

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1508**

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H. P. 1761

House of Representatives, May 10, 1947.

Reported by a majority of a joint select committee and printed under joint rules.

HARVEY R. PEASE, Clerk.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SEVEN

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**AN ACT Imposing a Personal Income Tax and a Sales and Use Tax to  
Raise Additional Revenue.**

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**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, §§ 257-329, additional.** Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto new sections to be numbered 257 to 329, inclusive, to read as follows:

**'Sales and Use Tax**

Sec. 257. Title. Sections 257 to 329, inclusive, shall be known and may be cited as the "Sales and Use Tax Law."

Sec. 258. Definitions. Except where the context otherwise requires, the following definitions shall govern the construction of sections 257 to 329, inclusive:

I. "Sales tax" means the tax imposed by sections 259 to 268, inclusive.

II. "Use tax" means the tax imposed by sections 269 to 281, inclusive.

III. "Person" includes any individual, firm, copartnership, joint venture, association, club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, the United States, this state, any county, city, town or other political subdivision of the state, or any other group or combination acting as a unit.

IV. "Sale" shall mean and include:

A. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or any means whatsoever, of tangible personal property for a consideration;

B. The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others;

C. The furnishing, preparing or serving for a consideration of food, meals or drinks;

D. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;

E. A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication.

F. "Sale" does not include the delivery within this state of tangible personal property, processed, fabricated or manufactured within the state, but which is to be transported outside the state for use, sale or consumption solely outside the state.

V. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business in the form of tangible personal property.

The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, if the delivery is to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

VI. "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

VII. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of that property in the regular course of business.

VIII. "Storage" and "Use" do not include the keeping, retaining or exercising any right or power over tangible personal property shipped or brought into this state for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

IX. "Purchase" means and includes:

- A. Any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration;
- B. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;
- C. A transfer for a consideration of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or for any publication.

X.

A. "Sale price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold;

2. The cost of materials used, labor or service cost, interest charged, losses or any other expenses;
  3. The cost of transportation of the property prior to its purchase;
- B. The total amount for which the property is sold includes all of the following:
1. Any services that are a part of the sale;
  2. Any amount for which credit is given to the purchaser by the seller.
- C. "Sales price" does not include any of the following:
1. Cash discounts allowed and taken on sales;
  2. The amount charged for property returned by customers upon rescission of the contract of sale when the entire amount charged therefor is refunded either in cash or credit, and when the property is returned within 90 days from the date of purchase;
  3. The amount charged for labor or services rendered in installing or applying the property sold;
  4. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer;
  5. Transportation charges separately stated, if the transportation occurs after the purchase of the property is made.

## XI.

A. "Receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax assessor may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of busi-

ness. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

2. The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

3. The cost of transportation of the property prior to its sale to the purchaser;

B. The total amount of the sale or lease or rental price includes all of the following:

1. Any services that are a part of the sale;

2. All receipts, cash, credits, and property of any kind;

3. Any amount for which credit is allowed by the seller to the purchaser.

C. "Receipts" do not include any of the following:

1. Cash discounts allowed and taken on sales;

2. Sale price of property returned by customers upon rescission of the contract of sale when the full sale price is refunded either in cash or credit, and when the property is returned within 90 days from the date of sale;

3. The price received for labor or services used in installing or applying the property sold;

4. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer;

5. Transportation charges separately stated, if the transportation occurs after the sale of the property is made to the purchaser.

For purposes of the sales tax, if the retailers establish to the satisfaction of the state tax assessor that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

XII. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

**XIII.** "Seller" includes every person engaged in the business of selling tangible personal property the receipts from the retail sale of which are required to be included in the measure of the sales tax.

**XIV.** "Retailer" includes:

A. Every person engaged in the business of making sales at retail or in the business of making retail sales at auction of tangible personal property owned by the person or others;

B. Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

When the state tax assessor determines that it is necessary for the efficient administration of the provisions of sections 257 to 329, inclusive, to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers 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 or employers the state tax assessor may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of sections 257 to 329, inclusive.

**XV.** "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses, and shall not include intangible personal property such as rights and credits, bills of exchange, stocks and bonds, and similar evidences of indebtedness or ownership.

