends upon shares of stock and interest upon bonds and mortgages, or deed of trust or other similar obligations of corporations, joint-stock companies or associations, and payable to persons, corporations or associations without the state, whether payable annually or at shorter or longer periods, although such interest does not amount to \$1,000 subject to the provisions of this Act, requiring the tax to be withheld at the source, and deducted from annual income and returned and paid to the State.

(e) All persons, corporations, companies or associations undertaking as a matter of business or for profit in the collection of payments of interest, rent, gains or profits or dividends by means of coupons, checks or bills of exchange, or otherwise for persons, companies or corporations without the State, shall obtain a license from the Tax Commissioner, and shall be subject to such regulations enabling the Commissioner to ascertain and verify the due withholding and the payment of the income tax required to be withheld and paid as he shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense shall be fined a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

(f) The tax herein imposed upon gains, profits, or other income not falling under the foregoing and not returned and paid by virtue of the foregoing, shall be assessed by personal

return under rules and regulations to be prescribed by the Commissioner. The intent and purpose of this Act is that all gains, profits and other income of a taxable class, as defined by this Act, shall be charged and assessed with the corresponding tax prescribed by this Act, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control or disposal of the same. For the purpose of this Act, ownership or liability shall be determined as of the year for which a return is required to be rendered.

Sec. 10. (a) There shall be levied, assessed, collected and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company or association organized in the state, no matter how created or organized, a tax of 3 per cent upon such total net income; and a like tax shall be levied, assessed, collected and paid upon the total net income received from all sources within the state by every corporation, joint-stock company or association organized or existing under the laws of any other state, the United States, or a foreign country, including interest on bonds, notes, or other interest bearing obligation of residents, corporate or otherwise, and including the income derived from dividends on capital stock, or from the net earnings of resident corporations whose net income is taxable under this Act; provided, that the term dividends as used in this Act, shall be held to mean any distribution made or ordered to be made within the calendar year by any corporation, joint-stock company or association out of its earnings accrued since March 1st, 1919, and payable to its share owners, whether in cash or in stock of the corporation, and any such stock dividend shall be considered income to the amount of the earnings or profits so distributed.

Provided, further, that any distribution made to the shareholders of a corporation, joint-stock company or association in the year nineteen hundred and nineteen, or subsequent tax years, shall be deemed to have been made from the net income of the year in which such distribution is made or, if such income is insufficient, from the most recently accumulated undivided profits or surplus, and shall constitute a part of the annual income of the shareholder for the respective years in which earned by the corporation, joint-stock company, association, and shall be taxed to the shareholder at the rate prescribed by law for such years.

(b) In addition to the income tax imposed by subdivision (a) of this section there shall be levied, assessed, collected, and paid annually an addition tax of five per centum upon the amount remaining undistributed six months after the end of each calendar or fiscal year, of the total net income of every corporation, joint-stock company or association, received during the year, as determined for the purposes of the tax imposed by such sub-

division (a), but including the amount allowed as a credit under sub-section (c), of section 12.

The tax imposed by this sub-division shall not apply to that portion of such undistributed net income which is actually invested and employed in the business or is retained for employment in the reasonable requirements of the business; provided, that if the Commissioner ascertains and finds that any portion of such amount so retained at any time for employment in the business is not so employed or is not reasonably required in the business, a tax of ten per centum shall be levied, assessed, collected, and paid thereon, and the finding and ruling of the Commissioner in any and all such cases shall be conclusive and final, unless reversed by the Board of Equalization.

(c) When the income of any corporation, whether domestic or foreign, is derived from any business conducted partly within and partly without the state, the tax shall apply to that portion of the total net income which the business within the state bears to the total business within and without the state; and where such business within the state is not otherwise more easily and certainly separable from such total business within and without the state, business within the state shall be held to mean that proportion of the total business within and without the state which the property of such corporation within the state bears its entire property employed in such business within and without the state; and in case of a railroad, express company, telephone or telegraph company, car or freight line company, or other common carrier, light, power, gas or heating company, whose lines enter into, extend out of or across the state, property within the state shall be held to mean that proportion of the entire property of such corporation engaged in such business within and without the state, which its mileage within the state bears to its entire mileage so engaged within and without the state.

(d) Any corporation subject to the tax imposed by this section may obtain a credit as against the total amount of such tax of any amount paid within the year as a tax on money and credits, under the provisions of Chapter 230, Laws of North Dakota, 1917, by presenting to the Tax Commissioner or his authorized agent a receipt from the proper official, showing that such tax has been assessed and paid.

(e) The foregoing tax rate shall apply to the total net income received by every taxable corporation, joint-stock company or association in the calendar year, 1919, and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing laws, the foregoing rate shall apply to the proportion of the total net income returned for the fiscal year ending prior to December 31, 1919, which the period between January 1, 1919, and the end of such fiscal year bears to the whole fiscal year.

(f) For the purpose of ascertaining the gain derived or loss sustained, from the sale or other disposition by a corporation, joint-stock company, or association of property, real, personal, or mixed, acquired before January 1, 1919, the fair market price or value of such property as of January 1, 1919, shall be the basis for determining the amount of such gain derived for loss sustained.

Sec. 11. There shall not be taxed under this Act any income received by any

First. Labor, agricultural, or horticultural organization;

Second. Mutual Savings Bank not having a capital stock represented by shares;

Third. Fraternal beneficiary society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity necessarily operating under a lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

Fourth. Insurance companies, building and loan associations, or co-operative banks, organized and operated for mutual purposes and without profit;

Fifth. Cemetery Company, owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization, not organized for profit and operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation or other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

Tenth. Farmers' or other mutual hail, cyclone, crop, fire or life insurance company, mutual or co-operative telephone company, or like organization, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Farmers' mutual warehouse or elevator company; farmers' or like association, organized and operated as a sale agent for the purpose of marketing the products of its members and any other organization having a membership and conducted not for profit, but for service to its members or the public.

Twelfth. Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; or

Thirteenth. Federal land bank or national farm loan association, as provided in section twenty-six of the Act of Congress approved July seventeenth, nineteen hundred and sixteen, entitled "An Act to provide capital for agricultural development, to create standard farms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositories and financial agents for the United States, and for other purposes."

Fourteenth. Joint-stock land bank, as to income derived from bonds or debentures of other joint-stock land banks or any Federal land bank belonging to such joint-stock land bank.

Fifteenth. Corporation organized, controlled and operated by the state.

Sec. 12. (a) In the case of a corporation, joint-stock company or association organized in the state, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources.

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear and obsolescence of property arising out of its use or employment in the business or trade; provided, that no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made; and provided, further, that no deduction on account of the abandonment or "scrapping" of any property or equipment shall be allowed, unless such abandonment is intended to be permanent and is made in good faith for the improvement of the business.

Third. The amount of interest paid within the year on its indebtedness, except on indebtedness incurred for the purchase of obligations or securities, the interest on which is exempt from

taxation under this Act, to an amount of such indebtedness not in excess of the sum of

(a) the entire amount of the paid-up capital stock outstanding at the close of the year, or if no capital stock, the entire amount of capital employed in the business at the close of the year, and

(b) one-half of its interest bearing indebtedness then outstanding; provided, that for the purposes of this Act preferred capital stock shall not be considered interest bearing indebtedness, and interest or dividends paid upon such stock shall not be deductible from gross income; provided, further, that in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by shares, shall be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares; and provided, further, that in the case of indebtedness fully secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer not only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, joint-stock company or association, within the year on any such indebtedness, may be deducted as a part of its expense of doing business; but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral; provided, further, that in the case of bonds or other indebtedness which have been issued with a guarantee that the interest payable thereon shall be free from taxation no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guarantee, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest bearing certificates of indebtedness issued by such bank, banking association, loan or trust company shall be deducted.

Fourth. Taxes paid within the year imposed by the authority of the United States or its territories or possessions, any foreign country, or under the authority of any state, county, school district, municipality, or other taxing subdivision within a state, including those assessed against local benefits. All incomes derived from interest from the bonds of the state of North Dakota or from loans on North Dakota real property.

(b) In the case of a corporation, joint-stock company or association organized, authorized or existing under the laws of another state, the United States, or a foreign country, the net income subject to the tax herein imposed shall be ascertained by deducting from its total net income from all sources:

First. All income derived from sources without the state;

Second. All the items enumerated under subsection (a) of this section, as applied to the business or property of any such corporation, joint-stock company or association within the state.

(c) For the purpose of the tax imposed by sub-division (a) of Section ten, the income embraced in a return of a corporation, joint-stock company or association, shall be credited with the amount received as dividends upon the stock or from the net earnings of any other corporation, joint-stock company or association, which has been taxed during the year upon its net income as provided in this Act, less that proportion of such amount which the amount received by the distributing corporation, joint-stock company or association from similar sources bears to the entire net income of such distributing corporations, joint-stock company or association.

Sec. 13. (a) The tax shall be computed upon the net income as thus ascertained, received within each preceding calendar year ending December 31st; provided, that any corporation, joint-stock company or organization, subject to this tax, may designate the last day of any month in a year as the day of the closing of its fiscal year, and shall be entitled to have the tax payable be it computed upon basis of the net income ascertained, as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis for the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the Commissioner at any time not less than 30 days prior to the first day of March in the year which in its return would be filed if made upon the basis of the calendar year.

(b) Every corporation, joint-stock company or association subject to the tax herein imposed shall, on or before the first day of March in each year, or, if it has designated a fiscal year for the computation of its tax, then within sixty days after the close of such fiscal year ending prior to December 31, 1919, and the close of each fiscal year thereafter, render a true and accurate return of its annual net income in the manner and form to be prescribed by the Commissioner, containing such facts, data and information as are appropriate and in the opinion of the Commissioner necessary to determine the correctness of the net income returned and to carry out the provisions of this Act.

The return shall be sworn to by the President, Vice-President or other principal officer, and by the Treasurer or Assistant Treasurer. The return shall be made to the Commissioner or his authorized agent in the district in which is located the principal office of the corporation, joint-stock company or association, where are kept its books of account and other data from which the return is made, or in the case of a foreign corporation, com-

pany or association, to the Tax Commissioner at the State Capitol.

(c) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, joint-stock companies or associations subject to the tax imposed by this Act, such receivers, trustees, or assignees shall make return of the net income as and for such corporation, joint-stock companies, or associations, in the same manner and form as such organization are hereinbefore required to make returns, and any income tax due on the basis of such returns made by receivers, trustees, or assignees, shall be assessed and collected in the same manner as if assessed directly against the organization, the business or property of which they have custody and control;

(d) A corporation, joint-stock company or association, keeping accounts upon any basis other than that of actual receipts and unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner, make its return upon the basis upon which its accounts are kept, in which case the tax shall be computed upon its income as so returned;

(e) All the provisions of this Act relating to the tax authorized and required to be deducted and withheld and paid to the officer of the state authorized to receive the same from the income of non-resident individuals from sources within the state, shall be made applicable to incomes derived from dividends on capital stocks from net earnings or from interest upon bonds or mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, by non-resident firms, co-partnerships, companies, corporations, joint-stock companies or associations not engaged in business or trade within the state and not having any office or place of business therein.

Sec. 14. (a) The Commissioner shall make all assessment upon corporations, joint-stock companies, or associations subject to any tax hereunder, on or before the first day of May of each year, and shall certify the amount of the tax in each case to the State Treasurer on or before the first day of June following. On or before the fifteenth day of July the Treasurer shall make demand upon each such corporation, joint-stock company or association for the amount of the tax due as certified, and said tax shall be paid within ten days thereafter: provided, that any corporation, joint-stock company or association computing taxes upon the income of its fiscal year when such fiscal year does not correspond with the calendar year shall pay the taxes due under its assessment within one hundred and five days after the date upon which it is required to file its list or return of income for assessment, except in cases of refusal or neglect to make such

return and in cases of erroneous, false or fraudulent returns in which cases the Commissioner upon discovery thereof, shall at any time within three years after such return is due make a return upon information obtained as provided for in this Act or by existing law; and the assessment made by the Commissioner thereon shall be paid by such corporation, joint-stock company or association immediately upon the notification of the amount of such assessment, and to any sum or sums due and unpaid after the 15th day of June in any year, or after one hundred and five days after the date on which the return of income is required to be made by the tax payer, and after ten days' notice and demand thereof by the Treasurer, there shall be added a sum of five per cent on the amount of the tax unpaid and interest at the rate of one per cent per month upon said tax from the time the same became due, which additional sum shall be added to the unpaid tax, demanded and collected as herein provided for the tax itself.

(b) When the assessment shall be made, as provided in this Act, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner and shall constitute public records and be open to inspection only upon the order of the Governor under rules and regulations to be prescribed by the Commissioner.

(c) When a second assessment is made in the case of any list, statement or return, which in the opinion of the Commissioner was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit, unless it is found or determined that the said list, statement or return was not false or fraudulent and did not contain any understatement or undervaluation.

