

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

Nº. 1240

H. P. 1516

House of Representatives, July 10, 1946

Referred to Committees on Military Affairs and Appropriations and Financial Affairs jointly. Sent up for concurrence and 1,500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Williams of Clifton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SIX

AN ACT Providing for the Payment of a Bonus to or Insurance Premiums for Maine Veterans of World War II and for the Payment of Other Veterans' Benefits and to Provide for Such Payments by a Sales Tax or an Income Tax.

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

TITLE I

Bonus

Sec. 1. Veterans in World War II entitled to bonus of \$100. In order to promote the spirit of patriotism and loyalty, in testimony of the gratitude of the state of Maine, and in recognition of the splendid services of Maine men and women in World War II, every veteran, as hereinafter defined, shall be entitled to receive from the state of Maine, from a fund hereinafter created and called "The Veterans' Bonus Fund," the sum of \$100.

Sec. 2. The word "veteran" defined. The word "veteran" as used in this title shall mean any male or female officer, soldier, sailor, marine, nurse or any other person regularly enlisted or inducted, who has been a

part of the military or naval forces of the United States in World War II, at least 3 months between September 16, 1940 and August 14, 1945, inclusive, unless honorably discharged for physical disability incident to such service, and who was a resident of the state of Maine at the time he or she was commissioned, enlisted, inducted, appointed or mustered into the military or naval service of the United States, and who has been or may be given an honorable discharge or release from such service.

Sec. 3. Application for bonus, when and where filed; what application shall contain. Applications for such bonus shall be filed with the adjutant-general, on forms provided by him, within 6 months from the date this act goes into effect; or, in the case of an applicant whose final discharge from service is received after the date this act goes into effect, within 6 months after the date of such discharge. Such application shall state facts sufficient to establish the status of such applicant as veteran as defined herein, and shall be duly verified.

Sec. 4. "Veterans' Bonus Board" created, powers and duties. There is hereby created a board to be known as "The Veterans' Bonus Board," to consist of the finance commissioner, the treasurer of state and the adjutant-general. It shall be the duty of the said board to examine into such applications and make any other examination necessary to establish facts, and approve or disapprove the same. Whenever any such application is approved by said board, it shall be the duty of the adjutant-general to prepare a voucher and transmit the same to the state controller; said state controller shall issue his warrant therefor, for the amount stated therein, and the treasurer of state shall pay the same upon the approval of the governor and council out of said Veterans' Bonus Fund.

Sec. 5. Board authorized to employ assistance for administration. The Veterans' Bonus Board is hereby empowered, subject to the provisions of the personnel law, to employ such assistance and, with the approval of the governor and council, to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this title; and the funds necessary for such administration and carrying out of the provisions of this title shall be expended from said Veterans' Bonus Fund.

Sec. 6. In case of decease of veteran, bonus to be paid to dependents; order of procedure; bonus not subject to assignment nor to claims of creditors. In the case of the decease of any person who would if alive be entitled to the benefits of this title, the sum herein named shall be paid in cash to his or her dependents, if any, and otherwise to his or her heirs-at-

law; provided that if there is more than one dependent, or heir-at-law, payments shall in either case be made in such proportions as the said Veterans' Bonus Board shall determine, and in determining the order of precedence the following order so far as practicable shall be observed: spouse and children, mother or father, brother or sister, other dependents; provided, however, that no right or payment under this title shall be subject to the claims of creditors, capable of assignment and no assignment of the same shall be valid or binding, regarded as assets legal or equitable of the estate of the deceased or made the basis for administration thereof.

Sec. 7. Eligibility. Any veteran who applies for benefits under the provisions of this title shall not be eligible for benefits under the provisions of Title II.

TITLE II

Insurance Premiums

Sec. 1. Veterans in World War II entitled to insurance premium payments. In order to promote the spirit of patriotism and loyalty in testimony of the gratitude of the state of Maine, and in recognition of the splendid services of Maine men and women in World War II, every veteran, as hereinafter defined, shall be entitled to apply to the state of Maine for the payment of the premiums, or parts thereof, for his or her national service life insurance in an amount not to exceed \$130. Such payments shall be in not less than 3 nor more than 4 equal yearly installments.

Sec. 2. The word "veteran" defined. The word "veteran" as used in this title shall mean any male or female officer, soldier, sailor, marine, nurse or any other person regularly enlisted or inducted, who has been a part of the military or naval forces of the United States in World War II at least 3 months between September 16, 1940 and August 14, 1945, inclusive, unless honorably discharged for physical disability incident to such service, and who was a resident of the state of Maine at the time he or she was commissioned, enlisted, inducted, appointed or mustered into the military or naval service of the United States, and who has been or may be given an honorable discharge or release from such service.

Sec. 3. Application for insurance premium payments, when and where filed; what application shall contain. Applications for such insurance premium payments shall be filed with the adjutant-general, on forms provided by him, within 6 months from the date this act goes into effect; or, in the case of an applicant whose final discharge from service is received

after the date this act goes into effect, within 6 months after the date of such discharge. Such application shall state facts sufficient to establish the status of such applicant as veteran as defined herein, and shall be duly verified.

Sec. 4. "Veterans' Bonus Board" powers and duties. The veterans' bonus board, as created by section 5 of Title I, shall be empowered to carry out the provisions of this title. It shall be the duty of the said board to examine into such applications and make any other examination necessary to establish facts, and approve or disapprove the same. Whenever any such application is approved by said board and the insurance premiums are payable, it shall be the duty of the adjutant-general to prepare a voucher and transmit the same to the state controller; said state controller shall issue his warrant therefor, for the amount stated therein, and the treasurer of state shall pay the same to the treasurer of the United States upon the approval of the governor and council out of the Veterans' Insurance Fund.

The veterans' bonus board is hereby authorized to adopt whatever rules and regulations are necessary to carry out the provisions of this title.

Sec. 5. Board authorized to employ assistance for administration. The Veterans' Bonus Board is hereby empowered, subject to the provisions of the personnel law, to employ such assistance and, with the approval of the governor and council, to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this title; and the funds necessary for such administration and carrying out of the provisions of this title shall be expended from the Veterans' Insurance Fund.

Sec. 6. Eligibility. Any veteran who applies for benefits under the provisions of this title shall not be eligible for benefits under the provisions of Title I.

TITLE III

Educational Programs Offering Specialized Training

Resolves 1945, c. 86, amended. Chapter 86 of the resolves of 1945 is hereby amended to read as follows:

'State board for approval of institutions offering specialized training. Resolved: The state board of vocational education is hereby authorized to ~~act as the state board of approval of institutions~~ **approve and supervise educational programs** offering specialized training. Such board shall pass upon the eligibility of institutions which may now or hereafter make application for authority to provide education or training beyond that of-

ferred by the secondary schools to veterans under the provisions of the "Servicemen's Readjustment Act of 1944", excepting degree-granting institutions and apprentice-training ~~or in service training courses~~; and be it further

Resolved: That a list of such institutions approved by the board be furnished the Veterans' Administration in charge of administering the provisions of the federal bill cited as the "Servicemen's Readjustment Act of 1944".'

TITLE IV

State Technical and Vocational Institute

R. S., c. 37, § 177-A, additional. Chapter 37 of the revised statutes is hereby amended by adding thereto a new section to be numbered 177-A, to read as follows:

'**Sec. 177-A. State technical and vocational institute; purpose; supervision.** The vocational education board is authorized and empowered to purchase or lease lands, buildings, equipment, materials and supplies, or to construct or improve the same for the purpose of establishing a state technical and vocational institute. All costs thus incurred shall be subject to the approval of the governor and council. Such institute shall promote specialized training for veterans of World War II and other persons who give evidence of special aptitude or need and who desire specialized preparation designed specifically to train for service in trade, industry or commerce. The supervision and administration of such institute shall be under the control and direction of the vocational education board.'

TITLE V

Dormitories at University of Maine

Sec. 1. Additional dormitories, construction of. The University of Maine is authorized to construct 3 dormitories with a capacity of 600 or more students.

Sec. 2. Trustees authorized to negotiate contracts. The trustees of the University of Maine are authorized to negotiate a construction contract or contracts with a contractor or contractors to be selected from a list of contractors to be submitted by the trustees to the governor and council for approval as to reliability, without resort to competitive bidding on specifications, and without definite information of cost of final construction.

TITLE VI

Plant Science Building and Engineering Building at University of Maine

Plant science building and engineering building; appropriation for. There is hereby appropriated in favor of the University of Maine the sum of \$400,000 for aid in constructing a plant science building and an engineering building.

TITLE VII

Bond Issue

Sec. 1. Bond issue authorized to provide funds; bonds to mature within 10 years of issue. For the purpose of carrying out the provisions of this act, the treasurer of state is hereby authorized, with the approval of the governor and council, to issue bonds or notes from time to time as they are needed, to an amount not exceeding in the aggregate \$11,500,000. Such bonds or notes shall be designated "Maine Military Service Loan, Act of 1946," shall mature not more than 10 years from the date thereof, and shall bear such rate of interest, and be in such form and on such terms and conditions, other than those herein specified, as the governor and council may determine. Such bonds or notes shall be issued in the name and behalf of the state, and shall be deemed a pledge of the faith and credit of the state. The proceeds of the sale thereof shall be paid into the general fund and expended in the following manner:

- I.** Such sum as may be necessary to the credit of a fund hereby created, which fund shall be known as "The Veterans' Bonus Fund," and from which the payments authorized by Title I shall be made;
- II.** Such sum as may be necessary to the credit of a fund hereby created, which fund shall be known as "The Veterans' Insurance Fund," and from which the payments authorized by Title II shall be made; and
- III.** Such sum as may be necessary to carry out the provisions of:
 - A.** Title IV, relating to the establishment of a technical and vocational institute;
 - B.** Title V, relating to the establishment of additional dormitories at the University of Maine; and
 - C.** Title VI, relating to the aid in construction of a plant science building and an engineering building at the University of Maine.

