

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1489

H. P. 1742

House of Representatives, April 30, 1947.

Reported by Five Members of Committee on Taxation and printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Imposing a Personal Income Tax to Raise Additional Revenue.

Emergency preamble. Whereas, due to increased cost of labor and materials, the cost of state government in administering the services required by law has increased; and

Whereas, further revenue is necessary in order to carry out the functions of government as provided by law; and

Whereas, orderly procedure of administering the essential duties required by the people of the state of Maine necessitates further moneys; and

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

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

Sec. 1. R. S., c. 14, §§ 244-283, additional. Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto new sections to be numbered 244 to 283, inclusive, to read as follows:

PERSONAL INCOME TAX.**Sec. 244. Imposition of income tax; rates.**

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

A. Upon a taxable net income of not more than \$1,000, 1%.

B. Upon a taxable net income of over \$1,000, but not more than \$3,000, 1% on the first \$1,000, and 2% on the next \$2,000, or fraction thereof.

C. Upon a taxable net income of over \$3,000, but not more than \$6,000, 1% on the first \$1,000, and 2% on the next \$2,000, and 3% on the next \$3,000, or fraction thereof.

D. Upon a taxable net income of over \$6,000, but not more than \$10,000, 1% on the first \$1,000, 2% on the next \$2,000, 3% on the next \$3,000, and 4% on the next \$4,000, or fraction thereof.

E. Upon a taxable net income of over \$10,000, but not more than \$15,000, 1% on the first \$1,000, 2% on the next \$2,000, 3% on the next \$3,000, 4% on the next \$4,000, and 5% on the next \$5,000, or fraction thereof.

F. Upon a taxable net income of over \$15,000, 1% on the first \$1,000, 2% on the next \$2,000, 3% on the next \$3,000, 4% on the next \$4,000, 5% on the next \$5,000 and 6% on all over \$15,000.

II. 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 subsection I of this section, upon and with respect to the net income as defined in sections 244 to 283, inclusive, derived from all property owned and from every business, trade, profession, employment or occupation carried on in this state by such non-resident, except as provided in subsection III of section 246.

III. The taxes imposed hereby shall first be levied, collected and paid in the year 1949 upon and with respect to the taxable income for the calendar year 1948.

Sec. 245. Person, net income, taxable net income, defined.

I. The term "person" shall not include corporations.

II. The term "net income" means the gross income of a taxpayer less the deductions allowed by section 247.

III. The term "taxable net income" means the net income less the personal credits allowed by section 249.

Sec. 246. Gross income defined. The term "gross income" includes:

I. Gains, profits and income derived from salaries, wages or compensation for personal service, or 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, royalties, securities, dividends, other than stock dividends paid in new stock of the company issuing the same, 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 or statutory officer of this state, taking office after the time of the taking effect of sections 244 to 283, inclusive, shall be included in gross income and all acts fixing the compensation of such constitutional or statutory officers of this state are hereby amended accordingly.

II. The term "gross income" does not include the following items, which shall be exempt from taxation under the provisions of sections 244 to 283, inclusive:

A. Amounts received under life insurance policies and contracts paid by reason of the death of the insured;

B. Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon;

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 such income, the tax on which is prohibited by congressional enactments; or interest upon all bonds, notes and other obligations issued after the 1st day of February, 1909, by the state of Maine or any county, municipality, village corporation, school district, parking district, light and power district or water or sewerage district therein;

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. Any pension, allotment, or allowance, including disability or dependency compensation, paid to a veteran or a veteran's legal dependents by reason of service in the military forces of the United States;

G. Income received in trust by any officer of a religious denomination or by any institution, or trust, for moral or mental improvement, bible, religious 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 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;

I. 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;

J. Income from whatever source derived which was earned or accrued or was payable before January 1st, 1948 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, 1948;

K. Amounts received from a corporation in cancellation, retirement or redemption of its stocks, bonds or other obligations 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, 1948 and is paid on account of stocks, bonds or other obligations entitled to participate in earnings and profits on dissolution or liquidation of the corporation.

III. In the case of taxpayers other than residents, gross income includes only the gross income subject to the jurisdiction of the state and shall

not include interest or dividends paid by Maine corporations to non-resident owners of Maine securities.

Sec. 247. Deductions. In computing net income there shall be allowed as deductions:

I. 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 the provisions of sections 244 to 283, inclusive, 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, except when reimbursed.

II. 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 sections 244 to 283, inclusive, and

B. On indebtedness incurred or continued in connection with the purchasing or carrying of an annuity.

III. Taxes imposed by the authority of this state, or any county, school district, municipality or other taxing subdivision of this state, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; and not including inheritance, estate or income taxes of this state.

IV. 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 the section shall be the same as is provided in sections 263 and 264 for determining the gain or loss from the sale, exchange or other disposition of property.

