



7-8 GEORGE V.

CHAP. 28.

An Act to authorize the levying of a War Tax upon certain incomes.

[Assented to 20th September, 1917.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Income War Tax Act*, Short title. 1917.

2. In this Act, and in any regulations made under this Act, unless the context otherwise requires,—

(a) "Board" means a Board of Referees appointed under section twelve hereof; "Board."

(b) "Minister" means the Minister of Finance; "Minister."

(c) "normal tax" means the tax authorized by paragraph (a) of section four of this Act; "Normal tax."

(d) "person" means any individual or person and any syndicate, trust, association or other body and any body corporate, and the heirs, executors, administrators, curators and assigns or other legal representatives of such person, according to the law of that part of Canada to which the context extends; "Person."

(e) "supertax" means the taxes authorized by paragraphs (b) to (g), both inclusive, of section four of this Act; "Supertax."

(f) "taxpayer" means any person paying, liable to pay, or believed by the Minister to be liable to pay, any tax imposed by this Act; "Taxpayer."

(g) "year" means the calendar year. "Year".

3. (1) For the purposes of this Act, "income" means the annual net profit or gain or gratuity, whether ascertained and capable of computation as being wages, salary, or other fixed amount, or unascertained as being fees or emoluments, "Income."

ments, or as being profits from a trade or commercial or financial or other business or calling, directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and, whether such gains or profits are divided or distributed or not, and also the annual profit or gain from any other source; including the income from but not the value of property acquired by gift, bequest, devise or descent; and including the income from but not the proceeds of life insurance policies paid upon the death of the person insured, or payments made or credited to the insured on life insurance endowment or annuity contracts upon the maturity of the term mentioned in the contract or upon the surrender of the contract; with the following exemptions and deductions:—

Excepted
income.

- (a) such reasonable allowance as may be allowed by the Minister for depreciation, or for any expenditure of a capital nature for renewals, or for the development of a business, and the Minister, when determining the income derived from mining and from oil and gas wells, shall make an allowance for the exhaustion of the mines and wells;
- (b) the amount of income the tax upon which has been paid or withheld for payment at the source of the income under the provisions of this Act;
- (c) amounts paid by the taxpayer during the year to the Patriotic and Canadian Red Cross Funds, and other patriotic and war funds approved by the Minister;
- (d) for the purposes of the normal tax, the income embraced in a personal return shall be credited with the amount received as dividends upon the stock or from the net earnings of any company or other person which is taxable upon its income under this Act: Provided, however, that in determining the income the personal and living expenses shall not be taken into consideration.

Holding
companies.

(2) Where an incorporated company conducts its business, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit its shareholders or any of them, or any persons directly or indirectly interested in such company, by selling its product or the goods and commodities in which it deals at less than the fair price which might be obtained therefor, the Minister may, for the purposes of this Act, determine the amount which shall be deemed to be the income of such company for the year, and in determining such amount the Minister shall have regard to the fair price which, but for any agreement, arrangement or understanding, might be or could

have been obtained for such product, goods and commodities.

(3) In the case of the income of persons residing or having their head office or principal place of business outside of Canada but carrying on business in Canada, either directly or through or in the name of any other person, the income shall be the net profit or gain arising from the business of such person in Canada.

Non-residents.

(4) For the purpose of the supertax only, the income of a taxpayer shall include the share to which he would be entitled of the undivided or undistributed gains and profits made by any syndicate, trust, association, corporation or other body, or any partnership, if such gains and profits were divided or distributed, unless the Minister is of opinion that the accumulation of such undivided and undistributed gains and profits is not made for the purpose of evading the tax, and is not in excess of what is reasonably required for the purposes of the business.

Undistributed gains.

4. (1) There shall be assessed, levied and paid, upon the income during the preceding year of every person residing or ordinarily resident in Canada or carrying on any business in Canada, the following taxes:—

Income tax.

