

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1481**

H. P. 2046

House of Representatives, April 12, 1949.

Reported by Minority from Committee on Taxation. Majority and Minority reports tabled pending acceptance of either on motion of Mr. Chase of Cape Elizabeth. New draft ordered printed.

HARVEY R. PEASE, Clerk.

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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.**

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

**Sec. 1. R. S., c. 14, §§ 330-364, additional.** Chapter 14 of the revised statutes, as amended, is hereby further amended by adding thereto 35 new sections, to be numbered 330 to 364, inclusive, to read as follows:

**‘Personal Income Tax**

**Sec. 330. Definitions.** The following definitions shall apply throughout sections 330 to 364, 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 of the United States, but excluding income which the state is constitutionally unable to tax 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 defined under the internal revenue code 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. "Resident" includes:
- A. Every individual who is in this state for other than a temporary or transitory purpose on the last day of the taxable year. Every individual who spends in the aggregate more than 7 months of the taxable year within this state or maintains a permanent place of abode within this state shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that the individual is in the state for a temporary or transitory purpose,
  - B. Every individual domiciled within this state on the last day of the taxable year who is in some other state, territory or country for a temporary or transitory purpose. Any individual who is a resident of this state continues to be a resident even through temporarily absent from the state;

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 364, 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 364, 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, after deducting the exemptions provided in sections 336 to 339, inclusive, upon and with respect to net income from sources within the state, including income 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. Non-residents, allocation of income. Net income from sources within and without this state shall be allocated and apportioned under rules and regulations prescribed by the state tax assessor.

Sec. 334. 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	

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								
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	5	0	0	0	0	0	0
950	1,000	6	0	0	0	0	0	0
1,000	1,050	6	0	0	0	0	0	0
1,050	1,100	7	0	0	0	0	0	0
1,100	1,150	8	0	0	0	0	0	0
1,150	1,200	9	0	0	0	0	0	0
1,200	1,250	10	0	0	0	0	0	0
1,250	1,300	11	0	0	0	0	0	0
1,300	1,350	12	0	0	0	0	0	0
1,350	1,400	13	\$ 1	0	0	0	0	0
1,400	1,450	14	2	0	0	0	0	0
1,450	1,500	15	3	0	0	0	0	0
1,500	1,550	15	3	0	0	0	0	0
1,550	1,600	16	4	0	0	0	0	0
1,600	1,650	17	5	0	0	0	0	0
1,650	1,700	18	6	0	0	0	0	0
1,700	1,750	19	7	0	0	0	0	0
1,750	1,800	20	8	0	0	0	0	0
1,800	1,850	21	9	0	0	0	0	0
1,850	1,900	22	10	0	0	0	0	0
1,900	1,950	23	11	0	0	0	0	0
1,950	2,000	24	12	0	0	0	0	0
2,000	2,050	24	12	0	0	0	0	0
2,050	2,100	25	13	\$ 1	0	0	0	0
2,100	2,150	26	14	2	0	0	0	0
2,150	2,200	27	15	3	0	0	0	0
2,200	2,250	28	16	4	0	0	0	0
2,250	2,300	29	17	5	0	0	0	0
2,300	2,350	30	18	6	0	0	0	0
2,350	2,400	31	19	7	0	0	0	0
2,400	2,450	32	20	8	0	0	0	0
2,450	2,500	33	21	9	0	0	0	0
2,500	2,550	33	21	9	0	0	0	0
2,550	2,600	34	22	10	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								
2,600	2,650	35	23	11	0	0	0	0
2,650	2,700	36	24	12	0	0	0	0
2,700	2,750	37	25	13	\$ 1	0	0	0
2,750	2,800	38	26	14	2	0	0	0
2,800	2,850	39	27	15	3	0	0	0
2,850	2,900	40	28	16	4	0	0	0
2,900	2,950	41	29	17	5	0	0	0
2,950	3,000	42	30	18	6	0	0	0
3,000	3,050	42	30	18	6	0	0	0
3,050	3,100	43	31	19	7	0	0	0
3,100	3,150	44	32	20	8	0	0	0
3,150	3,200	45	33	21	9	0	0	0
3,200	3,250	46	34	22	10	0	0	0
3,250	3,300	47	35	23	11	0	0	0
3,300	3,350	48	36	24	12	0	0	0
3,350	3,400	49	37	25	13	\$ 1	0	0
3,400	3,450	50	38	26	14	2	0	0
3,450	3,500	51	39	27	15	3	0	0
3,500	3,550	51	39	27	15	3	0	0
3,550	3,600	52	40	28	16	4	0	0
3,600	3,650	53	41	29	17	5	0	0
3,650	3,700	54	42	30	18	6	0	0
3,700	3,750	55	43	31	19	7	0	0
3,750	3,800	56	44	32	20	8	0	0
3,800	3,850	57	45	33	21	9	0	0
3,850	3,900	58	46	34	22	10	0	0
3,900	3,950	59	47	35	23	11	0	0
3,950	4,000	60	48	36	24	12	0	0
4,000	4,050	60	48	36	24	12	0	0
4,050	4,100	61	49	37	25	13	\$ 1	0
4,100	4,150	62	50	38	26	14	2	0
4,150	4,200	63	51	39	27	15	3	0
4,200	4,250	64	52	40	28	16	4	0
4,250	4,300	65	53	41	29	17	5	0
4,300	4,350	66	54	42	30	18	6	0
4,350	4,400	67	55	43	31	19	7	0
4,400	4,450	68	56	44	32	20	8	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									
4,450	4,500	69	57	45	33	21	9	0	
4,500	4,550	69	57	45	33	21	9	0	
4,550	4,600	70	58	46	34	22	10	0	
4,600	4,650	71	59	47	35	23	11	0	
4,650	4,700	72	60	48	36	24	12	0	
4,700	4,750	73	61	49	37	25	13	\$ 1	
4,750	4,800	74	62	50	38	26	14	2	
4,800	4,850	75	63	51	39	27	15	3	
4,850	4,900	76	64	52	40	28	16	4	
4,900	4,950	77	65	53	41	29	17	5	
4,950	5,000	78	66	54	42	30	18	6	