V. 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, 1948 no more than its fair market value on that date shall be deducted. A worthless debt arising since January 1st, 1948 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 the provisions of sections 244 to 283, inclusive.

VI. A reasonable allowance for the exhaustion, wear and tear of property, the income of which is required to be included in gross income under the provisions of sections 244 to 283, inclusive, including a reasonable allowance for obsolescence.

VII. An allowance for depletion and for depreciation of improvements in the case of mines and other natural deposits, and timber, to be determined in accordance with the provisions of subsection V of section 262.

VIII. Expenses paid during the tax year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or any dependent; provided that such deduction shall include only such expenses as exceed 5% of the taxpayer's total net income as computed without benefit of this section.

IX. 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 of 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 earning 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 section 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.

X. 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 subject to the jurisdiction of the state taxable under the provisions of sections 244 to 283, inclusive, to a non-resident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income subject to the jurisdiction of the state or not so subject shall be determined under rules and regulations to be prescribed by the state tax assessor.

Sec. 248. Items not deductible. In computing net income no deductions shall in any case be allowed in respect of:

I. Personal, living, or family expenses;

II. Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

III. Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

IV. 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. 249. Personal credits. The amount of net income shown in any return under the provisions of sections 244 to 283, inclusive, shall be diminished before computation of the tax imposed by subsection I of section 244 by the following amounts:

I. In the case of a single person, \$500;

II. In the case of a head of a family, or a married person living with husband or wife, \$1,000;

III. In the case of a person who is supporting one or more dependents (other than husband or wife), if such dependents are under 18 years of age or are incapable of self-support, \$500 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. 250. 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 state tax assessor 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. 251. Estates and trusts.

I. The taxes imposed by sections 244 to 283, inclusive, shall apply to the income of estates or of any kind of property held in trust.

II. The taxes shall be computed and paid upon the net income of the estate or trust by the fiduciary, 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 subsection III of section 246 for individuals other than residents.

Sec. 252. Taxpayers' returns.

I. Every person who received during the year a taxable net income of \$500 or over, if single, or \$1,000 or over if married, must report the same

in the manner and form herein provided to the state tax assessor whether notified to do so or not, and shall be subject to the same penalties for failure to report as those who receive notice, provided, however, that nothing contained in this section shall preclude the state tax assessor from requiring any person to file an income tax return when in the judgment of the state tax assessor a return should be filed.

II. Married persons living together as husband and wife for more than 6 months in the taxable year may make separate returns or join in a single joint return. The tax shall be computed on the combined taxable income. On written request, a separate statement or tax bill shall be issued to husband and wife.

III. 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.

IV. Every nonresident subject to the tax imposed by sections 244 to 283, inclusive, and having a net income for the taxable year of \$500 or over, or a gross income for the taxable year of \$1,000 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 said sections. A taxpayer other than a resident shall not be entitled to the deductions authorized by section 247 unless he shall make under oath a complete return of his gross income both within and without the state.

Sec. 253. Simplified returns permitted.

I. A taxpayer whose gross income for a tax year is less than \$5,000, and is derived entirely from wages, dividends or interest, and whose gross income from sources other than wages does not exceed \$100, may make a return on such short form tax return as may be prescribed by the state tax assessor. A taxpayer in making such short form tax return shall compute his tax in accordance with the following tax table, but such taxpayer shall not be entitled to make any deductions as provided by subsections II to IX, inclusive, of section 247:

If total income is		And the number of persons are as shown							
at	but less	1	2	3	4	5	6	7	8
least	than	Your tax is							
\$600	\$700	\$1	0	0	0	0	0	0	0
700	800	2	0	0	0	0	0	0	0
800	900	3	0	0	0	0	0	0	0

