



R. A. SNEED  
SECRETARY  
UNA LEE ROBERTS  
ASSISTANT

DEPARTMENT OF STATE  
STATE OF OKLAHOMA  
OKLAHOMA CITY

May 14, 1932.

RECEIVED from Baxter Taylor, a legal voter, Ward One, whose address is 1000 West 24th Street, Oklahoma City, Oklahoma, and Ira Mitchell, a legal voter, Ward One, whose address is 124 West 28th Street, Oklahoma City, Oklahoma, a true and exact copy of a petition which has been prepared for circulation and signatures of voters of Oklahoma, the same being Initiative Petition No. 120, State Question No. 175.

Within said copy of said Initiative Petition No. 120, State Question No. 175 appears your correction of a typographical error as follows:

On page 11, paragraph B, Section One, line two, and the eighth word therein; namely, the word "Section"; from said word was inadvertently omitted by the printer the letter "e", so as to make the letters spell "Section", and thereby correcting the typographical error.

SECRETARY OF STATE.

By   
Asst. Secretary of State.

*Filed 11:55 am  
May 14<sup>th</sup> - 1932.*

# 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 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 law shall be submitted to the legal voters of the State of Oklahoma, for their approval or rejection, at the next regular election held throughout the State, a special election to be called by the Governor, or a mandatory primary election designated by the Governor as a special election for such purpose, as provided by the Constitution and law of 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 14th day of May, 1932.

The question we herewith submit to our fellow voters is:

"SHALL THE FOLLOWING PROPOSED LAW BE ADOPTED?"

A BILL TO BE ENTITLED:

AN ACT PROVIDING FOR RELIEF FROM AD VALOREM TAXATION BY LEVYING AN ANNUAL NORMAL TAX AND A SURTAX UPON THE NET INCOMES OF INDIVIDUALS, ESTATES AND TRUSTS; BY LEVYING AN ANNUAL EXCISE TAX ON CORPORATIONS AND BANKS, ACCORDING TO OR MEASURED BY THEIR NET INCOMES, WITH PROVISIONS FOR A MINIMUM TAX ON CERTAIN OF THEM; PROVIDING FOR THE DISPOSITION OF THE REVENUES ARISING HEREUNDER; 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 TAXES HEREIN LEVIED AND DEFINING TERMS; PROVIDING FOR SPECIFIC EXEMPTIONS TO INDIVIDUAL TAXPAYERS; EXEMPTING RELIGIOUS, CHARITABLE, ELEEMOSYNARY, EDUCATIONAL, BENEVOLENT, FRATERNAL AND OTHER CORPORATIONS OR ORGANIZATIONS NOT ORGANIZED FOR PROFIT; PROVIDING FOR THE COMPUTATION AND COLLECTION OF SUCH TAXES BY THE OKLAHOMA TAX COMMISSION, AND EMPOWERING SAID COMMISSION TO ENFORCE THIS ACT AND TO PRESCRIBE AND ENFORCE RULES AND REGULATIONS IN RELATION THERETO; DEFINING THE POWERS OF SAID COMMISSION IN THE COLLECTION OF ADDITIONAL AND DELINQUENT TAXES AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THIS ACT; AUTHORIZING EMPLOYEES AND EXPENSES FOR THE ENFORCEMENT OF THIS ACT, PROVIDING FOR THE PAYMENT THEREOF, CREATING A COLLECTION AND ENFORCEMENT FUND THEREFOR, MAKING AN APPROPRIATION THEREFROM AND PROVIDING FOR THE DISPOSITION OF THE BALANCE THEREOF; REQUIRING RETURNS BY TAXPAYERS AND PRESCRIBING HOW THE SAME SHALL BE PREPARED AND FILED; MAKING SUCH TAXES AND PENALTIES A LIEN ON TAXPAYERS' PROPERTY; REQUIRING PERSONS AND CONCERNS PAYING INCOME TO INDIVIDUALS TO REPORT SAME TO SAID COMMISSION; PROVIDING A LEGAL REMEDY FOR AGGRIEVED TAXPAYERS; DECLARING THE PROVISIONS OF THIS ACT TO BE SEVERABLE; REPEALING CHAPTER 72, SESSION LAWS, 1927, AND ARTICLES 4 AND 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-Excise Tax Law."

SECTION 2.

The provisions of this Act shall apply only to the taxable year 1932 and succeeding taxable years. Income taxes for taxable years preceding the taxable year 1932, and license fees on corporations for the fiscal year ending June 30, 1932, and prior years, shall not be affected by the provisions of this Act, but shall remain subject to the applicable provisions of prior law, except as such provisions are modified herein.

SECTION 3.

(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 hereunder, from all taxes and penalties and interest thereon, 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 paragraph (b) 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 hereof 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 hereunder, 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-Excise Tax Collection Fund," to be expended and disposed of as provided by Section 52 of this Act.

#### SECTION 4.

The provisions of this Act are herein classified and designated as—

Division A—Sections numbered 5 to 15, both inclusive, providing for a net income tax on individuals;

Division B—Sections numbered 16 to 34, both inclusive, providing for an excise tax on corporations, including national banking associations, according to or measured by the net income of such corporations and associations; and

Division C—Sections numbered 35 to 55, both inclusive, pertaining to administration and enforcement of all the provisions of this Act, declaring them to be severable, and repealing conflicting laws.

### DIVISION A SECTIONS 5 TO 15, INCLUSIVE.

#### SECTION 5.

For the purposes of computing the tax levied in Sections 6 and 7 of this Act:

- (a) The term "individual" means a natural person;
- (b) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate;
- (c) The term "taxpayer" means any person, trust or estate subject to a tax imposed in Division A of this Act, or whose income is, in whole or in part, subject to a tax imposed in Division A of this Act, and does not include corporations;
- (d) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not a trust or estate, or classed as a corporation within the provisions of Section 19 (a) (3) of this Act; and the term "partner" includes a member in such syndicate, group, pool, joint venture or organization;
- (e) "Net income" means the gross income computed under the succeeding provisions of Division A hereof, less the deductions allowed;
- (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; and also gains, profits and income derived from any and all sources whatsoever;
- (g) 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 paragraph (e) of this section. "Taxable year" includes, in the case of a return made for a fractional part of a year, under the provisions hereof, or under regulations prescribed by the Oklahoma Tax Commission, the period for which such return is made;
- (h) The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December;
- (i) 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 Division A of this Act;
- (j) The terms "includes" and "including," when used in a definition herein, shall not be deemed to exclude other things otherwise within the meaning of the term defined;
- (k) The term "capital gain" means taxable gain from the sale or exchange of capital assets; and 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 in Division A of 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;

(1) 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 6.