**XVI.** "Purchaser" means any person who purchases property receipts from which are taxable under the provisions of sections 257 to 329, inclusive.

#### Sales Tax

**Sec. 259.** Imposition and rate of sales tax. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 1, 1947.

**Sec. 260.** Reimbursement. The tax hereby imposed shall be collected by the retailer from the consumer insofar as it can be done. Whenever a

tax is imposed upon the services of any public utility, the rates for which service are established by the public utilities commission, the amount as the tax shall be added to the charge therefor.

Sec. 261. Itemization of tax reimbursement. The state tax assessor may by regulation provide that the amount collected by the retailer from the consumer in reimbursement of the tax be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sale.

Sec. 262. Unlawful advertising. It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor and shall be punished as hereinafter provided.

Sec. 263. Registration and certificates of authority. Every person desiring to engage in or conduct business as a seller within this state shall file with the state tax assessor a certificate of registration in a form prescribed by the state tax assessor. The state tax assessor shall within 5 days after such registration issue a certificate of authority empowering such applicant to collect the tax from the purchaser and duplicates thereof for each additional place of business of such applicant. Each certificate or duplicate shall state the place of business to which it is applicable. Such certificates of authority shall be prominently displayed in the places of business of the seller. Such certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the state tax assessor upon the seller's ceasing to do business at the place named.

Sec. 264. Registration fee. At the time of filing the certificate of registration, the applicant shall pay to the state tax assessor a registration fee of \$1 for each certificate of authority.

Sec. 265. Presumption of taxability; resale certificate. For the purpose of the proper administration of the provisions of sections 257 to 329, inclusive, and to prevent evasion of the sales tax it shall be presumed that all receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.



Sec. 266. Effect of certificate. The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the certificate of authority provided for in section 263 and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Sec. 267. Form of certificate. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the certificate of authority issued to the purchaser, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax assessor may prescribe.

Sec. 268. Liability of purchaser. If a purchaser who gives a certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be deemed a retail sale by the purchaser as of the time the property is first used by him, and the cost of the property to him shall be deemed the receipts from such retail sale. If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his receipts the amount of the rental charged rather than the cost of the property to him.

#### Use Tax

Sec. 269. Imposition and rate of use tax. An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1947, for storage, use or other consumption in this state at the rate of 1% of the sales price of the property.

Sec. 270. Liability for tax. Every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or from a retailer who is authorized by the state tax assessor, under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of sections 269 to 281, inclusive, relating to the use tax, regarded as a retailer maintaining a

place of business in this state, given to the purchaser pursuant to section 271 hereof, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Sec. 271. Collection by retailer. Every retailer maintaining a place of business in this state and making sales of tangible personal property for storage, use or other consumption in this state, not exempted under the provisions of sections 282 to 284, inclusive, shall, at the time of making the sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax assessor.

Sec. 272. Tax is debt. The tax required to be collected by the retailer constitutes a debt owed by the retailer to this state.

Sec. 273. Unlawful advertising. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Sec. 274. Separate statement of tax. The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales.

Sec. 275. Unlawful acts. Any person violating sections 271, 273 or 274 is guilty of a misdemeanor and shall be punished as hereinafter provided.

Sec. 276. Registration of retailers. Every retailer selling tangible personal property for storage, use or other consumption in this state shall register with the board and give the name and address of all agents operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and such other information as the board may require.

Sec. 277. Presumption of purchase for use; resale certificate. For the purpose of the proper administration of the provisions of sections 257 to 329, inclusive, and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes

from the purchaser a certificate to the effect that the property is purchased for resale.

Sec. 278. Effect of certificate. The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the certificate of authority provided for by section 263 and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Sec. 279. Form of certificate. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the certificate of authority issued to the purchaser, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax assessor may prescribe.

Sec. 280. Liability of purchaser. If a purchaser who gives a certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of the property while holding it for sale, the purchaser may elect to pay the tax on the use measured by the amount of the rental charged rather than the sales price of the property to him.

Sec. 281. Presumption of purchase from retailer. It shall be further presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer on or after July 1, 1947, for storage, use or other consumption in this state.