Sec. 15. If any person, corporation, joint-stock company or association liable to make the return or pay the tax aforesaid shall refuse or neglect to make such return at the time or times hereinbefore specified in each year, he shall be liable, except as otherwise provided in this Act, to a penalty of not less than \$20 nor more than \$1,000. An individual or officer of any corporation, joint-stock company or association, required by law to make, render, sign or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this Act to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000, or to be imprisoned not exceeding one year, or both, in the discretion of the court, with the costs of such prosecution; provided, that whenever any tax heretofore due and payable has been duly paid by the tax payer, it shall not be re-collected from any person or corporation required to retain it at its source, nor shall any penalty be imposed or collected in such cases from the tax payer, or such person or corporation whose duty it was to retain it, for

failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

Sec. 16. Every person, corporation, partnership, or association, doing business as a broker on any exchange or board of trade or other similar place of business shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Board of Equalization, may prescribe, showing the names of customers for whom such person, corporation, partnership, or association has transacted any business, during the previous calendar year, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable him to determine whether all income tax due on profits or gains of such customers has been paid.

Sec. 17. On or before the first day of March in each calendar year, all corporations, joint-stock companies or association, in whatever capacity acting, including lessors or mortgagors of real or personal property, trustees, acting in any trust capacity, executors, administrators, receivers, conservators, and employers, making payment during the previous calendar year to another person, corporation, partnership or association, of interest, dividends, premiums, annuities, or other fixed or determinable gains, profits and income, or in the case of such payments made by the state, the officers of employees of the state, having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, are hereby authorized and required to render a true and accurate return to the Commissioner under such rules and regulations and in such form and manner as may be prescribed by him, with the approval of the Board of Equalization, setting forth the amount of such gains, profits and income, and the name and address of the recipient of such payment; provided, that such returns shall be required, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, doing business within the state to creditors without the state. When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the corporation, joint-stock company or association paying the income.

Sec. 18. All contracts entered into after the passage of this Act by which any person, corporation, partnership or association agrees to pay any portion of the tax imposed by this Act upon any other person, corporation or association, or to reimburse such person, corporation or association for any portion of such tax, shall be void, and any person, corporation, partnership or association, entering into such contract shall be subject to a fine of not more than \$1,000.

Sec. 19. All taxes upon corporations, joint-stock companies, or associations provided for by this Act shall be assessed by the State Tax Commissioner and collected by the State Treasurer, and the Tax Commissioner, within 15 days after such taxes have been assessed, shall certify to the Treasurer the amount of the taxes due in each case. In case of any failure on the part of any individual, corporation, joint-stock company or association subject to any tax herein imposed, to make and file a return within the time prescribed by law, the Commissioner shall add to the tax 50 per cent of its amount, except that when a return is voluntarily and without notice from the Commissioner filed after such time, and it is shown that the failure to file it was due to a reasonable cause and not to wilful neglect, no such addition shall be made to the tax. In case a false or fraudulent return is wilfully made, the Commissioner shall add to the tax 100 per cent of its amount; and the amount so added to any tax shall be collected at the same time and in the same manner as the tax upon the income that should have been returned, as determined by the Commissioner, and as a part of it, unless the tax on the false or fraudulent return has been paid before the discovery of the falsity or fraud, in which case it shall be collected in the same manner as the tax when regularly returned and assessed.

For the purpose of assessing the taxes herein provided, the Commissioner shall have power to divide the state into income tax districts and to appoint assessors for the same and to fix their salaries or compensation, subject to the approval of the State Board of Equalization; provided, that in no case shall the salary or compensation of any such district assessor exceed \$1,500 annually. The Commissioner may appoint as such assessors either residents or non-residents of such tax districts and may employ any assessor in more than one district, or transfer any assessor from one district to another; provided, that in laying out such districts and appointing such assessors, the Commissioner may, in his discretion, make any income tax district coincide with any existing district for the assessment of general taxes, and may appoint an existing tax officer to act as such income tax assessor.

Sec. 20. It shall be unlawful for the Tax Commissioner or any agent, clerk, or other officer or employee of the state to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income tax return, or to permit any income tax return or copy thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided

by law any income tax returns or any part thereof, or the source of income, profits, losses or expenditures appearing in any income tax return; and any offense against the foregoing provision shall be a misdemeanor punishable by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment at the discretion of the court; and if the offender be an officer or employee of the state he shall be dismissed from office or discharged from employment.

Sec. 21. It shall be the duty of the State Treasurer to give to any person, corporation, joint-stock company or association, making payment of any taxes provided for by this Act, a full written or printed receipt, expressing the amount paid and the particular account for which such payment is made, and whenever such payment is made on behalf of another, as required by this Act, the Treasurer shall, as requested, give a separate receipt for each tax so paid on account of payments made or to be made by him to separate creditors, in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands for the amount specified in such receipts; and such receipts shall be sufficient evidence in favor of any such debtor to justify him in withholding the amount therein expressed from his next payment to his creditors, but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may actually be paid, and accepting the amount of tax paid as aforesaid, (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such Treasurer's receipt.

Sec. 22. The Commissioner shall require every return to be verified by the oath of the party rendering it. If the Commissioner have reasons to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of such return should not be increased, and upon proof that the amount has been understated, he may increase the same accordingly. Such person may furnish sworn testimony to prove any relevant facts, and on application shall be given a formal hearing by the Commissioner, and if dissatisfied with the ruling of the Commissioner, may appeal to the State Board of Equalization.

Sec. 23. Jurisdiction is hereby conferred upon the district courts of the state for the district within which any person summoned under this Act to testify or to produce books shall reside, to compel such attendance, production of books and testimony by appropriate process.

Sec. 24. The preparation and publication of statistics reasonably available with respect to the operation of the income tax law, and containing classifications of tax payers and of income, the amounts allowed as deductions and exemptions and

any other facts deemed pertinent and valuable, shall be made biennially by the Commissioner.

Sec. 25. All administrative, special and general provisions of law including the general tax laws of the state, and not inconsistent with the provisions of this Act, are hereby extended and made applicable to all the provisions of this Act and to the taxes herein imposed. The Commissioner shall furnish to all persons, associations, joint-stock companies and corporations coming within the provisions of this Act all necessary forms and blanks on which to make the returns herein required; provided, that such blanks and forms shall be as nearly as practicable similar to those prescribed in the Act of Congress, known as the Federal Income Tax Law, and amendments thereto, for making returns to the United States Commissioner of Internal Revenue; provided, further, that every such person, association, joint-stock company, or corporation making a return to the Federal Government under the Act aforesaid, shall file with the State Tax Commissioner an exact duplicate of the Federal return so made, and shall in addition furnish to the said State Commissioner all other information required by this Act, and all information reasonably necessary to enable the Commissioner to carry out the provisions of this Act.

Sec. 26. Inasmuch as the Act of Congress (H. R. 16763) levying a Federal tax on incomes, provides that the proper officers of any state imposing a general income tax, may, upon the request of the Governor thereof, have access to the returns therein required to be made to the Commissioner of Internal Revenue, or to an abstract thereof, showing the name and income of each such corporation, joint-stock company or association, the Governor shall, on or before the first day of March, 1920, make such a request of the Secretary of the Treasury, and shall designate the State Tax Commissioner as the proper officer to have access to such returns.