(a) A normal tax is hereby levied, to be collected and paid for each taxable year, upon the entire net income of every individual which is derived from all property owned and/or business transacted within this State. Every individual domiciled in the State of Oklahoma, and every other individual who maintains a permanent place of abode within the State or spends in the aggregate more than seven months of any taxable year within this State, shall also be subject to the tax herein levied upon the entire net income of such individual arising from personal service and received as salaries, wages, commissions, trades and professional or occupational earnings.

(b) For the purposes of taxation under this Act a taxable situs is hereby declared to exist within the State of Oklahoma in respect to the following classes of property:

(1) All obligations (or other evidences of debt) secured by mortgages or liens upon property located within this State (including bonds of municipal subdivisions thereof). The net income derived therefrom is subject to taxation under this Act, whether received by a resident or by a non-resident individual.

(2) All obligations (or other evidences of debt) secured by mortgages or liens upon property located here or elsewhere, all stocks in any corporation, and bonds of any municipality or state, owned by a resident of this State. The net income derived therefrom is subject to taxation under this Act when received by any resident individual.

(c) The normal tax herein levied shall be equal to the sum of the following:

(1) One per centum (1%) of the first \$2,000 of the amount of the net income in excess of the credits against net income provided in Section 11;

(2) Two per centum (2%) of the next \$2,000 of such excess amount;

(3) Three per centum (3%) of the next \$3,000 of such excess amount;

(4) Four per centum (4%) of the next \$3,000 of such excess amount; and

(5) Five per centum (5%) of the remainder of such excess amount.

#### SECTION 7.

In addition to the normal tax levied by Section 6, there is hereby levied, upon the net income of every individual, a surtax, to be collected and paid for each taxable year, as follows:

(a) Upon a net income of \$10,000 there shall be no surtax; upon net incomes in excess of \$10,000 and not in excess of \$12,000, one-half of one per centum ( $\frac{1}{2}\%$ ) of such excess;

(b) \$10 upon net incomes of \$12,000; and upon net incomes in excess of \$12,000 and not in excess of \$14,000, one per centum (1%) in addition of such excess;

(c) \$30 upon net incomes of \$14,000; and upon net incomes in excess of \$14,000 and not in excess of \$18,000, one and one-half per centum ( $1\frac{1}{2}\%$ ) in addition of such excess;

(d) \$90 upon net incomes of \$18,000; and upon net incomes in excess of \$18,000 and not in excess of \$25,000, two per centum (2%) in addition of such excess;

(e) \$230 upon net incomes of \$25,000; and upon net incomes in excess of \$25,000 and not in excess of \$35,000, two and one-half per centum ( $2\frac{1}{2}\%$ ) in addition of such excess;

(f) \$480 upon net incomes of \$35,000; and upon net incomes in excess of \$35,000 and not in excess of \$50,000, three per centum (3%) in addition of such excess;

(g) \$930 upon net incomes of \$50,000; and upon net incomes in excess of \$50,000 and not in excess of \$65,000, three and one-half per centum ( $3\frac{1}{2}\%$ ) in addition of such excess;

(h) \$1,455 upon net incomes of \$65,000; and upon net incomes in excess of \$65,000 and not in excess of \$80,000, four per centum (4%) in addition of such excess;

(i) \$2,055 upon net incomes of \$80,000; and upon net incomes in excess of \$80,000 and not in excess of \$100,000, four and one-half per centum (4½%) in addition of such excess;

(j) \$2,955 upon net incomes of \$100,000; and upon net incomes in excess of \$100,000, five per centum (5%) in addition of such excess.

#### SECTION 8.

(a) In the computation of the net income of any taxpayer, as defined in Section 5 (c), under Division A of 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;

(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 obligations of the United States or its possessions;

(5) Salaries, wages and other compensations received directly from the United States, by officials or employees 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;

(b) The following items shall be included in gross income, but shall be exempt from taxation under Division A of 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 9.

In computing the net income taxable under the provisions of Division A of this Act, there shall be allowed to any taxpayer, as defined in Section 5 (c) hereof, as deductions from gross income:

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

(b) All interest actually paid, during the taxable year, on the personal indebtedness of a resident individual; and all interest which is paid or accrued, during such year, on indebtedness incurred to produce income taxable under this Division;

(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, theft or other casualty, occurring in this State, and not compensated for by insurance or otherwise; but no deduction shall be allowed in respect of any capital net loss, as defined in Section 5 (k) hereof, which is sustained during the taxable year from the sale or exchange of capital assets located within the State of Oklahoma;

(e) Any contribution or gift, within the taxable year, made and received for use in the State of Oklahoma, to a corporation, institution, or organization, for religious, charitable, scientific, literary or educational purposes, to an amount which, in all cases, does not exceed ten per centum of the taxpayer's 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. 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 12 (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 such 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 Oklahoma income; provided, however, that no such 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 10.

In computing net income under Division A of this Act, no deduction shall, in any case, be allowed in respect of:

- (a) Personal, living or family expenses; or for
- (b) Any amount paid out on new buildings or for permanent improvements or betterments, made to increase the value of any property or estate; or for
- (c) Any amount expended in restoring property for which an allowance is or has been made; or for
- (d) Premiums paid on life insurance policies, whether or not the taxpayer is, directly or indirectly, a beneficiary thereunder.

#### SECTION 11.

There shall be allowed for the purpose of the normal tax levied under Section 6, but not for the surtax levied under Section 7, the following credits against the net income:

- (a) The amount received as dividends from any corporation subject to taxation under Division B of this Act (except dividends from a building and loan association, deducted from the gross income of such an association, as provided in Section 21 [h] hereof.)
- (b) In the case of a single person, a personal exemption of \$1,000; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,000. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be \$2,000. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.
- (c) \$1,000 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under twenty-one years of age or is incapable of self support because mentally or physically defective.
- (d) If the status of the taxpayer, in so far as it affects the personal exemption or credit for dependents, changes during the taxable year, or if the individual derives income apportionable in part to property owned and/or business done outside of Oklahoma, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Oklahoma Tax Commission; the apportionment on account of change in status to be made in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

#### SECTION 12.

- (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 Division A of 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 13.

