

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1130**

H. P. 1821

House of Representatives, March 1, 1949.

Referred to Committee on Taxation. Sent up for concurrence and 2500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Williams of Auburn.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-NINE

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**AN ACT Imposing a Personal Income Tax and an Additional Corporate Franchise Tax.**

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

**Sec. 1. R. S., c. 14, §§ 330-347, additional.** Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto 18 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. “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;

II. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person, estate or trust;

III. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December;

IV. "Individual" means a natural person;

V. "Net income" means the same as net income as now defined under the Internal Revenue Code but excluding income which under such code is expressly exempted from taxation by the states and also excluding capital gains and losses; and provided 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, with the exceptions above noted.

VI. "Adjusted gross income" means the same as adjusted gross income as now or hereafter defined under the laws of the United States, without consideration of either a capital gain or capital loss;

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

VIII. "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 3% 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 im-

posed, 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 individuals 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 returns. 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 the following table:

If total income is		And the number of persons are as shown							
at least	but less than	1	2	3	4	5	6	7 or more	
		Your tax is							
\$ 0	\$ 600	0	0	0	0	0	0	0	
600	650	0	0	0	0	0	0	0	
650	700	0	0	0	0	0	0	0	
700	750	\$ 1	0	0	0	0	0	0	
750	800	2	0	0	0	0	0	0	
800	850	3	0	0	0	0	0	0	
850	900	4	0	0	0	0	0	0	
900	950	6	0	0	0	0	0	0	
950	1,000	7	0	0	0	0	0	0	
1,000	1,050	8	0	0	0	0	0	0	
1,050	1,100	9	0	0	0	0	0	0	
1,100	1,150	11	0	0	0	0	0	0	
1,150	1,200	12	0	0	0	0	0	0	
1,200	1,250	14	0	0	0	0	0	0	
1,250	1,300	15	0	0	0	0	0	0	
1,300	1,350	16	0	0	0	0	0	0	
1,350	1,400	17	0	0	0	0	0	0	
1,400	1,450	19	\$ 1	0	0	0	0	0	
1,450	1,500	20	2	0	0	0	0	0	
1,500	1,550	21	3	0	0	0	0	0	
1,550	1,600	23	5	0	0	0	0	0	

If total income is		And the number of persons are as shown						
at least	but less than	1	2	3	4	5	6	7 or more
		Your tax is						
1,600	1,650	24	6	0	0	0	0	0
1,650	1,700	25	7	0	0	0	0	0
1,700	1,750	27	9	0	0	0	0	0
1,750	1,800	28	10	0	0	0	0	0
1,800	1,850	29	11	0	0	0	0	0
1,850	1,900	31	13	0	0	0	0	0
1,900	1,950	32	14	0	0	0	0	0
1,950	2,000	33	15	0	0	0	0	0
2,000	2,050	35	17	0	0	0	0	0
2,050	2,100	36	18	0	0	0	0	0
2,100	2,150	37	19	\$ 1	0	0	0	0
2,150	2,200	38	20	2	0	0	0	0
2,200	2,250	40	22	4	0	0	0	0
2,250	2,300	41	23	5	0	0	0	0
2,300	2,350	42	24	6	0	0	0	0
2,350	2,400	44	26	8	0	0	0	0
2,400	2,450	45	27	9	0	0	0	0
2,450	2,500	46	28	10	0	0	0	0
2,500	2,550	48	30	12	0	0	0	0
2,550	2,600	49	31	13	0	0	0	0
2,600	2,650	50	32	14	0	0	0	0
2,650	2,700	52	34	16	0	0	0	0
2,700	2,750	53	35	17	0	0	0	0
2,750	2,800	54	36	18	0	0	0	0
2,800	2,850	56	38	20	\$ 2	0	0	0
2,850	2,900	57	39	21	3	0	0	0
2,900	2,950	58	40	22	4	0	0	0
2,950	3,000	59	41	23	5	0	0	0
3,000	3,050	61	43	25	7	0	0	0
3,050	3,100	62	44	26	8	0	0	0
3,100	3,150	63	45	27	9	0	0	0
3,150	3,200	65	47	29	11	0	0	0
3,200	3,250	66	48	30	12	0	0	0
3,250	3,300	67	49	31	13	0	0	0
3,300	3,350	69	51	33	15	0	0	0
3,350	3,400	70	52	34	16	0	0	0
3,400	3,450	71	53	35	17	0	0	0