### Exemptions

Sec. 282. General exemptions. There are exempted from the taxes imposed by sections 257 to 329, inclusive:

I. Exemptions by constitutional provisions. The storage, use or other consumption in this state of tangible personal property the receipts from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state.

II. Vessels. There are exempted from the taxes imposed by the provisions of sections 257 to 329, inclusive, the receipts from sales of vessels of more than 1,000 tons burden by the builders thereof and the storage, use or other consumption in this state of any ship of more than 1,000 tons burden which is purchased in this state from the builders and with respect to which the use tax would, if the ship had been purchased outside this state or in interstate commerce, be inoperative because prohibited under the constitution or the laws of the United States or the constitution of this state.

III. Motor vehicle fuel. There are exempted from the taxes imposed by the provisions of sections 257 to 329, inclusive, the receipts from the distributions of and the storage, use or other consumption in this state of motor vehicle fuel the distributions of which in this state are subject to the taxes imposed by chapter 14.

IV. Sales of liquor. There are exempted from the taxes imposed by sections 257 to 329, inclusive, the receipts from the sale of spirituous or vinous liquors sold in stores operated by the state liquor commission.

V. Publications. There are exempted from the taxes imposed by sections 257 to 329, inclusive, the receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property which becomes an ingredient or component part of any publication regularly issued at average intervals not exceeding 3 months and any such publication.

VI. Meals. There are exempted from the taxes imposed by the provisions of sections 257 to 329, inclusive, the receipts from the sale of, and the storage, use or other consumption in this state of, meals served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school, and meals served by employers or employee organizations to the employees engaged in work upon a particular project or undertaking.

VII. Containers. There are exempted from the taxes imposed by sections 257 to 329, inclusive, the receipts from sales of and the storage, use or other consumption in this state of:

A. Non-returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

B. Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by sections 257 to 329, inclusive.

C. Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

As used herein the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "non-returnable containers."

VIII. Farm supplies; quasi-municipal and public service corporations; manufacturers. There are exempted from the taxes imposed by sections 257 to 329, inclusive, the receipts from the sale of, and the storage, use or other consumption in this state of:

A. Seed, feed, fertilizer;

B. Tangible personal property delivered to, purchased or used by, any quasi-municipal or public service corporations subject to the jurisdiction of the public utilities commission or the interstate commerce commission, provided that such tangible personal property is used exclusively in performing the public service required of it by law; and

C. Tangible personal property which is to be resold as personal property after further processing, manufacturing or fabricating and the sale of tangible personal property to manufacturers which becomes an ingredient or component part of the finished product or that which is consumed, destroyed or loses its identity in a manufacturing process.

Sec. 283. Exemptions from sales tax. There are exempted from the computation of the amount of the sales tax the receipts from the sale of any tangible personal property to:

I. The United States, its unincorporated agencies and instrumentalities;

II. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

Sec. 284. Exemptions from use tax.

I. Sales tax applicable. The storage, use or other consumption in this state of property, the receipts from the sale of which are required to be included in the measure of the sales tax, is exempted from the use tax.

II. Property purchased from United States. The storage, use or other consumption in this state of property purchased from any unincorporated agency or instrumentality of the United States, except:

- A. Any property reported to the Surplus Property Board of the United States as surplus property by any owning agency; and
- B. Any property included in any contractor's inventory is exempted from the use tax.

"Surplus property," "owning agency," and "contractor inventory" as used in this section have the meanings ascribed to them in that act of the Congress of the United States known as the "Surplus Property Act of 1944."

#### Returns, Payment and Determinations

Sec. 285. Due date. The taxes imposed by sections 257 to 329, inclusive, are due and payable to the state tax assessor quarterly on or before the 30th day of the month next succeeding each quarterly period.

Sec. 286. Return. On or before the 30th day of the month following each quarterly period of 3 months, a return for the preceding quarterly period shall be filed with the state tax assessor in such form as the state tax assessor may prescribe.

For the purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer maintaining a place of business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

Sec. 287. Contents of return. For purposes of the sales tax the return shall show the receipts of the seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return and such other information as the state tax assessor deems necessary for the proper administration of sections 257 to 329, inclusive.