(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 Division A of this Act:

(1) Every individual having a gross income, or gross receipts, for the taxable year, of \$1,000 or over, if single, or, if married, and not living with husband or wife; and

(2) Every individual having a gross income, or gross receipts, for the taxable year, of \$2,000 or over, if married and living with husband or wife.

(b) If a husband and wife, living together, have an aggregate gross income, or gross receipts, for such year, of \$2,000 or over;

(1) Each shall make a 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 net income.

(c) If the individual 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 individual.

(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 Division A of 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 Division A of this Act, which apply to individuals, and a return shall be made for every estate or trust the gross income or gross receipts of which, for the taxable year, is one thousand dollars (\$1000) or over. The tax imposed by Sections 6 and 7 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 credits for the normal tax 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) 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 9 (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 in Division A of 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 one of the partners.

(f) 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.

#### SECTION 14.

(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 37 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 15.

(a) All persons, banks or corporations, in whatever capacity acting, including lessees, mortgagors of real or personal property, fiduciaries, employers, and all officers or employees 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 one thousand dollars (\$1,000) or over; paid or payable during any year, to any taxpayer, as defined in Section 5, shall make complete reports 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 payments of income are so reported, the Oklahoma Tax Commission may disallow such payments, as deductions, in computing the tax of the taxpayer making such payments.

(b) Such reports may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of dividend payments by corporations subject to the tax imposed by Division B of this Act, and (3) in the case of any broker transacting any business, as such, for any individual subject to the provisions of Division A of this Act. The Oklahoma Tax Commission may require such corporations to state the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him; and, in the case of a broker, it may require submission of the names of the customers for whom such broker transacted any business with such details as to profits, losses or other information which the said Commission may require as to each of such customers. Any reports required under this subsection shall likewise be rendered to the Oklahoma Tax Commission

under oath, and in accordance with rules and regulations adopted and prescribed by said Commission.

**DIVISION B**  
**SECTIONS 16 TO 34, INCLUSIVE**

**SECTION 16.**

(a) Every national banking association located within the limits of this State, shall annually pay to the State a tax according to or measured by its net income, to be computed in the manner hereinafter provided, at the rate of ten per centum (10%) upon the basis of its net income for the next preceding fiscal or calendar year.

(b) The State of Oklahoma is hereby adopting the method numbered (4) authorized by Section 5219, United States Revised Statutes, as amended; and the tax herein levied shall be in lieu of all other taxes, state, county and municipal, upon such national banking associations; except taxes upon their real property.

**SECTION 17.**

(a) For the privilege of exercising its corporate franchise within this State—

- (1) Every bank or trust company (other than a national banking association);
- (2) Every insurance corporation;
- (3) Every building and loan association; and
- (4) Every other financial corporation doing such business as a corporation may be created to do under the banking law of the State, or doing any business which a corporation is authorized by such law to do;

shall annually pay to the State, if doing business within the limits of this State, for the privilege of exercising its corporate franchise, or of doing business in a corporate or organized capacity within this state, an excise tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of ten per centum (10%) upon the basis of its net income for the next preceding fiscal or calendar year.

(b) In any event, each such bank or corporation shall annually pay to the State, for the said privilege, a minimum tax, but not less than \$25.00, measured by the value of its capital stock employed in Oklahoma (as hereinafter defined), during the taxable year, which tax shall be at the rate of \$1.00 per each one thousand dollars (or portion thereof), of the value during such taxable year, of such capital stock employed in this State. This provision for a minimum tax shall not be applied unless, by the application thereof, a tax will result in excess of the amount which would be produced by the tax according to or measured by the net income of such corporation, as levied in paragraph (a) of this section, and then in lieu thereof.

(c) Every insurance company subject to the tax on its gross premiums levied by Article 1, Chapter 51, Compiled Oklahoma Statutes, 1921, shall be entitled to an offset against its tax computed under paragraphs (a) and (b) of this section, for the total amount of tax paid, during its taxable year, upon its gross premiums; and, if in excess of the amount of tax payable under the provisions of said paragraphs (a) and (b) hereof, then the gross premiums tax shall be in lieu thereof.

(d) The tax levied in paragraphs (a) and (b) of this section shall be in lieu of all other taxes, state, county and municipal, upon the corporations enumerated in this section, except taxes upon their real property, and, in the case of insurance companies subject thereto, the gross premiums tax levied by Article 1, Chapter 51, Compiled Oklahoma Statutes, 1921.

**SECTION 18.**

(a) Every mercantile, manufacturing, business or other corporation, except those enumerated in Sections 16 and 17 hereof, but including every other corporation, and any association or organization defined as a "corporation" in Section 19 hereof, doing business in a corporate or organized capacity within the limits of this State, shall annually pay to the State, for the privilege of exercising its corporate franchise or of doing business in a corporate or organized capacity within this State, an excise tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of ten per centum (10%) upon the basis of its net income for the next preceding fiscal or calendar year.

(b) In any event, each such corporation or organization shall annually pay to

the State, for the said privilege, a minimum tax, but not less than twenty-five dollars (\$25.00), measured by the value of its capital stock employed in Oklahoma (as hereinafter defined), during the taxable year, which tax shall be at the rate of one dollar (\$1.00) per each one thousand dollars (or portion thereof), of the value during such taxable year, of such capital stock employed in this State. This provision for a minimum tax shall not be applied unless, by the application thereof, a tax will result in excess of the amount which would be produced by the tax according to or measured by the net income of such corporation or organization, as levied in paragraph (a) of this section, and then in lieu thereof.

(c) All taxes levied under this Section and under Sections 16 and 17 of this Act, shall accrue on the first day after the close of the "taxable year," as defined in Section 20 (c) hereof; and, when the tax is computed according to or measured by the net income, the basis thereof shall include the entire net income from all sources, which is presumably the same as the entire net income which any taxpayer subject hereto is required to report to the United States, plus or minus such adjustments thereto as may be necessary to conform to "net income" when computed in the manner hereinafter provided.