If total income is		And the number of persons are as shown							
at	but less	1	2	3	4	5	6	7	8
least	than	Your tax is							
900	1,000	3	0	0	0	0	0	0	0
1,000	1,100	4	0	0	0	0	0	0	0
1,100	1,200	5	0	0	0	0	0	0	0
1,200	1,300	6	\$1	0	0	0	0	0	0
1,300	1,400	7	2	0	0	0	0	0	0
1,400	1,500	8	3	0	0	0	0	0	0
1,500	1,600	9	4	0	0	0	0	0	0
1,600	1,700	9	5	0	0	0	0	0	0
1,700	1,800	10	5	0	0	0	0	0	0
1,800	1,850	11	6	\$1	0	0	0	0	0
1,850	1,900	12	6	2	0	0	0	0	0
1,900	1,950	13	7	3	0	0	0	0	0
1,950	2,000	14	7	3	0	0	0	0	0
2,000	2,050	15	8	3	0	0	0	0	0
2,050	2,100	16	8	3	0	0	0	0	0
2,100	2,150	17	8	3	0	0	0	0	0
2,150	2,200	18	9	4	0	0	0	0	0
2,200	2,250	19	9	4	0	0	0	0	0
2,250	2,300	20	10	5	0	0	0	0	0
2,300	2,350	20	10	5	0	0	0	0	0
2,350	2,400	21	11	6	\$1	0	0	0	0
2,400	2,450	22	12	6	1	0	0	0	0
2,450	2,500	23	13	7	2	0	0	0	0
2,500	2,550	24	14	7	2	0	0	0	0
2,550	2,600	25	15	7	2	0	0	0	0
2,600	2,650	26	16	8	3	0	0	0	0
2,650	2,700	27	17	8	3	0	0	0	0
2,700	2,750	27	17	9	4	0	0	0	0
2,750	2,800	28	18	9	4	0	0	0	0
2,800	2,850	29	19	10	5	0	0	0	0
2,850	2,900	30	20	10	5	0	0	0	0
2,900	2,950	31	21	11	5	0	0	0	0
2,950	3,000	32	22	12	6	0	0	0	0
3,000	3,050	33	23	13	6	\$1	0	0	0
3,050	3,100	33	24	14	7	2	0	0	0
3,100	3,150	34	24	14	7	2	0	0	0
3,150	3,200	35	25	15	8	3	0	0	0
3,200	3,250	36	26	16	8	3	0	0	0

If total income is at least	but less than	And the number of persons are as shown							
		1	2	3	4	5	6	7	8
3,250	3,300	37	27	17	8	3	0	0	0
3,300	3,350	38	28	18	9	3	0	0	0
3,350	3,400	39	29	19	9	4	0	0	0
3,400	3,450	40	30	19	10	5	0	0	0
3,450	3,500	40	30	20	10	5	0	0	0
3,500	3,550	41	31	21	11	6	0	0	0
3,550	3,600	42	32	22	12	6	\$1	0	0
3,600	3,650	43	33	23	13	7	2	0	0
3,650	3,700	44	34	24	14	7	2	0	0
3,700	3,750	45	35	25	15	7	2	0	0
3,750	3,800	46	36	26	16	8	3	0	0
3,800	3,850	47	37	27	17	8	3	0	0
3,850	3,900	47	37	27	17	9	4	0	0
3,900	3,950	48	38	28	18	9	4	0	0
3,950	4,000	49	39	29	19	10	5	0	0
4,000	4,050	50	40	30	20	10	5	0	0
4,050	4,100	51	41	31	21	11	5	0	0
4,100	4,150	53	42	32	22	12	6	\$1	0
4,150	4,200	54	43	33	23	13	6	1	0
4,200	4,250	55	44	34	24	14	7	2	0
4,250	4,300	57	44	34	24	14	7	2	0
4,300	4,350	58	45	35	25	15	8	3	0
4,350	4,400	59	46	36	26	16	8	3	0
4,400	4,450	60	47	37	27	17	8	3	0
4,450	4,500	62	48	38	28	18	9	4	0
4,500	4,550	63	49	39	29	19	9	4	0
4,550	4,600	64	50	40	30	20	10	5	0
4,600	4,650	66	51	40	30	20	10	5	0
4,650	4,700	67	52	41	31	21	11	6	\$1
4,700	4,750	68	53	42	32	22	12	6	1
4,750	4,800	70	55	43	33	23	13	6	2
4,800	4,850	71	56	44	34	24	14	7	2
4,850	4,900	72	57	45	35	25	15	7	2
4,900	4,950	74	59	46	36	26	16	8	3
4,950	5,000	75	60	47	37	27	17	8	3

II. A taxpayer whose gross income for a tax year, except for the deductions permitted by subsection I of section 247 is less than \$5,000, may

elect to make a short form return in such form as the state tax assessor shall prescribe. The taxpayer in making such return shall compute the tax in accordance with the tax table set forth in subsection I of this section, but such taxpayer shall not be entitled to make any deductions as provided by subsections II to IX, inclusive, of section 247.

III. A taxpayer whose gross income for a tax year, except for the deductions permitted by subsection I of section 247 is \$5,000 or over, may elect to enter a standard deduction of \$500 in his return, in lieu of the deductions which are provided for by subsections II to IX, inclusive, of section 247.

Sec. 254. Returns in case of changed residence. If a taxpayer during the taxable year changes his status from that of a resident to that of non-resident, or from that of nonresident to that of resident, he shall file 2 returns, once 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 non-resident. 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 non-resident, shall be less than \$500, no return shall be required under the provisions of this section.

Sec. 255. Time and place of filing returns. Returns of income by individuals shall be made to the state tax assessor on or before the 15th day of April of each year. The state 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 state tax assessor may deem necessary for the proper enforcement of sections 244 to 283, inclusive. There shall be annexed to the return the signed statement 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 state 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. 256. Time of payment. The total amount of tax imposed by sections 244 to 283, inclusive, shall be due on the date fixed in section 255 for filing returns. The taxpayer may elect to pay the tax in 2 equal instalments in which case the 1st instalment shall be paid on the date fixed for the

filing of returns, the 2nd instalment shall be paid on the 15th day of the 6th month after such date. If any instalment 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 state tax assessor.