Sec. 288. Filing return. The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the state tax assessor and he shall pay over such receipts to the treasurer of state daily.

Sec. 289. Return periods. The state tax assessor, if he deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than quarterly periods.

Sec. 290. Rentals or leases. For the purposes of the sales tax receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the state tax assessor may prescribe.

Sec. 291. Extension of time. The state tax assessor for good cause may extend for not to exceed 1 month the time for making any return or paying any amount required to be paid under the provisions of sections 257 to 329, inclusive. The extension may be granted at any time provided a request therefor is filed with the state tax assessor within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the rate of  $\frac{1}{2}$  of 1% per month, or fraction thereof, from the date on which the tax would have been due without the extension until the date of payment.

Sec. 292. Deficiency determination. If the state tax assessor is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the state by any person, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or for more than one period.

Sec. 293. Interest. The amount of the determination, exclusive of pen-

alties, shall bear interest at the rate of  $\frac{1}{2}$  of 1% per month, or fraction thereof, from the 30th day after the close of the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

Sec. 294. Offset. In making a determination the state tax assessor may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in section 314.

Sec. 295. Ten per cent penalty. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of sections 257 to 329, inclusive, or authorized rules and regulations, a penalty of 10% of the amount of the determination shall be added thereto.

Sec. 296. Twenty-five per cent penalty. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the provisions of sections 257 to 329, inclusive, or authorized rules and regulations, a penalty of 25% of the amount of the determination shall be added thereto.

Sec. 297. Notice of determination. The state tax assessor shall give to the retailer or person storing, using or consuming tangible personal property written notice of its determination. The notice may be served personally or by registered mail and shall be addressed to the retailer or person storing, using or consuming tangible personal property at his address as it appears in the records of the state tax assessor. In case of service by mail of any notice required by the provisions of sections 257 to 329, inclusive, the service is complete at the time of deposit in the United States post office.

Sec. 298. Limitations; deficiency determinations. Except in the case of fraud, intent to evade the provisions of sections 257 to 329, inclusive, or authorized rules and regulations, failure to make a return, or claim for additional amount pursuant to section 310, every notice of a deficiency determination shall be mailed within 3 years after the 30th day of the calendar month following the quarterly period for which the amount is proposed to be determined or within 3 years after the return is filed, whichever period expires the later.

The limitation specified in this section does not apply in case of a sales



tax proposed to be determined with respect to sales of property for the storage, use or other consumption of which notice of a deficiency determination has been or is given pursuant to sections 297, 304 and 306 and to the 1st paragraph of this section. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to sections 297, 304 and 306 and to the 1st paragraph of this section.

Sec. 299. Waiver. If before the expiration of the time prescribed in section 298 for the mailing of a notice of deficiency determination the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 300. Determination; failure to file return. If any person fails to make a return, the state tax assessor shall make an estimate of the amount of the receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use or other consumption of which in this state is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the state tax assessor's possession or may come in his possession. Upon the basis of this estimate the state tax assessor shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10% thereof. One or more determinations may be made for one or for more than one period.

Sec. 301. Offsets. In making a determination the state tax assessor may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in section 314.

Sec. 302. Interest. The amount of the determination, exclusive of penalties, shall bear interest at the rate of  $\frac{1}{2}$  of 1% per month, or fraction thereof, from the 30th day after the close of the quarterly period for which

the amount or any portion thereof should have been returned until the date of payment.

Sec. 303. Penalties. If the failure of any person to file a return is due to fraud or an intent to evade the provisions of sections 257 to 329, inclusive, or rules and regulations, a penalty of 25% of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10% penalty provided in section 300.

Sec. 304. Notice of determination. Promptly after making his determination the state tax assessor shall give to the person written notice of the estimate, determination and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 305. Jeopardy determination. If the state tax assessor believes that the collection of any tax or any amount of tax required to be collected and paid to the state or of any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is immediately due and payable.

