

the fiscal year, beginning in the calendar year one thousand nine hundred and thirty-five, and collectible in the year one thousand nine hundred and thirty-six, or thereafter, shall be used only for unemployment relief purposes, and for such purposes are hereby appropriated. All other taxes and penalties, received and collected under the provisions of this act, shall be credited to the General Fund.

Section 13.] Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Constitutional provision.

Section [14] 13. Effective Date.—This act shall become effective immediately upon its final enactment, and shall remain in force, only for the imposition and collection of taxes on net income of corporations for the [two] four calendar years one thousand nine hundred [and] thirty-five, [and] one thousand nine hundred [and] thirty-six, *one thousand nine hundred thirty-seven, and one thousand nine hundred thirty-eight*, or for the [two] four fiscal years ending in the calendar years one thousand nine hundred [and] thirty-six, [and] one thousand nine hundred [and] thirty-seven, *one thousand nine hundred thirty-eight, and one thousand nine hundred thirty-nine*.

When effective.

Section 2. This act shall become effective immediately upon its final enactment.

When effective.

APPROVED—The 8th day of April A. D. 1937.

GEORGE H. EARLE

—  
No. 55

AN ACT

To further amend sections twenty and twenty-one of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws, four hundred twenty), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," by continuing the tax upon that portion of the capital stock of certain corporations, joint-stock associations, limited partnerships, and companies which were formerly exempt; and by further defining the method of computing the franchise tax of foreign corporations.

Section 1. Be it enacted, &c., That sections twenty and twenty-one of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pam-

Taxation.

Sections 20 and 21, act of June 1, 1889 (P. L. 420), as last amended by act of May 16, 1935 (P. L. 184), further amended.

Officers of certain corporations to make annual reports to Department of Revenue.

When the report must be filed.

Contents of report.

phlet Laws, four hundred twenty), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," as last amended by the act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Pamphlet Laws, one hundred eighty-four), are hereby further amended to read as follows:

Section 20. That hereafter, except in the case of corporations of the first class, *nonprofit corporations*, and cooperative agricultural associations not having capital stock and not conducted for profit, banks, savings institutions, title insurance, or trust companies, building and loan associations, and foreign insurance companies, it shall be the duty [of the president, vice-president, secretary, or treasurer] of every corporation having capital stock, every joint-stock association, limited partnership, and every company whatsoever, now or hereafter organized or incorporated by or under any laws of this Commonwealth, and of every corporation, joint-stock association, limited partnership, and company whatsoever, now or hereafter incorporated or organized by or under the law of any other State or Territory of the United States, or by the United States, or by any foreign government, and doing business in and liable to taxation within this Commonwealth, or having capital or property employed or used in this Commonwealth by or in the name of any limited partnership or joint-stock association, company, or corporation whatsoever, association or associations, copartnership or copartnerships, person or persons, or in any other manner, to make annually on or before the fifteenth day of March, for the calendar year next preceding, a report in writing to the Department of Revenue on a form or forms to be prescribed and furnished by it, [such report shall] *setting forth*, in addition to any other information required by the Department of Revenue: [set forth]

First. The amount of its capital stock at the close of the year for which report is made, together with the highest selling price per share, and the average selling price thereof during said year.

Second. Its debt account.

Third. Its income account, together with the disposition of any net income, and its profit and loss statement.

Fourth. Its general balance sheet.

Fifth. Its real estate and tangible personal property, if any, owned and permanently located outside of the Commonwealth, and value of the same; and the value of the property, if any, exempt from taxation.

Sixth. A valuation and appraisal, in the manner hereinafter provided, of the capital stock of the said

corporation, company, joint-stock association, or limited partnership, at its actual value in cash as it existed at the close of the year for which the report is made.

The affidavit of two of the officers of such corporation, limited partnership, joint-stock association or company, shall be attached to said report. Such affidavit shall be in the form required by the Department of Revenue, but shall state, in addition to any other averments required by the department, that, with fidelity and according to the best of their knowledge and belief, the affiants have estimated, valued and appraised, as shown in said report, the capital stock of the said corporation at its actual value in cash as it existed at the close of the year for which report is made; not less, however, than, first, the average which said stock sold for during the year; and second, not less than the price or value indicated or measured by net earnings or by the amount of profit made and either declared in dividends, expended in betterments, or carried into the surplus or sinking fund; and third, not less than the actual value indicated or measured by consideration of the intrinsic value of its tangible property and assets, and of the value of its good will and franchises and privileges, as indicated by the material results of their exercise, taking also into consideration the amount of its indebtedness.

