

Initiative Measure No. 115

BALLOT TITLE

AN ACT relating to old age pensions, creating a state department therefor, defining its powers and duties; designating persons entitled to pensions and the amount thereof; providing taxes for sole payment of pensions, on business and occupations, sales of stocks and bonds, public utilities, admissions, fuel oil, proprietary medicines, toilet preparations, inheritances, gifts, and making appropriations therefrom; amending section 9, chapter 176, Laws of 1935, and repealing chapter 182, Laws of 1935, providing for old age pensions, and all acts or parts of acts in conflict therewith.

AN ACT relating to old age pensions: creating a new department of the administrative code; providing for the appointment of a DIRECTOR OF PENSIONS; fixing his salary and term of office, granting rights and powers to said director; amending section 9, chapter 176, Laws of Washington 1935; providing for the payment of old age pensions to persons sixty (60) years of age or over; providing a commission to fix the amount thereof, and rules and regulations in regard thereto; providing for appeal to the courts and making appropriation for the cost of the administration of this act and for payment of pensions to those entitled and relating to revenue and taxation; providing for acceptance of financial assistance from Federal Government and other sources; providing for the levy and collection of a tax or excise upon the act or privilege of engaging in business activities; providing for the levy and collection of a tax or excise on the privilege or act of engaging in the business of initiating the sale and/or selling stocks and/or bonds; providing for the levy and collection of a tax or excise upon the act or privilege of engaging in public utility business; providing for the levy and collection of a tax upon admissions to any place; providing for the levy and collection of a tax upon the sale, use or distribution of fuel oil and diesel oil; providing for the levy and collection of a tax upon the sale, use, consumption or distribution of proprietary medi-

cines and toilet preparations; providing for the levy and collection of a tax on inheritances; providing for the levy and collection of a tax on gifts; providing the necessary administrative machinery for the collection and enforcement of the taxes hereunder; providing for certain exemptions and deductions; declaring certain acts in connection herewith unlawful and providing penalties; providing for the allocation of revenue derived hereunder; providing for the repeal of chapter 182, Laws of Washington, 1935, pertaining to Old Age Pensions, and all acts or parts of acts in conflict herewith.

Be it enacted by the People of the State of Washington:

ART. I, SECTION 1. DECLARATION OF OBJECTS. It is a matter of common knowledge that a large percentage of citizens who reach the age of sixty (60) years are dependent upon the charity of friends, relatives, or of the state for subsistence and care and are in need of, and now receive the common necessities of life from the state, or through public or private charity, and whose resultant physical and mental condition and disabilities render them permanently unable to provide or properly care for themselves, and that of those who reach the age of sixty (60) thousands are unemployed, and all unemployable under modern industrial methods and practices, and are compelled, if permitted to work at all, to work for inadequate wages to the detriment of labor conditions in the state (the aged occupying positions for small and in-

adequate compensation that should be filed by younger men at an adequate wage.)

The present method of caring for the aged on poor farms, in poor houses, or old folks' homes, or by doles, and other present forms of relief is expensive, unscientific, inadequate and injurious to the peace, health and happiness of the people of the state, and a system, free from unnecessary humiliation and suffering to the aged, which provides ample subsistence for them without injury to those physically and mentally capable of employment, and which is not injurious to the health, happiness, peace, and general welfare of the people of the State of Washington, should be established.

It is therefore, hereby declared that such new system of caring for the aged is necessary to the health, happiness, peace and general welfare of the people of the State of Washington and is a matter of public concern, there being a moral obligation and public duty to provide reasonable sustenance, clothing, care and shelter for the aged, and therefore such state-wide system of Old Age Pensions is hereby established.

SEC. 2. STATE DEPARTMENT CREATED. There is hereby created a department of the administrative code to be known as the Department of Old Age Pensions. There shall be a chief executive officer of this department, to be known as the DIRECTOR OF PENSIONS. He shall be appointed by the Governor and shall receive a salary of \$6,000.00 per annum, for a term of four years. There shall be vested in and charged against this department and in this officer, the same rights, powers, rules, regulations and duties imposed upon other departments and executive officers of the administrative code not inconsistent herewith. He shall file a surety bond in the penal sum of \$10,000.00 for the faithful performance of his duties.

SEC. 3. The department shall adopt any and all reasonable rules and regulations consistent with the provisions of this act. The principal place of business and office of the department shall be in the city of Olympia, Thurston county, State of Washington.

SEC. 4. POWERS OF ADMINISTRATION. The Director of Old Age Pensions shall have the power and it

shall be his duty to keep such data and statistics and make such reports as are required by the state and Federal government, and to employ any and all persons necessary for the successful and efficient administration of this act and shall have the power to fix the compensation to be paid them, provided that no employee shall receive a salary in excess of \$3,000.00 per annum, and that the total cost shall not exceed 5% of the money disbursed.

SEC. 5. PERSONS ENTITLED. Old Age Pensions shall be given under this act to any person who:

(a) Is totally disabled or totally blind and conforms to all provisions herein, except as to age.

(b) Has attained the age of sixty (60) years.

(c) Is a citizen of the United States.

(d) Has been a resident of the State of Washington for at least five years of the ten years immediately preceding his application for Old Age Pension. And has resided therein continually for one year immediately preceding the application.

(e) Has no income from any source equal to, or in excess of the pension provided by the state under this act. If such person's pension or income be less than the amount provided by this act, then such person shall be entitled, if otherwise qualified, to the difference between such income and the amount he would otherwise be entitled to receive, if a pensioner under this act. This section does not apply to allowances of the Federal Government for Old Age relief.

(f) Is not engaged in any gainful occupation.

(g) Shall reside continuously at least 11 months of each calendar year in the State of Washington, except when the Director of Pensions permits a longer absence for good cause shown.

(h) Is not an inmate of any insane or penal institution.

SEC. 6. DETERMINATION OF AGE. For the purpose of determining the age of an applicant for aid under this act consideration shall be given to any of the following documents:

(a) Certificate of birth;

(b) Certificate of baptism;

(c) Statement of age as recorded on marriage license or certificate;

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(d) Statement of age of the applicant as recorded by the registrar of voters of this state, or any political subdivision thereof, at least five years prior to the date of such application as shown by the records of the Department of Elections of this state or any political subdivision thereof;

(e) Entries in a family Bible or other genealogical record or memorandum of the family of such applicant;

(f) The returns of the United States census taken at least five years prior to the date of such application;

(g) The affidavit of a reputable person if it is based upon his personal knowledge of facts which would determine the probable age of the applicant and is not merely a statement of belief based on applicant's personal appearance; such affidavit shall contain statements of the circumstances upon which said affiants knowledge is based and same shall be submitted to the Department of Old Age Pensions, and where such affidavit is deemed by said department not to present satisfactory evidence of applicant's age the said department may require a further affidavit of more conclusive proof; such an affidavit, however, shall not be accepted to establish proof of age until all reasonable efforts to produce more substantial documentary evidence of applicant's age have failed;

(h) Such other evidence as the State Department of Old Age Pensions may approve.

SEC. 7. The ownership by a single person or by the community of husband and wife of real property used by the owner for residence purposes, and from which they receive no rental, the assessed value of which does not exceed \$3,000, and the ownership by a single person, or by the community of husband and wife of personal property, which does not exceed in value the sum of \$1,500, shall not be a bar under this act to the right of a pension, if otherwise entitled.

SEC. 8. It is provided herein that the first payment of compensation under this act will occur March 1, 1937. The gross receipts of business, the retail costs of commodities, the purchasing power of money, fluctuates. Experience shows that the sum required to provide reasonable and adequate sustenance, clothing, care and shelter, also varies with the cost of

the items necessary to reasonably provide such requirements and it is therefore difficult to fix a sum in advance that will be the reasonable sum required to supply human necessities at a future date and which will not be in excess of an amount for which revenue may be taken through taxation for a public purpose. The United States Government, Department of Commerce, issues a survey of current business, in which is contained index numbers of the retail commodity prices of human necessities in the United States. Trade journals and other such publications, also show the retail commodity prices throughout the country, including the State of Washington. The amount of revenue that will be produced by the tax provisions of this act, which can now be only approximated, will then be known. These facts are not available in advance. The facilities for investigation and the development of the facts necessary to a reasonably accurate finding of the amount required to provide sustenance, clothing, care and shelter for those 60 years of age or over, who come within the class provided by this act on March 1, 1937, will be available and can best and most accurately be ascertained by a commission consisting of the Governor, the Secretary of State and the Director of Pensions, by investigations made just prior to March 1, 1937.

It is therefore hereby provided, that during the month of February, 1937, and quarterly thereafter, after this act becomes effective, a commission consisting of the Governor, the Secretary of State and the Director of Pensions, shall be and they are hereby constituted a commission to ascertain and determine after hearings held for that purpose, the material facts then existing, and from such facts and said investigation, determine and establish the reasonable amount required to provide sustenance, clothing, care and shelter for those persons 60 years of age or over, who are entitled to compensation under the terms of this act and said commission is hereby empowered and directed to ascertain and declare such sum and such sum so found shall be, and it is hereby established as the sum that shall be paid to each person entitled to compensation on the first day of March, 1937,

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and on the first day of each month thereafter, provided that the sum so fixed shall not be in excess of \$100.00 per month and providing further that the sum so ascertained and fixed and the action of said commission in fixing said sum shall be subject to review by the courts of the State of Washington on the complaint of any taxpayer who may question the adequacy or inadequacy of said finding, providing that said complaint shall be filed within 30 days of the promulgation by the commission of its findings, such complaints shall be filed in the superior court of the State of Washington, for Thurston county. In the event the court shall find said sum so established, in excess of the amount for which taxation shall be lawful, said commission shall have power, and it shall be its duty, to fix a sum that does not conflict with the findings of the court and is within the sum required to provide reasonable sustenance, clothing, care and shelter and in lieu of all forms of relief to the aged now existing in the State of Washington.

SEC. 9. After the payment of all costs of administration and all old age pensions for the three months preceding the end of each quarter, all cash on hand, if any, in excess of \$500,000.00 shall be transferred to the general fund for governmental purposes.

SEC. 10. A person entitled to a pension under this act shall make application therefor to the board of county commissioners of the county in which he resides by filing a verified application supported by the affidavits of at least two reputable citizens residing in the county in which the applicant lives. The Director of Pensions shall supply the board of county commissioners of each county in the state with blank forms in duplicate, serially numbered, which shall be executed by the pensioner, one copy of which shall be filed at the office of the county commissioners; the other transmitted to the office of the Director of Pensions at Olympia. The Director of Pensions shall also provide the board of county commissioners with his official receipt bearing the same serial number as the application which shall be delivered to the pensioner when the application of the pensioner shall be complete and

filed with the board of county commissioners. If a pension be allowed it shall date from the first of the month following the date of this official receipt. The number of this official receipt shall be used by the pensioner in all correspondence with the department. The Director of Pensions shall, immediately following the promulgation of this act, provide assistants to the board of county commissioners in all large centers of population for such time as may be necessary not to exceed thirty days for Old Age pensioners to prepare and file their applications for pensions, and the Director of Pensions is authorized to and may provide one assistant permanently in such places as the business of the department demands.

SEC. 11. When the application for an Old Age Pension is filed in the office of the Director of Pensions at Olympia, Washington, complete and perfect in form and content, and no complaint or objection is made to the qualifications of the applicant to receive a pension under this act, no investigation shall be required on the part of the department. In the event of objection or information being filed with the department or coming to the attention of the Director of Pensions, that raises a doubt as to the qualifications of the applicant or of his right to a pension, the Director of Pensions shall immediately make an investigation of the facts supporting the application and of such objections or information. He shall have the power to require the applicant to appear in person at a hearing and testify under oath as to all matters contained in the application or relating to the objections or information and to summon such witnesses as in his opinion are necessary to a complete investigation of the circumstances connected with the application.

SEC. 12. Upon completion of such investigation the Old Age Pension official shall decide whether such applicant is eligible for and should receive an Old Age Pension under this act. He shall make an award or decline to make an award, which decision shall be binding until modified or vacated. He shall notify the applicant of his decision in writing. In the event that the decision of the department shall be adverse to the ap-

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plicant he may appeal to the superior court of the county in which he resides and have the same rights to a trial and appeal as is now provided by law for litigants in civil actions in the courts of the State of Washington. The court shall allow to the applicant such costs and attorney's fee to be paid out of the Old Age Pension Fund as may be reasonable.

SEC. 13. PENALTIES. Any person who by means of false statement or representation, or by impersonation or other fraudulent device, obtains or attempts to obtain, or aids or abets any person to obtain or retain an old age pension to which he is not entitled shall be guilty of a misdemeanor: *Provided, however,* he or she may be prosecuted under any other criminal statute applicable.

SEC. 14. The receipt of the pension provided herein shall be in lieu of and in full settlement of any and all claim for state, county, or city relief, except hospitalization and medical care.

SEC. 15. If, at any time, it shall appear to the satisfaction of the Director of Old Age Pensions that any recipient of an old age pension is incapable of caring for himself or his pension, he shall have the power to order the pension to be paid to some person designated by the board of county commissioners of the county in which the pensioner resides.

SEC. 16. PARTIAL INVALIDITY. If, any portion, section, or clause of this act shall for any reason be declared invalid or unconstitutional, such adjudication shall not affect the remainder of the act.

SEC. 17. Chapter 182, Laws of 1935 of Washington, pertaining to Old Age Pensions, is hereby repealed.

SEC. 18. ACCEPTANCE OF FEDERAL ACT AND ALLOTMENTS. The state hereby accepts provisions of that certain act of the Congress of the United States entitled, "A bill to alleviate the hazards of old-age, unemployment, illness and dependency, to establish a social insurance board in the Department of Labor, and for other purposes," and popularly known as the Social Security Act, and for such other act with like or similar objects as may be enacted. Formal acceptance of the provisions of such act, relating to allotments to states for old-age assis-

tance shall be signified by the Governor in the event that the Legislature shall not be in session when the acts of Congress are finally enacted.