Sec. 306. Interest and penalty. If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and the interest provided in section 314 shall attach to the amount of the tax or the amount of the tax required to be collected. \_\_\_\_\_

Sec. 307. Petition for redetermination; security. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to section 308. He shall, however, file the petition for redetermination with the state tax assessor within 10 days after the service upon him of notice of the determination. The person shall also within the 10-day period deposit with the state tax assessor such security as it may deem necessary to insure compliance with sections 257 to 329, inclusive. The security may be sold by the state tax assessor in the manner prescribed by section 318.

Sec. 308. Petition for redetermination. Any person against whom a determination is made under the provisions of sections 285 to 317, inclusive, or any person directly interested may petition for a redetermination within

30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

Sec. 309. Oral hearing. If a petition for redetermination is filed within the 30-day period, the state tax assessor shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 10 days' notice of the time and place of the hearing. The state tax assessor may continue the hearing from time to time as may be necessary.

Sec. 310. Decrease or increase of determination. The state tax assessor may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the state tax assessor at or before the hearing.

Sec. 311. Finality date of order or decision. The order or decision of the state tax assessor upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

Sec. 312. Due date of determination; penalty. All determinations made by the state tax assessor under the provisions of sections 285 to 317, inclusive, are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10% of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

Sec. 313. Service of notice.—Any notice required by the provisions of sections 308 to 313, inclusive, shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 314. Interest and penalties. Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the state tax assessor under the provisions of sections 285 to 317, inclusive, within the time required shall pay a penalty of 10% of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the rate of  $\frac{1}{2}$  of 1% per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

Sec. 315. Credits and refunds. If the state tax assessor determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the state tax assessor shall set forth that fact in the records of the state tax assessor and shall certify

to the treasurer of state the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under the provisions of sections 257 to 329, inclusive, and the balance shall be refunded to the person, or his successors, administrators or executors.

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor shall be credited or refunded by the state to the purchaser.

Sec. 316. Claim; limitation period. No refund shall be allowed unless a claim therefor is filed with the board within 3 years from the 30th day after the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under the provisions of sections 285 to 317, inclusive, within 6 months after the determinations become final, or within 6 months from the date of overpayment, whichever period expires the later. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the state tax assessor within such period, or unless the credit relates to a period for which a waiver is given pursuant to section 299.

Sec. 317. Appeals. Any taxpayer aggrieved because of any determination of the state tax assessor under the provisions of sections 257 to 329, inclusive, may, within 30 days after notice of the final determination has been mailed to him by the state tax assessor appeal to the superior court in the county of Kennebec or the superior court in the county where the taxpayer resides. Any taxpayer desiring to appeal from any such determination shall furnish a bond or recognizance to the state of Maine with sureties to prosecute the appeal to effect and comply with the orders and decrees of the court in the premises. The appeal shall be returnable at the same time and service and return shall be made in the same manner as is provided for civil actions in the superior court.

### Collection of Tax

Sec. 318. Security for tax. The state tax assessor, whenever he deems it necessary to insure compliance with the provisions of sections 257 to 329, inclusive, may require any person subject thereto to deposit with him such security as the state tax assessor may determine. The amount of the security shall be fixed by the state tax assessor but shall not be greater than twice the person's estimated average liability for the period for which he files returns, determined in such manner as the state tax assessor deems

proper, or \$10,000, whichever amount is the lesser. The amount of the security may be increased or decreased by the state tax assessor subject to the limitations herein provided. The state tax assessor may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the state tax assessor. Security in the form of a bearer bond issued by the United States or the state of Maine which has a prevailing market price may, however, be sold by the state tax assessor at private sale at a price not lower than the prevailing market price thereof. Upon any sale any surplus above the amounts due shall be returned to the person who deposited the security.

Sec. 319. Proceedings to recover tax; priority.

I. Whenever any person shall fail to pay any tax or penalty imposed by sections 257 to 329, 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 and may attach personal or real property according to law. 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 257 to 329, 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.

The amounts required to be paid by any person under the provisions of sections 257 to 329, inclusive, together with interest and penalties shall be satisfied first in any of the following cases:

I. Whenever the person is insolvent.

II. Whenever the person makes a voluntary assignment of his assets.

III. Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debt due from the deceased.