Sec. 257. 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.

Sec. 258. Credit for taxes in case of non-residents.

I. 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 the provisions of sections 244 to 283, inclusive, the state tax assessor shall credit the amount of tax payable by him under said sections 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 said sections 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 income of residents of this state.

II. 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 the state; provided, however, that such credit shall be allowed only if the laws of the state or country where such taxpayer 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.

III. No credit shall be allowed against the amount of the tax on any income taxable under the provisions of sections 244 to 283, inclusive, which is exempt from taxation under the laws of such other state or country.

Sec. 259. Contract to assume income tax illegal. It shall be unlawful for any person to agree to contract directly or indirectly to pay or assume the burden of any income tax payable by any taxpayer under the provisions of sections 244 to 283, inclusive. Any such contract or agreement shall be null and void and shall not be enforced or given effect by any court.

Sec. 260. Definitions. As used in sections 244 to 283, inclusive, and unless otherwise required by the context:

I. The word "taxpayer" includes any person, trust, estate, fiduciary, partnership, or unincorporated association, subject on its own account or for the account of another, to a tax imposed by sections 244 to 283, inclusive.

II. 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.

III. The words "military or naval forces of the United States" include 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.

IV. 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 provisions of sections 244 to 283, inclusive. The words "fiscal year" mean an accounting period of 12 months, ending on any day of any month other than December 31st.

V. 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.

VI. 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 the provisions of sections 244 to 283, inclusive. 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 said section.

VII. The word "dividend" means any distribution made by a corpora-

tion to its shareholders or members, not a distribution of capital, whether in cash or in other property or in stock of the corporation, not including dividends paid or credited to policyholders by insurance companies, but an accumulation of income or profits shall not be regarded as capital.

VIII. 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.

IX. The words "foreign country" or "foreign government" means 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.

Sec. 261. Tax a debt. Every tax imposed by sections 244 to 283, inclusive, together with 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. 262. Computation of net income.

I. 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 sections 244 to 283, inclusive, 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 state tax assessor shall give permission to change such method under rules and regulations to be prescribed by him.

II. 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 state tax assessor does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in sections 244 to 283, inclusive, 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.

III. 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 state tax assessor, be computed on the basis of such new accounting period, subject to the provisions of sections 263 and 264.

IV. 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 instalment 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 \$1,000, 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 subsection. As used in this subsection 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.

V. In the case of mines, other natural deposits, 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, 1948 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, that in the case of mines or other natural deposits discovered by the taxpayer on or after January 1st, 1948, 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, 1948, 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.

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

Sec. 263. Ascertainment of gain or loss. For the purpose of ascertaining the gain derived or loss sustained by a dealer in real or personal property 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:

I. In the case of property acquired on and after January 1st, 1948, the cost thereof, or the inventory value if the inventory is made in accordance with the provisions of sections 244 to 283, inclusive.

II. In the case of property acquired prior to January 1st, 1948, and disposed of thereafter, the basis shall be the cost thereof or the value thereof on January 1st, 1948, whichever is greater.

III. In the case of property acquired by gift or by transfer in trust after December 31st, 1947, 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, 1948, the basis shall be the value at the date of gift or the value on January 1st, 1948, whichever is greater.

IV. 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 subsections I and II of this section, except that the word "cost" as used in said subsections 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 subsections I or II of this section, except that the word "cost" as used in said subsections 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 subsections I or II of this section, except that the word "cost" as used in said subsections 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.

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

A. proper adjustment shall be made for any expenditure, receipt, loss or other item properly chargeable to capital account, and

B. the bases 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 the provisions of sections 244 to 283, inclusive; 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 subsection V of section 262. In addition, if the property was acquired before January 1st, 1948, the basis (if other than the fair market value as of January 1st, 1948) 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, 1948.

VI. 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.

VII. 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, 1948.

VIII. If a taxpayer in any year after the calendar year of 1947 sustains a net loss, as defined in subsections I to VII, such loss may be offset against the net income of the subsequent year, and if not completely off-

set by the net income of such year, the remainder of such loss may be offset against the net income of the following year, but not beyond that time.

Sec. 264. Exchange of property. Upon the sale or exchange of property in trade or business the entire amount of the gain or loss determined under the provisions of section 263 shall be recognized except as hereinafter provided in this section.

I. If, any exchange of shares upon the reorganization of one or more corporations or of one or more partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, the new shares received in exchange for the shares surrendered represent the same interest in the same assets, no gain or loss shall be deemed to accrue from the transaction until a sale or further exchange of some new shares is made.

