

WARNING

“IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME TO MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A LEGAL VOTER.”

(Twenty names only allowed on a petition of this nature.)



INITIATIVE PETITION

To the HONORABLE WILLIAM H. MURRAY, Governor of Oklahoma:

We, the undersigned citizens and legal voters of the State of Oklahoma, respectfully order that the following proposed Act shall be submitted to the legal voters of the State, for their approval or rejection, at the next election held throughout the State, and each for himself says:

“I have personally signed this petition; I am a legal voter of the State of Oklahoma, and of the County of _____; my residence and post office address are correctly written after my name.”

The time for filing this Petition expires NINETY DAYS from the 13th day of October, 1931.

The question we herewith submit to our fellow voters is:

“SHALL THE FOLLOWING PROPOSED ACT BE ADOPTED?”

A BILL TO BE ENTITLED:

AN ACT PROVIDING FOR RELIEF FROM AD VALOREM TAXATION BY LEVYING AN ANNUAL TAX UPON THE NET INCOME OF PERSONS, FIRMS, ASSOCIATIONS AND CORPORATIONS, DERIVED FROM PROPERTY OWNED AND BUSINESS DONE IN OKLAHOMA; PROVIDING FOR SPECIFIC EXEMPTIONS TO INDIVIDUAL TAXPAYERS; EXEMPTING CERTAIN PERSONS FROM THE PROVISIONS OF THIS ACT; CLASSIFYING CERTAIN TAXPAYERS WITHIN THE MEANING OF SECTION 5219, UNITED STATES REVISED STATUTES, AS AMENDED, RELATING TO NATIONAL BANKING ASSOCIATIONS, AND COMPLYING THEREWITH; PRESCRIBING THE RATES OF SUCH TAX; DEFINING CERTAIN TERMS, PROVIDING FOR THE COMPUTATION OF SUCH TAX AND FOR THE COLLECTION THEREOF BY THE OKLAHOMA TAX

COMMISSION; PROVIDING FOR REFUNDING TAXES ERRONEOUSLY PAID; DECLARING THE PROVISIONS OF THIS ACT TO BE SEVERABLE; REQUIRING RETURNS BY TAXPAYERS AND PRESCRIBING HOW THE SAME SHALL BE PREPARED AND FILED; EMPOWERING SAID COMMISSION TO ENFORCE THIS ACT AND TO PRESCRIBE AND ENFORCE RULES AND REGULATIONS IN RELATION THERETO; PROVIDING FOR THE DISPOSITION OF THE REVENUES ARISING HEREUNDER; DEFINING THE POWERS OF SAID COMMISSION IN THE COLLECTION OF DELINQUENT TAXES AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THIS ACT; REQUIRING ALL PERSONS PAYING INCOME TO OTHERS TO REPORT SAME TO SAID COMMISSION; DECLARING THAT OTHER TAXES IN LIEU OF AD VALOREM TAXES SHALL BE ADDITIONAL TO THE TAX HEREBY LEVIED; PROVIDING A LEGAL REMEDY FOR AGGRIEVED TAXPAYERS; AUTHORIZING EMPLOYEES AND EXPENSES FOR THE ENFORCEMENT OF THIS ACT, PROVIDING FOR THE PAYMENT THEREOF AND CREATING AN "INCOME TAX ENFORCEMENT FUND" THEREFOR, MAKING AN APPROPRIATION THEREFROM AND PROVIDING FOR THE DISPOSITION OF THE BALANCE THEREOF; REPEALING CHAPTER 72, SESSION LAWS 1927 AND ARTICLE 7, CHAPTER 66, SESSION LAWS 1931 AND ALL OTHER LAWS IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1.

The title of this Act shall be "Oklahoma Income Tax Law."

SECTION 2.

(a) It is hereby declared to be the purpose of this Act to provide for the reduction of the rate of ad valorem taxation throughout the State, so far as may be; and, for that purpose and to that end, it is hereby expressly provided that the revenue derived from the tax hereby imposed shall be used for the following purposes:

(b) Ninety-eight per centum of such moneys shall be apportioned as follows, to-wit: One-fourth thereof for the expenses of State government; and three-fourths thereof for the support of common schools, to be distributed upon a scholastic enumeration per capita basis, as provided by law.

(c) No school district shall be entitled to its quota under this Act until it shall have reduced its ad valorem school taxes in an amount equal to such quota. No funds received by any school district in excess of the approved estimate for any fiscal year shall be expended, but such funds shall be carried forward as surplus, and used to reduce the ad valorem tax levy for the next succeeding fiscal year. None of the provisions of this Act shall prevent any school district from receiving State Aid, under the provisions of Chapter 91, Session Laws of Oklahoma, 1927; provided, such school district shall have levied an ad valorem tax which, when added to its quota under this Act, shall equal a levy of fifteen mills; and such action by any school district shall be a full compliance with the requirements of said Act, and shall entitle such school district to State Aid out of the "Special Common School Equalization Fund," as though this Act had never been passed.