IV. Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under the provisions of sections 257 to 329, inclusive, are levied upon by process of law.

Sec. 320. Withholding by purchaser. If any retailer liable for any amount under the provisions of sections 257 to 329, inclusive, sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the state tax assessor showing that it has been paid or a certificate stating that no amount is due.

Sec. 321. Liability of purchaser; release. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, the state tax assessor shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the state tax assessor of the amount that must be paid as a condition of issuing the certificate. Failure of the state tax assessor to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final whichever event occurs the later.

#### Administration

Sec. 322. Enforcement by state tax assessor; rules and regulations. The state tax assessor shall enforce the provisions of sections 257 to 329, inclusive, and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of said sections. The state tax assessor may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Sec. 323. Employees and representatives of state tax assessor. The state tax assessor may employ, subject to the provisions of the personnel law, accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of sections 257 to 329, inclusive, and may designate representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by said sections or other laws of this state upon the state tax assessor.

Sec. 324. Records. Every seller, every retailer, and every person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the state tax assessor may require.

Sec. 325. Examination of records. The state tax assessor or any person authorized in writing by him may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

Sec. 326. Reports relative to use tax liability. In the administration of the use tax the state tax assessor may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property the storage, use or other consumption of which is subject to the tax. The reports shall be filed when the state tax assessor requires and shall set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the state tax assessor may require.

Sec. 327. Divulging of information forbidden. It is unlawful for the state tax assessor or any person having an administrative duty under the provisions of sections 257 to 329, inclusive, to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the governor may, by general or special order, authorize examination of the returns by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

Sec. 328. Criminal penalties.

I. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the state tax assessor, or who renders a false or fraudulent return, is guilty of a misdemeanor and subject to a fine of not more than \$500 for each offense.

II. Any person required to make, render, sign or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a misdemeanor. He shall for each offense be punished by a fine of not less than \$300, nor more than \$5,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 329. Disposition of proceeds. The entire proceeds of the tax collected under the provisions of sections 257 to 329, inclusive, shall be credited to the general fund.'

Sec. 2. R. S., c. 14, §§ 330-347, additional. Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto new sections to be numbered 330 to 347, inclusive, to read as follows:

#### Personal Income Tax

Sec. 330. Definitions. The following definitions shall apply throughout sections 330 to 347, inclusive, unless the context requires otherwise:

- I. "Assessor" means the state tax assessor;
- II. "Dependent" means any of the following persons over half of whose support for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:
  - A. a son or daughter of the taxpayer, or a descendant of either,
  - B. a stepson or stepdaughter of the taxpayer,
  - C. a brother, sister, stepbrother, or stepsister of the taxpayer,
  - D. the father or mother of the taxpayer, or an ancestor of either,
  - E. a stepfather or stepmother of the taxpayer,
  - F. a son or daughter of a brother or sister of the taxpayer,
  - G. a brother or sister of the father or mother of the taxpayer,
  - H. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer;
- III. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person, estate or trust;
- IV. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December;



V. "Individual" means a natural person;

VI. "Net income" means the same as net income as now or hereafter defined under the Internal Revenue Code but excluding income which under such code is expressly exempted from taxation by the states; provided, however, that in computing gains and losses on property, the date January 1, 1931 shall be substituted for the date March 1, 1913 wherever it appears, unless the taxpayer elects to accept the date March 1, 1913; and provided further that, if the taxpayer so elects, "net income for any taxable year" means the same as net income, as defined under the laws of the United States in effect for such year;

VII. "Adjusted gross income" means the same as adjusted gross income as now or hereafter defined under the laws of the United States;

VIII. "Person" means and includes an individual, a trust, estate or partnership;

IX. "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of sections 330 to 347, inclusive, or under regulations prescribed by the assessor, "taxable year" means a period for which such return is made.

Sec. 331. Imposition of tax. A tax of 2% is hereby imposed upon every individual who is a resident of the state, which tax shall be levied, collected and paid annually, with respect to his net income as herein defined, after deducting the exemptions provided in sections 330 to 347, inclusive.