SEC. 19. PAYMENTS CHARGED TO OLD AGE PENSION FUND. There is hereby established an Old Age Pension Fund and the state treasurer shall deposit all moneys received under authority of this act in said fund; all Old Age Pensions granted under this act, and all expenses of administering this act shall be a charge against and payable out of the Old Age Pension Fund. Upon receipt of vouchers or schedules approved by the Director of Pensions, the state auditor shall draw warrants on the state treasury, payable to the person designated and entitled to receive such pensions or expense of administration, payable out of the Old Age Pension Fund.

SEC. 20. RECEIPTS FROM FEDERAL AID. Any moneys which may be received by the State of Washington from the Federal government or from any other source as aid in defraying the cost of old-age assistance under this act shall be deposited in the state treasury to the credit of the Old Age Pension Fund, but separate accounts shall be kept in order that the state may make such reports and render such accounting as may be required by the appropriate Federal authority or the Legislature.

SEC. 21. PENSIONS INALIENABLE. All pensions provided by this act shall be inalienable by any assignment or transfer and shall be exempt from garnishment, attachment, or execution.

SEC. 22. CANCELLATION. If, at any time, the Department of Old Age Pensions has cause to believe, by reason of complaint or otherwise, that an Old Age Pension has been improperly granted, it shall cause an investigation to be made, and if it appears that the pension was improperly granted, the department shall immediately cancel such pension, which action is subject to review as provided herein.

SEC. 23. ACCEPTING EMPLOYMENT. If, at any time, during the continuance of an Old Age Pension, the recipient thereof accepts gainful employment, or obtains in any manner an income, it shall be the duty of the

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recipient of such income immediately to notify the department of such fact and the department may on inquiry either cancel the pension or vary the amount thereof, so that the pensioner shall not receive a total amount in excess of the pension provided herein.

SEC. 24. Failure on the part of a pensioner to report receipt of income which would disqualify him under this act, or reduce the amount payable, shall subject his pension to cancellation by order of the Director of Pensions, and the Director of Pensions is hereby authorized and empowered, after a fair hearing at which said pensioner is entitled to be present in person and by counsel and present his evidence, to cancel or suspend the pension of such person, if he be found guilty of such offense, which decision shall be subject to review by appeal to the courts as is provided herein.

SEC. 25. The taxes hereinafter provided are levied solely and exclusively for the OLD AGE PENSION FUND, and the costs of administration of this act, and are in addition to all taxes levied for other purposes under the laws of the State of Washington, and shall not be construed to repeal or modify the provisions of Chapter 180, Laws of Washington 1935, relating to the same subject, and all persons subject to, and who are required under this act to pay these taxes, are required to report and pay them separately from any other like taxes. (This section applies in particular to Article II, Titles II, IV, V, VI and VII, of this act.)

SEC. 26. Section 9 of Chapter 176 of the Session Laws of 1935 is hereby amended to read as follows: The Director of Public Welfare shall have the power and it shall be his duty, through and by means of the division of social security:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by any state officer, department or agency in respect of the administration, unemployment compensation or other similar form of social security under existing statutes of this state or under any statutes appertaining thereto which may hereafter be enacted, except such duties as are now vested in and required to be performed in

relation thereto by the state treasurer, state auditor, state racing commission, state athletic commission, state liquor control board, and the Director of Old Age Pensions.

(2) To supervise and control the administration of all measures for social security and the expenditure of funds therefor whether derived from state or Federal sources or from any other source whatsoever and to exercise for the state all such powers and perform all such duties as may be devolved upon it by Federal legislation providing for state and Federal cooperation in the administration of means of effectuating social security. Except such Federal legislation as pertains to Old Age Pension, Old Age Security, or Old Age Assistance.

(3) To exercise such other powers and perform such other duties as may be prescribed by law.

ARTICLE II. TITLE I. INTRODUCTORY PROVISIONS

SECTION 1. The following provisions of this act, providing revenue for administration and for Old Age Pensions are herein classified and designated as follows:

Sections 1 to 3, inclusive: Title I—Introductory Provisions.

Section 4 to 15, inclusive: Title II—Business and Occupation Tax.

Section 16 to 23, inclusive: Title III—Stocks and Bonds Tax.

Sections 24 to 31, inclusive: Title IV—Public Utility Tax.

Sections 32 to 38, inclusive: Title V—Admission Tax.

Sections 39 to 42, inclusive: Title VI—Fuel Oil Tax.

Sections 43 to 45, inclusive: Title VII—Tax on Proprietary Medicines and Toilet Preparations.

Sections 46 to 69, inclusive: Title VIII—Inheritance Tax.

Sections 70 to 100, inclusive: Title IX—Gift Tax.

Sections 101 to 126, inclusive: Title X—Administrative Provisions.

Section 127: Title XI—Allocation of Revenue.

Sections 128 to 132, inclusive: Title XII—General Provisions.

SEC. 2. To meet the expense of the administration of this act and to pro-

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vide pensions for the aged who are entitled to receive pensions under the provisions of this act, the State of Washington declares it to be its purpose to levy, and does hereby levy in addition to taxes now levied, a tax on the privilege of engaging in, or transacting business in the State of Washington in the manner hereinafter in this act set forth. This is not a sales tax, but a tax upon the privilege of engaging in business and gainful pursuits under the protection of our laws, and the amount of the tax is measured by the amount of the gross receipts of such business.

SEC. 3. For the purpose of the entire act, and, unless otherwise required by the context:

(a) The term "tax commission" or the word "commission" means the tax commission of the State of Washington;

(b) The word "taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax hereunder, or who engages in any business or performs any act for which a tax is imposed by this act;

(c) Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

TITLE II. BUSINESS AND OCCUPATION TAX

SEC. 4. From and after the day this act becomes effective by proclamation of the governor as provided by law, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in business activities. Such tax shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be, as follows:

(a) Upon every person engaging within this state in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products extracted for sale or commercial use, multiplied by the rate of one (1) per cent;

The measure of the tax is the value of the products so extracted, regard-

less of the place of sale or the fact that deliveries may be made to the points outside the state;

(b) Upon every person engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one (1) per cent;

The measure of the tax is the value of the products so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state;

(c) Upon every person engaging within this state in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of business, multiplied by the rate of one (1) per cent;

(d) Upon every person engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of one (1) per cent.

The tax imposed under this sub-section (d) shall likewise be imposed upon persons engaged in distributing articles of tangible personal property owned by them from a warehouse or other central location to a group of retail stores, the intent hereof being to impose the wholesaling tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales; as to such persons, the amount of tax, with respect to such business, shall be equal to the value of the articles distributed, multiplied by the rate of one (1) per cent; this value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such value. If the provisions of this paragraph, for any reason, shall be adjudged invalid, such judgment shall not invalidate the provisions of the first paragraph of this sub-section.

(e) Upon every person engaging

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within this state in any business activity other than or in addition to those enumerated in sub-sections (a), (b), (c) and (d) above; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one (1) per cent. This sub-section includes, among others, and without limiting the scope hereof, persons engaged in the following businesses (whether or not title to materials used in the performance of such businesses passes to another by accession, confusion or other than by outright sale); repairing, personal business, professional, mechanical and educational service businesses; abstract and title, insurance, financial, brokerage, construction contracting, and sub-contracting, advertising and hotel businesses.

SEC. 5. For the purpose of this title, unless otherwise required by the context:

(a) The term "tax year" or "taxable year" shall mean either the calendar year, or the taxpayer's fiscal year when permission is obtained from the tax commission to use a fiscal year in lieu of the calendar year;

(b) The word "person" or word "company," herein used interchangeably, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint-stock company, business trust, municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise;

(c) The word "sale" means any transfer of the ownership of, or title to, property for a valuable consideration. It includes conditional sale contracts, leases with option to purchase and any other contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It shall also be construed to include the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not;

(d) The term "sale at retail" or "retail sale" means every sale of tangible personal property other than a sale to one who purchases for the pur-

pose of resale in the regular course of business or for the purpose of consuming the property purchased in producing for sale a new article or substance, of which such property is an ingredient or component, or a chemical used in processing same. The term shall not be construed to include sales of feed to persons producing for sale milk, eggs, wool, fur, meat or other substances obtained from livestock, animals or poultry.

The term "sale at retail" or "retail sale" shall be construed to include all sales of tangible personal property to persons: (1) who use such property in the business of erecting buildings or otherwise improving, altering, or repairing real property of others; (2) who use such property in connection with the business of cleaning, decorating, beautifying, repairing, curing, healing, or otherwise improving or altering the person or personal property of others;

(e) The term "sale at wholesale" or "wholesale sale" means any sale of tangible personal property which is not a sale at retail;

(f) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(g) The term "gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(h) The term "value proceeding or accruing" means the consideration, whether money, credits, rights or other property, expressed in terms of

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money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The tax commission may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due;

(i) The word "extractor" means every person who, from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product or fells, cuts or takes timber or other natural product, or takes, cultivates, or raises fish, shell fish or other sea or inland water foods or products: it does not include persons performing under contract the necessary labor or mechanical services for others;

(j) The word "manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures, for sale or commercial use from his own materials or ingredients any articles, substances or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the tax commission shall prescribe equitable rules for determining tax liability. The word shall be construed to include the business of printing and of publishing magazines, newspapers and periodicals;

(k) The term "to manufacture" embraces all activities of a commercial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced;

(l) The term "commercial use" means the following uses of products by the extractor or manufacturer thereof;

(1) Manufacturing of articles, substances or commodities from extracted products;

(2) Leasing or renting of extracted or manufactured products;

(3) Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts;

(4) Using products extracted or manufactured when similar products are extracted or manufactured for sale by the taxpayer;

(m) The word "business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly;

(n) The term "engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business;

(o) The term "cash discount" means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date;

(p) The term "tuition fee" shall be construed to include library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution;

(q) The word "successor" means any person who shall, through direct, or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares or merchandise of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business.

SEC. 6. Every person engaging in activities which are within the purview of the provisions of two or more of paragraphs (a), (b), (c), (d) and (e) of Section 4 shall be taxable under each paragraph applicable to the activities engaged in: *Provided, however*, That persons taxable under paragraphs (a) or (b) of said section shall not be taxable under paragraph (d) of said section with respect to making

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sales at wholesale of products extracted or manufactured within this state by such persons.

SEC. 7. The value of products extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof, except:

(a) Where such products are extracted or manufactured for commercial use;

(b) Where such products are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

SEC. 8. With respect to persons buying grain, hay, fruit, vegetables, and other agricultural products (including milk, canned milk, butter and cheese but not including other articles manufactured or processed from agricultural products) and selling the same at wholesale to any person other than a person selling such products at retail, the tax herein imposed shall be equal to the gross earning upon such sales multiplied by the rate of one per cent, the intent hereof being that tax measured by gross proceeds of sales shall be imposed only with respect to persons making the last of a succession of wholesale sales of such products. The term "gross earnings," as used in this section, shall mean the gross proceeds of sales less the amount of the purchase price paid for the products herein mentioned.

SEC. 9. Unless a seller shall have taken from the purchaser a resale certificate signed by, and bearing the name and address and registration number of the purchaser to the effect that the property was purchased for resale, or unless the nature of the transaction is clearly shown as a sale at wholesale by the books and records of the taxpayer in such other manner as the tax commission shall by regulation

provide, the burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it.

SEC. 10. Every consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and actually so selling, shall be deemed the seller of such tangible personal property within the meaning of this title; and further, the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer.

The burden shall be upon the taxpayer in every case to establish the fact that such taxpayer is not engaged in the business of selling tangible personal property but is acting merely as broker or agent in promoting sales for a principal; such claim will be allowed only when the taxpayer's accounting records are kept in such manner as the tax commission shall by general regulation provide.

SEC. 11. The provisions of this title shall not apply to:

(a) Any person engaging in the business of selling at retail whose gross proceeds of sales is less than one thousand (\$1,000.00) dollars, and any person engaging in any other business activity whose value of products, gross proceeds of sales or gross income of the business is less than four hundred (\$400.00) dollars, for a bi-monthly period: *Provided, however,* That where one person engages in more than one business activity and the combined measures of tax applicable to such businesses exceed four hundred (\$400.00) dollars, or where one of such business activities is that of selling at retail, one thousand (\$1,000.00) dollars, for the taxable bi-monthly period, no exemption or deduction from the amount of tax is allowed by this provision: *Provided, further,* That any person claiming exemption under the provisions of this sub-section may be required to file returns as provided herein even though no tax may be due;

(b) Any person in respect to a business activity with respect to which tax liability is specifically imposed

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under the provisions of title V of this act;

(c) Any person in respect to insurance business upon which a tax based on gross premiums is paid to the State of Washington: *Provided, however,* That the provisions of this sub-section shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies;

(d) Any person in respect to the business of growing or cultivating for sale any agricultural or horticultural products, or crops, or breeding or raising any fowl, animals or livestock for sale or for the milk, eggs, wool, fur or other substance obtainable therefrom, or in respect to the sale of such products at wholesale by the grower or producer thereof. This exemption does not apply to any person selling such products at retail; nor to any person purchasing and feeding or fattening livestock; nor to any person growing, raising or cultivating trees, shrubs, bushes, plants, bulbs, flowers and the like, either as forest, greenhouse or nursery products; nor to any association of persons whatever, whether mutual, co-operative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this title;

(e) Any person in respect to the business of conducting boxing contests and sparring and/or wrestling matches and exhibitions for the conduct of which a license must be secured from the state athletic commission;

(f) Any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission;

(g) Any person in respect to his employment in the capacity of an employee or servant as distinguished from that of an independent contractor;

(h) Fraternal benefit societies, as defined in Rem. Comp. Stat., Section 7259, fraternal fire insurance associations, as described in subdivision Third of Rem. Comp. Stat., Section 7131, and beneficiary corporations of societies organized under and existing

by virtue of Rem. Comp. Stat., Sections 3872 to 3883, inclusive;

(i) Any person in respect to the business of operating a hospital;

(j) Amounts derived from the lease, rental or sale of real estate: *Provided, however,* That nothing herein shall be construed to allow a deduction of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted or to allow a deduction of amounts received as commissions from the sale or rental of real estate.