II. No gain or loss shall be recognized in cases where the state tax assessor shall deem it impractical to attempt presently the determination of any gain or loss and shall have provided by rule or regulation for non-recognition of postponement of the determination until further disposition of the property received.

III. 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 2 or more persons this subsection 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.

IV. 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 state 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.

V. 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.

VI. If an exchange would be within the provisions of subsections I, II or III 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 sums of such money and the fair market value of such other property.

VII. If an exchange would be within the provisions of subsections I, II or III 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.

VIII. 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 or 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.

IX. 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. 265. 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 purpose of sections 244 to 283, inclusive, 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 by the corporation.

Sec. 266. Inventory. Whenever in the opinion of the state 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 state 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. 267. 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 the provisions of sections 244 to 283, inclusive, 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. 268. Fiduciary returns.

I. 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 the provisions of sections 244 to 283, inclusive, if such individual, estate or trust has an income for the taxable year in excess of \$500.

II. Under such regulations as the state tax assessor may prescribe, a return by 1 or 2 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.

III. Fiduciaries required to make returns under the provisions of sections 244 to 283, inclusive, shall be subject to all of the provisions herein which apply to taxpayers.

Sec. 269. Returns when accounting period changed.

I. If a taxpayer, with the approval of the state 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.

II. In all 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. 270. 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, custody, 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 the provisions of sections 244 to 283, inclusive, shall report the same to the state tax assessor under such regulation and in such form and manner and to such extent as may be prescribed by him.

Salaries, wages, fees and other compensation paid to an employee or officer need not be reported if they are less than \$400, and interest, dividends, rents, royalties and payments of any kind to others than employees need not be reported if they are less than \$100.

Sec. 271. Audit of returns; protests and additional taxes.

I. As soon as practical after a return is filed under the provisions of sections 244 to 283, inclusive, the state tax assessor shall examine it and assess the tax.

II. If the state tax assessor determines that there is a deficiency in respect of the tax assessed under the provisions of sections 244 to 283, inclusive, or that any taxpayer has failed to make return, the state tax assessor 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 heard at the office of the state tax assessor in Augusta, or in his discretion at some place in the county where the taxpayer resides.

III. 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 state 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 state 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. If the taxpayer shall have failed to file a return, the state tax assessor is authorized to make an estimate of the taxable income of such taxpayer from any information in his possession and to assess the tax on the basis of such estimate.

IV. If the understatement is due to negligence on the part of the taxpayer but without intent to defraud, or if after notice a taxpayer who has failed to file a return continues in default for 20 days, there shall be added to the amount of the deficiency 5% thereof or in the case of

failure to file a return 5% of the assessment, as the case may be, 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 subsection, the interest provided for in this subsection shall in all cases be computed from the date the tax was originally due to the date of payment.

V. The state tax assessor, for the purpose of ascertaining the correctness of any 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 required to make 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.

VI. The state tax assessor may in writing appoint assistants for the purpose of examination. Every assistant 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 state tax assessor. The state tax assessor shall, therefrom, or from any other data which shall be satisfactory to him, determine and assess the tax due the state.

Sec. 272. Limitation of time of assessments; jeopardy assessments.

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

II. If, however, the state 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.

III. 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 state 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 state 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 state 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 section 271, 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 state tax assessor.

IV. The amount of tax due under any return or report required by sections 244 to 283, inclusive, shall be determined and assessed by the state tax assessor within 3 months after the return was due unless the taxpayer shall in writing consent to an extension of time except, that

A. in 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 state tax assessor as provided in sections 244 to 283, inclusive, the tax may be determined and assessed within 60 days after a final determination by the court.

Sec. 273. Refunds and credits.

I. The taxpayer, at any time within 2 months after the payment of any original or additional tax assessed against him, may file with the state tax assessor a claim for refund under oath stating the grounds therefor, and in such form as the state 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 state tax assessor or after certiorari proceedings have been begun as provided in the next section.

II. If, upon examination of such claim for refund it shall be determined by the state 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

the provisions of sections 244 to 283, inclusive, and any balance thereof shall be immediately refunded to the taxpayer. If the state 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.

III. Where no questions of fact or law are involved and it appears from the records of the state 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 state 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 subsection.

IV. Refunds shall be made by the treasurer of state out of the proceeds of the tax retained by him as provided in sections 244 to 283, inclusive, and only upon a certificate of the state tax assessor approved by the state controller.

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

VI. Except as provided in subsections II and III 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 subsection I of this section.

Sec. 274. Review of determination of state tax assessor.

I. The taxpayer may cause the final determination of the tax to be reviewed in the following cases:

A. A determination by the state tax assessor after protest filed confirming in whole or in part a tax assessed under the provisions of sections 244 to 283, inclusive;

B. A determination by the state tax assessor after protest filed that there is a deficiency of tax owing by the taxpayer as provided in section 271;

C. A determination by the state tax assessor after protest filed confirming in whole or in part a jeopardy assessment made by him under the provisions of section 272;

D. A determination by the state tax assessor rejecting in whole or in part a claim for refund filed under the provisions of section 273;

E. Provided, however, that no review shall be allowed unless written notice of the application thereof is given by the taxpayer to the state tax assessor within 90 days after notice of the final determination of the state 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.