(d) The remaining two per centum of such moneys shall be placed to the credit of a fund to be designated the "Income Tax Collection Fund," to be expended and disposed of as provided by Section 23 of this Act.

SECTION 3.

When used in this Act:

(a) The term "person" means an individual, fiduciary, trust or estate, or a corporation;

(b) The term "individual" means a natural person;

(c) The term "fiduciary" means guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any other person;

(d) The term "corporation" includes associations, joint-stock companies, common law or statutory trusts and any and all other business organizations or entities, other

than natural persons, under whatever designation same may transact business, which are incorporated or organized under the laws of Oklahoma, or doing business in Oklahoma and organized and incorporated under the laws of any other state, the United States or any foreign country;

(e) "Net Income" means the gross income computed under the provisions of this Act, less the deductions allowed; and the net income of any taxpayer shall be computed upon the basis of the taxpayer's annual accounting period, (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as, in the opinion of the Oklahoma Tax Commission and under its rules and regulations, does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year, as herein defined, or if the taxpayer has no annual accounting period, the net income shall be computed on the basis of the calendar year;

(f) "Gross Income" includes gains, profits and income derived from salaries, wages or compensation for personal services, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, sales or dealings in property, whether real or personal, tangible or intangible, growing out of the ownership or use of, or interest in, such property; also from interest, rents, dividends, securities or the transaction of any business carried on for gain or profit; also amounts received by tax payers from life insurance policies upon the life of any officer or employe, in excess of the cash surrender value thereof; and also gains, profits and income derived from any and all sources whatsoever;

(g) The term "taxpayer" means any person subject to a tax imposed by this Act;

(h) The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed, under this Act. "Taxable year" includes, in case of a return made for a fractional part of a year, under the provisions of this Act or under regulations prescribed by the Oklahoma Tax Commission, the period for which such return is made. The first taxable year, to be called the taxable year 1931, shall be the calendar year 1931, or that portion of any fiscal year falling within the calendar year 1931;

(i) The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December;

(j) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this Act;

(k) The terms "includes" and "including," when used in a definition contained in this Act, shall not be deemed to exclude other things otherwise within the meaning of the term defined;

(l) The term "capital gain" means taxable gain from the sale or exchange of capital assets; the term "capital loss" means deductible loss resulting from the sale or exchange of capital assets; the term "capital deductions" means such deductions as are allowed by this Act for the purpose of computing net income which are properly allocable to, or chargeable against, capital assets sold or exchanged during the taxable year; the term "capital net gain" means the excess of the total amount of capital gain over the sum of the capital deductions and capital losses; and the term "capital net loss" means the excess of the sum of the capital losses plus the capital deductions over the total amount of capital gain;

(m) The term "capital assets" means property held by the taxpayer for more than two years previous to the date of sale or exchange (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer, if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business.

SECTION 4.

(a) A tax is hereby levied, for the taxable year 1931 and for each taxable year thereafter, at the rates hereinafter prescribed, upon the entire net income of every person, as defined by this Act, residing or domiciled within this State, derived from all property owned within the State of Oklahoma (and from intangible property wherever located) and from every business, trade, profession or occupation, carried

on within this State; and a like tax is hereby levied, for the taxable year 1931 and for each taxable year thereafter, at the rates hereinafter prescribed, upon the net income of every person, as defined by this Act, residing or domiciled elsewhere, derived from property owned and business done within this State. The tax herein levied upon the net income of all taxpayers, except those named in paragraph (b) hereof, shall be imposed according to the following schedule of rates:

- (1) One per centum upon the first \$2,000.00 of net income or any part thereof;
 - (2) Two per centum on that in excess of \$2,000.00 and not exceeding \$4,000.00;
 - (3) Three per centum on that in excess of \$4,000.00 and not exceeding \$8,000.00;
 - (4) Four per centum on that in excess of \$8,000.00 and not exceeding \$15,000.00;
 - (5) Five per centum on that in excess of \$15,000.00 and not exceeding \$25,000.00;
 - (6) Six per centum on that in excess of \$25,000.00 and not exceeding \$40,000.00;
 - (7) Seven per centum on that in excess of \$40,000.00 and not exceeding \$60,000.00;
 - (8) Eight per centum on that in excess of \$60,000.00 and not exceeding \$80,000.00;
 - (9) Nine per centum on that in excess of \$80,000.00 and not exceeding \$100,000.00;
- and
- (10) Ten per centum on that in excess of \$100,000.00.