SEC. 12. In computing tax there may be deducted from the measure of tax the following items:

(a) Amounts derived by persons, other than those engaging in banking, loan, security or other financial businesses, from investments or the use of money as such;

(b) Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds. The provisions of this paragraph shall not be construed to exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others: *Provided,* That dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder;

(c) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive and/or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of Section 7;

(d) The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

(e) So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the State of Washington or the United States government upon the sale thereof;

(f) Amounts derived from business which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States;

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(g) Amounts derived by any person as compensation for the receiving, washing, sorting and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in sub-section (d) of Section 11, this title, either as agent or as independent contractor.

SEC. 13. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in Title X of this act. The tax commission may, in its discretion require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

SEC. 14. It is not the purpose of this title that the taxes herein levied upon persons engaging in business shall be construed as taxes upon the purchasers or customers, but it is the intention that such taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes shall constitute a part of the operating overhead of such persons engaging in business.

SEC. 15. All of the provisions contained in Title X of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

TITLE III—EXCISE TAX ON THE PRIVILEGE OF ENGAGING IN THE BUSINESS OF INITIATING THE SALE OF STOCKS AND/OR BONDS, OR IN SELLING STOCKS AND/OR BONDS

SEC. 16. From and after the first day of February, 1937, there is hereby levied and there shall be collected an excise tax on the privilege of engaging in the business of initiating the sale

of stocks and/or bonds, or in selling stocks and/or bonds, or making agreements to sell, or memoranda of sales or deliveries of, or transfer of legal title to stocks and/or bonds, or acting as agent or representative or otherwise in ordering, purchasing, selling or transferring any title or interest in stocks and/or bonds by any person in the State of Washington. The amount of tax hereby levied, and which shall be collected, in the value of stocks and/or bonds involved in the transaction initiated and consummated multiplied by the rate of 1/15 of 1 per cent.

The measure of the tax is the value of the stocks and/or bonds involved in the transaction, regardless of the place of sale, or the fact that deliveries may be made to points outside the state.

It is not intended by this title to impose a tax upon an agreement evidencing a deposit of stock as collateral security for money loaned thereon, which stock is not actually sold, nor upon the delivery or transfer for such purpose of stock so deposited (nor upon the return of stock loaned): *Provided, further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided, further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such stock and/or bonds continues to be held by such nominee for the same purpose for which it would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts.

SEC. 17. For the purpose of this title, unless otherwise required by the context:

(a) The word "stock" means shares or certificates of stock or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this sub-section or sub-section (b) below (whether or not

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such investment trust or similar organization constitutes a corporation within the meaning of this title);

(b) The word "bond" means all bonds, debentures or certificates of indebtedness issued by any corporation, and all instruments, however termed, issued by any corporation with interest coupons or, in registered form, known generally as corporate securities;

(c) The word "person" as used herein shall have the same meaning as attributed to it in Section 5 (b) Title II of this act.

SEC. 18. No sale, transfer or agreement to sell stock initiated after the time the taxes, imposed by this title become due, which tax is not paid when due, shall be made the basis of any action or legal proceeding nor shall proof thereof be offered or received in evidence in any court in this state: *Provided*, That nothing contained in this paragraph shall apply to proceedings authorized by this title.

Where, through accident, mistake or inadvertence and without any intent to evade this title the said tax is not paid when due, the tax commission may allow the tax to be paid at a later time under such rules and regulations as it may from time to time establish, and if so paid the penalty provided for failure to pay the tax shall not be enforced and any transfer on which the tax shall so have been paid shall have the same legal effect as if the tax had actually been paid at the time due, and shall not be subject to the provisions of the first paragraph of this section.

SEC. 19. Every "person", or his agent or broker, making a sale, agreement to sell, deliver or transfer stock, or conducting or transacting a brokerage business, shall keep or cause to be kept at some accessible place within the state a true book of accounts wherein shall be recorded, plainly and legibly, the date of making every sale, agreement to sell, delivery or transfer of stock, and every transaction in relation to any of such stock; and also the number of shares, the face value, the selling price, the name of the stock, the name of the seller, and the name of the purchaser. Such book shall be preserved for two years after the date of the last entry therein.

SEC. 20. The taxes imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, sign and transmit the same to the tax commission together with a remittance for said amount in the form required in Article II, Title X of this act. The tax commission may, in its discretion require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

SEC. 21. If any person, subject to the provisions of this title or any rules and regulations promulgated by the tax commission under authority hereof, shall be found to have failed to pay any tax due hereunder, or to have violated any of the provisions of this title or rules and regulations promulgated by the tax commission in the administration hereof, there shall be assessed and collected from such person, as tax and penalty, in addition to any tax that may be found due, a sum equal to the amount of any tax found to be due plus a penalty of twenty-five per cent and interest thereon at the rate of one per cent for each thirty days or portion thereof from the date the tax became due, and upon notice mailed to the last known address of the taxpayer said amount shall become due and payable in ten days, at which time the tax commission, or its duly authorized agent, may make immediate demand upon such taxpayer for the payment of all such taxes and penalties: *Provided*, That the tax commission, for good reason shown, may remit all or any part of the penalties imposed, but the taxpayer must pay all taxes due and interest thereon, at the rate of one per cent for each thirty days or portion thereof.

SEC. 22. Any person liable to pay the tax imposed by this title, anyone who acts in the matter as agent or broker for such person, who makes any

sale, transfer or delivery of stock without paying said tax when due and whenever in pursuance of any sale, transfer of [or] agreement, delivers any such instrument or evidence of sale or transfer of or agreement to sell any stock, or bill or memorandum thereof, or transfers or causes the same to be transferred upon the books or records of the association or corporation with the intent to evade this tax, and any association or corporation whose stock is so sold or transferred, which shall transfer or cause the same to be transferred upon its books, with the intent to evade said tax, shall be punished by a fine of not less than \$500.00, nor more than one thousand (\$1,000.00) dollars.

SEC. 23. All of the provisions contained in Title X of this act shall have full force and application with respect to taxes imposed under the provisions of this title: *Provided*, That the following sections of said Title X shall not apply hereto: Sections 105, 106, 109 and 119.

TITLE IV—PUBLIC UTILITY TAX

SEC. 24. From and after the first day of February, 1937, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. Such tax shall be equal to the gross operating revenue of the business, multiplied by the rate set out after the business, as follows:

I. Railroad, express, railroad car, water distribution, light and power, telephone and telegraph businesses: one per cent;

II. Gas distribution business: one per cent;

III. Urban or interurban transportation business: one per cent;

IV. Vessels under sixty-five (65) feet in length operating upon the waters within the State of Washington: one per cent;

V. Highway transportation and all public service businesses other than ones mentioned above: one per cent.

SEC. 25. For the purposes of this title, unless otherwise required by the context:

(a) The term "railroad business" means the business of operating any

railroad, by whatever power operated, for public use in the conveyance of persons or property for hire: *Provided, however*, That it shall not include any business herein defined to be an urban or interurban transportation business;

(b) The term "express business" means the business of carrying freight, merchandise or property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business;

(c) The term "railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business;

(d) The term "water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale;

(e) The term "light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale;

(f) The term "telephone business" means the business of operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording telephonic communication for hire. It includes cooperative or farmer line telephone companies or associations operating an exchange;

(g) The term "telegraph business" means the business of affording telegraphic communication for hire;

(h) The term "gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural;

(i) The term "highway transportation business" means the business of operating any motor propelled vehicle, as an auto transportation company, certified freight carrier, contract hauler or for hire carrier as defined in Chapter 111, Laws of 1921, page 338,

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Section 1, and Chapter 166, Laws of 1933, page 613, Section 1 and Section 13, as amended by Chapter 55, Laws of 1933, page 138, Extraordinary Session, Section 1 and Section 5;

(j) The term "urban or interurban transportation business" means:

(1) The business of operating any railroad, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any one city or town;

(2) The business of operating any electric interurban railroad for public use in the conveyance of persons or property for hire primarily between cities or towns within this state or between cities and towns in this state and an adjoining state;

(3) The business of operating any motor propelled vehicle for public use in the conveyance of persons, operating within the limits of any city or town or within the limits of contiguous cities or towns. Included herein are such means of conveyance as busses, hotel busses, jitneys, sight-seeing busses, taxicabs or any other passenger motor vehicles operated for public hire, if not operating between fixed termini or over regular routes and if operating entirely within the limits of any city or town, or contiguous cities or towns or within 3 miles of such limits;

(k) The term "public service business" means any business subject to control by the state or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared to be of a public service nature by the legislature of this state. It includes, among others, without limiting the scope hereof: airplane transportation, boom, dock, ferry, pipe line, public warehouse, toll bridge, toll logging road, water transportation and wharf businesses;

(l) The term "gross operating revenue" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery

costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(m) The meaning attributed, in Title II of this act, to the words, or phrases: "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "cash discount" and "successor" shall apply equally in the provisions of this title.

SEC. 26. Every person engaging in businesses which are within the purview of two or more of schedules I, II, III, IV, and V of Section 24 shall be taxable under each schedule applicable to the businesses engaged in.

SEC. 27. The provisions of this title shall not apply to: Persons engaging in one or more businesses taxable under this title whose total gross operating revenue is less than one thousand (\$1,000.00) dollars for the taxable bi-monthly period or portion thereof: *Provided, however,* That any person claiming exemption under the provisions of this section may be required to file returns as provided herein even though no tax may be due. If the total gross operating revenue for a taxable bi-monthly period is one thousand (\$1,000.00) dollars, or more, no exemption or deductions from the gross operating revenue is allowed by this provision.

SEC. 28. In computing tax there may be deducted from the gross operating revenue the following items:

(a) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof;

(b) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such with the state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas, or any other commodity in the performance of public service business;

(c) Amounts actually paid by a taxpayer to another person taxable under this title as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to

and appears in the gross operating revenue reported for tax by the former;

(d) The amount of cash discount actually taken by the purchaser or customer;

(e) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(f) Amounts derived from business which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States;

(g) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes.

SEC. 29. Nothing herein shall be construed to exempt persons taxable under the provisions of this title from tax under any other titles of this act with respect to activities other than those specifically within the provisions of this title.

SEC. 30. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the bi-monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in Title X of this act. The tax commission may, in its discretion, require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

SEC. 31. All of the provisions contained in Title X of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

TITLE V—ADMISSIONS TAX

SEC. 32. (a) There is hereby levied and there shall be collected a tax of one cent for each twenty (20c) cents or fraction thereof of the amount

paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in the case the amount paid for such admission is less than ten (10c) cents, no tax shall be imposed. In the case of persons (except bona fide employees, state or municipal officers on official business, and children under twelve (12) years of age, admitted free, or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is less than ten (10c) cents;

(b) Upon tickets or cards of admission to places of amusement sold elsewhere than at the ticket offices of such places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices, plus the amount of any tax imposed under paragraph (a) of this section, a tax equivalent to ten (10%) per cent of the amount of such excess; such tax to be returned and paid in the manner provided in Section 35 hereof, by the person selling such tickets;

(c) A tax equivalent to fifty (50%) per cent of the amount for which proprietors, managers, or employees of any place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor, such tax to be returned or paid in the manner provided in Section 35 hereof, by the person selling such tickets;

(d) In the case of persons having the permanent use of boxes or seats in any place of amusement or a lease for the use of such box or seat (in lieu of the tax imposed by paragraph (a) of this section), a tax equivalent to ten (10%) per cent of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder;

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(e) A tax of one and one-half ($1\frac{1}{2}$) cents for each ten (10c) cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshments, service or merchandise; the amount paid for such admission to be deemed to be twenty (20%) per cent of the amount paid for refreshment, service or merchandise. Where the amount paid for admission is twenty (20c) cents or less, no tax shall be imposed.

SEC. 33. For the purposes of this title, unless required by the context:

(a) The term "admission" includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor;

(b) The word "person" and "successor" shall have the same meaning as is attributed to such words in title II of this act.

SEC. 34. The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place of amusement. Whoever sells an admission ticket or card on which the name of the vendor or the price is not so printed, stamped, or written or at a price in excess of the price so printed, stamped or written thereon, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined not more than one hundred (\$100.00) dollars.

SEC. 35. Every person receiving any payment for admissions, taxable under this title, shall collect the amount of tax imposed hereunder from the person making such payments. The taxes imposed hereunder shall be due and payable to the state in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding and end of the bi-monthly period in which the tax is collected or accrued. The person receiving any payment for admissions on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax com-

mission may require, showing the amount of tax upon admissions for which he is liable for the preceding bi-monthly period, sign and transmit the same to the tax commission, together with a remittance for said amount in the form required in section 124 of this act. The tax commission may, in its discretion, require verified annual returns from any taxpayer setting forth such additional information as it may deem necessary to determine correctly tax liability.

SEC. 36. Whenever a certificate of registration is obtained for operating or conducting temporary places of amusement by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, or whenever the business is permitted to be conducted, without the procurement of a certificate, the tax imposed by this title shall be returned and paid as provided in Section 35 hereof, by said owner, lessee or custodian, unless paid by the person conducting the place of amusement.

The applicant for a temporary certificate shall furnish with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the commission of the issuance of such certificate, and the joint liability for such tax.

The tax commission may declare the tax upon temporary or itinerant places of amusement to be immediately due and payable and collect the same, when in its discretion it believes there is a possibility that the tax imposed hereunder will not be paid.