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

III. Any taxpayer, after protest filed and before final determination of liability, may at his option, pay the deficiency of tax claimed by the state tax assessor. In the event that it is finally determined by the state tax assessor, or on review of his determination, that any part of the original or additional tax was paid 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. 275. Penalties.

I. If any taxpayer, without intent to evade any tax imposed by sections 244 to 283, inclusive, 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 said sections, 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.

II. If any taxpayer 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 sections 244 to 283, inclusive, 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.

III. Any person and any officer of a corporation filing or causing to be filed any return, certificate, affidavit or statement required or authorized by sections 244 to 283, inclusive, which is wilfully false shall be pun-

ished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

IV. The state tax assessor shall have the power to compromise any penalty and additional interest chargeable against the taxpayer in accordance with the provisions of subsections I and II 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 subsections I and II and to extend the time for payment of such assessment in any case where due application has been made for a revision and or adjustment of the same under the provisions of sections 244 to 283, inclusive, to not later than 30 days after the service of the notice of a determination thereon.

V. If any individual, or any officer or employee of any partnership, association or corporation, with intent to evade any tax or any requirement of sections 244 to 283, inclusive, or any lawful requirement of the state 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 said sections, 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 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 \$1,000, 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 \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment, at the discretion of the court.

VI. The attorney-general shall have the power, with the consent of the state tax assessor, to compromise any penalty for which he is authorized to bring action under the provisions of subsection V of this section. The penalty provided by subsection V of this section shall be in addition to all other penalties in sections 244 to 283, inclusive, provided.

VII. The failure to do any act required by or under the provisions of

sections 244 to 283, inclusive, shall be deemed an act committed in part at the office of the state tax assessor in Augusta. The certificate of the state tax assessor to the effect that a tax had 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 said sections, 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. 276. Proceedings to recover tax.

I. Whenever any person shall fail to pay any tax or penalty imposed by sections 244 to 283, inclusive, as herein provided, the attorney-general shall, upon the request of the state tax assessor, bring an action to enforce payment of the same. The proceeds of a judgment in such action shall be paid to the state tax assessor.

II. The state tax assessor shall also have for the collection of taxes and penalties assessed under the provisions of sections 244 to 283, inclusive, all the remedies provided by chapter 81 of the revised statutes, as amended, for the collection of taxes on personal property by collectors of taxes in incorporated places.

Sec. 277. Districts; branch offices; rules and regulations; oath.

I. The state tax assessor shall administer and enforce the taxes herein imposed; he may for this purpose divide the state into districts, in each of which a branch office may be maintained; he may, subject to the provisions of the personnel law, appoint such agents, assistants, and clerical employees as may be necessary for the purpose of collecting such taxes, interest, and penalties.

Taxpayers shall pay all taxes, interest and penalties imposed herein to the state tax assessor in the form of remittances payable to the treasurer of state, and the state tax assessor shall turn over such receipts to the treasurer of state daily.

II. The state 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 reasonable to enforce the provisions of sections 244 to 283, inclusive.

III. The state tax assessor and each assistant or other agent thereunto duly authorized 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 sections 244 to 283, inclusive, or the rules and regulations of the state tax assessor.

Sec. 278. Lien of tax. All taxes, penalties and interest imposed under the provisions of sections 244 to 283, inclusive, shall be a lien and binding upon the real and personal property of the individual, partnership, association or corporation liable to pay the same until the same is paid in full. But the lien of each such tax or additional tax imposed under the provisions of sections 244 to 283, inclusive, 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. 279. Release from tax lien. The state 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 the provisions of sections 244 to 283, inclusive, provided payment be made to the state tax assessor of such a sum as the state tax assessor shall deem adequate consideration for such release, or deposit be made of such security or such bond be filed as the state 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 information as the state tax assessor may require. Such release shall be given under the seal of the state tax assessor and may be recorded in any office in which conveyances of real estate are entitled to be recorded.

Sec. 280. Preservation of reports. All reports required to be filed under the provisions of sections 244 to 283, inclusive, shall be preserved for 5 years, and thereafter until they shall be destroyed by order of the state tax assessor.

Sec. 281. Secrecy required of officials; penalty for violation.

I. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the state 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 the provisions of sections 244 to 283, inclusive. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of any-

thing contained in them in any action or proceeding in any court, except on behalf of the state tax assessor in an action or proceeding under the provisions of sections 244 to 283, inclusive, to which he is a party, or on behalf of any party to any action or proceeding under the provisions of said sections when the reports of facts shown thereby are directly involved in such action or proceeding, 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 sections 244 to 283, inclusive.