Sec. 27. No provision contained in this Act shall be construed as an attempt to impose a burden upon Interstate Commerce, or to tax the income of any individual or non-resident corporation derived from sources wholly without the state; but the income of any individual, corporation, joint-stock company or association subject to the provisions of this Act, derived from business conducted partly within and partly without the state, is taxable in that proportion which the business within the state bears to the entire business within and without the state; and where such business within the state is not otherwise more easily and certainly separable from such business without the state, business within the state shall be held to mean such proportion of the total business within and without the state as the property of such individual or corporation engaged in such business within the state bears to its entire property so engaged

within and without the state; and in case of a railroad, express company, telephone or telegraph company, car or freight line company, or other common carrier, or a light, gas, power or heating company, whose lines enter into, extend out of or across the state, property within the state shall be held to mean that proportion of the entire property engaged in such business within and without the state which its mileage within the state bears to its entire mileage within and without the state; and the deductions and exemptions provided for in this Act shall be computed upon the same basis.

Sec. 28. All moneys collected under the provisions of this Act shall be paid into the general fund of the state to be used in defraying the general expenses of the State government.

Sec. 29. If any clause, sentence, paragraph or part of this Act shall for any reason be declared invalid by a court of competent jurisdiction, such judgment shall not impair or invalidate any other clause, sentence, paragraph or part thereof, but any such other part shall be of full effect and validity as if no such decision has been rendered.

Sec. 30. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Sec. 31. This Act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1919.

CHAPTER 225.

(H. B. No. 84—Committee on Taxes and Tax Laws.)

TAXATION OF TRANSFERS OF PROPERTY BY WILL.

An Act to Amend and Re-enact Chapter 231, Laws of North Dakota, 1917, Relating to the Taxation of Transfers of Property by Will, Gift or by Intestate Law.

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

Sec. 1. AMENDMENT.) Chapter 231, Laws of North Dakota, 1917, is hereby amended and re-enacted to read as follows:

Sec. 1. A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest thereon, 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 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) 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; provided, that 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, that 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.

(2) When the transfer is by will or intestate law, of property within this State, and the decedent was a non-resident of the State at the time of his death; provided, that for the purposes of the tax herein imposed, the term property shall include all contracts, mortgages, shares of stock or bonds or other interest in tangible personal, or real property existing in this State, however evidenced or expressed.

(3) When the transfer is made by a resident or non-resident of property 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 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) 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) 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 debts of such decedent costs of administration and the exemptions hereinafter granted; providing that in computing said clear market value all inheritance taxes paid to the Federal government shall be deducted.

Sec. 2. When the property or 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 \$15,000 the tax herein imposed shall be:

(1) 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, 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 cent of the clear value of such interest in such property.

(2) 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 a 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) 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) 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) 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.

Sec. 3. The foregoing rates in Section 2 are for convenience termed the primary rates.

When the amount of clear value of such property or interest exceeds \$15,000, the rate of tax upon such excess shall be as follows:

- (1) Upon all in excess of \$15,000 and up to \$30,000 one and one-half times the primary rates.
- (2) Upon all in excess of \$30,000 and up to \$50,000 two times the primary rates.
- (3) Upon all in excess of \$50,000 and up to \$100,000 two and one-half times the primary rates.
- (4) Upon all in excess of \$100,000 up to \$300,000 three times the primary rates.
- (5) Upon all in excess of \$300,000 up to \$500,000 three and one-half times the primary rates.
- (6) Upon all in excess of \$500,000 four times the primary rates.

Sec. 4. The following exemptions from the tax, to be taken out of the first \$15,000 are hereby allowed:

- (1) 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) Property of the clear value of \$10,000 transferred to the husband or wife of the decedent, and \$5,000 to each minor of the decedent and \$2,000 transferred to each of the other persons described in the first sub-division of Section 2 shall be exempt.
- (3) Property of the clear value of \$500 transferred to each of the persons described in the second sub-division of Section 2 shall be exempt.
- (4) Property of the clear value of \$250 transferred to each of the persons described in the third sub-division of Section 2 shall be exempt.

Sec. 5. 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.

Sec. 6. 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 account.

Sec. 7. 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.

Sec. 8. 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.

Sec. 9. 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 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.

Sec. 10. 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.

Sec. 11. 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.

Sec. 12. 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 any 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.

Sec. 13. Every executor or administrator of the estate of a non-resident decedent shall file with the State Tax Commissioner a list of the property owned by him 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.

Sec. 13a. 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 postoffice address of the mortgagor, the county in which the mortgagor resides, the county in which the mortgaged property is situated, the date of the execution of said mortgage, the amount for which said 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. If such property consists in whole or in part of the shares of stock or bonds of any corporation organized, doing business or owning property in this State, wherever

such corporation has been created or organized, said list shall enumerate each corporation issuing any of said shares of stock or bonds, giving in each case the name of the corporation and of the State or country in which it was created or organized, and shall enumerate under each the bonds and shares of stock issued by it and owned by the decedent, giving the par and the market value of said shares of stock. If such property consists in whole or in part of the debt of or interest in any property existing within this State in any other manner, the said list shall contain the name of the debtor, the amount of the debt or other interest in such property as of the date of the death of the decedent and the nature of such debt or other interest. Said list shall be filed with the State Tax Commissioner within thirty days after the issuing of the letters testamentary or letters of administration, as the case may be. Upon receipt of said list in proper form the Commissioner shall proceed to determine the amount of 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, and the manner in which the tax shall be paid.

Sec. 13b. 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. Where the total amount of the tax is paid to the State, the State Treasurer shall pay into the County Treasury of the county in which the estate was probated twenty-five per cent of the amount received; provided, that in a case where the estate is settled outside the State, or the property thereof exists in more than one county, the total amount of the tax shall be paid into the State Treasury.

Sec. 13c. The State Tax Commissioner shall, upon determining that any such estate is exempt from the payment of any inheritance tax to the State of North Dakota, execute a certified statement of such fact, and send it to the executor or administrator of said estate.

Sec. 14. No register of deeds shall cause to be recorded or filed in this office any satisfaction or assignment of any real or personal property mortgage, executed by a foreign executor or administrator of any estate, unless said satisfaction or assignment shall be accompanied for his inspection either by 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 Tax Commissioner that said estate

has been determined to be exempt from the payment of any inheritance tax to the State of North Dakota; provided, that, in his discretion, in case where in his opinion strict compliance with the provisions of this Section would impose an undue burden upon the mortgagor, the Tax Commissioner may authorize the recording of such satisfaction before the tax has been paid.