(b) For the purpose of complying with the terms of Section 5219, United States Revised Statutes, as amended, the tax hereby levied upon the net income of national banking associations, state banks, trust companies, building and loan associations and other business corporations, associations and individuals whose moneyed capital is employed in competition with national banking associations, shall be imposed according to the following rates:

- (1) Ten per centum upon the first \$25,000.00 of net income or any part thereof;
- (2) Twelve and one half per centum on that in excess of \$25,000.00 and not exceeding \$50,000.00; and
- (3) Fifteen per centum on that in excess of \$50,000.00.

(c) The tax herein levied upon the net income of national banking associations, state banks, trust companies, building and loan associations and all other business corporations, associations or individuals whose moneyed capital is employed in competition with national banking associations, within the meaning and intent of said Section 5219, United States Revised Statutes, as amended, shall be exclusive, and is levied in lieu of all other taxes which may not, in addition to the tax hereby levied, be imposed upon national banking associations, under said Section 5219, United States Revised Statutes, as amended.

(d) The real estate of such taxpayers shall be taxed in the same manner as real estate belonging to taxpayers generally.

(e) The tax herein levied against the income of national banking associations, state banks, trust companies, building and loan associations, and all other business corporations, associations or individuals whose moneyed capital is employed in competition with national banking associations, shall not exceed the total ad valorem, excise, income and other taxes levied against other taxpayers and their property.

(f) The Oklahoma Tax Commission shall have the power, and it is hereby made its duty, upon the complaint of any such taxpayer, to lower the rate of tax levied under paragraph (b) hereof, in order that the taxes hereby imposed against any such taxpayer shall not be in excess of the total taxes levied against the persons and property of other taxpayers, including the tax levied under paragraph (a) of this Section.

(g) The total tax, in all cases, shall be computed by adding together the amounts payable under each of the rates hereinabove prescribed.

SECTION 5.

(a) In the computation of net income under this Act, the following items shall not be included in gross income, and shall be exempt from taxation:

- (1) Amounts received under life insurance policies and contracts paid upon the death of the insured, to individual beneficiaries; but amounts received by taxpayers from life insurance policies upon the life of any one of its officers or employees, in excess of the cash surrender value thereof, shall be taxable;
- (2) The amount received by the insured, as a return of premiums paid by him

under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract, or upon surrender of the contract;

(3) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income);

(4) Interest upon the obligations of the United States or its possessions;

(5) Salaries, wages and other compensations received directly from the United States, by officials or employes thereof, including persons in the military or naval forces of the United States;

(6) Any amounts received through accident or health insurance or other Workmen's Compensation Acts, as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness;

(7) Dividends received from stock in any corporation taxable under the provisions of this Act, to the extent: (a) In the case of a corporation whose entire net income is derived from property owned and business done in Oklahoma, all dividends representing distributions out of earnings or profits accumulated subsequent to January 1, 1931; and (b) In the case of a corporation doing business within and without the State, that portion of the dividends representing distributions out of earnings or profits accumulated subsequent to January 1, 1931, arising from property owned and business done within the State;

(b) The following items shall be included in gross income, but shall be exempt from taxation under this Act:

Capital net gain derived during the taxable year from the sale or exchange of capital assets located within the State of Oklahoma.

SECTION 6.

In computing the net income taxable under the provisions of this Act, there shall be allowed to any taxpayer, as deductions from gross income, as defined in Section 3 hereof:

(a) All the ordinary and necessary expenses paid or incurred, during the taxable year, in carrying on any trade or business which produces income derived wholly from sources within this State;

(b) All interest on indebtedness which is paid or accrued, within this State during the taxable year. Dividends paid to their stockholders by building and loan associations are hereby declared to be interest paid, and may be deducted from the gross income of such building and loan association, but the recipients of such interest shall include the same in gross income;

(c) All taxes paid to the State of Oklahoma, or any political subdivision thereof, during the taxable year, not including those assessed against local benefits;

(d) Losses actually sustained and debts ascertained to be worthless and charged off within the taxable year, if incurred in this State, in any transaction entered into for profit or in trade or business; and losses arising from fire, storms, theft or other casualty, occurring in this State, and not compensated for by insurance or otherwise; but no deduction shall be allowed for any capital net loss, as defined in Section 3 (1) hereof, which is sustained during the taxable year from the sale or exchange of capital assets located within the State of Oklahoma;