SEC. 37. No tax shall be levied under this title in respect to any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, or admissions to any exhibits, entertainment, or other pay feature conducted by such association as part of any such fair—if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs.

SEC. 38. All of the provisions of Title X of this act shall have full force and application with respect to the

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taxes imposed under the provisions of this title.

TITLE VI—FUEL OIL TAX

SEC. 39. From and after the first day of February, 1937, there is hereby levied and there shall be collected, in addition to any other taxes provided by law, an excise tax upon every distributor at the rate of one-quarter ($\frac{1}{4}$ c) cent for each gallon of fuel oil and/or diesel oil sold, distributed, withdrawn or used by him in the State of Washington. The tax herein imposed shall be collected by the director of licenses of this state and shall be paid by every distributor but once in respect to any fuel oil and/or diesel oil, sold, distributed, withdrawn or used by him.

Bills shall be rendered by distributors to all purchasers of fuel oil and/or diesel oil of fifty (50) gallons or more and to all purchasers of smaller quantities upon request containing a statement that the distributor has assumed the tax thereon.

SEC. 40. For the purpose of this title, unless otherwise required by the context:

(a) The term "fuel oil" shall mean and include an oil of fourteen degrees to nineteen degrees American Petroleum Institute gravity and with a viscosity range of twenty-six to fifty Saybolt Furol at a temperature of one hundred twenty-two degrees or any other refined or partially refined petroleum product other than gasoline or diesel oil;

(b) The term "diesel oil" shall mean and include an oil from twenty-seven degrees to thirty-four degrees American Petroleum Institute gravity and with a viscosity range of forty-one to forty-eight Saybolt Universal at a temperature of one hundred degrees;

(c) The word "distributor" shall mean and include every person who refines, manufactures, produces or compounds fuel oil and/or diesel oil and sells, distributes, or in any manner uses the same in this state; also any person who imports any fuel oil and/or diesel oil into this state and stores, withdraws, sells, distributes, or in any manner uses the same in this state whether in the original package or container in which it is imported or otherwise; also any person who having acquired in this state in the original package or container in which it is

imported or otherwise; also any person who having acquired in this state in the original package or container fuel oil and/or diesel oil, shall distribute or sell the same, whether in such original package or container in which the same was imported or otherwise, or in any manner uses the same.

(d) The words "sale," "sale at retail" or "retail sale," "person" and "successor" shall have the same meaning as is attributed to such words in Title II of this act;

(e) The words "director" and "department" shall have the same meaning as is attributed to such words in Section 1, of Chapter 58, of the Laws of Washington, 1933.

SEC. 41. It is hereby provided that Section 2, Chapter 58, Laws of Washington, 1933, shall be applicable to the taxes imposed under this title: *Provided*, That the total amount of the bond or bonds required therein to be fixed by the director of licenses shall not be less than one thousand (\$1,000.00) dollars.

Exemptions for fuel oil and for diesel oil exported by distributors shall be allowed in the manner provided in Paragraph 3 of Section 17, Chapter 58, Laws of Washington, 1933.

SEC. 42. All of the provisions of Chapter 58, Laws of Washington, 1933, except Sections 1, 5, 6, 18, 20, 23, 25, 26 and 27 thereof shall have full force and application to this title as fully as though the words "fuel oil and or diesel oil" appeared therein.

TITLE VII—TAX ON PROPRIETARY MEDICINES AND TOILET PREPARATIONS

SEC. 43. There is hereby levied and there shall be collected as hereinafter provided in this title, a tax upon the sale, use, consumption, handling or distribution of proprietary medicines and toilet preparations in an amount equal to ten (10%) per cent of the intended retail selling price thereof. Only one sale of the same article shall be used in computing the amount of tax hereunder.

SEC. 44. For the purposes of this title, unless otherwise required by the context:

(a) The words "person," "sale," and "successor" shall have the same meaning as is attributed to such words in Title II of this act;

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(b) The words "retailer," "wholesale" and "stamp" shall have the same meaning as is attributed to such words in Title XII of Chapter 180 of Laws of Washington 1935;

(c) The term "toilet preparations" includes all cosmetics and perfumes, essences, extracts, toilet waters, petroleum jellies, hair oils, pomades, hair dressings, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet powders, and any similar substances, articles, or preparations, by whatsoever name known or described, to be used or applied for toilet purposes but not including soaps; "soaps" include all articles containing saponaceous materials excepting dentifrices, tooth pastes, shampoos and shaving soaps or creams, which said excepted articles shall be considered as "toilet preparations";

(d) The term "proprietary medicines" includes all manufactured medicines that some person or persons have an exclusive right to make or sell;

(e) The term "medicines" means and includes any substance or preparation sold to be used in the prevention, cure or alleviation of any disease or ailment;

(f) The term "package" means the individual package, bottle or other container in or from which retail sales of proprietary medicines and toilet preparations are normally made or intended to be made;

(g) The term "retail selling price" means the ordinary, customary, or usual price paid by the customer or consumer.

SEC. 45. The taxes imposed under this title shall be enforced and collected in the same manner as the taxes imposed under Title XII of Chapter 180, Laws of Washington 1935, and all of the provisions of said Title XII of Chapter 180, Laws of Washington 1935, shall have full force and application with respect to taxes imposed under this title, excepting Sections 82e and 83 thereof.

TITLE VIII—INHERITANCE TAX

SEC. 46. All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the

statutes of inheritance of this or any other state, or by deed, grant, sale or gift made in contemplation of the death of the grantor or donor, or by deed, grant or sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor, or by deed, grant or sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor to any person in trust or otherwise, shall be subject to a tax as provided for in Section 48, after the payment of all debts owing by the decedent at the time of his death, the local and state taxes due from the estate prior to his death, and a reasonable sum for funeral expenses, monument or crypt, court costs, including cost of appraisal made for the purpose of assessing the inheritance tax, the fees of executors, administrators or trustees, reasonable attorney's fees, and family allowance not to exceed \$1,000.00, and no other sum, but said debts shall not be deducted unless the same are allowed or established within the time provided by law, and all administrators, executors, and trustees, and any such grantee under a conveyance, and any such donee under a gift, made during the grantor's or donor's life, shall be respectively liable for all such taxes to be paid by them, with interest as hereinafter provided until the same shall have been paid. The inheritance tax shall be and remain a lien on such estate from the death of the decedent until paid. And whenever property, real or personal, other than real property held by the entirety, is held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving joint tenant or tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or tenants, person or persons, by such deceased joint tenant or

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joint depositor by will, excepting therefrom such parts thereof as may be shown to have originally belonged to such surviving joint tenant, joint depositor or person, and never to have been acquired from the decedent for less than a fair consideration in money or money's worth, and if said property shall have been acquired from decedent for less than such fair consideration, there shall be excepted from the value of said property a portion equal to the amount of the consideration so furnished.

Sec. 47. Any transfer of property, made by decedent by deed, grant, sale or gift within four years of said decedent's death, without a valid and adequate consideration therefore, shall be presumed to have been made in contemplation of death.

Sec. 48. An inheritance tax shall be imposed upon all estates, subject to this act, to be used exclusively for the purposes of this act, and is in addition to any inheritance tax now imposed, at the following rates:

Class A. Any devise, bequest, legacy, gift or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any grandfather, grandmother, father, mother, husband, wife, child or stepchild, or a lineal descendant of the deceased is hereby denominated as class A. On any amount passing to class A in excess of \$10,000 up to and including \$25,000, 2%; on any amount in excess of \$25,000 up to and including \$50,000, 5%; on any amount in excess of \$50,000 up to and including \$100,000, 10%; on any amount in excess of \$100,000 up to and including \$200,000, 15%; on any amount in excess of \$200,000 up to and including \$500,000, 20%; on any amount in excess of \$500,000, 25%;

Class B. Any devise, bequest, legacy, gift, or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any sister or brother is denominated class B. On any amount passing to class B in excess of \$1,000 up to and including \$5,000, 3%; on any amount in excess of \$5,000 up to and including \$10,000, 5%; on any amount in excess of \$10,000 up to and including \$30,000, 10%; on any amount in excess of \$30,000 up to and including \$50,000, 15%; on any amount in excess of

\$50,000 up to and including \$100,000, 20%; on any amount in excess of \$100,000, 25%;

Class C. Any inheritance, devise, bequest, legacy, gift or beneficial interest to any property or income therefrom which shall pass to or for the use or benefit of any person or body politic or corporate other than mentioned in class A and class B herein, is hereby denominated class C.

On any amount passing to class up to and including \$10,000, 10%; on any amount in excess of \$10,000 up to and including \$25,000, 15%; on any amount in excess of \$25,000 up to and including \$50,000, 20%; on any amount above \$50,000, 25%;

The taxes imposed and the exemption with respect to each class of beneficiaries shall be apportioned between the beneficiaries in such classes in proportion to the amount receivable by such beneficiary.

Sec. 49. (a) All the powers of a referee of the superior court having jurisdiction of the estate of a decedent shall be vested in the tax commission and its supervisor shall have jurisdiction to require the attendance before him of the executor or administrator of said estate or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent or any knowledge of any property transferred by said decedent within the meaning of this title or knowledge of any facts that will aid the supervisor or the court in the determination of said tax, but no person shall be required to attend at any place outside of the country in which such decedent resided at the time of his death or in which letters of administration could lawfully issue upon the estate of such decedent;

(b) For the purpose of compelling the attendance of such person or persons, and for the purpose of appraising any property or interest subject to or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the tax commission through its supervisor is hereby authorized to issue subpoenas compelling the attendance of witnesses before said supervisor. The supervisor may examine and take evidence of such witnesses or of such executor or administrator or other persons under oath concerning such

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property and the value thereof, and concerning the property or the estate of such decedent subject to probate. Any person or persons who shall be subpoenaed by the said supervisor to appear and testify or to produce books and papers, and who shall refuse and neglect to appear and produce books relative to such appraisal shall be guilty of contempt;

(c) Upon the completion of the investigation by the supervisor he shall file his findings with the clerk of the superior court in the matter of the estate of the decedent, showing the value of the estate and the amount of inheritance tax chargeable against or a lien upon such interest, acquired by virtue of said probate proceedings or by any transfer within the meaning of this act, to any person, institution or corporation acquiring any property by virtue of said probate proceedings, or by any transfer within the meaning of this title, and shall find the total amount of tax due the State of Washington, which shall be a claim against the estate and a lien upon all the property of the estate until same is paid;

(d) Upon filing said report the clerk of said superior court shall on said day or the next succeeding judicial day give notice of such filing to all persons interested in such proceeding by causing notice thereof to be posted at the court house in the county where the court is held, and in addition thereto shall mail to all persons chargeable with any tax in said report, who have appeared in such proceedings, a copy of said notice;

(e) At any time after the expiration of thirty days thereafter, if no objection to said report be filed, the said superior court or a judge thereof, shall, without further notice, give and make its order confirming said report and fixing the tax in accordance therewith;

(f) At any time prior to the making of such order any person interested in such proceeding may file objections in writing with the clerk of the superior court, and serve a copy thereof upon the supervisor, and the same shall be noted for trial before the court and a hearing had thereon as provided for in probate matters;

(g) Upon the hearing of said objections, the court shall make such

order as to it may seem meet and proper in the premises: *Provided*, That for the purposes of said hearing the report of the supervisor shall be presumed to be correct and it shall be the duty of the objector or objectors to proceed in support of said objection or objections;

(h) If it shall appear that any transfer has been made within the meaning of this title, and the taxability thereof and the liability for such tax and the amount thereof have not been determined and that no proceedings are pending in any court in this state wherein the taxability of such transfer and liability therefor and the amount thereof may be determined, the tax commission through its supervisor shall issue a citation ordering and directing the persons who may appear liable therefor or known to own any interest in or part of the property transferred to appear before the said supervisor or other duly authorized agent of the tax commission in any county in which, under the law, letters of administration could issue upon the estate of the decedent, at a time and place in said citation named not less than ten days or more than thirty days from the issuance of such citation to be examined under oath by said supervisor or agent concerning property transferred and the character and value thereof;

(i) The said supervisor or agent at the time and place in said citation named, or at such time and place to which he may adjourn said hearing, shall proceed to examine said person or persons, and such witnesses as he may subpoena before him and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said supervisor or agent shall have the powers of a superior court to issue subpoenas compelling the attendance of witnesses before him and to administer oaths and take the evidence of such witnesses under oath concerning such property and the value thereof, and concerning such transfer. Said supervisor or agent shall enter his findings and conclusions in relation to said transfer and said tax, fix and determine the amount of inheritance tax, if any, due the State of Washington, and file his find-

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ings in which shall be set forth the amount of inheritance tax due the State of Washington, with the clerk of the superior court of such county. The procedure subsequent to such filing shall conform with the procedure outlined in subdivision (d) of this section and shall have the same effect as provided in subdivision (e) herein and the same shall be a final determination of the tax, subject to such exception as is found in subdivisions (f) and (g) herein and subject to such procedure as therein outlined;

(j) Should the court determine that the property described in the findings is subject to the lien of the said tax and that said property had been transferred within the meaning of this title, the court shall afford affirmative relief to the state in said action and a judgment shall be rendered therein in favor of the state ascertaining and determining the amount of said tax, and the person or persons liable therefor and the property chargeable therewith or subject to lien therefor.

No fee shall be charged against the state, the tax commission or the supervisor by any officer in this state in any proceeding taken under this title, nor shall any bond or undertaking be required in such proceeding.

The orders, decrees, and judgments, fixing tax or determining that no tax is due, shall have the force and effect of judgments in civil actions, and the state or any interested party may appeal to the supreme court;

(k) Actions may be brought against the state by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this title, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this title. No such action shall be maintained where any proceedings are pending in any court or before the tax commission or the supervisor thereof in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the

state in said action shall be served upon the tax commission by delivering a copy thereof to the supervisor.