(d) The tax levied in Sections 6 and 7 of this Act upon the net incomes of individuals, is hereby levied against the net income of any corporation which may be exempt or immune from the excise tax levied in Section 17 (a) or (b) or in Section 18 (a) or (b) hereof, by reason of its business being wholly interstate in character, and/or its property being employed wholly in interstate commerce. The same tax is likewise levied against that portion of the net income of any corporation which is excluded from the computation of any excise tax levied in Section 17 (a) or (b) or in Section 18 (a) or (b) of this Act, by reason of its being derived from business done in interstate commerce. In lieu of the rates prescribed in said Sections 6 and 7, there shall be levied, collected and paid for each taxable year, a tax upon the net income of each such corporation, or upon such portion thereof derived from interstate business, at the rate of ten per centum (10%) thereof, such net income to be computed in the same manner as that provided in Division "A" hereof for the computation of the net income of an individual.

#### SECTION 19.

As used in Section 17 and succeeding sections of this Division—

(a) The term "corporation" means a corporation or organization (other than a partnership, as defined in Section 5, Division A of this Act) (1) created or organized under the laws of Oklahoma, or (2) qualified to do or doing business in Oklahoma in a corporate or organized capacity by virtue of creation or organization under the laws of any other state, territory or district, or of a foreign country. Subject to such definition the term "corporation" includes (3) associations, joint stock companies, common law or statutory trusts, and other business organizations or entities which are organized for profit and whose business is conducted by a trustee or trustees, and where the interest or ownership is evidenced by certificate, declaration of trust, or other written instrument; (4) every financial corporation (other than a national banking association); and (5) every mercantile, manufacturing, business or other corporation of the classes referred to in subdivision one (c) of Section 5219 United States Revised Statutes, as amended.

(b) The term "financial corporation" means (1) every insurance corporation, (2) every building and loan association, and (3) every corporation doing such business as a corporation may be created to do under the banking law of this State, or doing any business which a corporation is authorized by such law to do.

(c) The term "bank," as hereinafter used, shall include national banking associations.

(d) The term "taxpayer" as hereinafter used in this Division, means any bank or corporation, as herein defined, subject to any tax levied in Sections 16, 17 and 18 of this Act.

#### SECTION 20.

(a) The term "gross income," as herein used, includes gains, profits and income derived from the business, of whatever kind and in whatever form paid; gains, profits or income from dealing in real or personal property; gains, profits or income received as compensation for services, as interest, rents, commissions, brokerage or other fees,

or otherwise received in carrying on such business; all interest received from Federal, State, municipal or other bonds, and, except as hereinafter provided, all dividends received on stocks. The term "gross income" does not include the following items which shall be exempt from taxation hereunder:

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured.

(2) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance, endowment or annuity contracts, either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon.

(b) (1) The term "net income," as herein used (except in the case of insurance companies), means the gross income computed under Section 20 (a) less the deductions allowed by Section 21.

(2) In the case of insurance companies, the Oklahoma Tax Commission is authorized, by rules and regulations to be prescribed and adopted by it, to define "gross income" and "net income," to conform as nearly as may be, consistent with other provisions of this Act, to the definitions of such terms as given in Supplement "G" of the Federal Revenue Act of 1928, relating to the taxation of insurance companies.

(c) The term "taxable year," as herein used, means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed herein. "Taxable year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made.

(d) The term "fiscal year," as herein used, means an accounting period of twelve months ending on the last day of any month other than December.

(e) 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 hereunder.

#### SECTION 21.

In computing "net income" the following deductions shall be allowed:

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which it has no equity.

(b) All interest paid or accrued during the taxable year on indebtedness.

(c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid to the State under this Act, and other than taxes on income or profits paid or accrued within the taxable year imposed by any other taxing authority, and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise. In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition, the taxpayer has acquired (otherwise than by bequest or inheritance), or has entered into a contract or option to acquire, substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business. If such acquisition, or the contract or option to acquire, is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of the property so acquired shall be the basis in the case of

the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

(e) Debts ascertained to be worthless and charged off within the taxable year, or, in the discretion of the Oklahoma Tax Commission, hereinafter designated as "Commission," a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable in part only, the Commission may allow such debt to be charged off in part. In the case of a debt existing on the date fixed by Section 22 hereof for the ascertainment of a gain or loss on the part of the taxpayer, no more than its fair market value on that date shall be deducted.

(f) An allowance for depreciation, to cover the exhaustion, wear and tear and obsolescence of property; and an allowance, in the case of mines, oil and gas wells, other mineral deposits and timber, 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. No such allowance for depreciation or depletion in respect of any property shall ever exceed, in any taxable year, 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) Dividends received during the taxable year from a bank or corporation subject to any tax imposed by this Act. The burden shall be on the taxpayer to show that the amount of dividends claimed is a proper deduction.

(h) In the case of a building and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited, as dividends, on or apportioned to the withdrawable shares of such association during the taxable year, on money borrowed or obtained through the issue by the association of all classes of such stock.

(i) In the case of a mutual savings bank, the entire amount of interest paid to depositors possessing no proprietary interest in the institution or in its surplus, and interest on their deposits to members possessing a proprietary interest in the institution or in its surplus.

(j) In the case of farmers', fruit growers', or like associations organized and operated in whole or in part on a co-operative or a mutual basis, (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, all income resulting from or arising out of such business activities for or with their members carried on by them or by their agents; or when done on a nonprofit basis for or with nonmembers.

(k) In the case of other associations organized and operated in whole or in part on a co-operative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis.

(l) If any deduction provided for in this section is finally adjudged discriminatory against a national banking association, contrary to Section 5219 of the Revised Statutes of the United States, or is for any reason finally adjudged invalid, in that event the tax of the favored taxpayer shall be recomputed by the Commission for the taxable year in question, as of the time of allowance of the deduction, by disallowing the deduction, and any difference between the amount of the tax as recomputed and the amount of the tax as originally computed shall be subject to the provisions hereof relating to original computations.

#### SECTION 22.

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal or mixed, acquired on or after January 1, 1931, the basis shall be the cost thereof, or the inventoried value if the inventory is

made in accordance with this Act; and in the case of property acquired prior to January 1, 1931, and disposed of thereafter, the basis shall be the same as that determined under the provisions of Section 113 of the Federal Revenue Act of 1928.

The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence and depletion which have, since the basic date, been allowable in respect of such property under this Act.

#### SECTION 23.

Upon the sale or exchange of property the entire amount of the gain or loss, determined under the preceding section shall be recognized, with the exceptions provided for in section 112 of the Federal Revenue Act of 1928, which are hereby referred to and incorporated with the same force and effect as though fully set forth herein.