(e) In case of an individual taxpayer, any contribution or gift, within the taxable year, made and received for use in the State of Oklahoma, for religious, charitable, scientific, literary or educational purposes, to an amount which, in all cases, does not exceed ten per centum of the taxpayers net income, computed without the benefit of this deduction;

(f) An allowance for depreciation, in the case of property within the State which is used in trade or business, to cover the exhaustion, wear and tear and obsolescence of such property; and an allowance, in the case of mines, oil and gas wells, other mineral deposits and timber, situated within the State, to cover the depletion caused by the removal, from the natural state, of such products, together with the depreciation of improvements used in connection with such operations. Such allowance, in all cases, shall be fixed and determined by the Oklahoma Tax Commission, under Rules and Regulations to be prescribed by it, but no such allowance for depreciation or depletion in respect of any property shall ever exceed, in any taxable year, what it would be if computed upon the basis provided in Section 10 (f), or the amount

allowed for such taxable year, in respect of the same property, by the United States Treasury Department under its Regulations No. 74, upon the basis of the cost or other value of such property as determined under the provisions of Section 113 of the Federal Revenue Act of 1928;

(g) In the case of any taxpayer whose total income is derived from sources both within and without Oklahoma, there shall be allowed, as a deduction from the gross income derived from property owned or business done in Oklahoma, a fair, reasonable and just proportion of the total operating expenses of such taxpayer attributable to its Oklahoma income; provided, however, that no taxpayer doing business both within and without Oklahoma shall be permitted to include in expenses deductible from gross income arising in Oklahoma, any portion of any loss sustained from property owned or business done outside the State.

SECTION 7.

In computing net income no deduction shall, in any case, be allowed in respect of:

- (a) Personal, living or family expenses;
- (b) Any amount paid out for new buildings or for permanent improvements or betterments, made to increase the value of any property or estate;
- (c) Any amount expended in restoring property for which an allowance is or has been made;
- (d) Premiums paid on life insurance policies.

SECTION 8.

(a) There shall be deducted from net income the following exemptions:

- (1) In case of any individual taxpayer, an exemption of \$1,000.00;
 - (2) In case of the head of a family, or a married individual living with husband or wife, an exemption of \$1,000.00 additional; but husband and wife living together shall receive but one exemption of \$2,000.00 against their aggregate net income; and in case they make separate returns the personal exemption of \$2,000.00 may be taken by either or divided between them. In case either husband or wife dies within the taxable year the full exemption shall be allowed; and
 - (3) \$1,000.00 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent is under twenty-one years of age, or is incapable of self support because mentally or physically defective.
- (b) Credit for dependents shall be determined by the status of the taxpayer on the last day of his taxable year.

SECTION 9.

Whenever in the opinion of the Oklahoma Tax Commission the use of inventories is necessary, in order to clearly determine the income of any taxpayer, inventories shall be taken by such taxpayer, upon such basis as the Oklahoma Tax Commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business, and most clearly reflecting the income.

SECTION 10.

(a) The gain from the sale or other disposition of property shall be the excess realized therefrom over the basis provided in paragraph (e) of this Section, and the loss shall be the excess of such basis over the amount realized.

(b) In computing the amount of gain or loss under paragraph (a)—

(1) Proper adjustment shall be made for any expenditure, receipt, loss or other item, properly chargeable to capital account, and (2) the basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence and depletion, which have, since the acquisition of the property, been allowable in respect of such property, under this Act or prior income tax laws (but in no case shall the amount of the diminution, in respect of depletion, exceed a depletion deduction computed without reference to percentage depletion allowable under prior income tax laws); and (3) in the case of stock in corporations, the basis shall be diminished by the amount of distributions previously made in respect of such stock, in the nature of liquidating dividends.

(c) The amount realized from the sale or other disposition of property shall be the sum of any money received, plus the fair market value of the property (other than money) received.

(d) Upon the sale or exchange of property, the entire amount of the gain or

loss shall be recognized, except (1) in the case of the organization of a corporation, the stock or securities received shall be considered to take the place of property transferred, and no gain or loss shall be deemed to arise therefrom, and (2) in the case of reorganizations, mergers, or consolidations of corporations, exchanges of property or involuntary conversions, the Oklahoma Tax Commission shall, by Rules and Regulations prescribed by it, fix and determine the extent to which the gain or loss shall be recognized.

(e) The basis for determining the gain or loss from the sale or other disposition of property shall be the cost of such property, or such other value as may be fixed and determined by the Oklahoma Tax Commission proceeding so far as may be practicable, in accordance with the provisions of Section 113 of the Federal Revenue Act of 1928.

(f) The basis upon which exhaustion, wear and tear, obsolescence and depletion are to be allowed in respect of any property, shall be the same as that provided in paragraph (e) for the purpose of determining the gain or loss upon the sale or other disposition of such property.