Sec. 332. Imposition of tax, non-residents. A like tax is hereby imposed, which shall be levied, collected and paid annually, at the rate specified in section 331 above, upon and with respect to such net income after deducting the exemptions provided in sections 330 to 347, inclusive, from all property owned and from every business, trade, profession or occupation carried on in this state by natural persons not residents of the state; provided, however, that interest, dividends, and gains from the sale or exchange of property shall be excluded from gross income except to the extent that such interest, dividends and gains are part of income from such business, trade, profession or occupation.

Sec. 333. Simplified reports. In lieu of the taxes imposed by sections 331 and 332, there shall be levied, collected and paid for each taxable year

upon the net income of each individual whose adjusted gross income for such year is less than \$5,000 and who has elected to pay the tax imposed by this section for such year a tax determined on the basis of tables to be prepared and furnished by the assessor, which tax shall be substantially equivalent to the tax provided in said sections 331 and 332 and which shall be in lieu of the tax required in said sections.

Sec. 334. Reciprocal credits. Whenever a taxpayer other than a resident of the state has become liable to the state or country where he resides for a tax upon his income derived from sources within this state and subject to taxation under the provisions of section 332, the state tax assessor shall credit the amount of income tax payable by him to the state or country where he resides, as his income subject to taxation under said section 332 bears to his entire income upon which the tax so payable to such other state or country was imposed; provided that such credit shall be allowed only if the laws of said state or country (1) grant a substantially similar credit to residents of this state subject to income tax under such laws or (2) impose a tax upon the personal incomes of its residents derived from sources in this state and exempt from taxation the personal incomes of residents of this state. No credit shall be allowed against the amount of the tax on any income taxable under said section 332 which is exempt from taxation under the laws of such other state or country.

Sec. 335. Exemptions. The exemptions provided in sections 331 and 332 shall be as follows:

I. An exemption of \$500 for the taxpayer.

II. An exemption of \$500 for the spouse of the taxpayer if:

A. a joint return, as hereinafter provided, is made by the taxpayer and his spouse in which case the aggregate exemption of the spouses under the provisions of this section shall be \$1,000 or

B. a separate return is made by the taxpayer, and his spouse has no gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer.

III. An exemption of \$500 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$500, except that the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse, as hereinafter provided, for the taxable year beginning in such calendar year.

Sec. 336. Fiduciaries. The taxes provided under the provisions of sec-

tions 330 to 347, inclusive, are hereby imposed and shall be levied, collected and paid annually upon the net income of every fiduciary after deducting the exemptions provided in section 337. Such net income shall be computed on the basis now or hereafter provided under the laws of the United States for the computation of net income of estates and trusts, but excluding income exempted from taxation by the states under such laws; provided, however, that in computing gains and losses on property, the date January 1, 1931 shall be substituted for the date March 1, 1913, wherever it appears unless the taxpayer elects to accept the date of March 1, 1913.

Sec. 337. Credits. For the purpose of the tax imposed under the provisions of section 336 above an estate shall be allowed, in lieu of the exemptions under section 335, a credit of \$500 against net income, and a trust shall be allowed, in lieu of the exemptions under section 335, a credit of \$100 against net income.

Sec. 338. Charge against the estate. The tax imposed upon a fiduciary by the provisions of sections 330 to 347, inclusive, shall be a charge against the estate or trust.

Sec. 339. Return of net income. For each taxable year taxpayers shall return their net income for such a period and on such an accounting basis as is employed under the Internal Revenue Code.

Sec. 340. Form of returns.

I. Every resident having for the taxable year a gross income of \$500 or over and every non-resident who has gross income from any or all of the following: property owned, a business, trade, profession or occupation carried on in this state of \$500 or more for the taxable year, shall make a return to the assessor under such regulations and in such form and manner and to such extent as he may prescribe.

II. A husband and wife may make a single joint return to the assessor for a taxable year for which such a return is filed under the laws of the United States.

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 other person charged with the care of the person or property of such taxpayer.

Sec. 341. Returns by fiduciaries. Every fiduciary subject to taxation under the provisions of sections 330 to 347, inclusive, shall make a return

to the assessor for any of the following individuals, estates, or trusts for which he acts:

- I. Every individual having a gross income for the taxable year of \$500 or over;
- II. Every estate the gross income of which for the taxable year is \$500 or over;
- III. Every trust the net income of which for the taxable year is \$100 or over, or the gross income of which for the taxable year is \$500 or over, regardless of the amount of net income.