#### SECTION 24.

When property is exchanged for other property and no gain or loss is recognized under the provisions of the preceding section, the property received shall be treated as taking the place of the property exchanged therefor.

#### SECTION 25.

In computing net income under this Division no deduction shall be allowed for:

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property; or for

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or for

(c) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

#### SECTION 26.

If the entire business of the bank or corporation is done within this State, the tax, levied in Section 16, Section 17 (a) and Section 18 (a), shall be according to or measured by its entire net income; and if the entire business of such bank or corporation is not done within this State, the tax shall be according to or measured by that portion thereof which is derived from business done within this State. The portion of net income derived from business done within this State, shall be determined by an allocation upon the basis of business done, sales, purchases, expenses of manufacturing, pay roll, value and situs of tangible property, or by reference to these or other factors, or by such other method of allocation as is fairly calculated to assign to the State the portion of net income reasonably attributable to the business done within this State and to avoid subjecting the taxpayer to double taxation.

If the Commission reallocates net income upon its examination of any return, it shall, upon the written request of the taxpayer, disclose to it the basis upon which its reallocation has been made.

#### SECTION 27.

Every bank and corporation shall, within two months and fifteen days after the close of its taxable year, transmit to the Commission a return in a form, prescribed by it, specifying, for the taxable year, all such facts as it may by rule, or otherwise, require in order to carry out the provisions of this Act. Every such return shall be verified by an executive officer of such bank or corporation.

#### SECTION 28.

(a) A bank which locates or commences to do business within the limits of this State, and a corporation which commences to do business in this State, after the effective date of this Act, shall thereupon prepay the minimum tax of \$25.00 hereunder, and upon the filing of its return within two months and fifteen days after the close of its taxable year, its tax for that year shall be adjusted upon the basis of the net income received during that taxable year; or, upon the alternative basis provided in Section 17 (b) or in Section 18 (b), whichever is applicable, if in excess thereof. Said return shall also, in accordance with sections 41, 43 and 44, be the basis for the tax of said bank or corporation for its second taxable year, except that

in every case in which the first taxable year of a bank or corporation constitutes a period of less than twelve months, the net income or other basis to be used as the measure of the tax for the second taxable year shall be in the same proportion to the net income, or other basis, for the first taxable year as the number of months in the second taxable year bears to the number of months covered by the return for the first taxable year.

(b) Any bank or corporation which is dissolved and any foreign corporation which withdraws from the State during any year shall pay a tax hereunder only for the months of its taxable year which precede such dissolution or withdrawal, according to or measured by such proportionate part of the net income of the preceding taxable year as the number of months of the year prior to such dissolution or withdrawal bears to the entire preceding taxable year. In any event, each such corporation shall pay a minimum tax of twenty-five dollars for such period.

(c) If any bank or corporation discontinues actual operations within the State in any year and thereafter has no net income but does not dissolve or withdraw from the State, it shall in the succeeding year and thereafter until dissolution, withdrawal or resumption of operations, pay an annual tax to the State of twenty-five dollars.

(d) The tax liability imposed under this Division shall attach whether a bank or corporation has a taxable year of twelve months or of less duration.

#### SECTION 29.

(a) In the case of two or more corporations or banks or of one or more banks and one or more corporations owned or controlled directly or indirectly by the same interests, the Commission is authorized to distribute, apportion, or allocate gross income or deductions between or among such corporations or banks, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such corporations or banks.

(b) An affiliated group of banks or an affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for any taxable year in lieu of separate returns. In the case of a bank or corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such bank or corporation for such part of the year as it is a member of the affiliated group. As used in this section an affiliated group means two or more banks or two or more corporations connected through stock ownership, in the case of a bank, with a common parent bank or in the case of a corporation, with a common parent corporation, if at least ninety-five per centum (95%) of the stock of each of the banks or corporations, except the common parent bank or corporation, is owned directly by one or more of the other banks or corporations, as the case may be, and the common parent bank or corporation owns directly at least ninety-five per centum (95%) of the stock of at least one of the other banks or corporations, as the case may be; or if at least ninety-five per centum (95%) of the stock of each of the banks in the banking group, or of each of the corporations in the corporate group is owned by the same interests or by the same stockholders. As used in this section the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(c) This section shall not apply when the tax levied hereunder is computed according to the provisions of Section 17 (b) or Section 18 (b).

#### SECTION 30.

(a) For the purpose of computing the excise tax, measured according to the method provided in Section 17 (b) or in Section 18 (b) hereof, the value of the capital stock employed in Oklahoma shall be the value of that portion of the capital stock of the corporation which is determined: (1) by an allocation upon the basis of business done, sales, purchases, expenses of manufacturing, payroll, value and situs of tangible property; or (2) by reference to these or other factors; or (3) by such other method of allocation as is fairly calculated to assign to the State of Oklahoma, the portion of the capital stock reasonably attributable to the business done within this State.

(b) In the case of an organization classed as a corporation, within the meaning of that term as defined in Section 19 of this Act, the term "Capital Stock" shall include any certificate or other written instrument evidencing interest or ownership in such organization.

(c) It is further provided that if the capital used or invested in the business or enterprise of any corporation or organization includes borrowed capital of any form in excess of the capital stock, surplus and undivided profits of such corporation or organization, such excess of borrowed capital, or the proper proportion thereof, shall be added to the capital stock employed in Oklahoma, and as a part thereof, as the basis for computing the excise tax under this section.

(d) The portion of the capital stock of any corporation or organization employed in this State, based upon the allocation herein, or such other allocation authorized, which shall be prescribed by rules and regulations of the Oklahoma Tax Commission, shall be segregated and its value stated by the corporation or organization, and shall be included in the report or return required by other provisions of this Act to be made to the Oklahoma Tax Commission; and the value of said capital stock, as so reported, shall prima facie be the measure of the value of the capital stock of such corporation or organization apportioned to this State for the purpose of computing the amount of excise tax due under this section.