Sec. 335. Reciprocal credits. Whenever a taxpayer, other than a resident of this 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. 336. 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 to a dependent who has made a joint return with his spouse, as herein-after provided, for the taxable year beginning in such calendar year.

Sec. 337. Fractional year return; exemptions. In the case of a return made for a fractional part of a year, under section 363, the exemptions as set forth in section 336 shall be reduced respectively to amounts which bear the same ratio to the full exemptions set forth as the number of months in the period for which return is made bears to 12 months.

Sec. 338. Fiduciaries. The taxes provided under the provisions of sections 330 to 364, inclusive, are hereby imposed and shall be levied, collected and paid annually upon the net income of every fiduciary after deducting the credits provided in section 339. Such net income shall be computed on the basis now provided under the internal revenue code of the United States for the computation of net income of estates and trusts, but excluding income which the state is constitutionally unable to tax, and also excluding capital gains and losses.

Sec. 339. Credits. For the purpose of the tax imposed under the provisions of section 338, an estate shall be allowed, in lieu of the exemptions under section 336, a credit of \$600 against net income, and a trust shall be allowed, in lieu of the exemptions under section 336, a credit of \$100 against net income.

Sec. 340. Charge against the estate. The tax imposed upon a fiduciary by the provisions of sections 330 to 364, inclusive, shall be a charge against the estate or trust.

Sec. 341. Return of net income. Except as otherwise provided herein, 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 of the United States. In the event the taxpayer is informed of any change or proposed change with respect to his United States income tax return, which change or proposed change affects his net taxable income, such information shall be immediately transmitted to the state tax assessor.



Sec. 342. 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 of \$600 or more for the taxable year from property owned, or from a business, trade, profession or occupation carried on in this state, 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. 343. Returns by fiduciaries. Every fiduciary subject to taxation under the provisions of sections 330 to 364, 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. 344. 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 real or personal property, fiduciaries, employers and all officers and employees of this state or of any political subdivision of this state, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, 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 who is subject to the provisions of sections 330 to 364, inclusive, 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 of the United States.