SECTION 11.

(a) The following individuals shall each make, under oath, a return, stating specifically the items of gross income and the deductions and credits allowed under this Act:

(1) Every individual having a net income, for the taxable year, of \$1,000.00 or over, if single, or, if married, and not living with husband or wife;

(2) Every individual having a net income, for the taxable year, of \$2,000.00 or over, if married and living with husband or wife; and

(3) Every individual having a gross income, for the taxable year, of \$1,500.00 or over, regardless of the amount of his net income.

(b) If a husband and wife, living together, have an aggregate net income, for the taxable year, of \$2,000.00 or over, or an aggregate gross income, for such year, of \$2,500.00 or over:

(1) Each shall make such return; or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(d) Every fiduciary (except a receiver appointed by authority of law, in possession of part only of the property of an individual), as herein defined, shall make, under oath, a return for any individual, estate or trust for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed by this Act, or by Rules and Regulations prescribed by the Oklahoma Tax Commission, not to exceed those permitted by the Federal Government under the provisions of "supplement E" of the Federal Revenue Act of 1928, relating to estates and trusts. For the purpose of this paragraph, any fiduciary required to make a return shall be subject to all the provisions of law (including those of paragraph (a) of this Section) which apply to individuals, and, in addition, a return shall be made for every estate or trust the net income of which, for the taxable year, is One Thousand (\$1,000.00) Dollars or over; or if the gross income, for the taxable year, is Fifteen Hundred (\$1,500.00) Dollars or over, regardless of the amount of the net income. The tax imposed by Section 4 upon individuals shall apply to the income of estates or to the income from any kind of property held in trust. The tax shall be computed upon the net income of the estate or trust, after allowance of the same exemption as to a single person, and shall be paid by the fiduciary, except as may be otherwise provided in the Rules and Regulations of the Oklahoma Tax Commission with respect to revocable trusts and income of a trust which may, by the contract or law creating the trust, be distributed to the grantor, or be held or accumulated for future distribution to him.

(e) Every corporation subject to taxation under this Act shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this Act. The return shall be sworn to by the president, vice president or other principal officer, and by the treasurer or assistant treasurer. In cases where receivers, trustees in bankruptcy or assignees are operating the property or business of corporations, such receivers, trustees or assignees shall make returns for such

corporations, in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(f) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included, in computing the net income of each partner, his distributive share, whether distributed or not, of the net income of the partnership, for the taxable year; and such partnership net income shall be computed in the same manner and on the same basis as in the case of an individual, except that the deduction provided in Section 6 (e) shall not be allowed. Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this Act, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income, if distributed, and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

(g) Returns made on the basis of the calendar year shall be made on or before the 15th day of March, following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month, following the close of the fiscal year.

(h) At the time of making such return, the taxpayer shall remit to the Oklahoma Tax Commission the amount of the tax due, under the terms of this Act; and failure to pay said tax at the time of filing the return shall cause said tax to become delinquent; however the taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the filing of the return and payment of the tax by the taxpayer; the second installment shall be paid on the fifteenth day of the third month; the third installment on the fifteenth day of the sixth month; and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall become due and payable.

(i) Returns shall be in such form as the Oklahoma Tax Commission may, from time to time, prescribe, and shall be made, as nearly as may be practicable, in the manner and form of making the Federal income tax returns; and shall be filed with the said Oklahoma Tax Commission, on or before the dates herein specified; and the return of each taxpayer shall include a copy of his Federal income tax return covering the same period.

(j) The Oklahoma Tax Commission may grant a reasonable extension of time for filing returns, but such extension of time shall not extend the due date of the tax under this Act.

(k) Failure on the part of any taxpayer to receive or secure from the Oklahoma Tax Commission the form of return prescribed by it shall not relieve such taxpayer from the obligation of making and filing any return herein required.

SECTION 12.

(a) No final account of any fiduciary shall be allowed by any probate court of the State unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of this Act upon said fiduciary, which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the Oklahoma Tax Commission shall be conclusive as to the payment of the tax, to the extent of said certificate.

(b) For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the Oklahoma Tax Commission may, subject to the approval of the court having jurisdiction of any such estate, or as provided by Section 14 hereof, agree upon the amount of taxes, at any time due or to become due, from such fiduciaries, under the provisions of this Act, and payment, in accordance with such agreement, shall be full satisfaction of the taxes to which the agreement relates.

SECTION 13.