Sec. 2. How funds shall be provided for retirement of bonds. The amount necessary to pay said bonds or notes as they mature, and the

interest as it accrues, shall be raised from taxes levied and collected under the provisions of titles VIII and IX or X. Beginning April 1, 1947 and for each and every succeeding year for 9 years, there shall be raised from such taxes a sum sufficient for the redemption of such bonds or notes to an amount not exceeding \$1,150,000 per year and such additional sum as may be required for the payment of interest on all such bonds or notes outstanding. The sum so levied and collected shall be paid into the general fund, and redemption of said bonds or notes and payment of the interest thereon shall be made from said fund.

TITLE VIII

Tax on Sale of Tangible Personal Property

Sec. 1. Imposition of tax. For the privilege of selling tangible personal property at retail, and services, as hereafter defined, in this state, every vendor shall pay a tax of 2% upon the receipts therefrom, except as hereinafter provided.

The burden of proof that the sale of tangible personal property was not a sale at retail shall be upon the vendor, unless such vendor shall have taken from the vendee a certificate signed by and bearing the name and address of the vendee to the effect that the property was purchased for resale. For the purpose of the proper administration of this title, and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts from the sale of tangible personal property at retail and services are subject to the tax until the contrary is established.

In any case in which tangible personal property or services are sold under a contract made prior to January 1, 1947, which specifies and fixes the sale price and such sale is taxable under this title, the vendor may add the tax imposed by this title and collect it from the vendee.

Sec. 2. Intent; absorbing tax. It is hereby declared that the intent of the legislature is that the tax imposed herein shall be collected by all vendors of tangible personal property and services from vendees in so far as possible or practicable.

Sec. 3. Minimum tax. If a vendor has receipts of not more than \$100 for any month for which a return is required to be made, he shall not be required to pay a tax under this title.

Sec. 4. Definitions. For the purposes of this title and unless the context clearly indicates a different meaning:

I. The word "receipts" means the total amount of the sale of tangible personal property sold at retail in this state, valued in money, whether received in money, credits or property of any kind or nature, or otherwise, and also any amount for which credit is allowed by the vendor to the vendee, without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or services costs, interest or discount paid or any other expense whatsoever. It shall also include the total amount of the consideration received for performing services taxable under this title, valued in money, whether received in money or otherwise;

II. The term "retail sale" or "sale at retail" means a sale to a vendee or to any person for any purpose other than for resale;

III. The word "sale" means any exchange, barter or transfer in any manner or by any means whatsoever for a consideration;

IV. The word "services" means :

A. Any beneficial act performed or rendered in connection with and incident to the sale of tangible personal property by a vendor for or on behalf of a vendee, for a consideration;

B. Admission to theaters, recreation parks and any other places of recreation and amusement;

C. The use of rooms and suites in hotels and lodging houses;

D. The cleaning, dyeing or repairing of clothing and household or other furnishings and equipment by laundries, dry cleaning and dyeing establishments;

E. The use of billiard halls, pool tables and other similar equipment for recreation, whether payment for such use is evidenced by tickets of admission or by the amounts paid for each separate act of use of said halls, tables or other equipment;

V. The term "tangible personal property" means all chattels, movables, including boats and vessels, merchandise and stock in trade, furniture and personal effects, live stock, vehicles, farming implements, movable machinery and equipment, but such words do not include any structure, improvement, machinery equipment or fixtures attached to and forming a part of real property;

VI. The word "vendee" means any person who buys tangible personal property or services for consumption by himself or others, without subsequent resale, trade or exchange for profit;

VII. The word "vendor" means any individual, partnership, association or corporation who sells tangible personal property or services to a vendee.

Sec. 5. Exemptions. The following are exempted from the tax imposed herein :

I. Sales of internal combustion engine fuels, upon which a tax is imposed by this state ;

II. Sales of telephone, telegraph and transportation services ; sales of electricity and all other sales of goods or services to the extent to which the same may be subject to a tax upon the gross receipts therefrom under any other law of this state ;

III. Sales of tangible personal property or services by or to the United States, the state of Maine, and its counties, municipalities and any other political subdivisions thereof, and sales of whatever character upon which this state is, by virtue of the constitution of the United States or otherwise, without power to impose a tax ;

IV. Sales of all goods for use in manufacturing or producing, including seeds, fertilizers, insecticides and fungicides, feeds and other materials purchased by farmers and used in producing farm products for sale, but not including goods or materials that are used in building or repairing buildings ;

V. Sales of tangible personal property upon which the state now imposes and collects a special tax, whether in the form of a license tax, excise tax, stamp tax, or otherwise ;

VI. Sales of and the storage, use or other consumption of food products for human consumption.

Food products include cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery.

Food products do not include spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, medicines, tonics and prep-

arations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as dietary supplements or adjuncts; meals served on or off the premises of the vendor or drinks or foods furnished, prepared or served for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor;

VII. Sales of all articles or tangible personal property brought into the state of Maine by a non-resident individual thereof for his or her use or enjoyment while within the state.

Sec. 6. Licenses. Every vendor engaged in the sale of tangible personal property at retail or services in this state on the effective date of this title shall be deemed to have a license to do so.

Every vendor engaging in the sale of tangible personal property at retail or services in this state after the effective date of this act shall first apply to and procure from the state tax assessor a license to do so, giving the name and address of the vendor and the address of the place or places where such sales are to be made.

The state tax assessor shall have power to suspend the license of any vendor who shall violate or fail to comply with any provision of this title or any rule or regulation adopted by him pursuant to this title and shall also have power to restore licenses after such suspension. A license shall be suspended in case a return or corrected return is not filed as in this title provided, or in case any tax under any assessment made by the state tax assessor, or penalty thereon, shall not be paid within 30 days from the giving of notice of such assessment, unless proceedings instituted to contest the tax are pending, or the state tax assessor shall have granted an extension of time for the filing of the return or the payment of the tax, but any such extension shall not have the effect of changing the due date of the tax.

The filing of delinquent returns or the payment of delinquent taxes and penalties shall have the effect of restoring the license.

Any vendor who shall sell tangible personal property at retail or services in this state after his license shall have been suspended, or without procuring a license, and the officers of any corporation which shall so sell, shall be guilty of a misdemeanor.

The license to sell tangible personal property at retail or services provided for in this title shall be in addition to any and all other licenses which may be required by law.

Sec. 7. Records. Every vendor selling tangible personal property at retail or services in this state and subject to the tax imposed by this title

shall keep such records of receipts and in such form as the state tax assessor may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the state tax assessor or his duly authorized agent or employee, and shall be preserved for a period of 3 years, except that the state tax assessor may consent to their destruction within that period, or may require that they be kept longer.

Sec. 8. Returns to be filed. Every vendor selling tangible personal property at retail, or services in this state, and subject to the tax imposed by this title shall file with the state tax assessor on or before the 15th day of the succeeding month a return of his receipts for each preceding month after the effective date of this act. The forms for such return shall be prescribed by and furnished by the state tax assessor and shall contain such information as he may deem necessary for the proper administration of this title.

Sec. 9. Installment sales and cancelled sales, how reported. Installment sales. The state tax assessor may provide by regulation that receipts from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due, in which event such receipts shall become subject to the tax at such times and not at the time when the contract of sale was entered into.

Cancelled sales. The state tax assessor shall provide by regulation for the exclusion from receipts of amounts representing sales where the contract of sale has been cancelled, or the goods returned, or the purchase price or charge for the same or any part thereof, is proven uncollectible, or in case the tax has been paid upon such receipts, for a credit for the amount of the tax against future tax liability of the vendor.

Sec. 10. Payment of tax. At the time of filing a return of receipts each vendor shall pay to the state tax assessor the tax imposed by this title for the period covered by such return. The state tax assessor shall pay over all receipts to the treasurer of state daily. All taxes for the period for which a return is required to be filed shall be due and payable on the date established for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed shows the correct amount of tax due. If any vendor shall make sales of tangible personal property at retail or services while his license is suspended, the tax prescribed by this title shall nevertheless be imposed and payable with respect to such sales, but the payment of such tax shall not afford relief from any of the penalties prescribed by this title for selling while a license is suspended.

Sec. 11. Tax as debt. The tax herein required to be collected by any vendor and any tax collected by any vendor shall be a debt owed by the vendor to the state.

Sec. 12. Procedure in investigation. For the purpose of ascertaining the correctness of any return, or for the purpose of determining the amount of tax due from any vendor of tangible personal property at retail, or services, the tax assessor or his authorized agent may hold investigations and hearings concerning any matters covered by this title, and may examine any books, records, papers and memoranda bearing upon the sales of tangible personal property or services of any such vendor, and may require the attendance of any such vendor or any officer or employee of such vendor, or of any person having knowledge of such sales, and may take testimony and require proof for his information. The tax assessor or his authorized agent shall have power to administer oaths to such persons. If any person summoned as a witness shall fail to obey such summons to appear before the tax assessor or his authorized agent, or shall refuse to testify or answer any material question, or to produce any book, record, paper or memorandum when required to do so, such failure or refusal shall constitute a misdemeanor, and on complaint of the tax assessor or his authorized agent the person so neglecting or refusing to furnish such evidence may be punished for a misdemeanor by any judge of a municipal court, or by any trial justice within the jurisdiction of the county wherein the offender lives. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the superior courts. The tax assessor or his authorized agent, or any party in an investigation or hearing before the tax assessor, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state, and to that end compel the attendance of witnesses and the production of books, papers, records and memoranda.