Sec. 345. Filing of returns; penalties. Except as provided in section 344, 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 3rd month following the close of the taxable 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 a written declaration that they are made under the penalties of perjury. Any taxpayer who shall wilfully make any false or fraudulent reports or returns required by sections 330 to 364, inclusive, shall be guilty of a felony and upon conviction thereof shall be subject to the penalties prescribed for perjury by chapter 122; and any person who shall, with intent to defraud, evade or violate any of the provisions of sections 330 to 364, inclusive, 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, or by imprisonment for not more than 1 year, or by both such fine and imprisonment. When a return is made for a partnership, the person signing such return shall be deemed to be the person subject to the 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. 346. Payment of tax. Taxes levied under the provisions of sections 330 to 364, inclusive, shall be paid to the state tax assessor at the time the return is filed under the provisions of section 345.

If the time for filing the return is extended under the provisions of section 345, 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.

Whenever any taxpayer shall fail to pay any tax or penalty due under the provisions of sections 330 to 364, inclusive, within the time limit set, the attorney-general may enforce payment thereof against said taxpayer in a court of proper jurisdiction.

Sec. 347. Additional return. When the state tax assessor is of the opinion that a taxpayer has failed to file a return, or to include in a return filed, either intentionally or through error, items of taxable income, he may

require from such taxpayer a return or a supplementary return verified as provided by section 345, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of sections 330 to 364, inclusive. When from a supplementary return or otherwise, the state tax assessor finds that any items of income taxable under such sections have been omitted from the original return, he may require the items so omitted to be disclosed to him under oath by the taxpayer and added to the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provision of such sections. The state tax assessor may proceed under the provisions of section 351 whether or not he requires a return or a supplementary return under the provisions of this section.

Sec. 348. Computation of tax; penalty.

I. As soon as practicable after the return is filed, the state tax assessor shall examine it and compute the tax and the amount so computed by him shall be the tax. If the tax found due shall be greater than the amount theretofore paid, the excess shall be paid to the state tax assessor within 10 days after notice of the amount shall be mailed by him.

II. When in a filed return made in good faith, the understatement of the tax is not due to any fault of the taxpayer, there shall be no penalty or additional tax added because of such understatement, but interest shall be added to the amount of deficiency at the rate of  $\frac{1}{2}\%$  for each month or fraction of a month.

III. When such understatement is found to be due to negligence on the part of the taxpayer, but without intent to defraud, there shall be added interest at the rate of 1% per month or fraction of a month to the amount of such difference.

IV. When such understatement is false or fraudulent with intent to evade the tax, the tax on the additional income discovered to be taxable shall be doubled and an additional 1% per month or fraction of a month shall be added.

V. The interest provided for in this section shall in all cases be computed from the date the tax was originally due to the date of payment.

Sec. 349. Assessment of additional tax. When the state tax assessor discovers from the examination of the return or otherwise that the income of any taxpayer, or any portion thereof, has not been assessed, he may, at

any time within 2 years after the time when the return was due, assess the same and give notice to the taxpayer of such assessment; and such taxpayer shall thereupon have an opportunity, within 30 days, to confer with the state tax assessor as to the proposed assessment. The limitation of 2 years to the assessment of such tax or additional tax shall not apply to the assessment of additional taxes upon fraudulent returns. After the expiration of 30 days from such notification, the state tax assessor shall assess the income of such taxpayer or any portion thereof which he finds has not theretofore been assessed 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 sections 330 to 364, inclusive, with respect to appeal shall apply to a tax so assessed. No additional tax amounting to less than \$1 shall be assessed.

Sec. 350. Levy for non-payment of tax. If any tax, interest or penalty is not paid when due, the state tax assessor may notify the taxpayer by registered mail, addressed to him at his last known address, that action is being taken under the provisions of this section. The notice shall specify the amount owing and shall inform the taxpayer that judgment will be taken if he does not pay the same or exercise his right, if any, to appeal from the assessment. Ten or more days after sending such notice the state tax assessor may, when the taxpayer's right to appeal has expired, file in the office of the clerk of courts of Kennebec county, or any other county, a certificate specifying the amount of the tax, penalty and interest due, the name and last known address of the taxpayer, and the facts showing compliance by the state tax assessor with the law as respects the computation and assessment of the tax and mailing of notice prescribed in this section. The clerk of courts, immediately upon the filing of the certificate, shall enter a judgment for the state against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate. Execution against the taxpayer's property shall issue upon the judgment upon request of the state tax assessor in the same manner as execution against property may issue upon other judgments.