Sec. 342. Information returns. Each individual, partnership, corporation, joint stock company or association or insurance company, being a resident or having a place of business in this state, in whatever capacity acting including lessees or mortgagors of personal property, fiduciaries, employers and all officers and employees of the state or of any political subdivision of the state, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), salaries, wages, rentals, premiums, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income amounting to \$500 or over, paid or payable during any year to any individual or fiduciary, and each such individual, partnership, corporation, joint stock company, association or insurance company paying to any individual or fiduciary any annuity or interest on deposits or funds held in trust, including taxable income from endowment policies, shall on such date or dates as the assessor shall from time to time designate, make complete return thereof, to the assessor.

Sec. 343. Collection of tax. Returns shall be in such form and shall contain such information and detail as the assessor may from time to time prescribe and shall be filed and the tax shall be paid at his main office or at any branch office which he may establish, on or before the 15th day of the 3rd month following the close of the taxable year, except as provided in section 342, in case of sickness, absence or other disability, or whenever in his judgment good cause exists, the assessor may allow further time for filing returns. Any taxpayer who shall wilfully make any false or fraudulent reports or return required by sections 330 to 347, inclusive, or who shall with intent to defraud, evade or violate any of the provisions of said sections, or any rules or regulations made by the state tax assessor thereunder, shall be guilty of a misdemeanor and punished by a fine of not more than \$500. Whenever any taxpayer shall fail to pay any tax or penalty

due under the provisions of said sections within the time limit set, the attorney-general shall enforce payment thereof against said taxpayer in a court of proper jurisdiction. When a return is made for a partnership, the person signing such return shall be deemed to be the person subject to the pains and penalties above mentioned. The assessor shall cause to be prepared blank forms for the returns and shall cause them to be distributed throughout the state and to be furnished upon application, but failure to receive or secure the form shall not relieve a taxpayer from the obligation of making the return herein required.

Sec. 344. Rules and regulations. The assessor shall administer and enforce the provisions of sections 330 to 347, inclusive. With the approval of the attorney-general, he is authorized and empowered to adopt, prescribe and from time to time, alter and amend reasonable rules, orders and regulations for the purpose of carrying out the provisions of said sections; and he shall enforce such rules, orders and regulations.

Sec. 345. Purpose.

I. It is hereby declared that the purpose of sections 330 to 347, inclusive, in addition to the essential purpose of raising revenue, is to conform as closely as may be with the Internal Revenue Code in order that the filing of returns may be simplified and the taxpayers' accounting burdens may be reduced.

II. If any provision of sections 330 to 347, inclusive, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of said sections which can be given effect without the invalid provision or application, and to this end the provisions of said sections are declared to be severable.

Sec. 346. Effective date. The provisions of sections 330 to 347, inclusive, shall apply to income received subsequent to December 31, 1947.

Sec. 347. Disposition of proceeds. The entire proceeds of the tax collected under the provisions of sections 330 to 347, inclusive, shall be credited to the general fund.

Sec. 3. 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. 4. 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. 5. 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. 6. 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 as of December 31, 1947.

**Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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. 12. R. S., c. 81, § 13, sub-§ XI, repealed.** Subsection XI of section 13 of chapter 81 of the revised statutes is hereby repealed.

**Sec. 13. R. S., c. 81, § 14, repealed.** Section 14 of chapter 81 of the revised statutes is hereby repealed.

**Sec. 14. 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. 15. R. S., c. 81, § 18, repealed.** Section 18 of chapter 81 of the revised statutes is hereby repealed.

**Sec. 16. 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. 17. 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.~~

**Sec. 18. P. L., 1947, c. 314, repealed; limitation.** Chapter 314 of the public laws of 1947, heretofore passed by this legislature and approved by the governor on May 5, 1947, amending sections 142 and 143 of chapter 14 of the revised statutes, is hereby repealed and shall not be printed as a part of the session laws of 1947.

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