Sec. 13. All information confidential. All information received by the tax assessor from returns filed under this title, or from any investigations conducted under the provisions of this title, shall be confidential, except for official purposes, and any officer or employee of such tax assessor who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100, nor more than \$1,000.

Sec. 14. Appeal. If a vendor, making a return, believes he has been

aggrieved by any decision of the tax assessor at any hearing as provided in section 12 of this title, he may appeal from said decision to the superior court of the county wherein he lives, if said appeal is made within a period of 30 days from the date of such decision. Such appeal shall be entered at the term first occurring after said appeal is made.

Sec. 15. Failure to pay; penalties. Any person failing to file a return or corrected return or to pay any tax and/or amount required to be paid by this title within the time required by this title, shall be subject to a penalty of 5% of the amount due, plus 1% of such amount for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax or amount became due; but the state tax assessor, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the state tax assessor and disposed of in the same manner as other receipts under this title. Unpaid penalties may be enforced in the same manner as the tax imposed by this title. The certificate of the said assessor to the effect that a tax and/or amount required to be paid by this title has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this title, shall be prima facie evidence thereof.

Sec. 16. Fraud. Any person required to make, render, sign or certify any return or supplementary return, who makes any false or fraudulent return with intent to defeat or evade the tax, and/or amount required to be paid by this title, shall be punished by a fine of not less than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 17. Penalty. Any vendor or other person failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the state tax assessor or violating any rule or regulation of the state tax assessor for the administration and enforcement of this title shall be punished by a fine of not more than \$100 for each offense, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

TITLE IX

Use Tax

Sec. 1. Imposition of tax. An excise tax is hereby imposed on the use in this state of tangible personal property purchased on or after the effective date of this title for use in this state, at the rate of 2% of the purchase price of such property. Said tax is hereby imposed upon every

person using such property within this state until such tax has been paid directly to the state tax assessor or to a retailer, as hereinafter provided.

Sec. 2. Use tax; definitions. The following words, terms and phrases when used in this section shall have the meanings ascribed to them in this title:

I. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, municipal corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit and the plural as well as the singular number;

II. "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;

III. "Purchase price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise; provided that cash discounts allowed and taken on sales shall not be included;

IV. "Retailer" means and includes every person engaged in the business of selling tangible personal property for use within the meaning of this title; provided, however, that when in the opinion of the state tax assessor it is necessary for the efficient administration of this title to regard any salesmen, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers or persons, the state tax assessor may so regard them and may regard the dealers, distributors, supervisors, employers or persons a retailer for purposes of this title.

V. "Retailer maintaining a place of business in this state" or any like term shall mean and include any retailer having or maintaining within this state directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such retailer or subsidiary is admitted to do business within this state pursuant to law.

VI. "Tangible personal property" means tangible goods, wares and mer-

chandise, and gas, electricity and water when furnished or delivered to consumers or users within this state.

VII. "Taxpayer" shall mean any person within the meaning of subsection I hereof who is subject to a tax imposed by this title whether acting for himself or as a fiduciary.

VIII. "Use" means and includes the excise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include processing or the sale of that property in the regular course of business. Property used in "processing" within the meaning of this title shall mean and include:

A. Any tangible personal property including containers which it is intended shall, by means of fabrication, compounding, manufacturing or germination, become an integral part of other tangible personal property intended to be sold ultimately at retail;

B. Fuel which is consumed in creating power, heat or steam for processing or for generating electric current;

C. Industrial materials and equipment, which are not readily obtainable in Maine, and which are directly used in the actual fabricating, compounding, manufacturing or servicing of tangible personal property intended to be sold ultimately at retail.

Sec. 3. Exemptions. The use in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this title:

I. Tangible personal property, on the sale of which at retail a tax is imposed by Title VII;

II. Tangible personal property used:

A. In interstate transportation or interstate commerce; or

B. For the performance of a building or construction contract executed prior to the effective date of this title;

III. Tangible personal property upon which the state now imposes and collects a special tax, whether in the form of a license tax, excise tax, stamp tax or otherwise;

IV. All articles of tangible personal property brought into the state of Maine by a non-resident individual thereof for his or her use or enjoyment while within the state;

V. Tangible personal property not readily obtainable in Maine and used in the operation of street railways ;

VI. Tangible personal property, the sales of which at retail are exempted from the sales tax imposed by Title VII.

Sec. 4. Evidence of use. For the purpose of the proper administration of this title and to prevent evasion of the tax, evidence that tangible personal property was sold by any person for delivery in this state shall be prima facie evidence that such tangible personal property was sold for use in this state.

Sec. 5. How collected. The tax herein imposed shall be collected in the following manner :

I. The tax upon the use of all tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the state tax assessor shall authorize pursuant to section 7, shall be collected by such retailer and remitted to the state tax assessor, pursuant to the provisions of this title ;

II. The tax upon the use of all tangible personal property not paid pursuant to subsection I hereof shall be paid to the state tax assessor directly by any person using such property within this state, pursuant to the provisions of this title.

Sec. 6. Collection by retailer. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 3, shall at the time of making such sales, whether within or without the state collect the tax imposed by this title from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax assessor, if the state tax assessor shall, by regulation, require such receipt. Each such retailer shall require such receipt. Each such retailer shall list with the state tax assessor the name and address of all his agents operating in this state and the location of any and all his distribution or sales houses or offices or other places of business in this state.

Sec. 7. Foreign retailers. The state tax assessor may, in his discretion, upon application authorize the collection of the tax herein imposed, by any retailer not maintaining a place of business within this state who, to the satisfaction of the said assessor furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax in such manner, and subject to such

regulations and agreements as the said assessor shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. Such authority and permit may be cancelled when, at any time, the said assessor considers the security inadequate, or that such tax can more effectively be collected from the person using such property in this state.

Sec. 8.. Payment to state tax assessor. Each retailer required or authorized pursuant to this title to collect the tax herein imposed, shall be required to pay to the state tax assessor the amount of such tax, on or before the 30th day of the succeeding month for each preceding month after the effective date of this title. At such time, each such retailer shall file with the state tax assessor a return for the preceding month in such form as may be prescribed by the said assessor showing the sales price of any or all tangible personal property sold by the retailer during such preceding month, the use of which is subject to the tax imposed by this title and such other information as the said assessor may deem necessary for the proper administration of this title. The return shall be accompanied by a remittance of the amount of such tax, for the period covered by the return, provided that where such tangible personal property is sold under a conditional sales contract, or under any other form of sale where the payment of the principal sum, or a part thereof, is extended over a period longer than 60 days from the date of the sale thereof, the retailer may collect and remit each monthly period that portion of the tax equal to 2% of that portion of the purchase price actually received during such monthly period. The said assessor may, upon request and a proper showing of the necessity therefor, grant an extension of time not to exceed 30 days for making any return and payment.

Sec. 9. Liability of user. Any person who uses any property upon which the tax herein imposed has not been paid, either to a retailer or direct to the state tax assessor as herein provided, shall be liable therefor, and shall on or before the 30th day of the month next succeeding each monthly period pay the tax herein imposed upon all such property used by him during the preceding month in such manner and accompanied by such returns as the state tax assessor shall prescribe. All of the provisions of section 8 with reference to such returns and payments shall be applicable to the return and payments herein required.

Sec. 10. Bond to secure payment. The state tax assessor may, when in

his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied under this title, authorize any person subject to such tax, and any retailer required or authorized to collect such tax pursuant to the provisions of this title, to file with him a bond issued by a surety company authorized to transact business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the state tax assessor may fix, to secure the payment of any tax, amount, and/or penalties due or which may become due from such person. In lieu of such bond, securities approved by the state tax assessor in such amount as he may prescribe, may be deposited with him, which securities shall be sold by the said assessor at public or private sale, without notice to the depositor thereof, if it becomes necessary to do so in order to recover any tax and/or penalties due. Upon any such sale, the surplus, if any, above the amounts due under this section shall be returned to the person who deposited the securities.

Sec. 11. Taxation in another state. If any article of tangible personal property has already been subjected to a tax by any other state in respect to its sale or use in an amount less than the tax imposed by this title, the provisions of this title shall apply, but at a rate measured by the difference only between the rate herein fixed and the rate by which the previous tax upon the sale or use was computed. If such tax imposed in such other state is 2% or more, then no tax shall be due on such articles.

Sec. 12. Application. The provisions of sections 2, 11, 12, 13, 14, 15, 16 and 17 of Title VII shall, as far as practicable, apply to Title VIII.

TITLE X

Income Tax

Sec. 1. Imposition of income tax; rates. 1. A tax is hereby imposed upon every person a resident of the state, which tax shall be levied, collected and paid annually upon and with respect to his entire net income at the following rates:

- (a) 1% on the first \$2,500 or any part thereof, of the amount of the net income in excess of the credits against net income provided in section 6.
 - (b) 2% of the next \$2,500 or any part thereof, of such excess;
 - (c) 3% of the next \$2,500 or any part thereof, of such excess;
 - (d) 4% of the remainder of such excess amount.
2. (a) In addition to the tax imposed under subdivision 1 of this sec-

tion, a further tax is hereby imposed upon and with respect to interest, dividends and other income derived from intangible personal property, at the rate of 2% upon the amount thereof. Such tax shall be in lieu of the taxation of intangible personal property as property, and all such property shall not be subject hereafter to taxation in this state.

(b) The tax herein imposed upon interest, dividends and other income from intangible property shall be collected upon all such income received by every person a resident of this state, without deduction of personal credits against net income or for any other taxes paid, but this provision shall not be interpreted as undertaking to impose a tax upon interest, dividends or other income from intangible property not subject to the taxing power of this state.

3. A tax is also hereby imposed upon every person not a resident of the state and shall be levied, collected and paid annually at the rates specified in paragraphs (a), (b), (c) and (d) of subdivision 1 of this section, upon and with respect to the net income as defined in this title, from all property owned and from every business, trade, profession or occupation carried on in this state by such non-resident, except as otherwise provided in this title.

4. The taxes imposed hereby shall first be levied, collected and paid in the year 1947, upon and with respect to the taxable income for the calendar year 1946, or for any fiscal year ending during the year 1946.

Sec. 2. Net income defined. The term "net income" means the gross income of a taxpayer less the deductions allowed by this title.

Sec. 3. Gross income defined. The term "gross income" includes:

1. Gains, profits and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce or sales; or from dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property in the course of the taxpayer's trade or business; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or profits or income derived through estates or trusts by the beneficiaries thereof whether as distributed or as distributable shares. The compensation received by any constitutional officer of this state, taking office after the time of the taking effect of this title, shall be included in gross income and all acts fixing the compensation of such constitutional officers of this state are hereby amended accordingly.

2. The term "gross income" does not include the following items, which shall be exempt from taxation under this title:

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured;

(b) The amount received by the insured as a return of premium or premiums paid by under life insurance, endowment or annuity contract, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

(c) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

(d) Interest upon the obligations of the United States or its possessions; or upon securities issued under the provisions of the federal farm loan act of July 17th, 1916; or upon bonds issued by the War Finance Corporation or the bonds or securities of any corporation or organization established under federal laws which are not subject to the taxing power of the state.

(e) Any amount received through accident or health insurance or under workmen's compensation acts as compensation for personal injury or sickness, plus the amount of any damages received, whether by suit or agreement on account of the injuries or sickness.

(f) Amounts received as pensions, family allotments and allowances under the provisions of the War Risk Insurance and the Vocational Rehabilitation Acts or the World War Veterans' Act of 1924, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war, or as pensions from the state of Maine or any of its local subdivisions for services of the beneficiary or another.

(g) Income received in trust by any officer of a religious denomination or by any institution, or trust, for moral or mental improvement, religious bible, tract, charitable, benevolent, fraternal, missionary, hospital, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more of such purposes, if such income be used exclusively for carrying out one or more of such purposes; but nothing herein shall be construed to exempt the fees, stipends, personal earnings or other private income of such officer or trustee.

(h) The amount deducted pursuant to the income tax law of the United

States from interest on a bond, mortgage, deed of trust or other similar obligation of a corporation containing a contract or provisions by which the obligor agrees to pay any portion of the tax imposed by such law upon the obligee or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom, under any law of the United States.

(i) Stock dividends as defined in subdivision 8 of section 16 of this title.

(j) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation and occupied by him or his immediate family.

(k) Gains and profits realized upon the sale, exchange or other disposition of property not regularly dealt or traded in by the taxpayer in the course of his trade or business and not constituting part of the capital assets employed therein.

(l) Income from whatever source derived which was earned or accrued or was payable before January 1st, 1946, and all distributions made by a corporation to its shareholders, whether in money or property, out of earnings or profits accumulated or increase in value of property accrued before January 1st, 1946.

(m) Amounts received from a corporation in cancellation or redemption of its stock in whole or in part, except to the extent that the amount so received represents a distribution of earnings or profits accumulated after January 1st, 1946.

(n) The value of rights issued by a corporation to its shareholders to subscribe to stock or securities of the same corporation.

3. In the case of taxpayers other than residents, gross income includes only the gross income from sources within the state, but shall not include annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends from corporations, except to the extent to which the same shall be a part of income from any business trade, profession or occupation carried on in this state subject to taxation under this title.

Sec. 4. Deductions. In computing net income there shall be allowed as deductions:

1. All the ordinary and necessary expenses paid or accrued during the

taxable year in carrying on any trade or business or in connection with the production of income to be included in gross income under this act, including a reasonable allowance of the salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession for the purposes of the trade or business or property to which the taxpayer has not taken or is not taking title or in which he has no equity; also traveling expenses, including the entire amount expended for meals and lodging while away from home in the pursuit of a trade or business.

2. All interest paid or accrued during the taxable year on indebtedness, except:

(a) on indebtedness incurred or continued to purchase or carry obligations or securities the interest upon which is wholly exempt from the taxes imposed by this title, and

(b) on indebtedness incurred or continued in connection with the purchasing or carrying of an annuity.

3. Taxes, other than income taxes paid or accrued within the taxable year, imposed:

(a) by authority of the United States, or of any of its possessions;

(b) by the authority of any state, or territory, or any county, school district, municipality, or other taxing subdivision of any state or territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; or

(c) by the authority of any foreign government.

4. Losses sustained during the taxable year, and not compensated for by insurance or otherwise, if incurred in trade or business. The basis for determining the amount of the deduction under this subdivision shall be the same as is provided in sections 19 and 20 of this title for determining the gain or loss from the sale, exchange or other disposition of property.

5. Debts occurring in trade or business ascertained by the taxpayer to be worthless and charged off within the taxable year. In the case of a debt existing on January 1st, 1946, no more than its fair market value on that date shall be deducted. A worthless debt arising since January 1st, 1946, from unpaid wages, salary, rent or other similar item of taxable income is not an allowable deduction unless the income which such item represents has been included as income by the taxpayer in a return rendered under this title.

6. A reasonable allowance for the exhaustion, wear and tear of property, the income of which is required to be included in gross income under this title, including a reasonable allowance for obsolescence.

7. An allowance for depletion and for depreciation of improvements in the case of mines, oil and gas and other natural deposits, and timber, to be determined in accordance with the provisions of subdivision 5 of section 18 of this title.

8. Contributions or gifts made within the taxable year verified under rules and regulations prescribed by the state tax assessor to an aggregate amount not in excess of 15% of the taxpayer's total net income as computed without the benefit of this deduction, if made to or for the use of:

(a) The United States, any state, territory or any political subdivision thereof, or the district of Columbia for exclusively public purposes;

(b) Any corporation or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or to the special fund for vocational rehabilitation authorized by section 7 of the act of congress known as the vocational rehabilitation act;

(c) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or sections are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(d) A fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Where the gift is other than money, the basis for calculation of the amount thereof shall be the fair market value of the property at the time of the gift.

In the case of a taxpayer other than a resident of the state, the deductions under this subdivision shall be allowed only as to contributions or gifts made to corporations or associations incorporated or organized under the laws of this state, or to the vocational rehabilitation fund above mentioned, or to this state or any political subdivision thereof exclusively for public purposes.

9. In the case of a taxpayer other than a resident of this state, the deductions allowed in this section shall be allowed only if, and to the extent that, they are connected with income arising from sources within the state and taxable under this title to a non-resident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income within and without the state shall be determined under rules and regulations to be prescribed by the tax assessor.

Sec. 5. Items not deductible. In computing net income no deductions shall in any case be allowed in respect of:

1. Personal, living, or family expenses;
2. Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;
3. Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or
4. Premiums paid on any life insurance policy or annuity contract, covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Sec. 6. Personal credits. The amount of net income shown in any return under this title shall be diminished before computation of the tax imposed by paragraphs (a), (b), (c) and (d) of subdivision 1 of section 1 of this title by the following amounts:

1. In the case of a single person or head of a family, \$600;
2. In the case of a married person living with husband or wife, \$1,200;
3. In the case of a person who is supporting 1 or more dependents (other than husband or wife), if such dependents are under 18 years of age or are incapable of self support, \$300 for each dependent.

A husband and wife living together shall be allowed but one personal credit. If such husband and wife make separate returns, the personal credit allowed by this section may be taken by either or divided between them.

Sec. 7. Partnerships. Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year. If the net income of any partner for such taxable year

is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then there shall be included in his individual return his distributive share of the net income of the partnership for its fiscal year ending within the fiscal or calendar year upon the basis of which the net income of the partner is computed. Taxpayers who are members of partnerships may be required by the tax commissioner to make a return stating the gross receipts and net gains or profits of the partnership for any taxable year. The net income of the partnership shall be computed in the same manner and on the same basis as provided for computing the net income of individuals.

Sec. 8. Estates and trusts. 1. The taxes imposed by this title shall apply to the income of estates or of any kind of property held in trust.

2. The taxes shall be computed and paid upon the net income of the estate or trust by the beneficiary, except with respect to such income as is actually distributed or distributable during any taxable year to a beneficiary. There shall be included in computing the net income of each beneficiary his distributive share, whether distributed or not, of the net income of the estate or trust for the taxable year. The income of a beneficiary not a resident, derived from such estate or trust, shall be taxable only to the extent provided in subdivision 3 of section 3 for individuals other than residents.

Sec. 9. Taxpayer's returns. 1. No person whose gross income for the taxable year includes no interest, dividends or other income from intangible property and is \$600 or less in total amount shall be required to make a return or pay a tax under this title.

2. Every person a resident of this state having a gross income for the taxable year of more than \$600 shall make under oath a return stating specifically the items of his gross income and the deductions allowed by this title, except that any such person whose gross income exclusive of interest, dividends or other income from intangible property does not exceed \$1,200 if married and living with husband or wife, or \$1,200 plus \$300 for each dependent, may in lieu of such return file a statement showing the amount of his gross income. Such statement need not be made under oath but it shall contain a written declaration that it is made under the penalties for perjury. Whoever signs and issues such a statement containing such declaration shall be guilty of perjury and subject to the penalties thereof if such statement is wilfully false in a material matter.

3. If a husband and wife living together have an aggregate gross income of more than \$600, each shall make a return or statement and the

income of each shall be included in a single joint return or statement in which case the tax shall be computed on the aggregate income.

4. If the taxpayer is unable to make his own return the return shall be made by a duly authorized agent or by the guardian or by any other person charged with the care of the person or the property of such taxpayer.

5. Every nonresident subject to the tax imposed by this title and having a net income for the taxable year of \$600 or over, or a gross income for the taxable year of \$1,200 or over, regardless of the amount of his net income, shall make under oath a return stating specifically the items of his gross income and the deductions allowed by this title. A taxpayer other than a resident shall not be entitled to the deductions authorized by section 4 of this title unless he shall make under oath a complete return of his gross income both within and without the state.

Sec. 10. Returns in case of changed residence. If a taxpayer during the taxable year changes his status from that of resident to that of nonresident, or from that of nonresident to that of resident, he shall file two returns, one as a resident covering the fraction of the year during which he was a resident, and one as a person other than a resident covering the fraction of the year during which he was a nonresident. If the aggregate of the taxpayer's gross income from all sources during the fraction of the year in which he was a resident, and his gross income from sources within this state during the fraction of the year in which he was a nonresident, shall be less than \$600, no return shall be required under this section.

Sec. 11. Time and place of filing returns. Returns of income by individuals shall be made to the tax assessor on or before the 15th day of the 4th month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of April of each year. The tax assessor may grant a reasonable extension of time for filing returns whenever in his judgment good cause exists, and shall keep a record of every such extension and the reason therefor. Except in the case of taxpayers who are abroad, no such extension shall be granted for more than 6 months. Such returns shall set forth such facts as the tax assessor may deem necessary for the proper enforcement of this title. There shall be annexed to the return the affidavit or affirmation of the person making the return, to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the tax assessor upon application, but failure to secure the form shall not relieve any taxpayer from the obligation of making any return herein required.

Sec. 12. Time of payment. The total amount of tax imposed by this title shall be paid on the date fixed in section 11 for filing returns. The taxpayer may elect to pay the tax in 4 equal installments, in which case the 1st installment shall be paid on the date fixed for the filing of returns, the 2nd installment shall be paid on the 15th day of the 3rd month, the 3rd installment shall be paid on the 15th day of the 6th month, and the 4th installment shall be paid on the 15th day of the 9th month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the tax assessor.

Sec. 13. Interest in case of extension of time. If the time for filing the returns shall be extended, the taxpayer shall pay, in addition to the tax, interest thereon at the rate of 6% per year from the time when the return was originally required to be filed to the time of payment. If the time for filing a return by a withholding agent shall be extended, the withholding agent shall pay, and may not charge to the taxpayer, interest at the rate of 6% per year from the time when the return was originally required to be filed to the time of payment.

Sec. 14. Credit for taxes in case of nonresidents. 1. Whenever a taxpayer other than a resident of the state has become liable to pay an income tax to the state or a foreign country where he resides upon his net income for the taxable year derived from sources within this state and subject to taxation under this title, the tax assessor shall credit the amount of tax payable by him under this title with such proportion of the tax so payable by him to the state or country where he resides as his income subject to taxation under this title bears to his entire income upon which the tax so payable to such other state or country was imposed; provided, however, that such credit shall be allowed only if the laws of said state or country :

(a) grant a substantially similar credit to residents of this state subject to income tax under such laws; or

(b) impose a tax upon the personal incomes of its residents derived from sources within this state and exempt from taxation the personal incomes of residents of this state.

2. A like credit shall be allowed to any taxpayer who is domiciled in another state or foreign country notwithstanding that he maintains a permanent place of abode and spends in the aggregate more than 7 months of the taxable year within this state; provided, however, that such credit shall be allowed only if the laws of the state or country where such tax-

payer is domiciled grant a substantially similar credit to a person who is domiciled in this state but maintains a permanent place of abode and spends in the aggregate more than 7 months of the taxable year within such other state or country.

3. No credit shall be allowed against the amount of the tax on any income taxable under this title which is exempt from taxation under the laws of such other state or country.

Sec. 15. Contract to assume income tax illegal. It shall be unlawful for any person to agree or contract directly or indirectly to pay or assume the burden of any income tax payable by any taxpayer under the provisions of this title. Any such contract or agreement shall be null and void and shall not be enforced or given effect by any court.

General and Administrative Provisions

Sec. 16. Definitions. As used in this title and unless otherwise required by the context:

1. The words "tax assessor" mean the state tax assessor.
2. The word "taxpayer" includes any person, trust, estate, fiduciary, partnership, unincorporated association or corporation, subject on its own account or for the account of another, to a tax imposed by this title.
3. The word "resident" when applied to natural persons, includes any person domiciled in the state of Maine, and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than 7 months of the taxable year within the state.
4. The words "military or naval forces of the United States" includes the marine corps, the coast guard, the army nurse corps, female, and the navy nurse corps, male, but this shall not be deemed to exclude other units otherwise included within such words.
5. The words "taxable year" mean the calendar year or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under the title. The words "fiscal year" mean an accounting period of 12 months, ending on any day of any month other than December 31st.
6. The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate

having legal title to and not being merely custodian of property for the benefit of another.

7. The word "paid" means "paid or accrued" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this title. The term "received" means "received or accrued" and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this title.

8. The word "dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, not including stock dividends as herein defined or dividends paid or credited to policyholders by insurance companies. "Stock dividends" mean new stock issued, for surplus or profits capitalized, to shareholders in proportion to their holdings.

9. The word "interest" means any payment for the use of capital funds loaned, invested or deposited, whether represented by bonds, notes, mortgages, pass books or any other evidence of a loan, investment or deposit.

10. The words "foreign country" or "foreign government" mean any jurisdiction other than one embraced within the United States. The words "United States" include the states, the territories of Alaska and Hawaii and the District of Columbia.

11. The words "withholding agent" include all individuals, partnerships, associations or corporations, in whatever capacity acting, including lessees, or mortgagors or real or personal property, fiduciaries, employers, and all officers and employees of the state, or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, perquisites or other fixed or determinable annual or periodical income payable to any individual and taxable under this title.

Sec. 17. Tax a debt. Every tax imposed by this title, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt from the person liable to pay the same to the state of Maine.

Sec. 18. Computation of net income. 1. All items of gross income shall be reported for the taxable year in which received by the taxpayer,

unless under methods of accounting permitted in this title any such amounts are to be properly accounted for as of a different period.

Dividends from corporations may at the option of the taxpayer be reported by him either in the year in which they are declared by the corporation to be payable or in the year in which actually received by him; provided, however, that whichever method is first adopted by the taxpayer shall be used continuously thereafter unless the tax assessor shall give permission to change such method under rules and regulations to be prescribed by him.

2. The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal or calendar year as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the tax assessor does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in this title, or if the taxpayer has no annual accounting period or does not keep the books, the net income shall be computed on the basis of the calendar year.

3. If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the tax assessor, be computed on the basis of such new accounting period, subject to the provisions of sections 19 and 20 of this title.

4. A taxpayer who in the course of his trade or business regularly sells or otherwise disposes of real or personal property on the installment plan may report as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the total profit realized or to be realized when the payment is completed, bears to the contract price. In the case of a casual sale or other casual disposition of real or personal property by a dealer therein for a price exceeding \$1000, if the initial payments do not exceed $\frac{1}{4}$ of the purchase price, the income may be returned on the basis and in the manner above prescribed in this subdivision. As used in this subdivision the term "initial payments" means the payments received in cash or property at the time of sale, or other disposition, plus all payments made up to and at the time of transfer of title, provided that both the sale or other disposition and the transfer of title occur in the same taxable period. The term "initial payments" shall not include

evidences of indebtedness of the purchaser or amounts secured by the property sold or otherwise disposed of.

5. In the case of mines, other natural deposits, except oil and gas wells, and timber, there may be deducted from gross income a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost, including cost of development not otherwise deducted; provided, however, that in the case of such properties acquired prior to January 1st, 1946, the basis for computing depletion or depreciation shall be the cost or the fair market value of the property (or the taxpayer's interest therein) on that date, whichever is greater; provided, further, that in the case of mines discovered by the taxpayer on or after January 1st, 1946, and not acquired as the result of a purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery or within 30 days thereafter; but such depletion allowance based on discovery value shall not exceed 50% of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance be less than it would be if computed without reference to discovery value.

Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine after January 1st, 1946, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

In the case of oil and gas wells the allowance for depletion shall be $27\frac{1}{2}\%$ of the gross income from the property during the taxable year. Such allowance shall not exceed 50% of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this paragraph.

Such reasonable allowance in all of the above cases shall be made under rules and regulations to be prescribed by the tax assessor. In the case of leases the deductions allowed by this subdivision shall be equitably apportioned between the lessor and the lessee.

Sec. 19. Ascertainment of gain or loss. For the purpose of ascertaining the gain derived or loss sustained by a dealer in real or personal prop-

erty or by any person in the course of his trade or business from the sale, exchange or other disposition of property, real, personal or mixed, the basis shall be determined in the following manner: 1. In the case of property acquired on and after January 1st, 1946, the cost thereof, or the inventory value if the inventory is made in accordance with this title.

2. In the case of property acquired prior to January 1st, 1946, and disposed of thereafter, the basis shall be the cost thereof or the value thereof on January 1st, 1946, whichever is greater.

3. In the case of property acquired by gift or by transfer in trust after December 31st, 1945, the basis shall be the value at the date of gift. In the case of property acquired by gift or by transfer in trust prior to January 1st, 1946, the basis shall be the value at the date of gift or the value on January 1st, 1946, whichever is greater.