All persons, in whatever capacity acting, including lessees, mortgagors of real or personal property, fiduciaries, employers and all officers and employes of the State or of any political subdivision thereof, having the control, receipt, custody, disposal or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or other

periodical gains, profits or income, amounting to Five Hundred (\$500.00) Dollars or over, paid or payable, during any year, to any person, as herein defined, shall make complete returns thereof, under oath, to the Oklahoma Tax Commission, under such rules and regulations and in such form and manner and to such extent, as may be prescribed by it; and unless such income is so reported, the Oklahoma Tax Commission may disallow such payments, as deductions or credits, in computing the tax of the payor.

SECTION 14.

The Oklahoma Tax Commission is authorized to enter into an agreement to compound, settle or compromise any controversy arising over the correctness of the amount of any tax collectible under the terms of this Act; provided, however, in cases where the amount of tax claimed to be due exceeds One Thousand (\$1,000.00) Dollars, then such agreement to compound, settle or compromise shall not be effective until approved by judgment of the District Court of Oklahoma County, after a full hearing thereon; and not less than twenty days shall elapse between the time of the filing of the application to compound, settle or compromise said controversy, before final approval thereof.

SECTION 15.

Any member of the Oklahoma Tax Commission, or any agent or employe which it may designate, shall have power to administer an oath to any person, in respect to any return or report required by this Act or by the Rules and Regulations of said Commission.

SECTION 16.

(a) If any taxpayer, subject to the return required by this Act, fails to render such return within the time required, or renders any return which is false or fraudulent, in that it contains statements which differ from the true income of said taxpayer for the taxable year for which said return is made, the Oklahoma Tax Commission shall give such taxpayer ten days' notice, in writing, to appear before it, with such books, records and papers as it may require, relating to the business of such taxpayer, for such taxable year; and said Commission may require such taxpayer, or the agents or employes of such taxpayer, to give testimony or to answer interrogatories, under oath administered by the Chairman of the Oklahoma Tax Commission or any member thereof, respecting any income liable to such tax or the return thereof.

(b) If any such taxpayer shall fail to make any such return, or to permit an examination of its books, records or papers, or to answer questions within the scope of such investigation relating to said income, the Oklahoma Tax Commission may apply to the District Court of Oklahoma County, or to any judge thereof, for an order requiring such taxpayer to make such return, to answer any such questions or permit such examination; and the court, or any judge thereof, shall thereupon issue an order, upon such reasonable notice as shall be prescribed therein, to be served upon said taxpayer or the agent of such taxpayer, directing him to appear and testify, and to produce such books, records and papers as may be required.

(c) Any person, or any member of any firm or association, or any official, agent or employe of any corporation, failing to comply with any such order, shall be guilty of contempt, and shall be punished as provided by law in cases of contempt; provided, that the District Court of Oklahoma County shall have jurisdiction of contempt cases arising under this Act.

SECTION 17.

The Oklahoma Tax Commission is hereby authorized and empowered to prescribe, promulgate and enforce such Rules and Regulations as may be necessary to ascertain and compute the taxable net income of any taxpayer, subject to taxation under this Act; and, at all times, to exercise such authority as may be required to enforce each and every provision hereof.

SECTION 18.

(a) The Oklahoma Tax Commission is hereby authorized and empowered to revise and adjust any return that may be made to it, and it shall notify the taxpayer making such return of such revision, within the time heretofore provided; and it shall hear and determine any complaint arising from such revision, and it shall ascertain, compute and collect the amount of taxes due.

(b) Any refund found to be due any such taxpayer shall be paid upon verified

and approved claim; and the State Auditor shall issue his warrant therefor upon the State Treasury; and the same shall be paid out of the General Revenue Fund.

(d) If, upon such hearing before the Oklahoma Tax Commission or any such court, it be found that any taxpayer has been guilty of a violation of the provisions of this Act, by refusing to make a return, as herein provided, there shall be added to the tax due from such taxpayer, for the taxable year for which such return is required, a penalty of not to exceed \$25.00 per day for each and every day that such taxpayer has refused to make such return, after the date provided in this Act for the filing of such return; and except in case of a wilfully false or fraudulent return, with intent to evade the tax, the proceedings hereunder shall be had within three (3) years after the return was filed or was due to be filed. In the case of such wilfully false or fraudulent return such proceedings may be had at any time after the return was filed or was due to be filed.

SECTION 19.

(a) If any tax levied by this Act for any taxable year is not paid when due the same shall become delinquent and shall constitute a lien on all the property, personal and real, of such delinquent taxpayer, and shall be subject to the same penalties as are provided, by existing law, relating to ad valorem taxes; and the Oklahoma Tax Commission shall have power, and it shall be its duty, to issue to any Sheriff of this State a warrant, such as is provided for in Section 9725, Compiled Oklahoma Statutes, 1921, except that it shall command him to pay the amount collected to the Oklahoma Tax Commission.