II. Any offense against subsection I of this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, 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.

III. Notwithstanding the provisions of this section, the state 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 the provisions of sections 244 to 283, inclusive, 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 statute or other provision 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 sections 244 to 283, inclusive.

Sec. 282. Validating provisions. If any clause, sentence, paragraph or part of sections 244 to 283, inclusive, shall for any reason be adjudged by

any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said sections, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 283. When §§ 244-283 to take effect; proceeds; appropriation.

I. The provisions of sections 244 to 283, inclusive, shall take effect as provided by law, except that the tax hereby imposed shall be first levied, collected and paid upon and with respect to incomes received during the calendar year 1948.

II. The proceeds derived from this tax shall be credited to the general fund.

III. There is hereby appropriated for expenditure by the state tax assessor in carrying out the provisions of sections 244 to 283, inclusive, a sum not to exceed 4% of the gross revenues received during the first 12 months that this personal income tax is in effect and a sum not to exceed 2½% during the subsequent period.'

Sec. 2. R. S., c. 14, § 110, amended. The 1st sentence of section 110 of chapter 14 of the revised statutes, as amended by section 6 of chapter 42 of the public laws of 1945, is hereby further amended to read as follows:

'Every corporation, person or association operating any railroad in the state under lease or otherwise shall pay to the state tax assessor, for the use of the state, an annual excise tax for the privilege of exercising its franchises and the franchises of its leased roads in the state, which, with the tax provided for in section 4 of chapter 81, is in place of all taxes upon such railroad and its property and stock.'

Sec. 3. R. S., c. 14, § 121, amended. The 1st paragraph of section 121 of chapter 14 of the revised statutes, as amended by section 14 of chapter 42 of the public laws of 1945, is hereby further amended to read as follows:

'Every corporation, association or person operating in whole or in part a telephone or telegraph line within the state for tolls or other compensation shall pay to the state tax assessor, for the use of the state, an annual excise tax for the privilege of conducting such business within the state, which tax, with the tax provided for in section 126, is in place of all taxes upon the property of such corporation, association or person employed in such business and of all taxes upon the shares of the capital stock of any such corporation.'

Sec. 4. R. S., c. 14, § 126, amended. Section 126 of chapter 14 of the revised statutes is hereby amended to read as follows:

'Sec. 126. Tax to be in lieu of all taxes. The excise tax collected under the provisions of the 67 preceding sections shall be in lieu of all taxes upon any corporation therein designated, ~~upon its shares of capital stock~~ and its property; provided, however, that the land and buildings thereon owned by such corporation, association, or person shall be taxed in the municipality in which the same are situated. The assessment of taxes on such land and buildings shall be legal, whether assessed as resident or non-resident property.'

Sec. 5. R. S., c. 14, §§ 142-144-A, 145-147-A, 152-154-A, 156-158-A, repealed. Sections 142 to 144, inclusive, as amended, and section 144-A, as enacted by section 23 of chapter 42 of the public laws of 1945; sections 145 to 147, inclusive, as amended, and section 147-A, as enacted by section 26 of chapter 42 of the public laws of 1945; sections 152 to 154, inclusive, as amended, and section 154-A, as enacted by section 29 of chapter 42 of the public laws of 1945; and sections 156 to 158, inclusive, as amended, and section 158-A, as enacted by section 33 of chapter 42 of the public laws of 1945, of chapter 14 of the revised statutes, are hereby repealed.

Sec. 6. R. S., c. 14, § 155, amended. Section 155 of chapter 14 of the revised statutes, as amended by section 30 of chapter 42 of the public laws of 1945, is hereby further amended to read as follows:

'Sec. 155. Proceedings in case of failure to make returns and pay tax; authority of state tax assessor to examine books. If any corporation, company, association or person fails to make the returns required by sections 118, 120 and 128, ~~142, 145, 152 and 156~~ the state tax assessor shall make an assessment of a state tax upon such corporation, company, association or person on such valuation, or on such gross receipts thereof, as the case may be, as he thinks just, with such evidence as he may obtain, and such assessment shall be final. The state tax assessor or his duly authorized agent shall have access to the books of any corporation, company, association or person required to make returns under the provisions of sections 118 and 128, ~~142, 145, 152 and 156~~ to ascertain if the required returns are correctly made. If any corporation, company, association or person fails to pay the taxes required or imposed by sections 110, 117, 121 and 127, ~~143, 146, 153 and 157~~ the state tax assessor shall forthwith commence an action of debt, in the name of the state, for the recovery of the same with interest at the rate of 10% a year. In addition to other remedies for the

collection of state taxes upon any corporation, such taxes with interest at the rate of 10% a year may be recovered by an action of debt in the name of the state.'