4. If personal property was acquired by specific bequest, or if real property was acquired by general or specific devise or by intestacy, gain or loss shall be determined as provided in subdivisions 1 and 2 of this section, except that the word "cost" as used in said subdivisions shall be deemed to be the fair market price or value of such property at the time of the death of the decedent. If the property was acquired by the decedent's estate from the decedent, gain or loss in the hands of the estate shall be determined as provided in subdivision 1 or 2 of this section, except that the word "cost" as used in said subdivision shall be deemed to mean the fair market price or value of such property at the time of the death of the decedent. In all other cases if the property was acquired either by will or by intestacy, gain or loss shall be determined as provided in subdivisions 1 or 2 of this section, except that the word "cost" as used in said subdivisions shall be deemed to mean the fair market price or value of such property at the time of the actual distribution by the executor or administrator or trustee to the taxpayer.

5. In computing the amount of gain or loss under this section:

(a) proper adjustment shall be made for any expenditure receipt, loss or other item properly chargeable to capital account, and (b) the basis shall be diminished by the amount of deductions for exhaustion, wear and tear, obsolescence, amortization and depletion which have, since the acquisition of the property, been claimed by the taxpayer and allowed as deductions in respect of such property under this title; but in no case shall the amount of diminution in respect to depletion exceed a depletion deduction computed without reference to discovery value or to percentage depletion under subdivision 5 of section 18 of this title. In addition, if the property was ac-

quired before January 1st, 1946, the basis (if other than the fair market value as of January 1st, 1946) shall be diminished in the amount of exhaustion, wear and tear, obsolescence and depletion actually sustained before such date but the cost shall not be diminished by an amount greater than the excess of such exhaustion, wear and tear, obsolescence and depletion above the cost of repairs made before January 1st, 1946.

6. Taxes assessed upon unimproved land may, at the option of the taxpayer, be charged to capital and added to the cost of the land instead of being treated as a deduction from income; provided, however, that if such method is adopted by the taxpayer it shall be continued in each year thereafter as long as said land remains wholly unimproved.

7. In the case of stock the basis shall be diminished by the amount of liquidating distributions previously made in respect to such stock out of capital, or out of earnings or profits accumulated or increase in value of the property accrued before January 1st, 1946.

Sec. 20. Exchange of property. Upon the sale or exchange of property in trade or business the entire amount of the gain or loss, determined under section 19 of this title shall be recognized except as hereinafter provided in this section.

1. No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates or trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment, or if common stock of a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

2. No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in the pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

3. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this subdivision shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

4. If property (as a result of its destruction in whole or in part, theft, or seizure, or an exercise of the power of requisition or condemnation, or the threat of imminence thereof) is compulsory or involuntarily converted into property similar or relating in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the tax assessor, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

5. If there is distributed, in pursuance of a plan of reorganization, to a shareholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorganization, without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized.

6. If an exchange would be within the provisions of subdivisions 1, 2 or 3 of this section were it not for the fact that the property received in exchange consists not only of property permitted by such subdivisions to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

7. If an exchange would be within the provisions of subdivisions 1, 2 or 3 of this section were it not for the fact that the property received in exchange consists not only of property permitted by such subdivisions to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

8. As used in this section the term "reorganization" means:

(a) a merger or consolidation (including the acquisition by one corporation of at least the majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation or substantially all the properties of another corporation);

(b) a transfer by a corporation of all or part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred;

(c) a recapitalization; or

(d) a mere change in identity, form or place of organization, however effected.

The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of an acquisition by one corporation of at least the majority of the voting stock and at least a majority of the total number of shares of all other classes of another corporation.

As used in this section the term "control" means the ownership of at least 80% of the voting stock and at least 80% of the total number of shares of all other classes of stock of the corporation.

9. When property is exchanged for other property and no gain or loss is realized under the provisions of this section, the property received shall be treated as taking the place of the property exchanged and its cost shall be deemed to be the same as the cost of the property given in exchange.

Sec. 21. Dividends paid in property-value determined. In the case of a dividend declared and paid by a corporation in property the value thereof for the purposes of this title shall be the value of such property at the time at which it shall be declared by the corporation to be payable, and if no such time shall be specified by the corporation, then its value at the time of distribution there by the corporation.

Sec. 22. Inventory. Whenever in the opinion of the tax assessor the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the tax assessor may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income.

Sec. 23. Partnership returns. Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed under this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

Sec. 24. Fiduciary returns. 1. Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of a taxpayer) shall make under oath a return for any individual, estate or trust for which he acts, stating specifically the items of gross income

thereof and the deductions allowed under this title, in the following cases :

(a) if such individual, estate or trust has interest, dividends or other income from intangible property of any amount ; or

(b) a gross income for the taxable year in excess of \$600.

2. Under such regulations as the tax assessor may prescribe, a return by one or two or more joint fiduciaries shall be sufficient compliance with the above requirement. The fiduciary shall make oath that he has sufficient knowledge of the affairs of the individual, estate or trust for which he acts to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct.

3. Fiduciaries required to make returns under this title shall be subject to all of the provisions herein which apply to taxpayers.

Sec. 25. Returns when accounting period changed. 1. If a taxpayer, with the approval of the tax assessor, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31st. If the change is made from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is made from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. If a taxpayer making his first return of income keeps his accounts on the basis of a fiscal year, he shall make a separate return for the period between the beginning of a calendar year in which such fiscal year ends and the end of the fiscal year.

2. In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be computed and paid thereon at the rate for the calendar year in which such period is included.

Sec. 26. Withholding and payment at the source. 1. For the calendar year 1946 and for each calendar year thereafter, every withholding agent having the receipt, control, custody, disposal or payment of salaries, wages, commissions, gratuities, emoluments, perquisites and other fixed or determinable annual or periodical compensation of whatever kind and in whatever period received, earned by any nonresident taxpayer for personal services taxable under this title, and amounting to \$600 or more, shall deduct

and withhold therefrom the following amounts: 1% of the first \$2,500 or less, 2% of the next \$2,500 or less, 3% of the next \$2,500 or less, and 4% of the excess over \$7,500, by which the amount of such compensation paid or to be paid in the calendar year, by such withholding agent to such taxpayer, exceeds the amount of the personal credit granted to such taxpayer under section 6 of this title as shown by a certificate filed with the withholding agent in form to be prescribed by the tax assessor or \$600 if no certificate showing his personal credit status is filed with the withholding agent by a taxpayer other than a resident of this state. Provided, however, that no deduction or withholding shall be required if it appears that another state has passed a law taxing incomes in such manner, as will result in its residents being entitled to credit under section 14 of this title, sufficient to offset all taxes imposed by this title, in which case the tax assessor may by regulation, relieve residents of such state from being required to make any return under this title and may prescribe a form of certificate of exemption to be filed by residents of such state with withholding agents. The tax assessor may, by regulation, require withholding agents to forward to him at stated times any of the certificates mentioned in this subdivision.

2. Every withholding agent required to deduct and withhold any tax under subdivision 1 of this section shall make return thereof on or before the 15th day of April in each year and shall at the same time pay the tax to the tax assessor. Every withholding agent is hereby made liable for such tax and is hereby indemnified against the claims and demands of any individual or partnership for the amount of any payments made in accordance with the provisions of this section.

3. Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

4. If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

Sec. 27. Information returns. Every person, firm, association or corporation, and every department, board, commission or agency of the state government and of any of its subdivisions having the receipt, control, cus-

today, disposal or payment of salaries, wages, commissions, gratuities, emoluments, perquisites, interest, rent, dividends, royalties, and other fixed or determinable annual or periodical payments of whatever kind and in whatever form paid to or received by any person subject to taxation under this title, in an amount exceeding \$600 in any taxable year, shall report the same to the tax assessor under such regulations and in such form and manner and to such extent as may be prescribed by him.

Sec. 28. Audit or returns; protests and additional taxes. 1. As soon as practicable after a return or report is filed under this title, the tax assessor shall examine it and compute the tax.

2. If the tax assessor determines, in the case of any taxpayer, that there is a deficiency in respect of the tax assessed under this title, he shall mail notice to the taxpayer stating the grounds for such determination and allowing the taxpayer not less than 20 days from the date of such notice within which to file a protest. Such protest shall be in writing signed by the taxpayer or his duly authorized representative or officer under oath, and shall set forth the reasons therefor. A personal hearing shall be granted to the taxpayer if he shall so request in the protest, to be held at the office of the tax assessor in Augusta, or in his discretion at some place in the county where the taxpayer resides, or at the taxpayer's place of business.

3. After such hearing, or if the taxpayer shall fail to attend such hearing, or shall fail to request such hearing in the protest, the tax shall be assessed by the tax assessor in such amount as shall be determined by him to be owing; or if the taxpayer fails to file a protest within the time prescribed in the notice of deficiency the tax shall be assessed in the amount stated in said notice and shall be paid within 10 days after notice and demand shall have been mailed by the tax assessor to the taxpayer. In such case, if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the taxpayer, there shall be no interest, penalty or additional tax because of such understatement, provided the deficiency be paid within 10 days after notice of the amount is mailed to the taxpayer. If payment is not made within 10 days, there shall be added to the amount of the deficiency 5% thereof, and in addition, interest at the rate of 1% per month for each month or fraction of a month calculated from the date of notice.

4. If the understatement is due to negligence on the part of the taxpayer but without intent to defraud, there shall be added to the amount of the deficiency 5% thereof, and in addition, interest at the rate of 1% per month for each month or fraction of a month.

Except as otherwise provided in this subdivision, the interest provided for in this subdivision shall in all cases be computed from the date the tax was originally due to the date of payment.