Affidavit of officers.

Determination of actual value of capital stock.

The time for filing reports may be extended; taxpayers may be permitted to file their reports on a fiscal year basis; the procedure in case the Department of Revenue is not satisfied with the appraisalment made by the officers of the taxpayer, and the penalties for failing to file reports and pay taxes shall be as prescribed by law.

Procedure.

Section 21. (a) That every domestic corporation, other than corporations of the first class, *nonprofit corporation*, and cooperative agricultural associations not having capital stock and not conducted for profit, and every joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to, and pay into the Treasury of the Commonwealth annually, through the Department of Revenue, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special, and preferred, as ascertained in the manner prescribed in said twentieth section.

Tax of five mills on capital stock of domestic corporations, etc.

(b) Every foreign corporation, joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the Treasury of the Commonwealth annually, through the Department

Tax of five mills on capital stock of foreign corporation, etc.

The actual value of whole capital stock shall be divided into 3 equal parts.

of Revenue, a franchise tax at the rate of five mills upon a taxable value to be determined in the following manner. The actual value of its whole capital stock of all kinds, including common, special, and preferred, shall be ascertained in the manner prescribed in the twentieth section of this act, and shall then be divided into three equal parts.

(1) Of one third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the value of the taxpayer's tangible property situated within the Commonwealth, and whose denominator is the value of all the taxpayer's tangible property wherever situated.

(2) Of another third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the expenditures of the taxpayer for wages, salaries, commissions, or other compensation to its employes, and assignable to this Commonwealth as hereinafter provided, and whose denominator is the total expenditures of the taxpayer for wages, salaries, commissions, or other compensation to all its employes.

(3) Of the remaining third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the amount of the taxpayer's gross receipts from business assignable to this Commonwealth as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its business.

Taxable value.

Where only two of the rules are applicable.

If only one rule is applicable.

Amount assignable to the Commonwealth of expenses of taxpayer for wages, etc.

The sum of the amounts, determined in accordance with the foregoing three rules, shall be the taxable value. In a case where only two of the foregoing three rules are applicable, the remaining third equal part of the value of the entire capital stock shall be divided into two equal parts, each of which shall be apportioned in accordance with one of the remaining two rules. If only one of the three rules is applicable, that part of the entire capital stock attributed to business carried on within the Commonwealth shall be determined solely by that rule.

The amount assignable to this Commonwealth of expenditures of the taxpayer for wages, salaries, commissions, or other compensation to its employes, shall be such expenditures for the taxable year as represent the wages, salaries, commissions, or other compensation of employes not chiefly situated at, connected with, or sent out from premises for the transaction of business owned or rented by the taxpayer outside the Commonwealth.

The amount of the taxpayer's gross receipts from business assignable to this Commonwealth shall be the amount of its gross receipts for the taxable year from, (1) sales, fees, and commissions, except those negotiated or effected in behalf of the taxpayer by agents or agencies chiefly situated at, connected with, or sent out from premises for the transaction of business owned or rented by the taxpayer outside the Commonwealth, [and sales otherwise determined, by the Department of Revenue, to be attributable to the business conducted on such premises, and] (2) rentals or royalties from property situated or from the use of patents within this Commonwealth, and (3) dividends and interest, except such dividends and interest attributable to the business conducted on premises owned or rented by the taxpayer outside the Commonwealth. If a taxpayer maintains an office, warehouse, or other place of business in a state other than this Commonwealth for the purpose of reducing its tax under this subsection, the Department of Revenue shall, in determining the amount of its gross receipts from business assignable to this Commonwealth, include therein the gross receipts [from sales] attributed by the taxpayer to the business conducted at such place of business in another state.

Amount of gross receipts from the business assignable to the Commonwealth.

If a taxpayer maintains office, etc., outside of State to reduce the amount of tax.

A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditures of a taxpayer for wages, salaries, commissions, or other compensation, or the gross receipts of the taxpayer are found to be situated, incurred, or received without the Commonwealth.

Application of a rule.