Upon the filing of the complaint the court shall enter an order directing the supervisor to hear said matter and to report to the court thereon, and shall direct notice of such time and place to be given for such hearing as the court shall deem proper, and shall refer said matter to said supervisor who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (b) of this section. The procedure subsequent to said reference to said supervisor shall conform to the provisions of (c), (d), (e), (f), and (g) of this section. Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this title, the court shall grant affirmative relief to the state in said action, and judgment shall be rendered therein in favor of the state, ascertaining and determining the amount of said tax and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor. If the court shall determine that such property or estate is not liable to be charged with any tax under the provision of this title, it shall enter its decree quieting title to such property against any and all such taxes, and discharging such person or persons from liability therefor;

(l) If after the values have been determined under the state statute for inheritance tax purposes, the same estate is valued under the Federal estate tax statute and the value of the property, or any portion thereof, fixed under the Federal law, is increased above the value fixed under the state statute as provided in Section 5, Chapter 134, Laws of 1931 (Section 1120 2-B, Rem. Rev. Stat.) and this valuation under the Federal estate tax is accepted by the estate either by agreement or through final determination in the Federal court, then in that event, the value as fixed under the state statute upon such property or portion thereof shall be increased to this amount for state inheritance tax purposes;

(m) Where there is property belonging to decedent both within the

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State of Washington and without the State of Washington exemptions allowed under this title shall be pro-rated, and that portion allowed in the State of Washington shall be in that proportion that the value of the property within the State of Washington bears to all the property within and without the State of Washington. In order to secure an exemption where the property is thus situated, the representative must file with the inheritance tax division of the tax commission a certified copy of the inventory of all the properties without the State of Washington, and upon its failure so to do, no exemptions will be allowed in this state, whether there is property within the state or without the state;

(n) An executor, administrator or trustee shall not be discharged from liability for such inheritance tax, nor shall a decree of distribution be entered, nor said estate, nor any part of said estate, be distributed until a receipt signed by the state treasurer showing that the inheritance tax is paid, or written waiver executed by the supervisor showing that the estate is not subject to inheritance tax, is filed with the clerk of the court, or the court having jurisdiction over such estate shall have determined as herein provided that such estate is not liable to pay an inheritance tax;

(o) When it shall appear that a part or portion of decedent's estate is being administered upon in any other state or territory of the United States, no decree of distribution shall be signed by any court in this state until there has been a receipt filed with the clerk of the superior court showing that the inheritance tax has been paid in full or that there is no tax due in the estates being administered without the State of Washington: *Provided, however*, That this section shall apply only to estates that are being administered in the territories or states of the United States having adopted a similar provision;

(p) It is further provided, that there shall be no exemption allowed where the decedent was not a resident of a territory or state of the United States, and the property of such decedent shall be taxable whether same is tangible or intangible, including certificates of stock, bonds, bills,

notes, bank deposits, and other written evidence of intangible property which are physically situated within the State of Washington, or where the domicile of the debtor is in the State of Washington;

(q) There shall be no attorney's fees, witness' fees, or other costs taxed in favor or against the State of Washington, or the tax commission or supervisor thereof nor in favor of or against any party to any proceeding before the tax commission, supervisor or any court under the provisions of this title;

(r) Whenever the supervisor shall have reasonable cause to believe that a tax is due under the provisions of this act, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody or control of any books, accounts, papers, or documents relating to or evidencing such transfer, the supervisor or his duly authorized agent, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of any such person, firm, institution, company, association or corporation, including the stock transfer book of any corporation, and to administer oaths to and examine any such person or any officer or agent of such firm, institution, company, association or corporation, for the purpose of acquiring any information deemed necessary or desirable by said supervisor or his assistants, for the proper enforcement of this act, and for the collection of the full amount of the tax which may be due the state hereunder. Any and all information and records required by said supervisor, or his assistants, shall be deemed and held by said supervisor and said supervisor's assistants and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except in so far as may be necessary for the enforcement of the provisions of this act. Any supervisor or assistant supervisor, or ex-supervisor or ex-assistant supervisor, or inheritance tax attorney, or ex-inheritance tax attorney, or assistant inheritance tax attorney, or ex-assistant inheritance tax attorney, who shall divulge, disclose, or make known any information acquired by such inspection and examination aforesaid, ex-

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cept in so far as the same may be necessary for the enforcement of the provisions of this act, shall be guilty of a gross misdemeanor.

(s) An officer or agent of any firm, institution, company, association or corporation having or keeping an office within this state, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the supervisor, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys, lawfully demanding as provided in this section, during office hours to inspect or take a copy of the same, or any part thereof, for the purposes hereinabove provided, a reasonable opportunity so to do, shall be liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under this act on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the supervisor in any court of competent jurisdiction.

Sec. 50. All property transferred by a decedent to a father, mother, grandfather, grandmother, husband, wife, lineal descendant, stepchild, adopted child, or lineal descendant of a stepchild or adopted child: *Providing*, The same was transferred to such decedent not more than one year prior to his death by another decedent of the class hereinabove described and a tax paid thereon to the State of Washington, shall be exempt: *Provided*, That this exemption only applies to transfers upon which an inheritance tax was paid in the estate of the first decedent, and where the property so transferred and taxed has increased in value, the increase in value shall be taxed.

Property exempted under this section must be identified as having been received from the first decedent or as having been acquired in exchange therefor, and the value of such property so exempted shall not be in excess of the value determined for the estate of the first decedent.

Sec. 51. All taxes imposed by this act shall take effect and accrue upon the death of the decedent or donor. If such tax is not paid within ten months from the accruing thereof, interest shall be charged and collected at the rate of six per centum per annum unless by reason of necessary litigation, claims upon the estate or other unavoidable delay, such tax cannot be determined and paid as herein provided, in which case interest at the rate of six per centum per annum shall be charged upon such tax from and after the time when the cause of such delay is removed.

Sec. 52. Upon the filing of any petition for letters of administration or for the probate of any will, the petitioner shall file with the clerk of the court a statement in such form as the tax commission may prescribe, which statement shall contain a list of names, ages, and the respective addresses of the heirs, legatees and devisees of said estate, if known, and the relationship which each bears to the decedent, together with a statement of the location, nature and probable value of the entire estate and an estimate of the amount or value of each distributive share, the residence and date of death of decedent, and shall state whether such deceased died testate or intestate, and shall also contain a list and description of all transfers of property, in trust or otherwise, made by the decedent within four years prior to his death as a division or distribution of his estate in contemplation of death or intended to take effect at or after decedent's death so far as shall be known to such petitioner.

Sec. 53. Administrators, executors and trustees of the estates subject to the inheritance tax shall, when demanded by the tax commission, send certified copies of such parts of their reports as may be demanded by it, and upon refusal of said parties to comply with such demand, it is the duty of the clerk of the court to furnish such copies, and the expense of making the same shall be charged against the estate as are other costs in probate, and such administrator, executor, or trustee, shall also upon request of the tax commission, furnish copies of all deeds, mortgages, trust agreements, insurance policies, and other instruments in writing that

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within his judgment are necessary for the determination of the inheritance taxes due the State of Washington. And it shall be the duty of the tax commission to exercise general supervision of the collection of the inheritance taxes provided in this act, and in the discharge of such duty the tax commission through its supervisor may institute and prosecute such suits or proceedings in the courts of the state as may be necessary and proper, appearing therein for such purpose; and it shall be the duty of the several county attorneys to render assistance therein when called upon by the tax commission so to do. The tax commission shall keep a record in which shall be entered memoranda of all the proceedings had in each case, and shall also keep an itemized account showing the amount of such taxes collected, in detail, charging the state treasurer therewith.

Sec. 54. When the estate of a deceased person shall be subject to an inheritance tax, and there be an annuity, life estate or an estate for a term of years given to one or more persons and the remainder to another or others, the entire estate shall be appraised as other estates are required to be appraised by the laws of the state. The value of the annuity, life or term estate shall be determined according to the rules or standards of mortality and of value commonly used in actuaries' combined experience tables on the basis of four per centum annual interest, and the value of the remainder shall be determined by deducting the amount found to be the value of the annuity, life or term estate from the whole estate. After the values shall have been determined as provided in this section, the tax shall be computed and collected in the same manner that the tax on other estates is computed and collected. The state insurance commissioner is hereby directed to obtain and publish for the use of courts and appraisers throughout the state tables showing the average expectancy of life and values of annuities and of life and term estates.

Sec. 55. The superior court having jurisdiction, shall appoint three suitable, disinterested persons to appraise the estate and effects of deceased persons for inheritance and tax purposes, and unless otherwise provided by

order of the court, the appraisers appointed under the probate law to appraise the estate and effects of deceased persons, shall be and constitute the appraisers under the provisions of this act: *Provided, however,* That one of such appraisers shall be recommended by the supervisor, and appointed by the court as one of the three appraisers, and shall receive a like compensation as each of the other appraisers.

Anyone may file exceptions to the appraisement with the supervisor, which shall be heard and determined by him. If upon hearing the supervisor finds the amount at which the property is appraised is its market value and the appraisement was fairly and in good faith made he shall approve such appraisement; but if he finds the appraisement was made at a greater or less sum than the market value of the property or the same was not fairly or in good faith made, he shall set aside the appraisement and determine such value. Anyone interested in the property appraised may appeal to the superior court from the order of the supervisor in the premises.

Sec. 56. All real estate and the improvements thereon, of the estate of a deceased person, for the purpose of computing the inheritance tax, shall be valued and appraised at the fair market value thereof on the day of the death of the decedent owner thereof. The executor, administrator or trustee in preparing the inventory in all probate cases, shall insert at the right of each real estate tract, the assessed valuation of such tract and of the improvements thereon for the information of the appraisers and other interested parties.

Sec. 57. Insurance payable upon the death of any person shall be deemed a part of the estate for the purpose of computing the inheritance tax and shall be taxable to the person, partnership or corporation entitled thereto. Such inheritance shall be taxable irrespective of the fact that the premiums of the policy have been paid by some person, partnership or corporation other than the insured, or paid out of the income accruing from principal provided by the assured for such payment, whether such principal was donated in trust or otherwise: *Pro-*

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vided, however, That there is exempt from the total amount of insurance, regardless of the number of policies, the sum of forty thousand dollars and no more: *Provided, however,* That in the case of insurance upon the life of a decedent officer or employee of a corporation, payable to the corporation, or upon the life of a decedent, employee of or partner in a business enterprise, payable to one or more of the partners, where all the premiums upon such policy have been paid exclusively by such beneficiary, upon the death of the decedent the amount only of the proceeds of the policy in excess of the cash surrender value immediately preceding the death of the decedent shall be deemed a part of the estate for the purpose of computing the inheritance tax, and taxed as provided in class A, Section 48, of this title.

Where more than one beneficiary is entitled to the benefit of the provisions of this section exempting forty thousand dollars of the proceeds of insurance policies, payable upon death, the benefit of such exemption shall be apportioned among such beneficiaries ratably and proportionately: *Provided,* That where there is fraternal benefit society insurance payable upon the death of the decedent and other insurance payable upon the death of the decedent, the forty thousand dollars exemption shall first be taken from the fraternal benefit society insurance and if the same does not equal forty thousand dollars, then the balance of the forty thousand shall be prorated among other policies.

The inheritance tax upon the proceeds of any insurance policy shall be a lien upon the proceeds of such policy in the hands or possession of the estate of the deceased insured or in the hands or possession of any other beneficiary under such policy to whom such proceeds may have been paid: *Provided,* That when proceeds of insurance payable upon death, or receivable by a beneficiary other than the executor or representative, the executor or representative shall recover from such beneficiary the tax due upon such proceeds of such policy or policies. The supervisor shall have power to release such lien with respect to all or any part of such proceeds if he be satisfied that the collection of the tax will not thereby be jeopardized.

Nothing in this act shall prevent the payment by any insurance company, association or society of the proceeds of any policy upon the death of a decedent to the person entitled thereto, but every insurance company, association or society, whether authorized to transact business within this state or not, having a policy or policies of insurance or death benefit or certificate or certificates in an aggregate amount of one thousand dollars or more payable upon the death of a decedent, a resident of this state, shall give a written notice of the death of the decedent and the amount of the policies issued and the names of the beneficiaries to the supervisor in such form as the supervisor may prescribe, within three days after receiving notice of the death of such decedent. Any insurance company, association or society failing, neglecting or refusing to give such notice to the supervisor as above provided shall be personally liable for the payment of the inheritance tax herein provided.

Sec. 58. No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons without first giving notice to the supervisor of such transfer, in case the transferee is a resident of this state, or without obtaining the written consent of the supervisor, in case the transferee is a non-resident of this state.

Sec. 59. No safe deposit company, bank, trust company, corporation or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify in writing such safe depository bailee or lessor, from whom such box or receptacle is rented of the death of any person having the right of access thereto, before securing access to such box or receptacle after the death of such person; and all persons having the right of access to any safe deposit box or receptacle upon the death of

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such other person having access thereto, before securing access to such box or receptacle shall notify in writing such safe depository, bailee, or lessor, from which such box or receptacle is rented of the death of such person; and it shall be unlawful for any safe deposit company, trust company, bank, corporation or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle, to permit access thereto by anyone after the death of any person who at the time of his death has the right or privilege of access thereto, of which death said safe deposit company, trust company, bank, corporation, or other institution, person or persons, has knowledge without giving ten days' notice in writing to the supervisor, of the time and place when such box or receptacle will be opened, and without permitting the supervisor, or some person by him in writing authorized, to be present, at the opening of such safe deposit box or receptacle and to examine and list contents thereof.