(e) There shall also be included in any report or return required to be made by the corporation or organization, under the provisions of this Act, the following:

(1) The amount of its authorized capital stock;

(2) The amount thereof then paid up;

(3) The number of shares into which its authorized capital stock is divided;

(4) The par value of each share, and the number of shares issued and then outstanding;

(5) The location of its principal office; and, if a foreign corporation, the name and address of its designated agent for service of process residing at the capital of the State;

(6) The names of its officers and directors, the residence and postoffice address of each, and the number of shares of each class of stock held by each;

(7) The book value of all property owned or used in its business, wherever located, as it existed on the last day of the taxable year next preceding the filing of such report;

(8) The book value of all property owned or used in its business, within this State, on the last day of such taxable year;

(9) The total amount of all business, wherever transacted, during the taxable year next preceding the filing of such report;

(10) The total amount of all business transacted in this State during such year; and

(11) Balance sheets in such form as may be prescribed by the said Commission, for the beginning and close of the taxable year preceding the filing of such report.

(f) If any corporation or organization required to make a return under this Act, has no authorized capital stock, or if any of its shares of stock have no par value, then it shall so state in its return, and shall state the book value of its capital, or of its stock having no par value, and shall also make the showing required of all other corporations or organizations.

#### SECTION 31.

(a) All taxes levied under the provisions of Sections 16, 17 and 18 of this Act, shall be for the calendar or fiscal year in which such taxes accrue and become due.

(b) If the corporation is of the class heretofore subject to the license fee levied under the provisions of Chapter 66, Article 4, Session Laws of Oklahoma, 1931, known as the "Oklahoma Corporation License Law," the tax hereunder shall be in lieu thereof; therefore,

(1) If the net income of such corporation is computed on the basis of a fiscal year ending on the last day of the months of January, February, March, April or May, of the calendar year 1932, the proportionate part of any license fee paid under said "Oklahoma Corporation License Law" prior to the effective date of this Act, for the year ending June 30, 1932, shall be credited against the tax computed under this Act, on the basis which the number of months in 1932, after the close of such corporation's fiscal year for which the license fee was paid, bears to twelve months.

(2) If the net income of such corporation is computed on the basis of the calendar year 1932, or of a fiscal year ending on the last day of the months of

July, August, September, October or November, 1932, there shall be added to the tax computed under this Act, the proportionate part thereof which the number of months, in 1932, after June 30th, and prior to the close of such corporation's calendar or fiscal year, bears to twelve months.

(3) If such a corporation pays its license fee for the year ending June 30, 1933, prior to the effective date of this Act, the entire amount of such license fee so paid, under the provisions of said "Oklahoma Corporation License Law," shall be credited against the tax computed under this Act.

(c) Any bank or corporation subject to a tax levied under the provisions of this Act, if not a corporation of the class heretofore subject to the license fee levied under the said "Oklahoma Corporation License Law," shall be first subject to the taxes herein levied for the taxable year 1932.

#### SECTION 32.

If any tax computed and levied hereunder is not paid within the taxable year for which levied, or, if any penalties, interest or additional assessments, provided in Sections 41, 43 and 44, are not paid within the time therein provided, the corporate powers, rights and privileges of the delinquent taxpayer, if it be a domestic corporation, shall be suspended and shall be incapable of being exercised for any purpose or in any manner; and, if the delinquent taxpayer be a foreign corporation it shall thereupon forfeit its right to do business in this State.

The Oklahoma Tax Commission shall transmit the names of such corporations to the Secretary of State, who shall immediately record the same in such manner that it may be available to the public. The suspension or forfeiture herein provided for shall become effective immediately upon such record being made, and the certificate of the Secretary of State shall be prima facie evidence of such suspension or forfeiture.

Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic corporation, or who transacts or attempts to transact any business in the State in behalf of any such foreign corporation, shall be guilty of a misdemeanor, and, upon conviction therefor, shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) and not exceeding one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not less than fifty days or more than one year, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business occurred. Every contract made in violation of this section is hereby declared to be voidable.

#### SECTION 33.

Any corporation which has suffered the suspension or forfeiture provided for in the preceding section may be relieved therefrom upon payment of the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred.

#### SECTION 34.

Pursuant to the policy therein established, and in harmony with the exemptions granted by Section 6, Article X of the Constitution, exempting from ad valorem taxation certain corporations and organizations therein named, to-wit: religious, charitable, eleemosynary and educational corporations and organizations, the provisions of this Act shall not apply to such corporations or organizations; nor to benevolent or fraternal institutions; nor to any corporation or organization not organized for profit, when no part of the net earnings thereof inures to the benefit of any private stockholder, individual or member.

### DIVISION C

#### SECTIONS 35 TO 55, INCLUSIVE

#### SECTION 35.

Whenever in the opinion of the Oklahoma Tax Commission the use of inventories is necessary, in order clearly to determine the income of any taxpayer subject to any of the provisions of this Act, 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 36.

(a) The net income of any taxpayer subject to a tax imposed by this Act 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 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, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

(b) If it is necessary to compute the tax levied in Sections 6 and 7, Division A, of this Act, for a period beginning in 1931 and ending in 1932, then the tax for the period ending in 1932 shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to 1931 and at the rates for such year, which the portion of such period falling within 1931 is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to 1932 and at the rates for such year, which the portion of such period falling within 1932 is of the entire period.

#### SECTION 37.

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 Dollars (\$1,000.00), 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 38.

Every return required by this Act 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 Federal income tax returns. Each return shall be filed with the said Commission on or before the dates herein specified, and if the form provides therefor, each taxpayer shall fill in a copy of any Federal income tax return filed by such taxpayer covering the same period. Blank forms of returns shall be furnished by said Commission on application therefor, but failure to secure or receive the form of return prescribed shall not relieve any taxpayer from the obligation of making and filing any return herein required.

#### SECTION 39.

The Oklahoma Tax Commission may grant a reasonable extension of time for filing any return required under this Act, on written request therefor, whenever, in the judgment of said Commission, a good cause exists therefor. A record of every extension granted and the reason therefor shall be kept. No such extension or extensions shall aggregate more than six months, nor shall any such extension extend the due date of any tax levied under this Act.

#### SECTION 40.

(a) If any taxpayer, subject to make and file a return required by any provision of 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, requiring such taxpayer, his or its agents or employees, 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 employees 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 appear and 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, or requiring the taxpayer, his agents or employees to appear 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, failing to comply with such order, shall be guilty of contempt, and shall be punished as provided by law in cases of contempt; and the District Court of Oklahoma County shall have jurisdiction of contempt cases arising under this Act.

#### SECTION 41.

(a) As soon as practicable after the return is filed, the Commission shall examine it and shall determine the correct amount of the tax. If the Commission determines that the tax disclosed by the original return is less than the tax disclosed by its examination, it shall mail notice to the taxpayer, at the post office address of such taxpayer which must appear on the return, of the additional tax proposed to be assessed against such taxpayer. Such notice shall set forth the details of the proposed additional assessment and of computing said tax.