Sec. 29. Limitation of time of assessments; jeopardy assessments.

1. No additional tax shall be assessed against any taxpayer until after the tax assessor shall have given him an opportunity to be heard in opposition thereto as provided in the preceding section, except as provided in the next subdivision.

2. If, however, the tax assessor believes that the assessment or collection of deficiency of tax will be jeopardized by delay, he shall not be obliged to furnish the taxpayer an opportunity to be heard as provided in the preceding section, but shall immediately assess such deficiency (together with interest and all additional amounts provided by law) and notice and demand shall be made by him for the payment thereof.

3. But if a jeopardy assessment be made without having given the taxpayer an opportunity to be heard, then the notice thereof shall give to the taxpayer the opportunity to file a protest with the tax assessor in the same manner as provided in the preceding section in the case of a deficiency of tax. If no protest is filed within the time limited in said notice then the tax assessor shall immediately proceed to collect the tax, but if a protest shall be filed, then on giving adequate security collection thereof shall be stayed until the final determination of the tax assessor thereon and until the expiration of the period within which the taxpayer may apply for a review of such determination without such application having been made as provided in this title, and if certiorari proceedings are brought, then on giving like security, until 10 days after notice of the final determination of the court therein shall have been given by the tax assessor.

4. The amount of tax due under any return or report required by this title shall be determined and assessed by the tax assessor within 3 years after the return was due unless the taxpayer shall in writing consent to an extension of time except, that

(a) in the case of wilfully false or fraudulent returns the amount of tax due may be determined and assessed at any time after the return is filed and the tax may be collected at any time after it becomes due;

(b) where no return has been filed the tax may be assessed at any time; and

(c) in cases where certiorari proceedings are brought to review the determination of the tax assessor as provided in this title the tax may be

determined and assessed within 60 days after a final determination by the court.

Sec. 30. Refunds and credits. 1. The taxpayer, at any time within 2 years after the payment of any original or additional tax assessed against him, may file with the tax assessor a claim for refund under oath stating the grounds therefor, and in such form as the tax assessor may prescribe, except that no claim for refund shall be required to be filed with respect to a tax paid after protest has been filed with the tax assessor or after certiorari proceedings have been begun as provided in the next section.

2. If, upon examination of such claim for refund it shall be determined by the tax assessor that there has been an overpayment of tax, the amount of such overpayment shall first be credited against any other tax then due from the taxpayer which has been assessed under this title and any balance thereof shall be immediately refunded to the taxpayer. If the tax assessor rejects the claim in whole or in part he shall mail notice of the rejection to the taxpayer by registered mail stating his reasons therefor.

3. Where no questions of fact or law are involved and it appears from the records of the tax assessor that any moneys have been erroneously or illegally collected from any taxpayer or other person, or paid by such taxpayer or other person under a mistake of facts or law, the tax assessor shall have the power at any time upon making a record of his reasons therefor in writing, to cause such moneys so paid and erroneously and illegally held to be refunded and to issue therefor his certificate to the treasurer of state as provided in the following paragraph.

4. Refunds shall be made by the treasurer of state out of the proceeds of the tax retained by him as provided in this title, and only upon a certificate of the tax assessor. The certificate of the tax assessor shall be final unless the treasurer of state believes from information in his possession that there is fraud.

5. Upon the refund of any tax, except a refund made according to the provisions of subdivision 3 of this section, there shall be paid to the taxpayer interest on the amount of overpayment of tax at the rate of 6% per year from the date of payment.

6. Except as provided in subdivisions 2 and 3 of this section, no refund or credit for any excess tax paid shall be made unless a claim for the refund thereof shall have been filed as provided in subdivision 1 of this section.

Sec. 31. Review of determination of tax assessor. 1. The taxpayer

may cause the final determination of the tax to be reviewed in the following cases:

(a) A determination by the tax assessor after protest filed confirming in whole or in part a tax assessed under this title;

(b) A determination by the tax assessor after protest filed that there is a deficiency of tax owing by the taxpayer as provided in section 28 of this title;

(c) A determination by the tax assessor after protest filed confirming in whole or in part a jeopardy assessment made by him under the provisions of section 29 of this title;

(d) A determination by the tax assessor rejecting in whole or in part a claim for refund filed under the provisions of section 30 of this title;

(e) Provided, however, that no review shall be allowed unless written notice of the application therefor is given by the taxpayer to the tax assessor within 90 days after notice of the final determination of the tax assessor in the above cases shall have been mailed to him by the taxpayer, not counting Sunday or a legal holiday as the 90th day.

2. Such review shall be by certiorari proceedings before the supreme court, in the same manner as other appeals are brought before this court.

3. Any taxpayer, after protest filed and before the final determination of liability, may at his option, pay the deficiency of tax claimed by the tax assessor. In the event that it is finally determined by the tax assessor or additional tax paid was in excess of the amount lawfully assessable against such taxpayer, the amount of such overpayment shall be immediately refunded to him, notwithstanding that no claims for refund have been previously filed.

Sec. 32. Income tax assessment roll. 1. Upon receipt of the returns required to be filed under this title, the tax assessor shall proceed forthwith to prepare an income tax assessment roll. Said roll shall consist of a book or books, in which shall be entered, in alphabetical order and by local political subdivisions, the name and address of each taxpayer as shown by the returns. Opposite the name of each taxpayer there shall be entered, in separate columns under appropriate headings:

(a) The amount of his gross income, classified by sources in such manner as the tax assessor shall determine;

(b) The amount of deductions claimed;

- (c) The amount of net income ;
- (d) The amount of tax due.

2. A supplementary income tax assessment roll shall be prepared, in like form to the above, in which shall be entered the names, the amounts of gross income, deductions claimed, net income and tax due of all persons who shall report income for a fiscal year other than the calendar year.

3. The tax assessor shall presume the incomes reported on the current returns to be correct for the purpose of preparing the initial assessment roll. Whenever, after audit and examination of the returns as provided in section 28 of this title, the tax assessor shall determine that a correction shall be made in any return or in the amount of tax due upon any return of income, he shall enter forthwith, after final hearing and disposition thereof, the corrections determined upon in the assessment roll.

4. The income tax assessment roll and the supplementary income tax assessment roll shall be made in duplicate, and the duplicate copy of each shall be known as the income tax roll.

5. Upon the completion of the income tax assessment roll and the supplementary income tax assessment roll, respectively, the tax assessor shall execute and attach to each of said rolls a certificate and warrant in substantially the following term:

“State of Maine,

I,, tax assessor of the state of Maine, do hereby certify that the foregoing assessment roll contains a complete list of all persons liable to the payment of income tax for the year 19...., as shown by the returns submitted as required by law, and that the amount of net income shown in the said assessment roll opposite to the name of each person is the correct amount upon which he is to be assessed for income tax as shown by his return and statement of income. I hereby do assess to each of said persons named in the foregoing roll the amount of net income shown in said roll opposite to his name.

I further do hereby certify that the amount of tax shown in said assessment roll opposite to the name of each person named therein is the correct amount of tax to be levied against him for the year 19...., as shown by his return and statement of income, and I do hereby levy upon each of said persons the amount of tax set down in the foregoing assessment roll opposite to their respective names.

I hereby warrant the collection of the amount of income tax hereby

levied against each person named in the said roll, and I direct that the tax shall be paid at my office, or to any deputy or other agent who may be duly and properly authorized by me to receive the same. The amount of tax levied, as shown by the foregoing roll, shall be credited with any and all advance payments or installments which may be made by any person liable to pay the same, at the time of filing a return or at any later time.

Given under my hand and seal this..... day of, 19.....

.....
Tax Assessor."

6. The execution of the foregoing certificate and warrant shall not be deemed to prevent the later correction of the assessment of income or levy of tax in any case after examination and audit of the return, as provided in section 28, or after review of the determination of the tax assessor, as provided in section 31 of this title.

7. Payment of the tax, in whole or in part, as provided in section 12, shall be deemed to be an advance payment on account and not a final settlement of the tax obligation imposed by this title. The amount of tax set opposite to the name of each person in the assessment roll, as finally corrected after examination and review as in this title provided, shall be the correct amount which each of such persons shall be liable to pay.

Sec. 33. Penalties. 1. If any taxpayer or withholding agent without intent to evade any tax imposed by this title, shall fail to file a return or a corrected return or pay any tax, if one is due, at the time required by or under the provisions of this title, but shall voluntarily make a correct return and pay the tax due within 60 days thereafter, there shall be added to the tax an additional amount equal to 5% thereof, but such additional amount shall in no case be less than \$2, and an additional 1% per month for each month or fraction of a month during which the tax remains unpaid.

2. If any taxpayer or withholding agent fails voluntarily to file a return or corrected return or to pay a tax if one is due, within 60 days of the time required by or under the provisions of this title, but without intent to evade the tax, there shall be added to the tax payable by him an additional amount equal to 25% thereof and an additional 1% for each month or fraction of a month from the time the tax was originally due to the date of payment.

3. Any person and any officer of a corporation filing or causing to be filed any return, certificate, affidavit or statement required or authorized by this title which is wilfully false shall be guilty of a felony.

4. The tax assessor shall have the power to compromise any penalty and additional interest chargeable against the taxpayer in accordance with the provisions of subdivisions 1 and 2 of this section where it is shown to his satisfaction that the failure to file and to pay the tax was due to a reasonable cause and not due to wilful neglect or fraudulent intent; and he shall have power to suspend the accruing of all penalties upon any additional tax assessed by virtue of said subdivisions 1 and 2 and to extend the time for payment of such assessment in any case where due application has been made for a revision and readjustment of the same under this title to not later than 30 days after the service of the notice of a determination thereon.