SEC. 60. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or a non-resident or belonging to, or standing in the joint names of such decedent and one or more persons, including the shares of the capital stock of, or other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators, legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor or survivors when held in the joint name of a decedent and one or more persons, or to the survivor or survivors when held in the joint name of a decedent and one or more persons, or upon their order or request, with knowledge of the death of said decedent, without retaining a sufficient portion or amount thereof to pay any

tax and interest which may thereafter be assessed thereon under this title and unless notice of the time and place for such delivery or transfer be served upon the supervisor at least ten days prior to said delivery or transfer: *Provided*, That the supervisor, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank, or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposit or other assets in their possession or control: *Provided further*, That nothing in this section shall prevent any bank, trust company or other institution from immediately paying over to the surviving spouse an amount not exceeding one thousand dollars from a joint account of a husband and wife. It shall be lawful for the tax commission, through its supervisor and its duly authorized agents or representatives to examine said securities, deposits or assets at the time of said delivery or otherwise.

SEC. 61. Failure to comply with the provisions of Sections 58, 59 or 60 shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than one thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under the inheritance tax laws of the State of Washington, on said securities, deposits, or other assets above mentioned, and said penalties and liabilities of said safe deposit company, trust company, corporation, bank or other institution, person or persons for the violation of this title may be enforced in an action brought by the tax commission in any court of competent jurisdiction in the State of Washington.

SEC. 62. Any safe deposit company, trust company, bank, corporation or other institution, person or persons having in possession or under control, custody or partial custody any safe deposit box or similar receptacle neglecting or failing to comply with

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the provisions of Section 59 of this title shall be guilty of a misdemeanor.

SEC. 63. Whenever any of the real estate of which any decedent may die seized shall pass to any body politic or corporate, or to any person or persons, or in trust for them, or some of them, it shall be the duty of the executor, administrator, or trustee of said decedent to give information thereof in writing to the tax commission within three months after they undertake the execution of their expected duties, or if the fact be not known to them within that period, then within one month after the same shall have come to their knowledge.

SEC. 64. In case of any property belonging to a foreign estate, which estate in whole or in part is liable to pay an inheritance tax in this state, the said tax shall be assessed upon the market value of said property remaining after the payment of such debts and expenses as are chargeable to the property under the laws of this state. In the event that the executor, administrator, or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction, and with the tax commission duly certified statements exhibiting the true market value of the entire estate of the decedent owner, and the indebtedness for which the said estate has been adjudged liable, which statement shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate.

SEC. 65. Every executor, or administrator shall make and return upon oath, into the court within one month after his appointment a true inventory of all of the property of the estate which shall have come into his hands, and within thirty days after filing such inventory he shall make application to the court to appoint three disinterested persons to appraise the property so inventoried, and it shall be the duty of the court to appoint such appraisers. Such appraisers shall receive as compensation for their services each an amount as to the court shall seem just and reasonable,

not to exceed \$5.00 per day for the time spent in making such appraisal: *Provided*, That in all estates where an inheritance tax is payable, the court shall fix the compensation of each appraiser at such an amount as the court may deem just and reasonable notwithstanding the foregoing limitation. If any part of the estate shall be in another county than that in which the letters are issued, appraisers residing in such county may be appointed by the court having jurisdiction of the case, or, if most advisable, the same appraisers may act: *Provided, however*, That the court may appoint persons to appraise the estate at the time or at any time after the appointment of the administrator.

SEC. 66. The provisions of this title, except Section 57, shall apply to all cases pending in the inheritance tax and escheat division and to all cases pending in any of the courts of this state, whether on appeal or otherwise, at the time this act takes effect, whether the death of the decedent occurred prior to the passage of this act or subsequent thereto: *Provided, however*, That the inheritance tax now due before the passage of this act may be paid under the law effective immediately before the passage of this act if paid within ten months from the time this law becomes effective: *Provided, further*, That if a portion of the inheritance tax is paid in any estate now pending within the ten months as herein provided, then the increased rates under this title shall apply only upon the proportionate part of such estate remaining unpaid.

SEC. 67. The provisions of this title are independent of, and not amendatory to, any act imposing taxes upon inheritances in the State of Washington, but are in addition thereto, and shall not be construed to repeal or modify the provisions of Chapter 180, Laws of Washington, 1935, referring to the same subject.

SEC. 68. The word "supervisor," as used in this title, means and refers to the supervisor of the inheritance tax and escheat division of the tax commission of the State of Washington.

SEC. 69. The provisions of this title and each of them shall be effective immediately upon the proclamation of this act as provided by law.

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TITLE IX—GIFT TAX

SEC. 70. (a) For the year 1937 and each calendar year thereafter, a tax, computed as provided in this title, shall be imposed upon the transfer during such calendar year by any individual, resident or non-resident, of property by gift, which tax shall apply whether the gift is in trust or otherwise, whether the gift is direct or indirect, whether the property is real or personal, tangible or intangible, and whether located within or without the State of Washington. But in the case of a non-resident not a citizen of the State of Washington, the tax shall apply to the transfer only if the property is situated within the State of Washington. The tax shall not apply to a transfer made on or before the operative date of this title;

(b) The tax shall not apply to a transfer of property in trust where the power to revert in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

SEC. 71. The tax for each calendar year shall be an amount equal to the excess of:

(a) A tax, computed in accordance with the rate schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years over;

(b) A tax, computed in accordance with the rate schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

Rate Schedule. Class A. Any gift made to or for the use or benefit of a grandfather, grandmother, father, mother, husband, wife, child or step-child, or any lineal descendant of a donor is hereby denominated as class A. On any amount passing to class A the tax shall be ninety per cent of the amount of a tax computed at the

following rates: on any amount up to and including \$25,000, 2%; on any amount in excess of \$25,000 up to and including \$50,000, 5%; on any amount in excess of \$50,000 up to and including \$100,000, 10%; on any amount in excess of \$100,000 up to and including \$200,000, 15%; on any amount in excess of \$200,000 up to and including \$500,000, 20%; on any amount in excess of \$500,000, 25%;

Class B. Any gift made to or for the use or benefit of a brother or sister is denominated class B. On any amount passing to class B the tax shall be ninety per cent of the amount of a tax computed at the following rates: On any amount up to and including \$5,000, 5%; on any amount in excess of \$5,000 up to and including \$10,000, 10%; on any amount in excess of \$10,000 up to and including \$30,000, 15%; on any amount in excess of \$30,000 up to and including \$50,000, 20%; on any amount in excess of \$50,000 up to and including \$100,000, 25%; on any amount in excess of \$100,000, 30%;

Class C. Any gift to or for the use or benefit of any person or body politic or corporate other than mentioned in class A and class B herein, is hereby denominated class C. On any amount passing to class C the tax shall be ninety per cent of the amount of a tax computed at the following rates: On any amount up to and including \$10,000, 10%; on any amount in excess of \$10,000 and up to and including \$25,000, 15%; on any amount in excess of \$25,000 up to and including \$50,000, 20%; on any amount above \$50,000, 25%.

SEC. 72. Where property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeded the value of the consideration, for the purpose of the tax imposed by this title, shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

SEC. 73. (a) The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in Section 74;

(b) In the case of gifts (other than of future interest in property) made to any person by the donor during the calendar year, the first three thousand dollars (\$3,000) of such gifts to such

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person shall not, for the purposes of this title, be included in the total amount of gifts made during such year.

SEC. 74. In computing net gifts for any calendar year there shall be allowed as deductions:

(a) In the case of (1) gifts to donees listed in class A of Section 71 a specific exemption of ten thousand dollars and (2) gifts to donees listed in class B of section 71 a specific exemption of three thousand dollars, less the aggregate of the amounts claimed and allowed as specific exemption for the preceding calendar years;

(b) In case of a resident or non-resident not a citizen of the State of Washington, the amount of all gifts made during that year of property situated within or under the jurisdiction of the State of Washington shall be exempt from the payment of any tax when the same are for one of the following charitable purposes, namely, (the relief of the aged, indigent and poor people), maintenance of sick or maimed, the support or education of orphans or indigent children, and all gifts made to the State of Washington, or to any county, incorporated city or town or school district therein, or to any public park or playground within the State of Washington, whether municipal or otherwise, and all gifts and transfers made to any municipal corporation within the State of Washington for eleemosynary charitable, educational or philanthropical purposes, and all gifts, bequests, devises, and transfer made to schools and colleges in the state supported in whole or in part by gifts the entire income of which said school or college, after paying the expenses thereof, is devoted to the purposes of such institution and which is open to all persons upon equal terms, and any property in this state which has been given for such purposes is hereby declared to be exempt from the payment for such tax: *Provided*, That all such gifts be limited for use within the State of Washington, and all gifts made to or for the use of any religious or non-sectarian organization or association, organized under the laws of Washington, and conducted primarily and chiefly for religious purposes and not for profit, where such religious or non-sectarian organization or association is supported in whole or in part by gifts,

endowments or charity, and where the entire income of such religious or non-sectarian organization or association, after paying the expenses thereof, is devoted wholly to the use of such organization or association, or for the educational, benevolent, protective or social departments growing out of, or related to, the religious work of such organization or association, shall be exempt from the payment of this gift tax: *Provided*, That all such gifts be limited for use within the State of Washington.

SEC. 75. If the gift is made in property, the value thereof at the time of the gift shall be considered the amount of the gift.

SEC. 76. (a) Any individual who within the calendar year of 1937 or any calendar year thereafter makes any transfers by gift (except those which under Section 74 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under Section 73 is to be included in computing net gifts; (2) the deductions claimed and allowable under Section 74; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law;

(b) The return shall be filed on or before the first day of February following the close of the calendar year with the tax commission.

SEC. 77. (a) By Donor. Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the tax commission may from time to time prescribe;

(b) Whenever it is necessary in the judgment of the tax commission it may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the tax commission deems sufficient to show whether or not such person is liable to tax under this title.

SEC. 78. (a) The tax imposed by this title shall be paid by the donor on or before the first day of March following the close of the calendar year:

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(b) A tax imposed by this title may be paid, at the election of the donor, prior to the date prescribed for its payment;

(c) All moneys to be paid under this title shall be paid to the state treasurer.

SEC. 79. The tax imposed by this title shall be a lien upon each gift made during the calendar year for the proportion of such tax that the amount of the gift (less the \$1,000 exemption) bears to the net gifts, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such proportion of such tax. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gifts, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the tax commission is satisfied that the tax liability has been fully discharged or provided for, it may, under regulations prescribed by it, issue its certificate, releasing any or all of the property from the lien herein imposed.

SEC. 80. As soon as practicable after the return is filed the tax commission shall examine it and shall determine the correct amount of the tax.

SEC. 81. As used in this title in respect of the tax imposed by this title the term "deficiency" means:

(a) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment shall first be decreased by the

amounts previously abated, refunded, or otherwise repaid in respect of such tax.

SEC. 82. (a) If the tax commission determine that there is a deficiency in respect to the tax imposed by this title it is authorized to send notice of such deficiency to the donor by registered mail. Within thirty days after such notice is mailed the donor may have the decision of the tax commission reviewed by filing a petition in the superior court for Thurston county, Washington, for determination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title, and no distraint or proceeding in court for its collection shall be made, begun or prosecuted until such notice has been mailed to the donor, nor until the expiration of such thirty days; nor if a petition be filed with the superior court for review until the decision has become final;

(b) If the donor files a petition for review, the entire amount re-determined as a deficiency by the decision of the court shall become final and shall be assessed and shall be paid upon notice and demand from the tax commission. No part of the amount determined as a deficiency by the tax commission, but disallowed as such by the decision of the court, shall be assessed or collected by distraint or by proceedings in court without assessment;

(c) If the donor does not file a petition for review as provided herein within the time prescribed, the deficiency notice of which has been mailed to the donor, shall be assessed and shall be paid upon notice and demand of the tax commission;

(d) The donor shall at any time have the right, by a signed notice in writing filed with the tax commission, to waive the restriction provided herein on the assessment and collection of the whole or any part of the deficiency;

(e) The tax commission shall have jurisdiction or redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if the claim therefor is asserted by the tax commis-

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sion at or before the hearing or re-hearing;

(f) If the tax commission has mailed to the donor notice of a deficiency as provided herein, and the donor files a petition with the tax commission within the time prescribed, the tax commission shall have no right to determine any additional deficiency in respect to the same calendar year, except in the case of fraud, and except as provided in this section, relating to assertion of greater deficiencies before the tax commission, or the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purpose of this title) as a notice of a deficiency, and the donor shall have no right to file a petition with the tax commission based on such notice, nor shall such assessment or collection be prohibited by the provisions hereof;

(g) The tax commission in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether the tax for any other calendar year has been overpaid or underpaid;

(h) For the purposes of this title the date of the decision of the superior court shall be final unless there is an appeal taken to the supreme court;

(i) Where it is shown to the satisfaction of the tax commission that the payment of the deficiency upon the date prescribed for the payment thereof, will result in undue hardship to the donor, the tax commission, except where the deficiency is due to negligence, to intentional disregard of the rules and regulations, or to fraud with intent to evade the tax, may grant an extension for the payment of such deficiency or any part thereof, for a period not in excess of six months. If an extension is granted, the tax commission shall require the donor to furnish a bond in such amount, not ex-

ceeding double the amount of the deficiency, and with such sureties as the tax commission deems necessary conditioned upon the payment of the deficiency in accordance with the terms of the extension;

(j) In the absence of notice to the tax commission of the existence of a fiduciary relationship notice of a deficiency in respect of the tax imposed by this title, if mailed to the donor at his last known address, shall be sufficient for the purposes of this title, even if such donor is deceased, or is under a legal disability.