Sec. 351. Tax a debt to the state. A tax imposed by sections 330 to 364, inclusive, and all increases, interest and penalties thereon shall become, from the time it is due and payable, a personal debt to the state from the person liable to pay the same, to be recovered in an action of debt.

Sec. 352. Action for collection; venue. Action may be brought by the attorney-general at the instance of the state tax assessor in the name of

the state to recover the amount of taxes, penalties and interest due under the provisions of sections 330 to 364, inclusive, provided such action is brought within 6 years after the same are due. Such action shall be returnable in the county where the taxpayer resides, if a resident of the state; and if a non-resident, the action shall be returnable in the county of Kennebec.

**Sec. 353. Failure to make return; penalty.**

I. When a taxpayer, without intent to evade any tax imposed by sections 330 to 364, inclusive, shall fail to file a return of income or pay a tax, if one is due, at the time required by or under the provisions of such sections, but shall voluntarily file a correct return of income and pay the tax due within 60 days thereafter, there shall be added to the tax an additional amount equal to 5% thereof, but such additional amount shall in no case be less than \$1, and an additional 1% for each month or fraction of a month during which the tax remains unpaid.

II. When a taxpayer, with intent to evade the payment of a tax, fails for a period of 60 days to file a return of income or to pay the tax, if one is due, the state tax assessor shall add to the tax actually found to be due a penalty of 25% of such tax. Such increased amount shall be further increased by the addition of 1% for each month or fraction of a month from the time the tax was originally due to the date of payment.

III. The state tax assessor shall have power, upon making a record of his reasons therefor, to waive or reduce any of the additional taxes or interest provided for in subsections I and II of this section or in subsections II, III and IV of section 348.

IV. A person who, without fraudulent intent, fails to pay a tax or to make, render, sign or verify a return, or to supply any information within the time required under the provisions of sections 330 to 364, inclusive, shall be fined not more than \$100.

V. The certificate of the state tax assessor to the effect that a tax has not been paid, that a return has not been filed or that information has not been supplied as required under the provisions of such sections shall be prima facie evidence that such tax has not not been paid, that such return has not been filed or that such information has not been supplied.

VI. When a taxpayer, who has failed to file a return or has filed an incorrect or insufficient return and has been notified by the state tax

assessor of his delinquency, refuses or neglects within 20 days after such notice to file a proper return or files a fraudulent return, the state tax assessor shall determine the income of such taxpayer according to his his best information and belief and shall increase the amount so determined by a penalty of 50% of such amount. He may in his discretion allow further time for the filing of a return in such case.

Sec. 354. Failure to make return; hearing. For good cause shown, the state tax assessor may extend the time within which a taxpayer is required to file a return or report. When a return or report is not made as herein required, the state tax assessor is authorized to make an estimate of the net income of such taxpayer and of the amount of tax due under sections 330 to 364, inclusive, from any information in his possession. If a taxpayer fails to make a return or report, or if such return or report is unsatisfactory to the state tax assessor, he or his authorized representative may examine the books and records of such taxpayer. For the purpose of making such examination, the state tax assessor or his authorized representative may examine witnesses under oath and take such testimony as may be necessary; and the cost of such examination shall be added to the taxes and penalties as provided herein.

Sec. 355. 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 redetermine 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.

Sec. 356. Appeal. The determination of the state tax assessor of any tax assessed under the provisions of sections 330 to 364, 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 days after receipt by the taxpayer or his agent of written notice by the state tax assessor of his determination. 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. 357. Procedure. The state tax assessor, for the purpose of ascertaining the correctness of any return or for the purpose of making an esti-

mate of the taxable income of any taxpayer, may examine or cause to be examined by any authorized representative of the bureau of taxation designated by him for that purpose, any books, papers, records or memoranda of the taxpayer or of any person or corporation in the state bearing upon the matters required to be included in the return. The state tax assessor or his representative may require the attendance of the taxpayer or of any other person having knowledge in the premises at any place in the county where such person resides, and may take testimony and require the production of the aforesaid books, papers, records or memoranda for his information, with the power to administer oath to such person.