If total income is		And the number of persons are as shown						
at least	but less than	1	2	3	4	5	6	7 or more
		Your tax is						
3,450	3,500	73	55	37	19	\$ 1	0	0
3,500	3,550	74	56	38	20	2	0	0
3,550	3,600	75	57	39	21	3	0	0
3,600	3,650	77	59	41	23	5	0	0
3,650	3,700	78	60	42	24	6	0	0
3,700	3,750	79	61	43	25	7	0	0
3,750	3,800	80	62	44	26	9	0	0
3,800	3,850	82	64	46	28	10	0	0
3,850	3,900	83	65	47	29	11	0	0
3,900	3,950	84	66	48	30	12	0	0
3,950	4,000	86	68	50	32	14	0	0
4,000	4,050	87	69	51	33	15	0	0
4,050	4,100	88	70	52	34	16	0	0
4,100	4,150	90	72	54	36	18	0	0
4,150	4,200	91	73	55	37	19	\$ 1	0
4,200	4,250	92	74	56	38	20	2	0
4,250	4,300	94	76	58	40	22	4	0
4,300	4,350	95	77	59	41	23	5	0
4,350	4,400	96	78	60	42	24	6	0
4,400	4,450	98	80	62	44	26	8	0
4,450	4,500	99	81	63	45	27	9	0
4,500	4,550	100	82	64	46	28	10	0
4,550	4,600	101	83	65	47	29	11	0
4,600	4,650	103	85	67	49	31	13	0
4,650	4,700	104	86	68	50	32	14	0
4,700	4,750	105	87	69	51	33	15	0
4,750	4,800	107	89	71	53	35	17	0
4,800	4,850	108	90	72	54	36	18	0
4,850	4,900	109	91	73	55	37	19	\$1
4,900	4,950	111	93	75	57	39	21	3
4,950	5,000	112	94	76	58	40	22	4

Sec. 334. Reciprocal credits. Whenever a taxpayer other than a resident of the state has become liable to the state or foreign 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 under section

332, 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 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

I. Grant a substantially similar credit to residents of this state subject to income tax under such laws or

II. 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 foreign country.

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

I. An exemption of \$600 for the taxpayer.

II. An exemption of \$600 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 \$1,200 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 \$600 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 sections 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, and also excluding capital gains and losses.

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 exemp-

tions under section 335, a credit of \$600 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 \$600 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 \$600 or more for the taxable year, shall make a return to the state tax 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 state tax 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 state tax 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 \$600 or over;

II. Every estate the gross income of which for the taxable year is \$600 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 \$600 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 or 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 \$600 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 state tax assessor shall from time to time designate, make complete return thereof, to the state tax assessor. Such returns shall be in substantially the same form as information returns required under the internal revenue code.

Sec. 343. Collection of tax. Returns shall be in such form and shall contain such information and detail as the state tax 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 section 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 state tax 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 state tax 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.** 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.

**Sec. 346. Effective date.** The provisions of sections 330 to 347, inclusive, shall apply to income received subsequent to December 31, 1948.

**Sec. 347. Disposition of proceeds.** All taxes collected under the provisions of sections 330 to 347, inclusive, shall be paid by the state tax assessor to the treasurer of state daily, and shall be credited to the general fund.'

**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, and in sections 348 to 362, inclusive, 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, and in sections 348 to 362, inclusive, 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 **together with the tax imposed under the provisions of sections 348 to 362, inclusive**, 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 sections 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, 1948. Any interest on bank deposits and dividends on bank stock received during the calendar year 1949 such deposits or stock having been taxable under statutes repealed by this section, shall be deducted from the taxpayers net income before computing the income tax due under sections 330 to 347, inclusive.

**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, and by section 6 of chapter 188 of the public laws of 1947, 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, 136, 137, 139, 140, ~~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 case; ~~and shares of the capital stock of such corporations shall not be taxed to the owners thereof.~~

**Sec. 17. R. S., c. 14, §§ 348-362, additional.** Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto 14 new sections to be numbered 348 to 362, inclusive, to read as follows:

#### ‘Additional Corporate Franchise Tax

**Sec. 348. Definitions.** For the purposes of sections 348 to 362, inclusive, and unless the context requires otherwise:

- I. “Corporation” includes a joint stock company or association wherein interest or ownership is evidenced by certificate or other written instrument;
- II. “Doing business” means any transaction or transactions in the course of its business by a corporation taxable hereunder created under the laws of this state, or by a foreign corporation qualified to do or doing business in this state;
- III. “Fiscal year” means the income year ending on the last day of any month other than December;
- IV. “Franchise tax” means a tax on every domestic corporation for the privilege of exercising its franchise in this state in a corporate or organized capacity, and a tax on every foreign corporation for the privilege of doing business in this state, taxable under sections 348 to 362, inclusive, measured by or according to the net income of such corporation;

V. "Income year" means the calendar year or the fiscal year upon the basis of which the net income is computed under sections 348 to 362, inclusive; if no fiscal year has been established, the term means the calendar year;

VI. "Net income" means the total net income for the income year, as defined under the internal revenue code of the United States as existing on the effective date of sections 348 to 362, inclusive, without deductions for losses sustained by the corporation in prior years;

VII. "Taxpayer" includes every manufacturing, mercantile, business or holding corporation subject to the tax imposed by sections 348 to 362, inclusive;

VIII. "Tax year" means the calendar year in which the tax is payable.

Sec. 349. Franchise tax imposed. For the privilege of exercising its franchise in this state in a corporate or organized capacity, every domestic corporation, and for the privilege of doing business in this state every foreign corporation, liable to tax under sections 348 to 362, inclusive, shall annually pay to this state a franchise tax to be measured by its net income to be computed in the manner hereinafter provided at the rate of 4% upon the basis of its net income as herein computed, for the next preceding income year; provided, however, that the tax paid by any corporation in any year under the provisions of sections 102 to 108, inclusive, shall be allowed as a credit toward any tax liability of the corporation under sections 348 to 362 for the income year in which such tax was paid.

Sec. 350. Allocation of income. If the entire business of the corporation is transacted within the state, the tax imposed shall be measured by the entire net income of the corporation for the income year. If the entire business of the corporation is not transacted within the state and its gross income is derived from business done both within and without the state, the tax imposed shall be measured by the net income of the corporation for the income year from business done within the state. Such net income shall be apportioned so as to allocate to the state a fair and equitable proportion of such income. Such allocation shall be made normally on the basis of the following factors, equal weight to be given to each:

I. The average of the value of all the real and tangible personal property,

A. at the beginning of the income year and

B. at the end of the income year, within the state, expressed as a percentage of all such property both within and without the state;

II. The total wages, salaries and other personal service compensation paid during the income year, to employees within the state, expressed as a percentage of all such compensation paid whether within or without the state;

III. The gross sales, or charges for services performed, within the state for the income year, expressed as a percentage of such sales or charges whether within or without the state.

In special cases where, in the judgment of the state tax assessor, such application of the above factors does not result in fair and equitable allocation to the state, such net income shall be allocated in accordance with rules and regulations prescribed by the state tax assessor.

Sec. 351. Capital gains and losses. For the purpose of ascertaining gain or loss from the sale or other disposition of property, real, personal or mixed, acquired before January 1, 1949, the taxpayer may, if it so elects, in lieu of the adjusted basis prescribed by said code, use the fair market value of such property as of January 1, 1949, adjusted for the period subsequent to January 1, 1949. In all other respects the gain or loss on the sale or other disposition of property shall be ascertained as prescribed by said code.

Sec. 352. Consolidation. When a corporation taxable hereunder shall acquire either directly, indirectly or by merger or consolidation the major portion of the actively employed assets or the franchises of another corporation or of corporations exercising a franchise or doing any business in this state during any year, or shall merge or consolidate with another corporation, it shall file a report within 60 days and include therein a statement showing its own net income and the consolidated net income of all such corporations for the preceding calendar or fiscal year to the extent that all such income has not been used or included in measuring the franchise tax to this state.

Sec. 353. Returns. Returns shall be in such form, and shall contain such information and detail, as the state tax assessor may from time to time prescribe, and shall be filed at his main office or at any branch office which he may establish, on or before the 15th day of the 5th month next after the close of the preceding income year. In case of sickness, absence or other disability, or whenever in his judgment good cause exists, the state tax assessor may allow further time for filing returns. Returns shall be verified by written declarations that the statements therein are made subject to the pains and penalties of perjury. The person signing such a re-



turn shall be deemed to be the person subject to the pains and penalties of perjury. The state tax 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. 354. Penalty. A corporation which fails to make any return or report required by sections 348 to 362, inclusive, may be liable to a penalty of 25% of the tax, to be added thereto and assessed and collected in the manner provided for the assessment and collection of taxes under section 349, or in a civil action for debt to be brought by the state tax assessor; and an officer of any such corporation who makes a fraudulent return or statement with intent to defeat or evade the payment of the taxes prescribed by sections 348 to 362, inclusive, shall be liable to a penalty of not more than \$1,000, to be collected in the same manner.

Sec. 355. Payment of tax. Taxes levied under the provisions of sections 348 to 362, inclusive, shall be paid to the state tax assessor at the time the return is filed under the provisions of section 353.

