

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 87

H. P. 81

House of Representatives, Dec. 6, 1933.

Referred to Committee on Taxation and 1,000 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented to Mr. Walker of Rockland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND
THIRTY-THREE

**AN ACT Establishing a Low Rate Tax on Intangible Personal Property
in Accordance With Constitutional Amendment Permitting the Same**

Emergency Preamble. Whereas, the state is not able to balance the budget, and continue its present program of highway, educational, health and welfare work; and

Whereas, the reduction of the present program of highway, educational, health and welfare work would cause further unemployment and place unbearable burdens on many local communities; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now, therefore

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Intangible tax to be levied. Intangible personal property of the classes hereinafter enumerated, belonging to any individual, partnership or corporation of this state, shall hereafter be subject to an annual tax of 2½ mills on each dollar of the just value thereof, viz.: money on hand, on deposit, or at interest, and other debts due the person to be taxed, more than they are owing; public stocks and securities; all stocks, bonds and notes or other evidence of indebtedness of all corporations

within or without the state; all annuities payable to the person to be taxed, when the capital of such annuity is not taxed in this state; and such property, above described, is hereby exempted from all taxation other than that imposed by this act; but nothing in this section shall be so construed as to apply to any property not now taxable by law; and intangible personal property upon which no interest or dividends has accrued or been actually paid during the preceding calendar year, shall not be valued at all for purposes of taxation under this act; and such intangible property of the value of \$4,000 or less shall be exempt from taxation.

Sec. 2. Affect on taxation of banks, etc. Nothing in section 1 shall be so construed as to affect the method now in use for the taxation of loan and building associations, savings banks, trust companies, or deposits therein.

Sec. 3. Affect on taxation of shares of stock. Nothing in section 1 shall be so construed as to affect the method now in use for the taxation of shares of stock of trust companies organized under the laws of this state, and banking institutions formed under the laws of the United States.

Sec. 4. Tax; how assessed. The tax upon the classes of property enumerated in section 1 shall be assessed by the state tax assessor as hereinafter provided to the owner on the 1st day of April. On or before the said 1st day of April in each year the owner shall make to the state tax assessor a general return of his intangible property, defined in section 1 of this act, and shall place a valuation of each class, but no return shall be required of intangible property not in excess of \$4,000 or upon which no interest or dividends have accrued or been payable during the preceding calendar year. Said return, containing the general classification of intangible property as specified in section 1 of this act, shall be made on a blank made up by the state tax assessor, and no oath shall be required upon said return, but if any statement in said return is wilfully false, it shall be deemed to be perjury and shall be punished accordingly. The state tax assessor shall furnish said blanks to the local assessors of the cities, towns and plantations, for distribution to such owners of intangible property as may apply therefor. Such return shall be open to the state tax assessor, and his assistants and clerks, when acting under his authority, but the information in the return shall be disclosed to no other person except by order of court, and any assessor or other person who shall unlawfully disclose information contained in the return shall be prosecuted by the attorney general and liable to a fine of not less than \$100 or more than \$500. Every guardian, trustee, executor, admin-

istrator, agent or receiver, and every other person or corporation acting in a fiduciary capacity, holding personal intangible property liable to taxation as aforesaid, for such person, ward, beneficiary, deceased or incompetent person whom he represents or succeeds on the 1st day of January in each year, shall make the return required in this act. The total amount of tax imposed by this act shall be paid, at the time of filing such return, to the state treasurer.

Sec. 5. Procedure when returns are not made. The state tax assessor or his agents shall ascertain as nearly as possible the particulars of the personal estate taxable under this act of any person or corporation not making such return required in section 4, or for whom such return has not been made before the date specified in section 4 of this act, and shall estimate the just value of such estate according to his best information and belief. He shall add thereto, as a penalty, 20% of the estimated value of such property, and such estimate, with the penalty of 20%, shall be entered in the valuation books, and shall be conclusive upon any person or corporation not seasonably bringing in a list of property taxable under this act, as enumerated in section 1, unless such person or corporation can show a satisfactory excuse, for the omission, in which case the 20%, added as penalty, may be deducted.

Sec. 6. Record of abatements. The state tax assessor, on written application stating the grounds therefor, within 1 year from the assessment, may make such reasonable abatement as he thinks proper. He shall keep in suitable book form, a record of such abatements, with the reason for each. He shall give his decision upon any application for abatement within 60 days from date of application therefor.

Sec. 7. Appeal. Any person aggrieved by a decision of the state tax assessor under the preceding section may appeal to the superior court of the county in which he resides. Such appeal shall be entered at the term first occurring, not less than 30 days after the assessor shall have given the appellant notice in writing of his decision upon the application for such abatement; and notice thereon shall be ordered by said court in term time or by any justice thereof in vacation and said appeal shall be tried, and determined in the manner and with the rights provided by law in other civil cases.

Sec. 8. Procedure after appeal. If upon such appeal it appears that the appellant has complied with all provisions of law, he may be granted such abatement as may be found reasonable. If no abatement is granted, judgment shall be rendered in favor of the state and for its taxable costs. If an abatement is granted judgment shall be rendered in favor of the state for such amount, if any, as may be due after deducting the abate-

ment, and the court may make such order relating to the payment of costs as justice shall require. In either case execution shall issue. The final judgment of the court shall be forthwith certified by the clerk to the state tax assessor and he shall, in all cases, carry into full effect the judgment. If it be alleged in the application that the appellant has paid the taxes for which he has been assessed, and if the court shall so find, judgment for the amount of the abatement granted shall be rendered against the state, and execution therefor, and for such costs as may be awarded, shall issue.

Sec. 9. Appeal when tried. Such appeal shall be tried at the term to which the notice is returnable, unless continuance shall be granted for good cause; and said court shall, if requested by the state tax assessor, advance the case upon the docket so that it may be tried and decided with as little delay as possible.

Sec. 10. Commissioner may be appointed. The court may with the consent of the parties appoint a commissioner to hear the cause, and to report to the court the facts, or the facts with the evidence. Such report shall be prima facie evidence of the facts thereby found. The fees of the commissioner shall be paid in the same manner as those of auditors appointed by the court.

Sec. 11. Tax; when assessed. The state tax assessor shall assess the tax at the uniform rate of $2\frac{1}{2}$ mills, as hereinbefore provided, upon the property disclosed in the return as originally made out, or as amended, and notify the owner of any balance of tax due, on or before the 1st day of August in each year. If the balance is not paid on or before the 1st of September in each year, the treasurer of state shall proceed to collect it. An action of debt to recover the amount of taxes assessed under this act shall be in the name of the treasurer of state.

Sec. 12. Intangibles not included in state valuation. The state tax assessor shall not include the valuation of intangible property, assessed under this act, in making the state valuation on which is based the apportionment of state tax. Of the taxes paid under the provision of this act there shall be deducted for the benefit of the treasury of the state the fair cost to the state of the assessment, collection, and distribution thereof as determined by the state tax assessor, subject to the approval of the governor and council. The balance of the fund remaining in the state treasury each year on November 1st, after setting aside such reasonable reserve as may be determined upon by the state tax assessor, with the approval of the governor and council, for the current annual expenses of administration, shall be allocated to the cities, towns and plantations of the state and distributed on December 1st of each year on the following

basis; $\frac{1}{2}$ of said fund shall be allocated to the several cities, towns and plantations in proportion to the contributions made by the inhabitants of such cities, towns and plantations to the funds realized under this act in the current year and $\frac{1}{2}$ of said fund to the several cities, towns and plantations on the basis of the proportion which the total mileage of public roads and ways located within such city, town or plantation shall bear to the total mileage of all public roads and ways located in all the cities, towns and plantations in the state as certified to the state tax assessor by the state highway commission on November 1st in each year.

Sec. 13. Assessor may employ help. In order to carry out the provisions of this act the state tax assessor is authorized to employ such necessary assistants and clerks as are allowed by the governor and council.

Sec. 14. Repealing clause. All acts and parts of acts inconsistent with this act are hereby repealed.

Emergency Clause. In view of the emergency created as recited in the preamble this act shall take effect when approved.