

then the Commonwealth shall pay to such private or private of the first class an amount equal to the reduction below one dollar or one dollar and fifteen cents, so that the total pay of the private or private of the first class shall be respectively one dollar and fifty cents and one dollar and sixty-five cents. Under such regulations as the Governor as Commander-in-Chief may prescribe, and conforming with tables of organization authorized for the National Guard by the War Department, enlisted men of the sixth and seventh grades may be rated as specialists and receive the extra pay per diem allowed by the War Department for specialists. Hereafter enlisted men shall receive an increase of [ten] *five* per centum of their base pay for every [five] *three* years of service in the National Guard, or in the United States Army, Navy, or Marine Corps, or for any two or more of these services combined: Provided, That such increase shall not exceed [forty] *thirty* per centum of their base pay. All payments of per diem pay and service pay shall be made by the Adjutant General in the usual manner. No deductions shall be made from the pay of officers or enlisted men in active service for dues or other financial obligations imposed by any by-laws, rules, or regulations of a civic character.

Section 6. That section sixty of said act is hereby repealed.

Section 7. This act shall become effective immediately upon final enactment.

APPROVED—The 16th day of May, A. D. 1935.

GEORGE H. EARLE

No. 86

AN ACT

To further amend sections twenty and twenty-one of the act, approved the first day of June, one thousand eight hundred and 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 substituting a franchise tax on foreign corporations in lieu of the capital stock tax on such corporations; imposing a tax for a limited period upon that portion of the capital stock of certain corporations, joint-stock associations, limited partnerships, and companies which was heretofore exempt; increasing the rate of tax on the capital stock of fire and marine insurance companies; and making an appropriation.

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 and 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

Section 60 of said act, repealed.

When effective.

Taxation.

Sections 20 and 21, of June 1, 1889 (P. L. 420), as last amended by act of April 25, 1929 (P. L. 657), further amended.

the twenty-fifth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, six hundred fifty-seven), are hereby further amended to read as follows:

Section 20. That hereafter, except in the case of corporations of the first class 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. [stating specifically] *Such report shall, in addition to any other information required by the Department of Revenue, set forth:*

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

When report must be filed.

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.

Contents of report.

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. [The proportion of its capital stock invested in and actually and exclusively employed and used in manufacturing within the Commonwealth during the year for which report is made.]

[Seventh.] 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.

Affidavit
of officers.

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.

Determination
of actual
value of
capital stock.

Procedure.

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 appraisal made by the officers of the taxpayer, and the penalties for failing to file reports and pay taxes shall be as prescribed by law.

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

Section 21. (a) That every *domestic* corporation, other than corporations of the first class 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. [and it]

Tax of
five mills
on capital
stock of
foreign
corporation, 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 of Revenue, a franchise tax at the rate of five mills upon a taxable value to be determined in the following man-*

ner. 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.

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

The sum of the amounts, determined in accordance with the foregoing three rules, shall be the taxable value.

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.

Where only two of the rules are applicable.

If only one rule is applicable.

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.

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

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, except those negotiated or effected in behalf of the taxpayer by agents or agencies chiefly situated at,

Amount of gross receipts from business assignable to the Commonwealth

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. 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.

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

Application of a rule.

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.

*(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, That corporations, limited partnerships, and joint-stock associations, liable to a tax [on capital stock] 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 act upon all securities so owned or held by them, as in the case of individuals: [And provided] *Provided further, That the [provisions of this section] 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, or for the fiscal years beginning in the calendar years one thousands nine hundred and thirty-five and one thousand nine hundred and thirty-six, shall [not] apply to the taxation of the capital stock of corporations, limited**

Proviso.

Proviso.

Securities exempt from the tax.

Securities held in trust.

Proviso.

partnerships, and joint-stock associations, organized for laundering, for the processing and curing of meats, their products and by-products, [or] 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 [brewing or] distilling of [spirits or malt] 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 case of fire and marine insurance companies, the tax imposed by this section shall be at the rate of [three] *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.

Certain corporations exempt.

Proviso.

Proviso.

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 corporations 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

Constitutional clause.

Proviso.

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.

Act to be retroactive.

Section 3. The provisions of this act shall be retroactive to the first day of January, one thousand nine hundred thirty-five, so that capital stock of domestic corporation, 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, shall pay the tax imposed for the calendar years one thousand nine hundred thirty-five and one thousand nine hundred thirty-six, 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 in the same fashion as other corporations, limited partnerships, and joint-stock associations.

When effective.

Section 4. This act shall become effective immediately upon its final enactment, and its provisions shall be applicable to the settlements of franchise taxes on foreign corporations for the year ending the thirty-first day of December, one thousand nine hundred and thirty-five, or any fiscal years ending in the calendar year one thousand nine hundred and thirty-six.

Unemployment relief.

Section 5. The sum of eighteen million dollars (\$18,000,000), derived from the tax imposed under the provisions of this act on reports filed for the year one thousand nine hundred and thirty-five, shall be used only for unemployment relief and for such purposes is hereby appropriated.

APPROVED—The 16th day of May, A. D. 1935.

GEORGE H. EARLE

No. 87

AN ACT

To amend section thirteen hundred and five of the act, approved the ninth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, three hundred forty-three), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds