

any public utility service prior to the passage of this amendment.]

Section 2. The tax, imposed by this act, shall be settled at the rate of fourteen mills upon reports filed for the six months' periods ending June thirtieth, one thousand nine hundred and thirty-five; December thirty-first, one thousand nine hundred and thirty-five; June thirtieth, one thousand nine hundred and thirty-six; and December thirty-first one thousand nine hundred and thirty-six; and at the rate of eight mills upon reports filed for all periods thereafter. Rate.

Of the proceeds from the tax, imposed by this act, the sum of two million dollars (\$2,000,000) from the tax imposed for the six months' periods, ending June thirtieth, one thousand nine hundred and thirty-five, and December thirty-first, one thousand nine hundred and thirty-five, shall be used only for unemployment relief, and for such purposes is hereby appropriated. The balance of said proceeds, for said periods, shall be credited to the General Fund. All other taxes, penalties, and interest received and collected, under the provisions of this act, shall be credited to the General Fund. Unemployment relief.

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

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

GEORGE H. EARLE

No. 90

AN ACT

To provide revenue by imposing a State stamp tax upon certain documents and obligations; prescribing and regulating the method and manner of evidencing the payment of such tax; conferring powers and imposing duties upon certain persons, partnerships, associations, and corporations, county officers, and the Department of Revenue; making an appropriation, and providing penalties.

Section 1. Be it enacted, &c., That this act shall be known, and may be cited as "The Documentary Stamp Tax Act." Taxation. Title.

Section 2. The following words, when used in this act, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning. Definitions.

"Association." A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

"Corporation." A corporation, or joint-stock association, organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency.

“Department.” The Department of Revenue of this Commonwealth.

“Document.” A written instrument including the following:

1. Any deed, instrument, or writing whereby any lands, tenements, or hereditaments, or any interest therein, shall be granted, bargained, sold, or otherwise conveyed, to the grantee, purchaser, or any other person.

2. Any bond, debenture, or certificate, or evidence of indebtedness of any person, and any instrument, however termed, issued by any corporation with interest coupons attached or in registered form, known generally as corporate securities, except securities issued by this Commonwealth, or any political subdivision thereof, or by the United States: Provided, That every renewal of any of the foregoing documents shall constitute a new issue or document.

3. Any written obligation to pay money, including any promissory note (except bank notes issued for circulation and notes issued to mutual insurance companies, payable only on the happening of certain contingencies), non-negotiable note, judgment note, and any executory contract for the payment of money which is executed or carried out in an instrument in writing (except checks and drafts), and each renewal of any of the foregoing documents: Provided, That nothing herein contained shall refer or be construed to extend to contracts of insurance, annuity, suretyship, indemnity, and guarantee.

4. Any mortgage which incorporates the certificate of indebtedness, not otherwise shown in a separate instrument.

“Person.” Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term person, as applied to associations, shall mean the partners or members thereof, and as applied to corporations the officers thereof.

“Value.” (1) In the case of any document representing an obligation to pay money, the full amount of such obligation: Provided, That where a document, conditioned upon the repayment or payment of money, is given in a penal sum greater than the full amount secured, the term “value” shall mean the actual amount secured thereby.

(2) In the case of any document granting, bargaining, selling, or otherwise conveying any land, tenement, or hereditament, or interest therein, the amount of the actual consideration therefor, exclusive of liens or other encumbrances thereon, or exclusive of a commensurate part of the liens or other encumbrances thereon, where such liens or other encumbrances also encumber other lands, tenements, or hereditaments: Provided, That

where such document shall set forth a small or nominal consideration, the "value" thereof shall be determined from the price set forth in, or actual consideration for, the contract of sale, or in the case of a gift, from the actual monetary worth of the property granted, bargained, sold, or otherwise conveyed, which in either event shall not be less than the amount of the highest assessment of such lands, tenements, or hereditaments for local tax purposes.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 3. Every person who makes, executes, issues, or delivers any document, or in whose behalf any document is made, executed, issued, or delivered, shall be subject to pay for, and in respect to such document, or for or in respect of the vellum parchment or paper upon which such document is written or printed, a State tax at the rate of five cents (5c) for each one hundred dollars (\$100.00), or fraction thereof, of the value represented by such document, payable at the time of making execution, issuance, or delivery of such document.

Rate of tax.

Section 4. The payment of the tax, imposed by this act, shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, issuing, or delivering such document. Such stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing such stamps shall write or stamp, or cause to be written or stamped, thereon the initials of his name, and the date upon which such stamps are affixed or used, so that such stamps may not again be used: Provided, That the department may prescribe such other method of cancellation as it may deem expedient.

Documentary stamps.

Rules governing the use of the stamps.

Proviso.

Section 5. The department shall prescribe, prepare, and furnish adhesive stamps of such denominations and quantities as may be necessary for the payment of the tax imposed and assessed by this act. The department shall make provisions for the sale of such stamps in such places as it may deem necessary.

Department of Revenue to provide for the sale of stamps.

The department may appoint persons, within or without the Commonwealth, as agents for the sale of stamps to be used in paying the tax herein imposed upon documents, and whenever the department shall sell, consign, or deliver to any such agent, any such stamps for sale or use, such agent shall be entitled to receive as compensation for his services and expenses as such agent, and to retain out of the moneys to be paid by him for such stamps, a commission of two per centum on the face value thereof. The department is hereby authorized and required to allow such commission or compensation in the settlement of the accounts of such agent, upon payment by him into the State Treasury, through the de-

Agents.

Agent to receive commission on sales.

Unemployment
relief.

partment, of any moneys which may be or become due to the Commonwealth, by reason of such sale, delivery, or consignment to such agent of such stamps. All moneys paid into the State Treasury, during the first year after the effective date of this act, from the stamp tax imposed by this act, shall be used only for unemployment relief purposes, and for such purposes are hereby appropriated, and all moneys paid into the State Treasury, during the remaining effective period of this act, shall be credited to the General Fund.

Rules to be
adopted and
enforced by
the department.

Section 6. The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to:

(a) The method and means to be used in affixing or cancelling of stamps in substitution for, or in addition to, the method and means provided in this act.

(b) The denominations and sale of stamps.

(c) Any other matter or thing pertaining to the administration and enforcement of the provisions of this act.

Section 7. No document upon which tax is imposed by this act shall be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence in any court of this Commonwealth, unless a documentary stamp or stamps, as provided in this act, have been affixed thereto.

Value.
Affidavit.

Section 8. Every document upon which tax is imposed by this act, when lodged with or presented to any recorder of deeds or prothonotary in this Commonwealth for recording, shall set forth therein, and as a part of such document, the true, full, and complete value thereof, or shall be accompanied by an affidavit, executed by a responsible person connected with the transaction, showing such connection, and setting forth the true, full, and complete value thereof.

Penalty.

Any such recorder of deeds or prothonotary who shall record any document upon which tax is imposed by this act, without the proper documentary stamp or stamps affixed thereto, as required by this act, as is indicated in such document or accompanying affidavit, shall, upon summary conviction before any magistrate, alderman, or justice of the peace, or other officer having the powers of a committing magistrate, be sentenced to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution, and in default of payment thereof, undergo imprisonment for not more than ten (10) days: Provided, That when any document shall have been recorded, it shall be presumed that all requirements of law affecting the title to any real property, conveyed thereby, have been complied with.

Section 9. (a) It shall be unlawful for any person Penal section.
to:

1. Make, execute, issue, deliver, or accept, or cause to be made, executed, issued, delivered, or accepted, any document without the full amount of tax thereon being duly paid, or

2. Make use of any documentary stamp to denote payment of any tax, imposed by this act, without cancelling such stamp, as required by this act or as prescribed by the department, or

3. Fail, neglect, or refuse to comply with, or violate the rules and regulations prescribed, adopted, and promulgated by the department under the provisions of this act.

Any person violating any of the provisions of this subsection (a) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than two hundred dollars (\$200.00) and costs of prosecution, or to undergo imprisonment of not more than sixty (60) days, or both, in the discretion of the court.

(b) It shall be unlawful for any person to:

1. Fraudulently cut, tear, or remove from a document any documentary stamp, or

2. Fraudulently affix to any document, upon which tax is imposed by this act, any documentary stamp which has been cut, torn, or removed from any other document upon which tax is imposed by this act, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die plate, or other article, or

3. Wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp with intent to use, or cause the same to be used, after it has already been used, or knowingly buy, sell, offer for sale, or give away, any such altered or restored stamp to any person for use, or knowingly use the same,
or

4. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document, upon which tax is imposed by this act: Provided, That the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause, or

5. Knowingly or wilfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps.

Any person violating any of the provisions of this subsection (b) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00) and costs of prose-

cution, or to undergo imprisonment for not more than five (5) years, or both, in the discretion of the court.

Constitutional provision.

Section 10. The provisions of this act are severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions. It is hereby declared to be the legislative intent that this act would have been adopted, had such unconstitutional provisions not been included herein.

When effective.

Section 11. This act shall become effective thirty days after its final enactment, and shall remain in force for two years after said effective date.

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

GEORGE H. EARLE

—
No. 91

AN ACT

To provide revenue for State purposes by imposing an excise tax, for a limited period of time, on the net incomes of certain corporations, joint-stock associations, and limited partnerships; providing for the assessment and collection of the tax, and appeals to courts; conferring powers, and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State, and county officers, boards, and departments; making an appropriation, and providing penalties.

Taxation.

Title.

Section 1. Short Title. Be it enacted, &c., That this act shall be known, and may be cited as the "Corporate Net Income Tax Act."

Definitions.

Section 2. Definitions.—The following words, terms, and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

"Corporation." A corporation having capital stock, joint-stock association, or limited partnership either organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency, and doing business in this Commonwealth, or having capital or property employed or used in this Commonwealth by or in the name of itself, or any person, partnership, association, limited partnership, joint-stock association, or corporation. The word "corporation" shall not include building and loan associations, banks, bank and trust companies, national banks, savings institutions, beneficial life and limited life insurance companies, mutual fire, mutual casualty and mutual life insurance companies, and foreign stock companies registered in this Commonwealth and therein engaged in doing business as life, fire, and casualty insurance companies, and surety companies, and trust companies.