Sec. 14a. 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 any non-resident decedent shall deliver or transfer any such assets 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 is exempt from the payment of such tax, or the certificate of the Tax Commissioner that no tax is due thereon.

Sec. 14b. Any register of deeds, safe deposit company, trust company, corporation, bank or other institution, person or persons, violating any of the provisions of this Act shall be liable to the State for the amount of the tax due in each case.

Sec. 15. Where stocks, bonds, mortgages or other securities of corporations, doing business or owning property partly within and partly without the State, shall have been transferred by a resident or a non-resident decedent, the tax shall be upon such proportion of the value thereof as the property or business of such corporation in this State bears to its total property or business within and without this State.

Sec. 16. 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 any corporation organized, doing business or owning property in this State, either directly or indirectly, the transfer of such 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 business or property of such corporation organized or doing business in this State bears to its total property or business within the State or elsewhere.

Sec. 17. Whenever the estate of a decedent consists of property which is located within this State and also property which is located without this State, there shall be deducted from the value of such property within this State, only that proportion

of the debts, expenses of administration and exemptions which equals the proportion that the North Dakota property bears to the entire property of the estate.

Sec. 18. The Tax Commissioner shall require such reports and information, and shall make such orders, rules and regulations as he may deem necessary to enable him to secure the necessary information from corporations, domestic or foreign, and to ascertain the amount of and to collect the taxes herein imposed; and no holding company or other corporation subject to the provisions of this Act shall deliver or transfer any 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 any tangible personal, or real property existing within this State, 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 Commissioner.

Sec. 19. Any corporation or holding company violating any of the provisions of this Act shall be liable to the State for the amount of the tax in each case, and for willful violation of any such provisions shall forfeit its charter or its license to do business within this State upon complaint of the Tax Commissioner and conviction thereunder.

Sec. 20. 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 part 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.

Sec. 21. 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 the county court shall cause the order for hearing to be served personally upon the public administrator; and upon the hearing, the 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.

Sec. 22. 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 in-

heritance taxes in the estates of non-resident decedents in which any 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.

Sec. 23. The county court, upon the application of any interested party, including the Tax Commissioner, 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.

Sec. 24. 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.

Sec. 25. 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 Commissioner. 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.

Sec. 26. 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.

Sec. 27. 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.

Sec. 28. In estimating the value of an estate or interest in property to the beneficial enjoyment or 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 abridgement, 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.

Sec. 29. 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 or 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.

Sec. 30. 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.

Sec. 31. 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 of possession thereof without diminution for or on account of any valuation theretofor made of the particular estates for the 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.

Sec. 32. Upon the determination by the county court of the value of any estate which is taxable under the inheritance tax law, 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 the 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 Commissioner. 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.

Sec. 33. The Attorney General, Tax Commissioner, Public Administrator, State's Attorney, or any person dissatisfied with the appraisement 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.

Sec. 34. If the treasurer of any county, the public administrator, or the tax commissioner, 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.

Sec. 35. 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 inheritance 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-section, 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.

Sec. 36. 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 has not been transferred by the grantor.

Sec. 37. 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 Commissioner 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, 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.

Sec. 38. The State Tax Commissioner shall have the power to administer the inheritance tax laws, and it is hereby made his duty to supervise the assessment and collection of the taxes herein imposed throughout all the counties of the state, to cause to be made and filed in his office reports of all assessments and investigations and to certify to the legal department of the state the facts concerning such investigation in any case, where in his opinion it is necessary or advisable for such facts to be brought to the attention of the department.

Sec. 39. The Tax Commissioner shall also gather information and make investigations and reports concerning the estates of non-resident decedents within the provisions of the inheritance tax laws, and shall especially investigate the probate and other records of other states with regard to such estates, and shall report thereon from time to time to the legal department of this state and the public administrator of the proper county court for appropriate legal or other action.

Sec. 40. It shall be the duty of the legal department of the state to carry out and enforce the recommendations and directions of the Tax Commissioner in all matters pertaining to

the conduct of inheritance tax affairs: and in case of any 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 other settlement of the taxes thereon under the authority conferred by this Act or otherwise, until the Tax Commissioner shall have investigated such case and made his report thereon, and consents to such compounding, compromise or settlement.

Sec. 41. The Tax Commissioner shall prescribe such forms and prepare such blanks as may be necessary for the assessment and collection of the taxes herein imposed; 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.

Sec. 42. 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 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 make a report to the Tax Commissioner of all cases filed in his court, wherein an executor or administrator has been appointed or an application made to determine heirship, whether the same are taxable or not; which reports shall be in the form and at such times as in the judgment of the Tax Commissioner shall be the most desirable. The register of deeds shall likewise report to the Tax Commissioner 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 Commissioner.

Sec. 43. 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.

Sec. 44. The Tax Commissioner is authorized to enter into an agreement with the executor, administrator or trustee of any estate subject to a tax hereunder, 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 guardians. 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.

Sec. 45. All taxes levied and collected under this Act, less my 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.

Sec. 46. 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 all 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 or attorney of the county court having jurisdiction. All money invested in this State, including the stock or bonds of any corporation, shall be deemed to be property within the jurisdiction of the State.

Sec. 47. Oaths to witnesses in any matter under the investigation or consideration of the Commissioner may be administered by him or by his authorized agent. In case any witness shall fail to obey any summons to appear before said Commissioner, or shall refuse to testify or answer any material question, or to produce records, books, papers or documents when required to do so, 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 Commissioner, 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 Commissioner shall be guilty of and punished for perjury. In the discretion of the Commissioner, officers who serve summons or subpoena, and witnesses attending, shall receive like compensation, as officers and witnesses in the district court.

Sec. 48. The repeal provided for in the next section of this Act shall not effect the validity of any tax due, any right existing, process or investigation pending, or any power or duty conferred or imposed under any Act or Acts thereby repealed.

Sec. 49. Sections 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 North Dakota for the year 1913, and all Acts or parts of Acts in conflict with this Act are hereby repealed.

Sec. 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 5, 1919.

CHAPTER 226.

(H. B. No. 83—Taxes and Tax Laws Committee.)

LISTING OF CERTAIN PERSONAL PROPERTY.

An Act Providing for the Listing of Certain Personal Property for Purposes of Assessment and Defining Duties of Attorney General in Connection Therewith, and Providing for Subpoenaing Witnesses and Penalty for Failing to List Such Property.

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

Sec. 1. DUTIES OF ATTORNEY GENERAL.) Upon complaint of the Tax Commissioner or whenever he has reason to believe that certain personal property, known as moneys and credits, has not been listed for assessment as provided by Chapter 230 of the Laws of the State of North Dakota for 1917, it shall be the duty of the Attorney General to cause an investigation to be made and upon notice and hearing to value and assess any such property which has not been so listed and to certify the said assessment to the County Auditor of the county wherein the corporation, company, association or person owning such property has his situs for purposes of taxation.

Sec. 2. INVESTIGATION BY ATTORNEY GENERAL.) Before certifying any assessment to the County Auditor, as provided in Section 1 of this Act, the Attorney General shall fix a time of hearing and serve notice upon the corporation, company, association or person so assessed, setting forth the amount of the assessment; upon failure of the company, corporation, association or person to respond to such notice of hearing, the Attorney General may subpoena such corporation, company, association or person to appear before him with books, papers and records and under oath submit to examination as to the assessment of

said personal property; he may also summon any person or persons whom he has reason to believe has any knowledge of moneys and credits as defined by Chapter 230 of the Laws of North Dakota for 1917, and examine them under oath as to such knowledge.

Sec. 3. SUBPOENAS. WHEN EFFECTIVE.) For the purposes of this Act the subpoena of the Attorney General may be served in any county of the state and the person summoned thereby must appear before the Attorney General at the time and place designated in the subpoena.

Sec. 4. DUTY OF COUNTY AUDITOR.) It shall be the duty of the County Auditor, upon receipt of the certificate of the Attorney General directing him to place upon the assessment list any property taxable under Chapter 230 of the Laws of North Dakota for 1917, and to forthwith, without any unnecessary delay, enter the same and make a return in writing to the Attorney General that the assessment has been properly entered upon the tax roll. Any failure upon the part of the County Auditor to comply with the provisions of this Act shall be a misdemeanor.

Sec. 5. WITNESS FEES AND MILEAGE. WHO ENTITLED THERETO. How PAID.) Any witness subpoenaed under the provisions of this Act shall upon demand to the Attorney General be entitled to the same witness fees and mileage as are allowed witnesses in the district court of this state. Such witness fees and mileage shall be allowed and paid in the same manner as witness fees and mileage of witnesses in criminal cases are allowed and paid by the county in which the witnesses reside, upon a bill or claim for the same, in due form, being presented to and filed with the County Auditor of such county; provided, that such bill or claim has been duly approved in writing by the Attorney General.

Sec. 6. PENALTY.) Whenever any corporation, company, association or person, who has failed to list his personal property as provided in Chapter 230 of the North Dakota Laws for 1917, and has been summoned before the Attorney General as provided in this Act, it shall be the duty of the Attorney General to add to the assessment and the penalty provided in said Chapter 230 all the costs of said investigation and assessment.

REPEAL.) All Acts or parts of Acts in conflict with this Act are hereby repealed.

Approved March 5, 1919.

CHAPTER 227.

(S. B. No. 41—Taxes and Tax Laws Committee.)

OIL TAX.

An Act to Raise Revenue for Defraying the Expenses of the State Government, by Imposing a Tax Upon Petroleum Products or By-Products Stored, Shipped, Distributed or Sold Within the State.

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

Sec. 1. DEFINITIONS.) The term "oil company" when used in this Act shall mean any person, corporation, company or association engaged as a jobber or wholesaler in the business of storing, shipping, distributing or selling within the State any of the petroleum products or by-products enumerated in this Act.

The terms "wholesaler" or "jobber" shall mean and include any person, corporation, company or association making any original sale of any petroleum products or by-products enumerated in this Act within the State.

The term "original sale" shall mean the first sale, distribution, transfer, consignment or bailment of such products within the state. The term "substitute" shall mean any product substituted and offered for sale or use in the place of straight-run gasoline or kerosene, and any product derived by cracking the molecules of any petroleum product or by-product by the application of any mechanical or chemical process to any petroleum product or by-product or to any residue of such product or by-product after straight-run gasoline has been taken therefrom by the ordinary refining processes of evaporation and condensation.

The term "distillate" shall mean any substance or product other than straight-run gasoline or a substitute therefor as herein defined, distilled or otherwise derived from petroleum or kerosene.

The term "mixture" shall include any mechanical or chemical combination, blend or mixture of straight-run gasoline with kerosene or any other substance or product.

The term "straight-run gasoline" shall mean and include any substance derived from petroleum by the ordinary refining process of evaporation and condensation, but shall not include any substitute for straight-run gasoline as defined in this section.

The term "oil inspector" shall mean and include any person employed by the State for the inspection of any petroleum products within the State.

Sec. 2. From and after the date when this Act goes into effect, every oil company doing business within the State and engaged in storing, shipping, consigning, distributing or selling any petroleum products or by-products used for the generation of light, heat or power shall pay to the State a tax upon the same in accordance with the following schedule:

1. Upon every gallon of straight-run gasoline one-fourth of one cent;
2. Upon every gallon of any mixture of or substitute for straight-run gasoline, one cent;
3. Upon every gallon of kerosene conforming to North Dakota tests for illuminating purposes and upon every gallon of distillate, one-fourth of one cent;
4. Upon every gallon of kerosene not conforming to North Dakota tests for illuminating purposes, and upon every gallon of any other petroleum product or by-product not enumerated in Paragraphs one, two and three of this section except lubricating oils, one-half of one cent.

Sec. 3. The taxes herein imposed shall be assessed monthly by the State Tax Commissioner, on the returns required by the oil inspection laws of the State, and as herein elsewhere provided, to be made by the State Oil Inspector to the State Auditor, which returns shall at all times be open to the inspection of the State Tax Commissioner or his authorized agent.

Sec. 4. At the time of making inspection of oils as prescribed by the oil inspection laws of the State, such oil inspector shall require every oil company for whom such inspection is made to furnish to him all data and information necessary to determine the number of gallons of each class of oil enumerated in this Act and subject to a tax hereunder; and such oil inspector shall include such data and information in his monthly report to the State Oil Inspector who shall include such information in his monthly report to the State Auditor. If any oil company shall refuse to furnish such data or information, or in any case the oil inspector shall have reasonable ground for the belief that such data or information is false or inadequate, he shall secure all the data and information necessary for making the report required herein by further inspection of such oil for the purpose of determining the quantity of each class of oil subject to a tax hereunder, or from any other source available to him.

Sec. 5. The State Tax Commissioner shall make all assessments of taxes upon such returns on or before the fifteenth day of each month, for the calendar month next preceding, and shall certify the amount of the taxes assessed against each and every oil company to the State Auditor. Within ten days after such certification, the State Auditor shall make his draft upon each such oil company for the amount of taxes due, and shall place the same in the hands of the State Treasurer for collection. Within ten days after receiving such draft, the Treasurer shall make demand upon such oil company for the payment of the same, and if such draft remains unpaid for thirty days after such demand, such tax shall be delinquent, and a penalty of ten percent of the amount thereof shall immediately accrue, together with one percent for each month during which such tax con-

tinues to be delinquent and remains unpaid, which penalty shall be added to the tax, demanded and paid in the manner herein provided for the tax itself.