- (a) four per centum upon all income exceeding fifteen hundred dollars in the case of unmarried persons and widows or widowers without dependent children, and exceeding three thousand dollars in the case of all other persons; and in addition thereto,
- (b) two per centum upon the amount by which the income exceeds six thousand dollars and does not exceed ten thousand dollars; and,
- (c) five per centum upon the amount by which the income exceeds ten thousand dollars and does not exceed twenty thousand dollars; and,
- (d) eight per centum of the amount by which the income exceeds twenty thousand dollars and does not exceed thirty thousand dollars; and,
- (e) ten per centum of the amount by which the income exceeds thirty thousand dollars and does not exceed fifty thousand dollars; and,
- (f) fifteen per centum of the amount by which the income exceeds fifty thousand dollars and does not exceed one hundred thousand dollars; and,
- (g) twenty-five per centum of the amount by which the income exceeds one hundred thousand dollars.
- (2) Corporations and joint stock companies, no matter how created or organized, shall pay the normal tax upon income exceeding three thousand dollars, but shall not be liable to pay the supertax; and the Minister may permit any corporation subject to the normal tax, the

Over \$1,500 in certain cases and over \$3,000, 4 per cent.

Over \$6,000 to \$10,000, two per cent.

Over \$10,000 to \$20,000, five per cent.

Over \$20,000 to \$30,000, eight per cent.

Over \$30,000 to \$50,000, ten per cent.

Over \$50,000 to \$100,000, fifteen per cent.

Over \$100,000 twenty-five per cent.

Corporations pay four per cent. Fiscal year of corporations.

fiscal

fiscal year of which is not the calendar year, to make a return and to have the tax payable by it computed upon the basis of its income for the twelve months ending with its last fiscal year preceding the date of assessment.

Partnerships not liable to tax.

(3) Any persons carrying on business in partnership shall be liable for the income tax only in their individual capacity.

Transfer of property to evade taxation.

(4) A person who, after the first day of August, 1917, has reduced his income by the transfer or assignment of any real or personal, movable or immovable property, to such person's wife or husband, as the case may be, or to any member of the family of such person, shall, nevertheless, be liable to be taxed as if such transfer or assignment had not been made, unless the Minister is satisfied that such transfer or assignment was not made for the purpose of evading the taxes imposed under this Act or any part thereof.

Deductions allowed.

(5) Taxpayers shall be entitled to the following deductions from the amounts that would otherwise be payable by them for income tax,—

Amounts paid under special War Revenue Act, 1915, for 1917 and thereafter.

(a) from the income tax accruing for the year one thousand nine hundred and seventeen the amounts paid by any taxpayer for taxes accruing during the year one thousand nine hundred and seventeen under the provisions of Part I of *The Special War Revenue Act, 1915*, and from the income tax payable for any year thereafter the amounts paid by the taxpayer for taxes accruing during such year under the said Part I of the said Act; and,

Amounts paid under Business Profits War Tax Act, 1916, for accounting period ending in 1917.

(b) from the income tax accruing for the year one thousand nine hundred and seventeen the amounts paid by any taxpayer under *The Business Profits War Tax Act, 1916*, and any amendments thereto for any accounting period ending in the year one thousand nine hundred and seventeen. In the case of a partnership each partner shall be entitled to deduct such portion of the tax paid by the partnership under *The Business Profits War Tax Act, 1916*, as may correspond to his interest in the income of the partnership.

Incomes not liable to tax.

5. The following incomes shall not be liable to taxation hereunder,—

- (a) the income of the Governor General of Canada;
- (b) the incomes of Consuls and Consuls General who are citizens of the country they represent and who are not engaged in any other business or profession;
- (c) the income of any company, commission or association not less than ninety per cent of the stock or capital of which is owned by a province or a municipality;
- (d) the income of any religious, charitable, agricultural and educational institutions, Boards of Trade and Chambers of Commerce;

- (e) the incomes of labour organizations and societies and of benevolent and fraternal beneficiary societies and orders;
- (f) the incomes of mutual corporations not having a capital represented by shares, no part of the income of which inures to the profit of any member thereof, and of life insurance companies except such amount as is credited to shareholders' account;
- (g) the incomes of clubs, societies and associations organized and operated solely for social welfare, civic improvement, pleasure, recreation or other non-profitable purposes, no part of the income of which inures to the benefit of any stockholder or member;
- (h) the incomes of such insurance, mortgage and loan associations operated entirely for the benefit of farmers as are approved by the Minister;
- (i) the income derived from any bonds or other securities of the Dominion of Canada issued exempt from any income tax imposed in pursuance of any legislation enacted by the Parliament of Canada; and,
- (j) the military and naval pay of persons who have been on active service overseas during the present war in any of the military or naval forces of His Majesty or any of His Majesty's allies.