(b) Within sixty days after the mailing of said notice, the taxpayer may file with the Commission, a written protest against the levy of the proposed additional tax, as computed by the Commission, specifying therein the grounds upon which the protest is based. The protest must be under oath.

(c) If no such protest is so filed, the amount of the tax shall be final upon the expiration of said sixty-day period. If a protest is so filed, it shall be the duty of the Commission to reconsider the computation and levy of the tax complained of, and if the taxpayer has so requested in its protest, it shall be the duty of the Commission to grant said taxpayer, or his or its authorized representatives, an oral hearing. After consideration of the protest, and the evidence adduced in the event of such oral hearing, the Commission's action upon the protest shall be final upon the expiration of thirty days from the date when it mails to the taxpayer notice of its action, and the taxpayer shall then proceed as prescribed in Section 53.

(d) Except in the case of a fraudulent return, every notice of additional tax proposed to be assessed hereunder shall be mailed to the taxpayer within two years after the return was filed, and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period.

#### SECTION 42.

If, upon any such revision or adjustment, or, as the result of the dissolution of any bank or corporation, or the withdrawal of any bank or corporation from the State, as provided in Section 28 (b), any refund is found to be due any taxpayer, it shall be paid upon verified and approved claim filed therefor, and the State Auditor shall issue his warrant to cover the same, drawn upon the State Treasury, which shall be paid out of the General Revenue Fund; and said fund, or so much thereof as may be necessary, is hereby appropriated for that purpose. Any claim for refund under this section must be filed within two years from the date of the payment of the tax.

#### SECTION 43.

(a) Interest upon the amount determined as a deficiency under the provisions of Section 41 of this Act shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the Commission, and shall be collected as a part of the tax, at the rate of six per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed.

(b) If the time for the payment of the tax or any installment thereof has been extended, under the provisions of Section 39 of this Act, there shall be collected as part

of such tax, interest thereon at the rate of six per centum per annum from the date when such payment should have been made if no extension had been granted, until the date the tax is paid.

(c) If the amount determined by the taxpayer as the tax imposed by this Act, or any installment thereof, or any part of such amount or installment is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of one per centum a month from the date prescribed for its payment until it is paid.

(d) When an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined as provided hereinabove, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in subsection (b) of this section, interest at the rate of one per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(e) Where a deficiency, or any interest or penalties assessed under this Act have not been paid in full within ten days from the date of notice and demand from the commission, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of one per centum a month from the date of such notice and demand until such assessment is paid.

#### SECTION 44.

(a) At the time of transmitting the return required hereunder to the Oklahoma Tax Commission, the taxpayer shall remit therewith, to the said Commission, the amount of the tax due under the applicable provision of this Act, and failure to pay such 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 two equal installments, in which case one-half the amount of tax disclosed by the return shall be due and payable on or before the fifteenth day of the third month following the close of the taxable year, and the balance of the tax shall be due and payable on or before the fifteenth day of the ninth month following the close of the taxable year. The tax or any installment thereof may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(b) Where an extension of time for filing returns has been granted by the Commission under the provisions of Section 39 of this Act, the first installment shall be paid prior to the expiration of such extension.

(c) If one-half of the tax is not paid on or before its due date, or the due date as extended by the Commission, it shall be delinquent and a penalty of five per centum added thereto. If the balance is not paid at the time it is due and payable, it shall be delinquent and a penalty of five per centum added thereto. At the time of the delinquency of the second installment an additional penalty of five per centum shall be added to the first installment unless that installment has theretofore been paid.

(d) All taxes and penalties imposed under this Act must be paid to the Oklahoma Tax Commission at Oklahoma City in the form of remittances payable to it.

#### SECTION 45.

(a) Any bank, corporation or other taxpayer subject to the provisions of this Act, failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the Commission, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not exceeding five thousand dollars (\$5,000.00) for each such offense.

(b) Any person required to make, render, sign or verify any report as aforesaid, who makes any false or fraudulent return, with intent to defeat or evade the assessment required by law to be made, or the tax hereby levied, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than three hundred dollars (\$300.00) and not more than five thousand dollars (\$5,000.00) or be imprisoned in the county jail not exceeding one year, or punished by both such fine and imprisonment.

(c) The venue of prosecutions arising under subsection (a) hereof shall be either the county in which the taxpayer resides or wherein is maintained by such taxpayer a place of business; and, prosecutions arising under subsection (b) hereof

may be maintained in either the county where such return was verified or in Oklahoma county where such return shall have been filed.

(d) All prosecutions of offenses provided for by any section of this Act may be maintained upon complaint or information endorsed by the attorney for the Oklahoma Tax Commission to the same effect as by the other methods of criminal prosecutions provided by law.

#### SECTION 46.

If any return required by this Act is not made, the Commission is authorized to make an estimate of the net income and to compute and levy the amount of tax due under this Act from any information in its possession.

#### SECTION 47.

Any member of the Oklahoma Tax Commission, or any agent or employee whom 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 48.

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 tax payable by 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 49.

(a) Any accrued tax, and all penalties and interest thereon, in case the same shall become delinquent, shall constitute a perpetual lien upon all the property, both personal and real, of such taxpayer, and such lien shall be preferred and superior to all mortgages or other liens, whether taken, filed or recorded prior or subsequent to the accrual of such tax. No notice of such lien shall be required to be filed of record. 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. In case the State of Oklahoma should become the purchaser of any property as a result of any sale under this section, then such property shall be sold at any time upon thirty days notice by advertisement in three issues of a newspaper published and of general circulation in the county seat of the county where such property is located. If published in a daily newspaper, the publication shall appear once a week for three consecutive weeks. Such property shall be sold to the highest bidder for cash; provided, however, that any time after original purchase thereof by the State and prior to the subsequent sale thereof as herein provided, the original owner of such property may redeem the same by payment of the amount of tax due at the time of redemption together with all accrued penalties; whereupon, the State of Oklahoma, by the Oklahoma Tax Commission, shall execute the statutory form of bill of sale or quit claim deed to the party redeeming said property.

#### SECTION 50.

(a) It shall be the duty of the Oklahoma Tax Commission to keep a record of all returns made, and income or excise taxes paid, to it 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 tax law corresponding hereto, 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 employee of said Commission, to divulge in any manner the amount of income or any particular 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) 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 51.