If the time for filing the return is extended, under the provisions of section 353, or if the tax is not paid when due, in either case, interest at the rate of 6% per year from the original due date of the return shall be added to and become part of the tax. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily.

Sec. 356. Delinquent taxes. All taxes due under the provisions of sections 348 to 362, inclusive, may be collected by an action of debt brought by the state tax assessor. In the event of failure to pay upon the final determination of tax liability by any court, the state tax assessor shall so certify to the secretary of state, who shall suspend the taxpayer's charter or revoke its license to do business in this state.

Sec. 357. Revision of tax by state tax assessor. When the state tax assessor discovers from the examination of the return or otherwise that the net income of any taxpayer, or any portion thereof, has not been correctly stated on the return, he may, at any time within 3 years after the time when the return was due, correct the same and give notice to the taxpayer of such correction, and such taxpayer shall thereupon have an opportunity, within 30 days, to confer with the state tax assessor as to the proposed correction. The limitation of 3 years to the correction of such return shall not apply to the correction of fraudulent returns. After the expiration of 30

days from such notification, the state tax assessor shall assess the taxpayer for such additional tax as he finds due on the basis of such corrected return and shall give notice to the taxpayer so assessed, of the amount of the tax and interest and penalties, if any, and the amount thereof shall be due and payable within 10 days from the date of such notice. The provisions of section 359 with respect to appeal shall apply to a tax so assessed. No additional tax amounting to less than \$10 shall be assessed.

Sec. 358. Revision of tax at request of taxpayer. A taxpayer may apply to the state tax assessor for revision of the tax assessed against him at any time within 2 years from the time of the filing of the return. The state tax assessor shall grant a hearing thereon and if, upon such hearing, he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts and adjust the computation of the tax accordingly. The state tax assessor shall notify the taxpayer of his determination and the state shall refund to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. When the taxpayer has failed, without good cause, to file a return within the time prescribed by law, or has filed a fraudulent return or, having previously filed an incorrect return, has failed, after notice, to file a proper return, the state tax assessor shall add to the tax 25% of the amount for which the taxpayer is found to be properly assessed.

Sec. 359. Appeal. The determination of the state tax assessor upon any application made by a taxpayer for revision of any tax assessed under the provisions of sections 348 to 362, inclusive, may be appealed from to the superior court in and for Kennebec county, on petition filed by the taxpayer against the state tax assessor. The petition shall be filed within 90 day after receipt by the taxpayer or his agent of written notice by the state tax assessor of his determination given as provided in section 357. Thereupon, appropriate proceedings shall be had and the relief, if any, to which the taxpayer may be found entitled may be granted and any taxes, interest or penalties paid, found by the court to be illegally assessed, shall be ordered refunded to the taxpayer with costs, and judgment entered accordingly.

Sec. 360. Exemptions. The following corporations shall not be deemed to be mercantile, manufacturing or business corporations within the meaning of sections 348 to 362, inclusive, and shall be exempt from the taxes imposed:

- I. Insurance, surety and guaranty companies, mutual or otherwise;

II. Life, fire and marine insurance corporations, and mutual life, fire and marine insurance companies;

III. Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;

IV. Sanitary corporations, corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; business organizations, chambers of commerce or boards of trade not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; clubs organized and operated exclusively for pleasure and recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

V. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;

VI. Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water companies, mutual or cooperative electric or telephone companies, or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;

VII. Farmers', fruit-growers' or like associations organized and operated on a cooperative basis

A. for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing, handling or processing expenses, on the basis of either the quantity or the value of the products furnished by them, or

B. for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses.

Sec. 361. Rules and regulations. The state tax assessor shall be charged with the duty of administering and enforcing all the provisions of sections 348 to 362, inclusive, and is authorized and empowered to adopt, prescribe and from time to time alter and amend and to enforce reasonable rules, orders and regulations for the purpose of carrying out the provisions

thereof; and may require by order or subpoena, the production of any books, papers, accounts or other information necessary to the carrying out of the provisions thereof. All reports and returns shall be upon standard forms adopted by the state tax assessor with no more detailed information relating to the taxpayer's business than is necessary to enable the state tax assessor to administer fully the provisions of sections 348 to 362, inclusive.

**Sec. 362. Validating provisions.** Nothing in sections 348 to 362, inclusive, shall be construed to repeal any of the provisions of chapter 14 of the revised statutes, as amended.'

**Sec. 18. Effective date.** The tax imposed by sections 348 to 362, inclusive, shall be measured by income reported for each income year beginning on or after January 1, 1949.