6. (1) All persons in whatever capacity acting, having the control, receipt, disposal or payment of fixed or determinable annual or periodical gains, profits or income of any taxpayer, amounting to or exceeding fifteen hundred dollars in the case of unmarried persons or widows or widowers without dependent children, and three thousand dollars in the case of all other persons, shall, on behalf of such taxpayer, deduct and withhold an amount equal to the normal tax payable upon the same under this Act, and shall pay the amount so deducted to the Minister, and shall also make and render a separate and distinct return to the Minister of such gains, profits or income, containing the name and address of each taxpayer.

Payment of
tax at
source.

(2) When the income tax of a taxpayer is withheld and deducted under the provisions of this section, such taxpayer shall not receive the benefit of any exemption or deduction under this Act unless he shall, not less than thirty days prior to the day on which the return of his income is due, under section seven hereof, (a) file with the person who is required to withhold and pay the tax for him a notice in writing claiming such exemption or deduction and thereupon the tax to the extent of such exemption or deduction shall not be withheld from such taxpayer, and, (b) file with the person aforesaid and with the Minister such return of his income and a statement of the deductions and exemptions as the Minister may direct.

No exemp-
tion unless
notice given
and return
made.

Annual return
to Minister
of total
income.

7. (1) Every person liable to taxation under this Act shall, on or before the twenty-eighth day of February in each year, without any notice or demand, deliver to the Minister a return, in such form as the Minister may prescribe, of his total income during the last preceding calendar year. In such return the taxpayer shall state an address in Canada to which all notices and other documents to be mailed or served under this Act may be mailed or sent.

Returns of
corporations,
etc.

(2) The return in the case of a corporation, association or other body, shall be made and signed by the president, secretary, treasurer or chief agent having a personal knowledge of the affairs of such corporation, association or other body, or, in any case, by such other person or persons employed in the business liable, or believed to be liable to taxation, as the Minister may require.

Return by
guardian,
legal repre-
sentative, etc.

(3) If a person liable to taxation hereunder is unable for any reason to make the return required by this section, such return shall be made by the guardian, curator, tutor or other legal representative of such person, or if there is no such legal representative, by some one acting as agent for such person, and in the case of the estate of any deceased person, by the executor, administrator or heir of such deceased person, and if there is no person to make a return under the provisions of this subsection, then such person as may be required by the Minister to make such return.

Returns by
employers of
salaries and
by companies
of dividends,
etc.

(4) All employers shall make a return of all persons in their employ receiving any salary or other remuneration, any portion of which is liable to taxation under this Act, and all corporations, associations and syndicates shall make a return of all dividends and bonuses paid to shareholders and members. Such returns shall be delivered to the Minister on or before the twenty-eighth day of February in each year, without any notice or demand being made therefor, and in such form as the Minister may prescribe.

Enlarging
time for
returns.

(5) The Minister may at any time enlarge the time for making any return.

Additional
information.

8. (1) If the Minister, in order to enable him to make an assessment, desires further information, or if he suspects that any person who has not made a return is liable to taxation hereunder, he may, by registered letter, require additional information, or a return containing such information as he deems necessary, to be furnished him within thirty days.

Production of
letters, ac-
counts, etc.

(2) The Minister may require the production, or the production on oath, by the taxpayer or by his agent or officer, or by any person or partnership holding, or paying, or liable to pay, any portion of the income of any taxpayer, of any letters, accounts, invoices, statements and other documents.

(3) Any officer authorized thereto by the Minister may make such inquiry as he may deem necessary for ascertaining the income of any taxpayer, and for the purposes of such inquiry such officer shall have all the powers and authority of a commissioner appointed under Part I of the *Inquiries Act*, Revised Statutes of Canada, 1906, chapter one hundred and four. Inquiry as to income.