Sec. 7. R. S., c. 81, § 5, amended. Section 5 of chapter 81 of the revised statutes is hereby amended to read as follows :

'**Sec. 5. Personal estate taxable.** Personal estate for the purposes of taxation ~~includes all~~ shall include only tangible, physical goods, chattels, moneys and effects, wheresoever they are, and all vessels, at home or abroad; all obligations for money or other property; money at interest and debts due the persons to be taxed more than they are owing; all public stocks and securities; all shares in moneyed and other corporations within or without the state, except as otherwise provided by law; all annuities payable to the person to be taxed when the capital of such annuity is not taxed in this state; and all other property included in the last preceding state valuation for the purposes of taxation.'

Sec. 8. R. S., c. 81, § 6, sub-§§ II, XIV, repealed. Subsections II and XIV of section 6 of chapter 81 of the revised statutes are hereby repealed.

Sec. 9. R. S., c. 81, § 6, sub-§ XI, amended. Subsection XI of section 6 of chapter 81 of the revised statutes is hereby amended to read as follows :

'**XI.** The aqueducts, pipes, and conduits of any corporation supplying a town with water are exempt from taxation, when such town takes water therefrom for the extinguishment of fires without charge; but this exemption does not include therein ~~the capital stock of such corporation~~ any reservoir or grounds occupied for the same, or any property, real or personal, owned by such company or corporation, other than as hereinabove enumerated.'

Sec. 10. R. S., c. 81, § 13, sub-§ III, amended. Subsection III of section 13 of chapter 81 of the revised statutes is hereby amended to read as follows :

'**III.** Machinery employed in any branch of manufacture, goods manufactured or unmanufactured, and real estate belonging to any corporation, except when otherwise expressly provided, shall be assessed to such corporation in the town or place where they are situated or employed; ~~and in assessing stockholders for their shares in any such corporation, their proportional part of the assessed value of such machinery, goods, and real estate shall be deducted from the value of such shares.'~~

Sec. 11. R. S., c. 81, § 13, sub-§ XI, repealed. Subsection XI of section 13 of chapter 81 of the revised statutes is hereby repealed.

Sec. 12. R. S., c. 81, § 14, repealed. Section 14 of chapter 81 of the revised statutes is hereby repealed.

Sec. 13. R. S., c. 81, § 17, amended. Section 17 of chapter 81 of the revised statutes is hereby amended to read as follows :

'Sec. 17. Stock of companies invested in other stock, how to be taxed. When an insurance or other incorporated company is required by law to invest its capital stock or any part thereof in the stock of a bank or other corporation in the state, for the security of the public, such investments shall not be liable to taxation ~~except to the stockholders of the company so investing as making a part of the value of their shares in the capital stock of said company.~~

Sec. 14. R. S., c. 81, § 18, repealed. Section 18 of chapter 81 of the revised statutes is hereby repealed.

Sec. 15. R. S., c. 81, § 19, amended. Section 19 of chapter 81 of the revised statutes is hereby amended to read as follows :

'Sec. 19. Mortgaged personal property; loan secured by deed taxable to grantee. When personal property is mortgaged or pledged, it shall, for purposes of taxation, be deemed the property of the party who has it in possession, and it may be distrained for the tax thereon. ~~Money or personal~~ **Personal** property, loaned or passed into the hands or possession of another, by any person residing in the state, secured by an absolute deed of real estate, shall be taxed to the grantee, as in case of a mortgage, although the land is taxed to the grantor or other person in possession.'

Sec. 16. R. S., c. 81, §§ 24, 25, amended. Sections 24 and 25 of chapter 81 of the revised statutes are hereby amended to read as follows :

'Sec. 24. Property of manufacturing, mining and smelting corporations, and of stock raising corporations, how taxed. The buildings, lands, and other property of manufacturing, mining, and smelting corporations, not exempt from taxation, and all stock used in factories shall be taxed to the corporation, or to the person having possession of its property or stock, in the town or place where the buildings and lands are situated and where the property is kept, or where the stock is manufactured; and the buildings and lands and other property of agricultural and stock raising corporations shall be taxed to the corporation, or to the person having possession of its

property, in the town where the buildings and lands are situated and where the personal property is kept; and there shall be a lien for 1 year on such property and stock for payment of such tax; and it may be sold for payment thereof as in other cases; ~~and shares of the capital stock of such corporations shall not be taxed to their owners.~~

Sec. 25. Property of corporations organized for dealing in real estate, where taxed; lien. The buildings, lands and all other property, real and personal, ~~including all reserve funds, accumulations, and undivided profits~~ of corporations organized for the purpose of buying, selling and leasing real estate shall be taxed to the corporation or the persons having possession of such property, in the place where such land and other property are situated, and there shall be a lien for 1 year on such property for the payment of such tax, and the same may be sold for payment thereof as in other cases; ~~and shares of the capital stock of such corporations shall not be taxed to the owners thereof.~~

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.