SEC. 83. (a) If the tax commission believes that the assessment or collection of a deficiency will be jeopardized by delay, it shall immediately assess such deficiency (together with all interest, additional amounts or additions to the tax provided for by law) and notice and demand shall be made by the tax commission for the payment thereof;

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed, then the tax commission shall mail a notice within sixty days after the making of the assessment;

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of this title prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the superior court;

(d) When a jeopardy assessment has been made, the donor, within ten days after notice and demand for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the tax commission a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the tax commission deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the superior court which has become final, together with interest thereon as provided herein;

(e) If the bond is given before the donor has filed his petition with the

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superior court the bond shall contain a further condition that if a petition is not filed within the period provided in this title, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of six per cent per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection;

(f) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the tax commission determines that the amount assessed is greater than the amount which should have been assessed then when the decision of the superior court is rendered the bond shall, at the request of the donor, be proportionately reduced;

(g) When the petition has been filed with the superior court and when the amount which should have been assessed has been determined by a decision of the court which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded by the State of Washington. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the tax commission.

SEC. 84. No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 85. (a) Except as otherwise herein provided, the amount of taxes imposed by this title shall be assessed

within the one year after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed;

(b) In the case of false or fraudulent return with intent to evade tax or of failure to file return the tax may be assessed or a proceeding in court for the collection of such tax may be begun without assessment at any time;

(c) Where the assessment of any tax imposed by this title has been made within the statutory period of limitation properly applicable thereto such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the tax commission and the donor.

SEC. 86. The running of the statute of limitations provided herein on the making of assessments and the beginning of a distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of notice) be suspended for the period during which the tax commission is prohibited from making the assessment or beginning distraint or a proceeding in court, and for sixty days thereafter.

SEC. 87. In case of any failure to make and file a return required by this title, within the time prescribed by law or by the tax commission in pursuance of law, twenty-five per cent of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to wilful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 88. (a) If any part of any deficiency is due to negligence or intentional disregard of rule and regulations but without intent to defraud, five per cent of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were

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a deficiency, except that the provisions relating to interest on deficiencies shall not be applicable;

(b) If any part of any deficiency is due to fraud with intent to evade the tax, then fifty per cent of the total amount of the deficiency (in addition to such deficiency) shall be so assessed and collected, and paid, in lieu of the fifty per cent addition to the tax provided.

Sec. 89. (a) If the time for payment of the amount determined as the tax by the donor is extended under the authority of this title, there shall be collected as a part of such amount interest thereon at the rate of six per cent per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension;

(b) In case an extension for the payment of a deficiency is granted, there shall be collected as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of six per cent per annum for the period of extension, and no other interest shall be collected on such part of the deficiency for such period.

Sec. 90. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the tax commission, and shall be collected as a part of the tax, at the rate of six per cent per annum from the due date of the tax to the date deficiency is assessed, or, in case of waiver under Section 82 (d) of this title, to the thirtieth day after the filing of such waiver or the date the deficiency is assessed, whichever is the earlier.

Sec. 91. In the case of the amount collected under Section 83 (d) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of six per cent per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under Section 83 (g), or, in case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in Section 90.

Sec. 92. (a) Where the amount determined by the donor as the tax im-

posed by this title, or any part of such amount is not paid on the due date of the tax, there shall be collected as a part of the tax, interest, upon the unpaid amount at the rate of one per cent per month from the due date until it is paid;

(b) Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under Section 89 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (a) of this section, interest at the rate of one per cent per month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid;

(c) Where a deficiency, or any interest assessed in connection therewith under Section 90 or any addition to the tax provided for in this title, is not paid in full within ten days from the date of notice and demand from the tax commission, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid;

(d) If a bond is filed, as provided in Section 83 of this title, the provisions of paragraph (a) of this subsection shall not apply to the amount covered by the bond;

(e) If the part of the deficiency, the time for payment of which is extended as provided in Section 82 (i), is not paid in accordance with the terms of the extensions, there shall be collected, as a part of the tax, interest on such amount at the rate of one per cent per month for the period from the time fixed by the terms of the extensions for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period;

(f) If the amount included in the notice and demand from the tax commission under Section 83 (g), is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of one per cent a month from the date of such notice and demand until it is paid.

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Sec. 93. (a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment or collection of any tax imposed by this title, who wilfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than ten thousand (\$10,000.00) dollars, or imprisoned for not more than one year, or both, together with the costs of prosecution;

(b) Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than ten thousand (\$10,000.00) dollars, or imprisoned for not more than five years, or both, together with costs of prosecution.

Sec. 94. (a) The amount of the following liabilities shall, except as hereinafter provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) The liability, at law or in equity, of a transferee of property of a donor, in respect to the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title;

(2) The liability of a fiduciary in respect of the payment of any such tax from the estate of the donor;

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax;

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the ex-

piration of the period of limitation for assessment against the donor;

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (1), then within one year after return of execution in such proceeding;

(c) For the purpose of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred;

(d) The running of the statute of limitations upon the assessment of the liability of a transferee of fiduciary shall, after the mailing of the notice under Section 82 (a) to the transferee or fiduciary, be suspended for the period during which the tax commission is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the superior court, until the decision of the court becomes final,) and for sixty days thereafter;

(e) No suit shall be maintained in any court for the purpose of restraining the assessment or collection of

(1) the amount of the liability, at law or in equity of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under this title, in respect of any such tax;

(f) As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee;

(g) In the absence of notice to the tax commission under Section 95 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under legal disability, or, in the case of a corporation, has terminated its existence.

Sec. 95. (a) Upon notice to the tax commission that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties and privileges of the donor in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected

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from the estate of the donor), until notice is given that the fiduciary capacity has terminated;

(b) Upon notice to the tax commission that any person is acting in a fiduciary capacity for a person subject to the liability specified in Section 83, the fiduciary shall assume on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated;

(c) Notice shall be given in accordance with the regulations prescribed by the tax commission.

SEC. 96. (a) Where there has been an over-payment of any tax imposed by this title, the amount of such over-payment shall be credited against any gift tax then due from the taxpayer and any balance shall be refunded by the State of Washington to the taxpayers;

(b) Limitation on Allowance. (1) No such credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer;

(2) The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund;

(c) If the tax commission has mailed to the taxpayer a notice of deficiency under Section 82 (a) and if the taxpayer files a petition with the superior court within the time prescribed in such section, no credit or refund in respect of the tax for the calendar year in respect of which the tax commission has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovering of any part of such tax shall be instituted in any court except:

(1) As to the over-payments determined by a decision of the court which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the court which has become final; and

(3) As to any amount collected after

the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in such claim for credit or refund or in any such suit for refund the decision of the court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive;

(d) If the court finds that there is no deficiency and further finds that the taxpayer has made an over-payment of tax in respect of the taxable year in respect of which the tax commission determined the deficiency, the court shall have jurisdiction to determine the amount of such over-payment, and such amount shall, when the decision of the court has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition whichever is earlier.

SEC. 97. The tax commission shall prescribe and publish all needful rules and regulations for the enforcement of this title.

SEC. 98. (a) The term "calendar year" indicates only the calendar year 1937 and succeeding calendar years, and, in the case of the calendar year 1937, includes only the portion of such year after the date of the enactment of this title;

(b) Stock in a domestic corporation owned and held by a non-resident shall be deemed property situated within the State of Washington.

SEC. 99. This title may be cited as the "Gift Tax Act of 1937."

SEC. 100. The provisions of this title and each of them shall take effect immediately upon the effective date of this act.

TITLE X—ADMINISTRATIVE PROVISIONS

SEC. 101. The provisions of this title shall not apply with respect to the administration of the taxes imposed under Title VIII and IX herein, but shall apply with respect to the taxes imposed under all other titles of this act, in such manner and to such extent as is indicated in the last section of each of such titles.

SEC. 102. For the purposes of this title, unless otherwise required by the context:

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The meaning attributed in the foregoing titles of this act to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "admission charges," "taxpayer," and "value of products" shall apply equally in the provisions of this title.

SEC. 103. If any person shall engage in any business or perform any act for which a tax is imposed by this act, he shall, whether taxable or not, under such rules and regulations as the commission shall prescribe, apply for and obtain from the commission, upon the payment of a fee of one dollar, a registration certificate for each calendar year, or portion thereof. Said registration certificate shall be personal and non-transferable and shall expire on the last day of the calendar year for which issued and shall be renewed annually upon the condition that the taxpayer shall pay the aforesaid registration fee and the tax accrued to the state under the provisions of this act. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required, but for such additional certificate no fee shall be required. Each certificate shall be numbered and shall show the name, residence and place and character of business of the taxpayer and such other information as the tax commission shall deem necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the tax commission the existing certificate, and a new certificate will be issued for the new place of business free of charge. No person shall engage in any business taxable hereunder without being registered in compliance with the provisions of this section.

SEC. 104. If the taxpayer shall make an error in computing any tax due from him, the tax commission shall correct such error and notify the taxpayer of its action by mailing to him a notice of the correction.

If, upon examination of any returns it appears that a tax has been paid

less than properly due, the tax commission may add a penalty of ten per cent of the amount of the additional tax found due and shall add thereto interest at the rate of one per cent per month of the amount of such additional tax for each thirty days, or portion thereof, from the date upon which such tax became due as provided by this act, and shall notify such taxpayer by mail of the total amount of such tax, penalties and interest and the total amount shall become due and shall be paid within ten days from the date of such notice, or within such further time as the tax commission may provide.

If, upon examination of any returns it appears that a tax has been paid in excess of that properly due, then the amount of such excess shall be credited against any tax or installment thereof then due or to become due from the taxpayer under any other subsequent return for the same year, and any balance of such excess at the end of such tax year, or upon the filing of a final return upon ceasing business, shall be refunded on request of the taxpayer by means of vouchers approved by the tax commission and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide.

SEC. 105. Any money paid to the tax commission through error and not in payment of any tax due hereunder, upon the request of the person by whom such payment was made, shall be refunded as provided in the foregoing section.

Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, interest, penalties, and costs in a suit by any taxpayer shall be paid in like manner, upon the filing with the tax commission of a certified copy of the order of judgment of the court.

SEC. 106. It shall be the duty of every person liable for any fee or tax imposed by this act to keep and preserve, for a period of five years, such suitable records as may be necessary to determine the amount of any tax for which he may be liable under the provisions of this act; and all books, records and invoices shall be open for examination at any time by the commission or its duly authorized agent. In the case of an out-of-state person

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or concern which does not keep the necessary books and records within the State of Washington, it shall be sufficient if it produces within the state such books and records as shall be required by the tax commission, or bears the cost of examination by an agent authorized or designated by the tax commission at the place where such books and records are kept. Any person who shall fail to comply with the requirements of this section shall be forever barred from questioning, in any court action or proceeding, the correctness of any assessment of taxes made by the tax commission and based upon any period for which such books, records and invoices have not been so kept and preserved.

Sec. 107. Payment of the tax may be made by uncertified check under such regulations as the commission shall prescribe, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, shall remain liable for the payment of the tax and for all legal penalties, the same as if such check had not been tendered.

The tax commission shall keep full and accurate records of all funds received and disbursed by it under the provisions of this act.

Sec. 108. The tax commission, for good cause shown, may extend the time for making and filing any return as required under this act, and may grant such reasonable additional time within which to make and file such returns as it may deem proper: *Provided, however,* That any extension in excess of thirty days shall be conditional on payment of interest of one-half of one per cent for each thirty days or portion thereof of the amount of the tax from the date upon which such tax became due. If payment of any tax due under this act is not received by the tax commission within ten days of the due date of such tax, as set forth in this act, there shall be added to such tax a penalty of ten per cent of the amount of said tax, but in no case shall the penalty be less than one (\$1.00) dollar. If any taxpayer fails to file any return required by this act within ten days of the date provided for filing such return, and it appears that there was no tax due or paid for the period for which no return was filed, the tax commission

shall assess against such taxpayer a penalty not to exceed three (\$3.00) dollars for such failure. The tax commission shall notify the taxpayer by mail of the amount of any penalties so added or assessed and the same shall become due and shall be paid within ten days from the date of such notice.

Sec. 109. If any person shall fail or refuse to make any return required by this act, the tax commission shall proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax herein prescribed; and to this end the tax commission by itself or its duly appointed agent may make examination of the books, records and papers of any such person and may take evidence, on oath, of any person, relating to the subject of inquiry. The oath may be administered by any member of the commission or by its duly authorized agent.

As soon as the tax commission shall procure such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, it shall proceed to determine and assess against such person the tax and penalties provided for by this act, but such action shall not deprive such person from appealing to the superior court as hereinafter provided. To such assessment the commission may add a further penalty of ten per cent of the amount of the tax for failure or refusal to make a return and shall add thereto interest at the rate of one per cent per month of the amount of the tax for each thirty days or portion thereof from the date upon which the tax is due as provided by this act, and shall notify such taxpayer by mail of the total amount of such tax, penalties and interest and the total amount shall become due and shall be paid within ten days from the date of such notice.

Assessments and corrections of assessment may be made by the commission at any time within four years after the close of the tax year.

Sec. 110. The tax commission or its duly authorized agent may examine any books, papers, records, other data or stock of merchandise bearing upon the amount of any tax or upon the correctness of any return, or for the purpose of making a return where none

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has been made, or in order to ascertain whether a return should be made, as required by this act; and may require the attendance of any person at any time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case; or served in like manner by an agent of the tax commission. The persons summoned may be required to testify and produce any books, papers, records, or data as required by the tax commission with respect to any tax, or the liability of any person therefor, under this act. The secretary of the tax commission, or any member, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving any false testimony after the administration of such oath shall be guilty of perjury in the first degree and, upon conviction thereof, shall be punished in the manner provided by law. If any person summoned as a witness before the tax commission, or its authorized agent, shall fail or refuse to obey the summons, or shall refuse to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, he shall be guilty of contempt and it shall be the duty of the tax commission to thereupon institute proceedings in the superior court of Thurston County or of the county in which such person resides to punish any such person as for contempt of court for failure to obey such summons and appear as a witness, or for refusal to testify or answer any material question, or for refusal to produce any book, record, paper or other data as required by the tax commission or its authorized agent.