(b) Such proceedings shall be had thereon to effect a sale of property of any such delinquent taxpayer for the collection of such tax, as is provided by law for sale of like property under execution.

(c) The lien hereinabove provided for shall be effective from and after the filing of a certificate of such non-payment of taxes in the office of the County Clerk of the County in which any real or personal property of such taxpayer is located. Such certificate shall be filed by the Oklahoma Tax Commission, signed by its Chairman, or any Member thereof, and attested by its Secretary, with the seal of said Commission affixed. Upon payment of the tax, the Commission shall execute and prepare a release thereof and file the same in the same manner as provided for the filing of such certificate.

SECTION 20.

(a) It shall be the duty of the Oklahoma Tax Commission to keep a record of all returns made and income taxes paid, under the provisions of this Act, which record and returns shall, at all times, be open to inspection by the taxpayer or by any State or Federal officer charged with the enforcement of a State or Federal income tax law, under rules and regulations to be prescribed and adopted by the Oklahoma Tax Commission, but such returns shall not be subject to examination by any other person.

(b) It shall be unlawful for the Oklahoma Tax Commission, or any member thereof, or any agent, clerk or other officer or employe of said Commission, to divulge in any manner the amount of income or any particulars set forth or disclosed in any report or return required by this Act.

(c) Any violation of the provisions of this Section shall constitute a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment; and the offender shall be removed or dismissed from office.

SECTION 21.

The provisions of this Act shall not apply to:

(a) That part of the net income of religious, eleemosynary, charitable, benevolent and fraternal institutions which income is used solely for religious, eleemosynary, charitable, benevolent or fraternal purposes;

(b) The income of insurance companies;

(c) The income of farmers organizations or associations formed and operated on a co-operative basis;

(d) The income of any corporation or association not organized for profit when no part of the net earnings thereof inures to the benefit of any private stockholder, individual or member.

The Oklahoma Tax Commission shall have the power, under rules and regulations to be prescribed by it, to grant certificates of exemption, for the period of each taxable year, to such corporations, associations or organizations as may be entitled thereto, as provided by this Section.

SECTION 22.

(a) When any taxpayer, as herein defined, liable to taxation under this Act, conducts business in such a manner as to either directly or indirectly benefit any member or stockholder of a corporation, or any person interested in such business, by selling the products, goods or commodities in which such taxpayer deals at less than the fair price which might otherwise be obtained therefor; or where a corporation, a substantial portion of whose capital is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock, in such a manner as to create a loss or improper net income, the Oklahoma Tax Commission may determine the amount of taxable income of such corporation for the taxable year, having due regard to the reasonable profit which, but for such arrangement or understanding, might or could have been otherwise, obtained from dealing in such products, goods or commodities.

(b) For the purpose of this Act, whenever a corporation which is required to file an income tax return, is affiliated with or related to any other corporation, through stock ownership by the same interests or as parent or subsidiary corporation, or whose income is regulated through contract or other arrangement, said Commission may require such consolidated statements as, in its opinion, are necessary, in order to determine the taxable income received by any one of the affiliated or related corporations.

SECTION 23.

(a) The Oklahoma Tax Commission shall appoint such employes, and incur such expenses as may be necessary to ascertain, compute and collect the taxes herein levied and for the enforcement of this Act; and, also, for the ascertainment, computation and collection of income taxes and penalties heretofore accrued under the Income Tax Law of 1915, being Article XX, Chapter 84, Compiled Oklahoma Statutes, 1921, as amended; and, upon presentation of itemized and verified claims therefor, approved by said Commission, the State Auditor shall draw his warrants upon the State Treasurer against the "Income Tax Collection Fund" created by Section 2, Subdivision (d) hereof, and the same shall be paid out of said fund heretofore created; and said "Income Tax Collection Fund," or so much thereof as may be necessary, is hereby appropriated for the payment of such employes and expenses.

(b) On March 15, 1933, and on March 15 of each year thereafter, any part of said "Income Tax Collection Fund" which shall remain unexpended, shall, by the State Treasurer, be transferred to, and become a part of, the General Revenue Fund of the State.

SECTION 24.

(a) A right of action is hereby created to afford a remedy at law for any taxpayer aggrieved by the provisions of this Act; and in case of any such taxpayer resisting the collection of the tax hereby levied or the enforcement of any provision of this Act in relation thereto, such taxpayer shall pay the tax, and shall give the Oklahoma Tax Commission and the State Treasurer notice, at the time, of his intention to file suit for the recovery of the same; and upon receipt of such notice, the tax so paid shall be segregated and held by the State Treasurer for a period of 30 days; and if suit be filed within such time, such funds so segregated shall be further held, pending the outcome of said suit.