Sec. 6. Such delinquent and unpaid taxes and penalties, assessed, certified and demanded as provided in this Act, shall be a lien upon all and singular the property, estates and effects of each oil company against which the taxes are assessed, and such lien shall have precedence over all demands and judgments against the same; and the certificate of the Tax Commissioner that said tax and penalties are due and unpaid, together with the unpaid draft of the State Auditor issued in pursuance thereof, shall be sufficient warrant for the Attorney General to institute proceedings for the collection of said tax and penalties by a sale of such property or otherwise; and the Attorney General not later than thirty days after such taxes have become delinquent shall institute such proceedings for the collection of said taxes and penalties as herein provided.

Sec. 7. If any oil company subject to any tax hereunder fails to furnish upon demand of any oil inspector the data or information herein required to be furnished, and if, because of such failure, any Oil Inspector shall in any case be unable to make the return herein required to be made, such Oil Inspector shall immediately notify the State Tax Commissioner of such refusal or neglect, whereupon the Tax Commissioner shall make demand upon such Oil Company for such information, and if such default continue for thirty days after service of such notice, the Tax Commissioner, in person or by his authorized agent, shall examine the books, accounts or records of such company, and according to his findings in such examination, or from any other sources available to him, shall assess the taxes upon such oils, and shall add thereto a penalty of ten percent of the amount of such taxes for the failure of such oil company to furnish such information. The Tax Commissioner shall make entry of such assessment and penalty and shall certify the aggregate amount thereof to the State Auditor, who shall proceed as hereinelsewhere provided. Such entry shall stand in place of the report required by law to be made by such oil company and the same, or a certified copy thereof, in all the courts of the State and for all purposes, shall be prima facie evidence of the correctness and validity of such assessment, taxes and penalties, and the liability of such oil company therefor.

Sec. 8. Any oil company required to make any return or furnish any information under the provisions of this Act which shall neglect or fail to make such return or furnish such information, at the time and in the manner specified, shall be deemed guilty of a misdemeanor and shall be punishable by a fine not less than One Hundred Dollars; and each day's continuance of the failure or refusal to make such return or furnish such informa-

tion shall constitute a new offense. Any oil company making any false or fraudulent return or statement for the purpose of evading the payment of any taxes imposed by this Act shall be deemed guilty of a misdemeanor and shall be punishable by a fine of not less than Five Hundred Dollars, and any person responsible for making such false or fraudulent return shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than One Hundred Dollars nor more than Five Hundred Dollars, or by imprisonment for not less than six months nor more than one year, or by both such fine and imprisonment.

Sec. 9. It is hereby declared to be the intent and purpose of this Act to impose a tax upon every gallon of oil coming within the schedule provided in section two hereof, and at the rate therein specified, where such oil is stored, shipped or offered for original sale by any oil company, as in this Act defined, to any selling agent, retailer or consumer; but nothing in this Act contained shall be construed so as to impose a tax upon any oil more than once, nor upon any oil reshipped and sold within the State, or used by any such oil company in the course of its business within the State. Any oil company which has been assessed and has paid any tax upon oil afterwards used by it in the course of its business, or shipped out of the State, shall be allowed a rebate of the amount of the same on the approval of an application therefor to the Tax Commissioner, said rebate to be paid out of the State Treasury or the warrant of the State Auditor drawn in accordance with the certificate of the Tax Commissioner, that such rebate has been approved, or the amount of such rebate may be credited to such oil company, and deducted from its next assessment, at the option of such company, as expressed in its application for such rebate.

Sec. 10. If any retail dealer or distributor of any of the products enumerated herein and subject to a tax hereunder shall at any time mix or blend any such products, and offer such mixture for sale, such dealer or distributor shall pay to the State, in the manner hereinelsewhere provided for the payment of taxes upon such products, the taxes due as provided in section two hereof; and any such dealer or distributor shall keep conspicuously displayed upon any tank wagon or other vehicle used for such distribution, or in his place of business, a sign, printed in black letters not less than three inches high on a white surface, which shall designate the kind or kinds of mixture or substitute offered for sale. Any such dealer or distributor who fails to conform with the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than One Hundred Dollars for each offense, and in addition thereto shall pay to the State the tax required by the provisions of this Act, together with a penalty of fifty percent thereof for the violation of the provisions of this section,

said tax and penalty to be ascertained, assessed, certified and collected in the manner provided in Section seven hereof.

Sec. 11. Any oil company, directly through any agent selling or offering for sale any mixture of or substitute for straight-run gasoline, as defined in this Act, without clearly designating the kind and quality of such mixture or substitute, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than Five Hundred Dollars; and in addition thereto shall pay to the state a penalty of fifty percent of the taxes due upon such mixture or substitute under the provisions of this Act, said tax and penalty to be ascertained, assessed, certified and collected as provided in section seven hereof.

Sec. 12. For the purposes of this Act and the taxes herein imposed all cars, transmission lines, tanks, tank wagons, distributing stations, filling stations and oil in storage or in transit, owned and operated by any oil company and situated within the State, or partly within and partly without the State, are hereby declared to have a situs in the State.

Sec. 13. All administrative, special and general provisions of law, including the oil inspection laws and the general tax laws of the state and not inconsistent with the provisions of this Act are hereby extended and made applicable to all the provisions of this Act, and the taxes herein imposed.

Sec. 14. All taxes imposed under the provisions of this Act upon petroleum products shall be in lieu of all other state or local taxes upon such products.

Sec. 15. All moneys collected under the provisions of this Act shall be paid into the State Treasury, to be used for the defraying of the general expenses of the State government.

Sec. 16. If any section, paragraph, clause, sentence or part of this Act shall by any court of competent jurisdiction be declared unconstitutional, such decision shall not affect or impair the validity of any other section, paragraph, clause, sentence or part thereof, but shall be confined to the particular section, paragraph, clause, sentence or part involved in the case in which such decision was rendered.

Sec. 17. All Acts, and parts of Acts insofar as inconsistent with the provisions of this Act, are hereby repealed.

Sec. 18. This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1919.

CHAPTER 228.

(S. B. No. 42—Taxes and Tax Laws Committee.)

SURVEY OF RAILWAY RIGHT OF WAY.

An Act Providing for the Survey and Platting of Portions of Railway Right of Way for the Purpose of Taxation When Such Property is Used for Any Purpose Other than the Operation of a Railroad Thereon.