(c) It shall be the duty of the treasurer or other officers having charge of any such corporation, joint-stock association, or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth within the time prescribed by law: [for the payment of State taxes settled by the Department of Revenue] Provided, That for the purposes of this act, interest in limited partnerships or joint-stock associations shall be deemed to be capital stock, and taxable accordingly: Provided [also] further, That corporations, limited partnerships, and joint-stock associations, liable to a tax under this section, shall not be required to pay any further tax on the mortgages, bonds, and other securities owned by them and in which the whole body of stockholders or members, as such, have the entire equitable interest in remainder; but corporations, limited partnerships, and joint-stock associations, owning or holding such securities as trustees, executors, administrators, guardians, or in any other manner than for the whole body of stockholders or members thereof as sole equitable owners in remainder, shall return and pay the tax imposed by this

Proviso.

Proviso.

Securities exempt from the tax.

Securities held in trust.

Proviso.

act upon all securities so owned or held by them, as in the case of individuals: Provided further, That the tax of five mills, imposed by this section on reports filed for the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, *and for each calendar year thereafter*, or for the fiscal years beginning in the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, *and for each fiscal year thereafter*, shall apply to the taxation of the capital stock of corporations, limited partnerships, and joint-stock associations, organized for laundering, for the processing and curing of meats, their products and by-products, and for manufacturing purposes, excepting companies engaged in the distilling of liquors: [Provided further, That after said two year period, the provisions of this section shall not apply to the taxation of the capital stock of corporations, limited partnerships, and joint-stock associations, organized for laundering, for the processing and curing of meats, their products and by-products, or for manufacturing purposes, which is invested in and actually and exclusively employed in, carrying on laundering, the processing and curing of meats, their products and by-products, or manufacturing within the State, excepting companies engaged in the distilling of liquors, and such as enjoy and exercise the right of eminent domain; but every corporation, limited partnership, or joint-stock association organized for the purpose of laundering, or processing and curing meats, their products and by-products, or manufacturing, shall pay the State tax of five mills herein provided, upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to the laundering or manufacturing business, or the business of processing and curing meats, their products and by-products, in addition to the local taxes assessed upon its property in the district where located; it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the laundering or manufacturing plant and business, or the plant and business used in the processing and curing of meats, their products and by-products] Provided further, [In] *That in case of fire and marine insurance companies, the tax imposed by this section shall be at the rate of five mills upon each dollar of the actual value of the whole capital stock: Provided, That nothing in this act shall be so construed as to apply to building and loan associations chartered by the State of Pennsylvania.*

Proviso.

Constitutional clause.

Section 2. If this act is declared unconstitutional by a final judgment, order, or decree of a court of competent jurisdiction, all the provisions of section

twenty-one of the act, amended by this act, pertaining to the taxation of the capital stock of foreign corporations, which were made inapplicable and inoperative thereto by this amendment, shall thereupon become operative and applicable in respect to such corporations, from the effective date of this act, and such corporation shall for that period and thereafter be taxed to the same extent and in the same manner, as if this amendment had not been enacted. In such event any taxes, which were settled under this act, shall, to the extent that such taxes have been paid and are unrefunded, be credited against the taxes settled and imposed for the same period, under the provisions of said section twenty-one, which are again made operative and applicable to foreign corporations by this section: Provided, That, if such credit exceeds the taxes due, the excess may be refunded upon application being made to the Board of Finance and Revenue in the manner prescribed by law.

Section 3. This act shall become effective immediately upon its final enactment. When effective.

APPROVED—The 8th day of April, A. D. 1937.

GEORGE H. EARLE

—  
No. 56

AN ACT

To further amend the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws, four hundred twenty), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," by increasing for a limited period of time the rate of tax imposed by the act upon the gross receipts of certain companies, limited partnerships, associations, joint-stock associations, copartnerships, and persons.

Section 1. Be it enacted, &c., That section twenty-three of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws, four hundred twenty), entitled "A further supplement to an act, entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," as last amended by the act, approved the sixth day of August, one thousand nine hundred thirty-six (Special Session of one thousand nine hundred thirty-six—Pamphlet Laws, eighty-seven), is hereby further amended to read as follows:

Section 23. That every railroad company, pipe line company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, and every other company, association,

Section 23, act of June 1, 1889 (P. L. 420), as last amended by act of August 6, 1936 (Special Session—P. L. 87), further amended.

Tax on gross receipts of utility companies.