(b) This section shall provide a right of action and legal remedy for any taxpayer aggrieved by any of the provisions of this Act; and shall be available in any court of this State or in any one of the courts of the United States having jurisdiction of the subject matter.

(c) This section shall also be construed to provide a legal remedy in the case of taxes paid by any taxpayer and claimed to be an unlawful burden on interstate commerce.

SECTION 25.

All gross production taxes, gross receipts and gross revenue taxes, required to be paid under the laws of this State, and stated therein to be in lieu of other taxes,

are hereby declared to be in lieu of general ad valorem property taxes, and shall not be construed to be in lieu of the net income tax hereby levied.

SECTION 26.

The provisions of this Act are severable, and if any part or provision hereof shall be held void, the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of this Act; and the people of the State of Oklahoma hereby expressly declare that they would have enacted the remaining parts and provisions of this Act, regardless of any parts or provisions hereof that may, if it so occurs, be held void or inoperative.

SECTION 27.

Chapter 72, Session Laws of Oklahoma 1927, being an Act imposing a "Tax on Money and Credits" in lieu of other forms of taxation; and Article 7 of Chapter 66, Session Laws of Oklahoma 1931, being an Act imposing a general "Income Tax;" and all other Acts and parts of Acts in conflict herewith, are hereby expressly repealed; Provided, that this Act shall not repeal or affect the Income Tax Law of 1915, being Article XX, Chapter 84, Compiled Oklahoma Statutes, 1921, and amendments thereto, relating to enforcement and collection of accrued taxes and penalties under said Act.

THE END.



J. BERRY KING
ATTORNEY GENERAL

STATE OF OKLAHOMA
OFFICE OF THE ATTORNEY GENERAL
OKLAHOMA CITY
November 23, 1931.

Honorable R. A. Sneed,
Secretary of State,
B u i l d i n g .

Dear Sir:

You are hereby notified that pursuant to the discretion and duty lodged in and imposed upon the Attorney General by Section 6632, C. O. S. 1921, he has examined the proposed ballot title of State question No. 167, Initiative Petition No. 112, which, together with a copy of said petition, was delivered to him at 4:30 o'clock P.M., Friday, November 20, 1931, by the Honorable Baxter Taylor, and from said examination the Attorney General finds that said ballot title is not in legal form or in harmony with the law

Therefore, pursuant to the provisions of Section 6632, supra, the Attorney General has prepared and herewith submits to you as Secretary of State, for filing in your office, a ballot title for said Initiative Petition, which, in the opinion of the Attorney General, does conform to the law, same being as follows:

BALLOT TITLE

PROPOSED STATUTORY ENACTMENT

STATE QUESTION NO. 167

INITIATIVE PETITION NO. 112.

THE GIST OF THE PROPOSITION IS:

"AN ACT repealing existing State Income Tax laws and money and credits tax law; providing for the levying of an annual net income tax on the income of persons, firms, associations and corporations derived from property owned and business done in Oklahoma and fixing the rate thereof; exempting certain persons, institutions, companies, associations and corporations from the provisions of Act; classifying certain tax-payers; providing for collection of tax with penalties for non-payment or for failure to make returns; providing apportionment of revenue between expense of collection, cost of State Government, and support of common schools.

SHALL IT BE ADOPTED:

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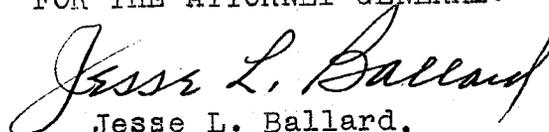
Hon. R. A. Sneed,
Page 2.

In connection with the above matter your attention is called to an opinion of this office addressed to you under date of May 20, 1931, wherein it was held that a proposed ballot title of an Initiative Petition should not be delivered to the Attorney General for his approval or revision until after the original petition had been "finally approved by you" and until it was certain that the petition would be voted upon by the people.

Since then we have orally advised proponents of other Initiative Petitions that your approval does not become final until the statutory ten days' period for appeal from your decision to the Supreme Court has expired without an appeal being taken, and if so taken, until after said appeal is finally decided by said Court. However, as the Courts have not passed on this question and in order that the Attorney General may not be the means of officially thwarting or delaying the submission of this measure, he has at this time prepared and filed in your office, as above set forth, a ballot title for said Initiative Petition.

Yours very truly,

FOR THE ATTORNEY GENERAL.



Jesse L. Ballard,
Assistant Attorney General.

JLB/DB
op-st