5. If any individual, or any officer or employee of any partnership, association or corporation, with intent to evade any tax or any requirement of this title or any lawful requirement of the tax assessor thereunder, shall fail to pay the tax, or to make, render, sign or certify any return, or to supply any information, within the time required by or under the provisions of this title, or with like intent shall make, render, sign or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, the tax payable by such individual, partnership, association or corporation, whether as a taxpayer or as a withholding agent, shall be doubled and there shall be added thereto 1% for each month or fraction of a month from the time the tax was originally due until the date of payment; and such individual, partnership, association or corporation shall also be liable to a penalty of not more than \$1000, to be recovered by the attorney-general, in the name of the state, by action in any court of competent jurisdiction, and such individual, officer or employee of a partnership, association or corporation, shall also be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than \$1000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment, at the discretion of the court.

6. The attorney-general shall have the power, with the consent of the tax assessor, to compromise any penalty for which he is authorized to bring action under subdivision 5 of this section. The penalty provided by subdivision 5 of this section shall be in addition to all other penalties in this title provided.

7. The failure to do any act required by or under the provisions of this title shall be deemed an act committed in part at the office of the tax assessor in Augusta. The certificate of the tax assessor to the effect that a tax has not been paid, that a return has not been filed, or that information

has not been supplied, as required by or under the provisions of this title, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Sec. 34. Proceedings to recover tax. 1. Whenever any person shall fail to pay any tax or penalty imposed by this title as herein provided, the attorney-general shall, upon the request of the tax assessor, bring an action to enforce payment of the same. The proceeds of a judgment in such action shall be paid to the tax assessor.

2. As an additional or alternative remedy, the tax assessor may issue a warrant under his official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person, partnership, association or corporation owning the same, found within his county, for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the tax assessor and pay to him the money collected by virtue thereof within 60 days after the receipt of such warrant. The sheriff shall within 5 days after the receipt of the warrant, file with the clerk of courts of his county a copy thereof and thereupon the clerk shall enter in the judgment docket in the column for judgment debtors, the name of the taxpayer or withholding agent mentioned in the warrant, and appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed. The said sheriff shall thereupon proceed upon the same in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. In the discretion of the tax assessor a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect the tax imposed by this title, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, including the power to collect for the benefit of the state, the same fees as are collectible by sheriffs; but said agent personally shall be entitled to no fees or compensation in excess of actual expenses in the performance of such duty. If a warrant be returned not satisfied in full, the tax assessor shall have the same remedies to enforce the claim for taxes against the taxpayer or withholding agent as if the state had recovered judgment against the taxpayer or withholding agent for the amount of the tax.

Sec. 35. Powers of tax assessor. 1. The tax assessor shall administer

and enforce the taxes herein imposed, for which purpose he may divide the state into districts in each of which a branch office of the state tax assessor may be maintained; he may appoint agents for the purpose of collecting such taxes and shall require from them reasonable bond.

2. The tax assessor is hereby authorized to make such rules and regulations, and to require such facts and information to be reported, as he may deem necessary to enforce the provisions of this title.

3. If, in the opinion of the tax assessor any return or report is in any essential respect incorrect he shall have power to revise it, or if any taxpayer fails to make return as herein required, the tax assessor is authorized to make an estimate of the taxable income of such taxpayer from any information in his possession, and to audit and state an account according to such revised return or the estimate so made by him for the taxes, penalties and interest due the state from such taxpayer.

4. The tax assessor, for the purpose of ascertaining the correctness of any such return or report or for the purpose of making an estimate of taxable income of any taxpayer where information has been obtained, shall also have power to examine or to cause to have examined by any agent or representative designated by him for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return and may require the attendance of the taxpayer rendering the return, or any officer or employee of such taxpayer, or the attendance of any person having knowledge in the premises, and may take testimony and require proof material for his information with power to administer oaths to such person or persons.

5. The tax assessor may also appoint agents by a written appointment under his official seal for the purpose of such examination. Every agent so appointed shall be authorized to make such examination and take such testimony and hear such proofs, and report the proofs and testimony so taken and the result of his examination so made and the facts found by him to the tax assessor. The tax assessor shall, therefrom, or from any other data which shall be satisfactory to him, audit and state and account for the tax due the state.

6. The tax assessor and his agents shall have the power to administer an oath to any person, or to take the acknowledgment of any person in respect of any income tax report or return required by or pursuant to this title, or the rules and regulations of the tax assessor.

Sec. 36. Lien of tax. All taxes, penalties and interest imposed under this title shall be a lien and binding upon the real and personal property

of the individual, partnership, association or corporation liable to pay the same, from the time the warrant for their collection is docketed as provided in section 32 until the same is paid in full. But the lien of each such tax or additional tax imposed under this title shall be subject to the lien of any recorded mortgage indebtedness existing against real property previous to the time when the tax or additional tax is due and payable and where such mortgage indebtedness has been incurred in good faith, whether as a purchase money mortgage or otherwise. Where title to real property passes from an individual or corporation to another individual or corporation which is in default for such tax or additional tax, the lien herein provided shall not be enforceable except as to any equity after the prior mortgage encumbrance.

Sec. 37. Release from tax lien. The tax assessor may, upon application made to him and the payment of a fee of \$5, release any real property from the lien of any tax or taxes due or to become due under this title, provided payment be made to the tax assessor of such a sum as the tax assessor shall deem adequate consideration for such release, or deposit be made of such security or such bond be filed as the tax assessor shall deem proper to secure payment of any tax or taxes the lien of which is being released. The application for such release shall contain an accurate description of the property to be released, together with such other information as the tax assessor may require. Such release shall be given under the seal of the tax assessor and may be recorded in any office in which conveyances of real estate are entitled to be recorded.

Sec. 38. Preservation of reports. All reports required to be filed under this title shall be preserved for 5 years and thereafter until they shall be destroyed by order of the tax assessor.

Sec. 39. Secrecy required of officials; penalty for violation. 1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the tax assessor, his agent, clerk or other officer or employee to divulge or make known in any manner the amount of income or any particular set forth or disclosed in any report or return required under this title. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the tax assessor in an action or proceeding under the provisions of this title to which he is a party, or on behalf of any party to any action or proceeding under the provisions of this title when the reports or facts shown thereby are directly involved in such action or pro-

ceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said reports or proceedings and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return or report filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney-general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based therein, or against whom an action or proceeding has been instituted in accordance with the provisions of this title.

2. Any offense against subdivision 1 of this section shall be punished by a fine of not more than \$1000 or by imprisonment for not more than 1 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 and incapable of holding any public office in this state for a period of 5 years thereafter.

3. Notwithstanding the provisions of this section, the tax assessor may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing taxes substantially similar to those imposed under this title, or the authorized representative of any such officer to inspect the returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract of the return or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted or such information furnished to such officer only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of the taxes imposed by this title.

Sec. 40. When this act to take effect. This title shall take effect on November 1st, 1946, except that the tax hereby imposed shall be first levied, collected and paid upon and with respect to incomes received during the calendar year 1946, or any fiscal year ending within such calendar year.

TITLE XI

The proceeds of titles VIII and IX, or X, shall be devoted to carry out:

I. The provisions of section 2 of title VII;

- II. The extension of educational facilities at the University of Maine;
- III. The provisions of title III;
- IV. Council Order No. 240, passed September 6, 1945, which created the office of director of veterans' affairs;
- V. Sections 295 to 298, inclusive, of chapter 22 of the revised statutes of 1944, relating to pensions to veterans and their dependents;
- VI. Sections 199 to 306-A, inclusive, of chapter 22 of the revised statutes of 1944, relating to support of dependents of veterans of World War I and World War II;
- VII. Sections 119 to 122, inclusive, of chapter 37 of the revised statutes of 1944, relating to the education of orphans of veterans;
- VIII. Sections 169 to 180, inclusive, of chapter 37 of the revised statutes of 1944, relating to the rehabilitation of veterans;
- IX. Sections 45 and 46 of chapter 82 of the revised statutes of 1944, relating to the burial of veterans; and
- X. Such sum as may be necessary to pay the expenses of the administration, collection and enforcement of this act.

TITLE XII

Referendum

This act shall be submitted for approval or rejection to the duly qualified voters of the state of Maine at the general election to be held on the 2nd Monday of September, 1946. The municipal officers of the cities, towns and plantations in this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators and representatives to give in their votes upon this act, and the question shall be: "Shall the act providing for the payment of a bonus to and insurance premiums for Maine veterans of World War II and for the payment of other veterans' benefits and to provide for such payments by a sales tax or an income tax, as submitted by the 92nd legislature to the people, be accepted?" and the inhabitants of said cities, towns and plantations shall vote by ballot on said question, those in favor of the act expressing it by making a cross within the square opposite the word "Yes" upon the ballots and those opposed to the act by making a cross within the square opposite

the word "No" upon their ballots, and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and returns made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same, and if it shall appear that a majority of the inhabitants voting on the question are in favor of the act, the governor shall forthwith make known the fact by his proclamation and thereupon this act shall become law. The secretary of state shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing act, accompanied by a copy thereof.

TITLE XIII

Conditional upon adoption of constitutional amendment; act to become effective upon same date as constitutional amendment. This act shall take effect only under the provisions of title XII and upon the adoption in September, 1946, of the proposed amendment to article IX of the constitution providing for the issuing of state bonds for the purpose of paying a bonus to or insurance premiums for Maine members of the military and naval forces in World War II and for the payment of other veterans' benefits and to provide for the payment of such bonds by a sales tax or an income tax; and in case of such adoption shall take effect on the day said constitutional amendment becomes effective.