All production taxes, gross receipts (except the gross premiums tax imposed on foreign insurance companies) 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 or excise tax hereby levied.

#### SECTION 52.

(a) The Oklahoma Tax Commission shall appoint such employees, 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/or corporation license fees or taxes and penalties thereon, which have heretofore accrued under prior income tax laws, or under prior laws levying a corporation license fee; 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-Excise Tax Collection Fund" created by Section 3 sub-division (d) hereof, and the same shall be paid out of said fund heretofore created; and said "Income-Excise Tax Collection Fund," or so much thereof as may be necessary, is hereby appropriated for the payment of such employees and expenses.

(b) On March 15, 1934, and on March 15th of each year thereafter, any part of said "Income-Excise 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 53.

(a) A right of action is hereby created to afford a remedy at law for any taxpayer aggrieved by the provisions of this Act, or the provisions of prior income and/or license tax laws; and in case of any such taxpayer resisting the collection of any income, excise or license tax hereby or heretofore levied, or the enforcement of any provision of such laws in relation thereto, such taxpayer shall pay the tax, and shall give the Oklahoma Tax Commission 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 Oklahoma Tax Commission in its depository account with the State Treasurer for a period of thirty 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 or prior laws relating to income or corporation license taxes or fees, and shall be available in any court of this State, or in any court of the United States having jurisdiction of the parties and subject matter.

(c) This Section shall be construed to provide a legal remedy in State or Federal Courts in case such taxes are claimed to be an unlawful burden on interstate commerce.

#### SECTION 54.

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 55.

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;" Article 4, Chapter 66, Session Laws of Oklahoma, 1931, relating to Corporation License Fees; 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 enforcement and collection of accrued taxes and penalties under any of said Acts, but the provisions hereof as to procedure and legal remedy shall be the available and exclusive remedy in all cases arising under such prior laws.

THE END

State of Oklahoma  
Office of the Attorney General  
Oklahoma City

October 15, 1932.

J. Berry King  
Attorney General

Honorable R.A. Sneed,  
Secretary of State,  
Building.

*Received 9:00 a.m.  
October 17, 1932  
W. L. R.*

Dear Sir:

You are hereby notified that the Attorney General has examined the proposed ballot title of State Question No. 175 Initiative Petition No. 120, which, together with a copy of said Petition, was delivered to the Attorney General on October 15, 1932, by the Honorable Baxter Taylor and Ira Mitchell, who are the proponents of said Petition, and from said examination the Attorney General finds that said ballot title is in legal form and in harmony with the law. Said proposed ballot title is as follows:

"AN ACT for reduction of advalorem taxes by levying taxes on incomes of individuals, associations and trusts, and excise taxes on incomes of corporations and banks; exempting religious, charitable, eleemosynary, educational, benevolent, fraternal and other organizations not operating for profit; fixing time and manner of returns; providing remedy for aggrieved taxpayers; providing for collection of such taxes; making apportionment thereof to state Government, common schools and expenses of collection; and repealing existing income and money and credits tax laws."

You are further advised that on October 5, 1932, the Attorney General gave you a written opinion approving a ballot title for said Petition, which was worded exactly the same as the above quoted title. However, on this date, same being ten days after said Petition was finally found to be sufficient, the proponents of said Petition decided to and did re-submit said ballot title to the Attorney General for his approval, and we have promptly re-approved the same, as aforesaid. This second approval of said ballot title is in accord with our opinion to you dated October 10, 1932, a copy of which was sent on said date to the proponents of said Petition.

We are mailing a copy of this opinion to Messrs. Taylor and Mitchell for their information.

Very truly yours,

FOR THE ATTORNEY GENERAL

FRED HANSEN  
Fred Hansen  
Assistant Attorney General.

FH:IH  
op-st



DEPARTMENT OF STATE  
STATE OF OKLAHOMA  
OKLAHOMA CITY  
October 22, 1932.

In the Matter of  
State Question No. 175  
Initiative Petition No. 120.

To Honorable J. Wm. Cordell,  
Secretary, State Election Board.

I, R. A. Sneed, Secretary of State of the State of Oklahoma, do hereby certify that on the 14th day of May, 1932, there was filed in the office of the Secretary of State of the State of Oklahoma, Initiative Petition No. 120, State Question No. 175.

I, further certify that after said Initiative Petition was filed, I caused due and legal notice of the filing thereof to be published as required by law, and that thereafter I found that said petition was in all things sufficient and in compliance with the Constitution and laws of the State of Oklahoma relating to such proceedings.

I further certify that on first count I found 185,011 legal signers on said petition (185,032 legal signers on said petition shown on a recount) and that the same constituted more than the percentage of legal voters, voting at the last general election held in the State of Oklahoma, required by law for the submission of said State Question, and found that the said Initiative Petition was, therefore, sufficient.

I further certify that on the 20th day of July, 1932, I did transmit all the papers and documents on file in my office relating to such petition to the Supreme Court of Oklahoma, pursuant to notice of appeal served upon me, as by law provided, and that the decision of the Supreme Court No. 23891, found the initiative petition to be sufficient and in conformity to law.

I further certify that on the 15th day of October, 1932, the Attorney General of the State of Oklahoma caused to be filed in my office the attached ballot title of said Initiative Petition No. 120, State Question No. 175, as the ballot title approved for such State Question.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be attached this 22nd day of October, 1932.

*R. A. Sneed*  
SECRETARY OF STATE

Received of the Secretary of  
State certificate in re above  
October 22nd, 1932

*J. Wm. Cordell*  
Secretary of Election Board.

BALLOT TITLE

PROPOSED STATUTORY ENACTMENT

STATE QUESTION NO. 175

INITIATIVE PETITION NO. 120.

THE GIST OF THE PROPOSITION IS:

"AN ACT for reduction of advalorem taxes by levying taxes on incomes of individuals, associations and trusts, and excise taxes on incomes of corporations and banks; exempting religious, charitable, eleemosynary, educational, benevolent, fraternal and other organizations not operating for profit; fixing time and manner of returns; providing remedy for aggrieved taxpayers; providing for collection of such taxes; making apportionment thereof to state Government, Common Schools and expenses of collection; and repealing existing income and money and credits tax laws.

SHALL IT BE ADOPTED:

.....  
.: YES

.....  
.: NO  
.....