Sec. 358. Powers of representatives. Such representatives as the state tax assessor may designate shall have power to administer oaths or to take acknowledgments in respect to any return or report required by sections 330 to 364, inclusive, or the rules and regulations of the state tax assessor.

Sec. 359. Secrecy of records; penalty.

I. Except in accordance with proper judicial order or as otherwise provided by law, the state tax assessor, a deputy, agent, clerk or other officer or employee shall not divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under the provisions of sections 330 to 364, inclusive. Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor the inspection by the attorney-general or his duly authorized representative of the report or return of a taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover a tax or a penalty imposed. Reports and returns shall be preserved for 3 years and thereafter until the state tax assessor orders them to be destroyed.

II. A person who violates any provision of subsection I shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment; and if the offender is an officer or employee of the state, he shall be dismissed from office and be incapable of holding any state office for a period of 5 years thereafter.

III. Notwithstanding the provisions of this section, the state tax assessor may permit the commissioner of internal revenue of the United States, or the proper officer of any state imposing an income tax upon the incomes of individuals taxable under the provisions of sections 330 to 364,

inclusive, or the authorized representative, of either such officer, to inspect the income tax returns of any such individual or may furnish to such officer or his authorized representative an abstract of the return of income of such taxpayer or supply him with information concerning any item of income contained in a return or disclosed by the report of an investigation of the income or return of income of such taxpayer; but such permission shall be granted or such information furnished to such officer or his authorized representative only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of the income tax law.

Sec. 360. Rules and regulations. The state tax assessor shall administer and enforce the provisions of sections 330 to 364, 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. 361. 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 330 to 364, 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. 362. Purpose. It is hereby declared that the purpose of sections 330 to 364, inclusive, in addition to the essential purpose of raising revenue, is to conform as closely as may be with the internal revenue code of the United States in order that the filing of returns may be simplified and the taxpayers' accounting burdens may be reduced.

Sec. 363. Effective date. The provisions of sections 330 to 364, inclusive, shall apply to income received subsequent to December 31, 1948. In the case of any taxpayers whose fiscal year commenced in 1948 and ends in 1949, the state tax assessor shall make necessary regulations for returns for a fractional part of a year and for allocating the net income between the non-taxable and taxable portions of his fiscal year.

Sec. 364. Disposition of proceeds. All taxes collected under the provisions of sections 330 to 364, 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 6 7 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, 128, 136, 137, 139 and 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 cases; ~~and shares of the capital stock of such corporations shall not be taxed to the owners thereof.~~

**Referendum.** The aldermen of cities, the selectmen of towns and the assessors of the several plantations of this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators and representatives, at a special state-wide election to be held on the 2nd Monday in June, 1949, to give in their votes upon the acceptance or rejection of the foregoing act, and the question shall be: "Shall an act to provide appropriations for more adequate educational aids to the cities and towns; more adequate provisions for old age assistance, aid to dependent children, board of neglected children; more adequate appropriations for institutional care; continuation of existing state wages; payment by the state of towns' share of the cost of the aid to dependent children program, establishment of a state fire control system, and certain other services of state government become law together with a 2% individual income tax law to provide revenue necessary to finance these services, as passed by the 94th legislature, be accepted?"

And the legal voters of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of said act voting "Yes" and those opposed to said act voting "No"; and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings, and return made to the office of the secretary of state in the same manner as votes for governor and members of the legislature, and the governor and council shall count the same, and if it shall appear that a majority of the legal voters voting on the question are in favor of the act, the governor shall make known the fact by his proclamation and the act shall take effect 90 days after the recess of the 94th legislature in regular session.

**Secretary of state shall prepare ballots.** The secretary of state shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing act accompanied by a copy thereof.