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

Sec. 1. SURVEY AND PLATTING OF PORTIONS OF RAILWAY RIGHTS OF WAY.) When any railroad allows any portion of its roadway to be used for any purpose other than the operation of a railroad thereon, and such part so used is located on lands which can be described only by metes and bounds, the County Auditor of the county in which such lands are located or the State Tax Commission may request such railroad company, in writing, to survey and plat such lands and file such plat with the County Auditor. If such railroad company shall fail to cause such plat and survey to be made and filed within thirty days after such request, the County Auditor or Tax Commission shall cause the said survey to be made and such land platted and the expense thereof shall be paid by such Railroad Company and, if not paid, the same shall be added to the tax against such lands and collected in the same manner as other real estate taxes are collected.

Approved February 14, 1919.

CHAPTER 229.

(S. B. No. 40—Taxes and Tax Laws Committee.)

REVENUE AND TAXATION AND FIXING SITUS OF PERSONAL PROPERTY FOR TAX PURPOSES.

An Act to Amend and Re-enact Section 2095 of the Compiled Laws of North Dakota for the Year 1913 as Amended by Chapter 229, Laws of North Dakota, 1917, 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:

Sec. 1. AMENDMENT.) Section 2095 of the Compiled Laws of the State of North Dakota for the year 1913, as amended by Chapter 229, Laws of North Dakota, 1917, is hereby amended and re-enacted to read as follows:

Sec. 2095. Except as otherwise provided in this Chapter, personal property shall be listed and assessed in the county, town or district where the owner or his agent resides; the capital stock, bond issues and franchises of corporations and all mortgages, notes, bills payable and other intangible property of a person or corporation 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 transacts business, then personal property pertaining to the business of such person or corporation shall be listed in the town or district where the business is carried on or where the property upon which debts payable to him or it exists. The taxation and revenue laws of this State shall apply with equal force to all property and business and all increase or profit therefrom, though the owners or recipients of the same may have or claim domicile elsewhere, the intent and purpose of this Act being that all property or interest in property within the State, or income or profit derived therefrom, shall be subject to all the taxes imposed by the laws of the State whether the owner of such property or the person receiving such income or profit reside within the State or elsewhere; and all bills receivable, obligations or credits secured by or upon any property existing within the State, including the shares of stock and bonds of corporations organized or doing business in the State or owning property therein, shall be taxable at the residence of the holders of such obligations within the State, if such residence there be, or otherwise the tax shall be deductible upon such obligations in the hands of the debtor or his agent, or the agent of the creditor within the State; and in every case where the tax is due and unpaid it shall constitute a first lien upon the property upon which such obligation is secured, and a part of such obligation, which shall be satisfied in any action for the enforcement of such obligation, and the amount of the tax withheld and paid to the State, and deducted from the amount awarded to the judgment creditor in such action; provided, that 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.

Sec. 2. This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 6, 1919.

CHAPTER 230.

(H. B. No. 24—Krueger.)

SPECIAL ASSESSMENTS—COURTS TO REVIEW LEVY AND APPORTIONMENT

An Act Authorizing the Courts to Review the Levy and Apportionment of Special Assessments.

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

1. That in all actions and proceedings involving the validity or apportionment of any special assessment for local or special improvements where the statute limits such special assessment to the special benefits accruing to the property, the courts shall review the levy and apportionment of such special assessments.

2. All Acts and parts of Acts in conflict herewith are hereby repealed.

3. EMERGENCY.) Whereas an emergency exists in that the courts do not now review the levy and apportionment of special assessments, and whereas, it is necessary for the immediate preservation of public peace, health and safety, that immediate relief be given; therefore, this Act is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 14, 1919.

CHAPTER 231.

(S. B. No. 174—McCarten.)

TOWNSHIP TAXES.

An Act to Amend Section 2151 of the Compiled Laws of North Dakota for the Year 1913, Providing for Raising Funds at the Annual Township Meeting for all Township charges and Necessary Expenses, for the Support of the poor and for the Construction and Repair of Roads and Bridges, and Providing the Manner in Which Said Taxes May Be Expended, and Fixing the Limit that May Be Levied for Road and Bridge Purposes, and Prescribing the Manner in Which all Township Taxes Shall Be Levied.

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

Sec. 1. AMENDMENT.) Section 2151 of the Compiled Laws of North Dakota for the year 1913 be, and the same is hereby amended and re-enacted so as to read as follows:

Sec. 2151. The electors of each township have power at the annual meeting to vote to raise such sums of money for the repair and construction of bridges, for the support of the poor, and for all township charges and necessary expenses, as they deem expedient; provided, that they may, at their annual meeting, direct such an amount of the poll or road tax of the township to be expended on the highways in an adjoining township, as they deem conducive to the interests of the township, which labor and tax shall be expended under the joint direction of the supervisors of the township interested furnishing the same; provided, further, that where more than one entire congressional township is included within an organized township, the poll and road taxes raised within the limits of each of such congressional townships shall be expended within such congressional townships, unless raised to be expended outside of such organized townships in an adjoining township; provided, further, that the amount of tax for road purposes shall not exceed eight mills, and for bridge purposes shall not exceed four mills, and that the levy of all township taxes shall be in the manner prescribed in Section 2148, and that the township clerk shall notify the County Auditor of all such levies as provided in Section 4237; provided, further, that none of the provisions of this section shall be construed as

conflicting with the provisions of Article 9, Chapter 19, of the Political Code (Section 2004-2034 herein); provided, also, that the Board of County Commissioners shall have the same jurisdiction in relation to roads and bridges, and the same power to levy road taxes on organized parts of counties, as the township supervisors now have in organized townships.

Sec. 2. REPEAL.) All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Sec. 3. EMERGENCY.) Whereas an emergency exists in that the amount allowed to be levied for bridge purposes at the annual township meeting is inadequate and it being necessary for the preservation of the public health, peace and safety that this Act shall take effect and be in force prior to the date of the annual township meeting; therefore, this Act shall take effect and be in operation from and after its passage and approval.

Approved March 7, 1919.

TAXES

CHAPTER 232.

(S. B. No. 153—Whitman.)

PROPERTY SOLD TO STATE OR COUNTY FOR TAXES.

An Act to Amend and Re-enact Section 2306 of the Compiled Laws of North Dakota for the year 1913, Relating to Property Sold to the State or County for Taxes.

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

Sec. 1. AMENDMENT.) That Section 2306 of the Compiled Laws of North Dakota for the year 1913, be and the same hereby is amended and re-enacted to read as follows:

Sec. 2306. COUNTY COMMISSIONERS TO INSTITUTE AND CONDUCT PROCEEDINGS.) The Board of County Commissioners in any county in this State is hereby authorized to cause the proceedings hereinafter provided to be instituted and conducted, whenever in the judgment of said board it is advisable to do so, provided, however, that such proceedings shall be instituted at least once in three years. Whenever the Board of County Commissioners desire such proceeding to be instituted, it shall, at some regular meeting, pass a resolution to that effect and the proceedings hereinafter provided shall be thereupon instituted forthwith.

Sec. 2. That all Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 7, 1919.