Sec. 111. All officers empowered by law to administer oaths, the members of the commission and such officers as it may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by this act or the rules and regulations of the commission.

Sec. 112. Any notice or order required by this act to be mailed to any taxpayer shall be sent by ordinary mail, addressed to the address of the taxpayer as shown by the records of the tax commission, or, if no such address is shown, to such address as the

tax commission is able to ascertain by reasonable effort. Failure of the taxpayer to receive any such notice or order shall not release the taxpayer from any tax or any increases or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this act.

Sec. 113. Whenever any taxpayer shall quit business, or shall sell out, exchange or otherwise dispose of his business or his stock of goods, wares, or merchandise, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due; and any person who shall become a successor to such business shall become liable for the full amount of such tax and withhold from the purchase price a sum sufficient to pay any tax due from such taxpayer until such time as the taxpayer shall produce a receipt from the tax commission showing payment in full of any such tax due from the taxpayer or a certificate that no tax is due and, if such tax is not paid by the taxpayer within ten days from the date of such sale, exchange or disposal, such purchaser or successor shall likewise thereupon become liable for the payment of the full amount of such tax, and the payment thereof by such purchaser or successor shall, to the extent thereof be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such purchaser or successor from the taxpayer.

Sec. 114. All taxes, penalties and interest imposed under the provisions of this act shall be paid in full before any action may be instituted in any court to contest all or any part of such tax, penalties or interest. No restraining order or injunction shall be granted or issued by any court or judge to restrain and enjoin the collection of any tax or penalty imposed by this act, or any part thereof, except upon the ground that the assessment thereof was in violation of the constitution of the United States or that of the State of Washington.

Sec. 115. Any person, having paid any tax, original assessment, additional assessment or corrected assessment of any tax made by the tax com-

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mission under the provisions of this act, may apply to the tax commission by petition in writing, within one year after such payment, for a hearing and a correction of the amount of the tax so assessed upon him, in which petition he shall set forth the reasons why such hearing should be granted, and the amount in which such tax should be reduced. The commission shall promptly consider such petition, and may grant such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be notified by mail thereof forthwith; if granted, the commission shall notify the petitioner by mail of the time and place fixed for such hearing. After such hearing the commission may make such order as may appear to it just and lawful and shall mail a copy of such order to the petitioner.

Any person, except one who has failed to keep and preserve books, records and invoices as provided in Section 123 hereof, of this act, having paid any tax as required by this act and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within one year after the payment of such tax, or within thirty days after the date of the notice denying such a hearing or after the date of the order provided for in this section. In the appeal the taxpayer shall set forth the amount of the tax imposed upon him, which he concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the tax commission within the time herein provided and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing notice of such appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the State of Washington in the sum of two hundred (\$200.00) dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained. The trial in the superior court on the appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove

that the tax as paid by him is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff and the State of Washington, the defendant; and both parties shall be entitled to subpoena and require the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant and material to determine the correct amount of the tax that should be paid by the taxpayer under this act. Either party shall be allowed to appeal to the supreme court in the same manner as other civil actions are appealed to that court. It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the tax commission for a hearing in order to appeal to the superior court, as herein provided; but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

Sec. 116. The tax commission, by its order, may hold in abeyance the collection of tax from any taxpayer or any group of taxpayers when a question bearing on their liability for tax hereunder is pending before the courts.

Sec. 117. When any assessment or additional assessment has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods of time as the tax commission may by general regulation provide, of the whole or any part of such assessment, by filing with the tax commission a bond in such amount, not exceeding double the amount as to which the stay is desired, and with sureties as the tax commission deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, together with interest thereon at the rate of one per cent of the amount of such assessment for each thirty days or portion thereof from the date of such assessment until paid.

Sec. 118. If any tax, increase or penalty imposed by this act, or any portion of such tax, increase or penalty is not paid within fifteen days after the same shall become due, the tax commission shall issue a warrant under

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its official seal directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and/or personal property of the taxpayer found within his county, or so much thereof as may be necessary, for the payment of the amount of such warrant, together with interest thereon at the rate of one per cent of the amount of such warrant for each thirty days or portion thereof after the date of such warrant, plus the cost of executing said warrant, and return such warrant to the tax commission and pay to it the money collected by virtue thereof within sixty days after the receipt of such warrant.

The sheriff, within thirty days after the receipt of said warrant, shall file with the clerk of the superior court of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the tax or portion thereof and any increases and penalties for which the warrant is issued and the date when such copy is filed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the taxpayer against whom it is issued and shall be the same as a judgment in a civil case duly docketed in the office of such clerk, and the sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to executions or other process issued against rights or property upon judgments of said superior court. The sheriff shall be entitled to fees as provided by law for his services in levying execution on a superior court judgment and the clerk shall be entitled to a filing fee of one (\$1.00) dollar, which shall be added to the amount of such warrant. The proceeds received from any sale shall be credited upon the amount due under the warrant and when the final amount due is received, together with interest, penalties and costs, the judgment docket shall show the claim for taxes to be satisfied and the clerk of the court shall so note upon the docket any surplus received from any sale of property shall be paid to the taxpayer. If the return on the warrant shall show that the same has not been satisfied in full, the amount

of the deficiency shall remain the same as a judgment against the taxpayer which may be collected in the same manner as the original amount of such warrant. If any warrant issued under this section is not paid within thirty days after the same has been filed with the clerk of the superior court, the tax commission may by order issued under its official seal, revoke the certificate of registration of the taxpayer against whom said warrant was issued and, if such order is entered, a copy thereof shall be posted in a conspicuous place at the main entrance of said taxpayer's place of business and shall remain posted until such time as said warrant has been paid.

In the discretion of the tax commission, a warrant of like terms, force and effect may be issued and directed to any agent of the commission authorized to collect taxes under this act, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of such warrant.

SEC. 119. Any tax due and unpaid under this act, and all increases and penalties thereon, shall constitute a debt to the State of Washington and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies. In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayers hereunder, the claim of the state for said taxes and all increases and penalties thereon shall be lien prior to all other liens, except prior tax liens, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the tax commission of such administration, receivership or assignment within thirty days from the date of their appointment and qualification. Any administrator, executor, guardian, receiver or assignee for the benefit of

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creditors not giving the notification as provided for above shall become personally liable for payment of said taxes and all increases and penalties thereon.

Sec. 120. In the case of any corporation organized under the laws of this state, the courts of this state shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state the secretary of state shall withhold the issuance of any certificate of withdrawal until proof in the form of a certificate from the tax commission, has been furnished by the applicant for such dissolution or withdrawal, that every license fee, tax, increase or penalty imposed under this act has been paid or provided for.

Sec. 121. The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his business, keeps books reflecting the same on a basis other than the calendar year, he may, with consent of the tax commission, make his returns, and pay taxes hereunder, upon the basis of his accounting period as shown by the method of keeping the books of his business.

Sec. 122. Taxes imposed by this act shall be in addition to any and all other licenses, taxes and excises levied or imposed by the state or any municipal subdivision thereof.

Sec. 123. It shall be unlawful for any person to engage in business without having obtained a certificate of registration as provided herein; or to engage in business after his certificate of registration shall have been revoked by order of the tax commission; or to tear down or remove any order or notice posted by the tax commission pursuant to the provisions of this act; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or any part thereof imposed by this act; or for any person to aid or abet another in any attempt to evade the payment of such tax or any part thereof; or for the president, vice-president,

secretary, treasurer or other officer of any company to make or permit to be made for any company any false return, or any false statement in any return required by this act, with intent to evade payment of any tax hereunder; or for the president, vice-president, secretary, treasurer or other officer of any company to carry on the business of any company which has not obtained a certificate of registration or whose certificate of registration has been revoked by order of the tax commission; or for any purchaser to fraudulently sign a resale certificate without intent to resell the property purchased; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data of the commission or its duly authorized agent, as required by this act; or to fail or refuse to permit the inspection or appraisal of any property by the commission, or its duly appointed agent; or to refuse to offer testimony or produce any record as required by this act. Any person violating any of the provisions of this section shall be guilty of a gross misdemeanor and punishable in the manner provided by law. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or to any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of perjury in the second degree and, on conviction thereof, shall be punished in the manner provided by law; and any company for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be punished, upon conviction thereof, by a fine of not more than one thousand (\$1,000.00) dollars. All penalties or punishments provided in this section shall be in addition to all other penalties provided in this act.

Sec. 124. The administration of the revenue provisions of this act shall be vested in and exercised by the tax commission which shall prescribe forms and rules of procedure in conformity with this act for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed hereunder. The tax commission shall make and publish rules and regula-

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tions, not inconsistent with this act, necessary in enforcing its provisions, which rules and regulations shall have the same force and effect as if specifically included herein, unless declared invalid by the judgment of a court of record not appealed from. The tax commission is hereby authorized to employ such clerks, specialists and other assistants as are necessary to carry this act into effective operation. Salaries and compensation of such employees shall be fixed by the commission and shall be charged to the proper appropriation for the tax commission. It shall be the duty of the tax commission to exercise general supervision of the collection of taxes provided in this act, and, in the discharge of such duty, the tax commission may institute and prosecute such suits or proceedings in the courts of this state, as may be necessary and proper, appearing therein for such purpose.

When recovery is had in any suit or proceeding against an officer, agent or employee of the tax commission for any act done by him or for the recovery of any money exacted by or paid to him and by him paid over to the tax commission, in the performance of his official duty, and the court certifies that there was probable cause for the act done by such officer, agent or employee, or that he acted under the direction of the tax commission or proper officer thereof, no execution shall issue against such officer, agent or employee, but the amount so recovered shall, upon final judgment, be paid by the tax commission as an expense of operation.

SEC. 125. The tax commission, on the next business day following the receipt of any payments under this act, shall transmit the same to the state treasurer, taking his receipt therefor, and such payments shall be allocated to and deposited in the State Old Age Pension Fund.

SEC. 126. Except as hereinafter provided it shall be unlawful for the tax commission or any member, deputy, clerk, agent, employee or representative thereof or any other person to make known or reveal any facts or information contained in any return filed by any taxpayer pursuant to the provisions of this act or disclosed in any investigation or examination of the taxpayer's books and records made in

connection with the administration of this act. The foregoing, however, shall not be construed to prohibit the tax commission or a member or employee thereof from: (a) giving such facts or information in evidence in any court action involving tax imposed under this act or involving a violation of the provisions of this act or involving another state department and the taxpayer, if such facts and information are relevant to the issues in such case; (b) giving such facts and information to the tax payer or his duly authorized agent; (c) publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof; (d) giving such facts or information, for official purposes only, to the governor, attorney general or to any committee or sub-committee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions; (e) permitting its records to be audited and examined by the proper state officer, his agents and employees; or (f) giving any such facts or information to the commissioner of internal revenue of the United States or to the proper officer of any state tax department, for official purposes, but 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 officers of this state. Any person acquiring knowledge of such facts or information in the course of his employment with the tax commission and any person acquiring knowledge of such facts and information as provided under (d), (e) and (f), above, who shall reveal or make known any such facts or information to another not entitled to knowledge of such facts or information under the provisions of this section, shall be punished by a fine of not exceeding one thousand (\$1,000.00) dollars and, if the officer or person guilty of such violation be an officer or employee of the state, shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter.

TITLE XI—ALLOCATION OF REVENUES

SEC. 127. The state treasurer, upon receipt of any payments of tax, pen-

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alty, interest or fees collected under the provisions of this act and of the several titles hereof shall deposit said receipts to the credit of the Old Age Pension Fund.

TITLE XII—GENERAL PROVISIONS

SEC. 128. If any title, section, subdivision of a section, paragraph, sentence, clause or word of this act for any reason shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the title, section, subdivision of a section, paragraph, sentence, clause or word of the act directly involved in the controversy in which such judgment shall have been rendered. If any tax imposed under this act shall be adjudged invalid as to any person, corporation, association or class of persons, corporations or associations included within the scope of the general language of this act such invalidity shall not affect the liability of any person, corporation, association or class of persons, corporations or associations as to which such tax has not been adjudged invalid. It is hereby expressly declared that had any title, section, subdivision of a section, paragraph, sentence, clause, word or any person, corporation, association or class of persons, corporations or associations as to which this act is declared invalid been eliminated from the act at the time the same was considered the act would have nevertheless been enacted with such portions eliminated: *Provided, however,* That if the provisions of Section 4 (e) shall be declared invalid as to a national banking associations, state bank, mutual bank or building and loan or savings and loan

association the provisions of said Section 4 (e) shall be deemed inoperative as to all institutions of the types hereinabove mentioned.

SEC. 129. There is hereby appropriated from the Old Age Pension Fund, for the fiscal biennium beginning February 1, 1937, and ending January 31st, 1939, for the payment of old age pensions, the sum of \$72,000,000.00, or so much thereof as shall be necessary to pay those entitled to pensions under the provisions of this act.

SEC. 130. There is hereby appropriated from the Old Age Pension Fund, for the fiscal biennium beginning February 1, 1937, and ending January 31st, 1939, for the payment of the tax commission of the State of Washington for services rendered in the collection of taxes provided herein, the sum of \$2,500,000.00 or so much thereof as shall be necessary for said purposes.

SEC. 131. There is hereby appropriated from the Old Age Pension Fund, for the fiscal biennium beginning February 1, 1937, and ending January 31st, 1939, for the administration of this act and the preparation for its administration, and the payment of salaries, supplies and other necessary costs and expenses necessarily incurred, the sum of \$500,000.00, or so much thereof as shall be necessary for said purposes.

SEC. 132. There is hereby appropriated from the Old Age Pension Fund, for the fiscal biennium beginning February 1, 1937, and ending January 31st, 1939, for refunds, taxes, judgments, and costs the sum of \$2,000,000.00 or so much thereof as shall be necessary for said purposes.