9. (1) For every default in complying with the provisions of the two next preceding sections, the taxpayer, and also the person or persons required to make a return, shall each be liable on summary conviction to a penalty of one hundred dollars for each day during which the default continues. Penalty.

(2) Any person making a false statement in any return or in any information required by the Minister, shall be liable on summary conviction to a penalty not exceeding ten thousand dollars or to six months' imprisonment, or to both fine and imprisonment. False statements.
Penalty.

10. (1) The Minister shall, on or before the thirtieth day of April in each year, or on or before such other date as he may in any case or cases prescribe, determine the several amounts payable for the tax, and shall thereupon send, by registered mail, a notice of assessment in such form as the Minister may prescribe to each taxpayer notifying him of the amount payable by him for the tax. The tax shall be paid within one month from the date of mailing of the notice of assessment. In default of payment, interest at the rate of seven per centum per annum shall be paid on such tax until the said tax and interest are paid. Assessment.
Date of Payment.

(2) The Minister shall not be bound by any return or information supplied by or on behalf of a taxpayer, and notwithstanding such return or information, or if no return has been made, the Minister may determine the amount of the tax to be paid by any person. Minister not bound by returns.

(3) Any person liable to pay the tax shall continue to be liable, and in case any person so liable shall fail to make a return as required by this Act, or shall make an incorrect or false return, and does not pay the tax in whole or in part, the Minister may at any time assess such person for the tax, or such portion thereof as he may be liable to pay, and may prescribe the time within which any appeals may be made under the provisions of this Act from the assessment, or from the decision of the Board, and may fix the date of payment of the tax. Continuation of liability for tax.

11. No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this Act, or allow any such person Secrecy.

to inspect or have access to any written statement furnished under the provisions of this Act. Any person violating any of the provisions of this section shall be liable on summary conviction to a penalty not exceeding two hundred dollars.

Board of
Referees.

12. (1) The Governor in Council may appoint a Board or Boards of Referees, and may prescribe the territory or district within which a Board shall exercise jurisdiction. A Board shall consist of not more than three members, and the members of a Board shall jointly and severally have all the powers and authority of a commissioner appointed under Part I of the *Inquiries Act*, Revised Statutes of Canada, 1906, chapter one hundred and four.

Oath.

(2) Every member of the Board shall take an oath of office in form I of the Schedule to this Act before performing any duty under this Act. All affidavits made in pursuance of this subsection shall be filed with the Minister.

Court of
Revision.

13. A Board shall act as a Court of Revision, and shall hear and determine any appeal made by a taxpayer under this Act in such place in Canada as the Minister may direct.

Notice of
appeal.

14. Any person objecting to the amount at which he is assessed, or as having been wrongfully assessed, may, personally or by his agent, within twenty days after the date of mailing of the notice of assessment, as provided in section ten of this Act, give notice in writing to the Minister in form II of the Schedule to this Act that he considers himself aggrieved for either of the causes aforesaid, otherwise such person's right to appeal shall cease, and the assessment made shall stand and be valid and binding upon all parties concerned, notwithstanding any defect, error or omission that may have been made therein, or in any proceeding required by this Act or any regulation hereunder: Provided, however, that the Minister, either before or after the expiry of the said twenty days, may give a taxpayer further time in which to appeal.

Hearing and
decision by
Board.

15. (1) A Board, after hearing any evidence adduced, and upon such other inquiry as it considers advisable, shall determine the matter and confirm or amend the assessment accordingly. A Board may increase the assessment in any case before it. The Board shall send a copy of its decision by registered mail to the taxpayer or his agent or officer.

Costs.

(2) In any case where the appeal is unsuccessful, the Board may direct that the person who appealed shall pay the costs or part of the costs of such appeal; and if such appeal is successful, a Board may recommend that the costs or any part thereof be paid by the Crown. The tariff of fees shall be as prescribed by the Board.

16. If the taxpayer fails to appear, either in person or by agent, the Board may proceed *ex parte* or may defer the hearing. Proceeding *ex parte*.

17. If the taxpayer is dissatisfied with the decision of a Board, he may, within twenty days after the mailing of the decision, give a written notice to the Minister in form III of the Schedule to this Act that he desires to appeal from such decision. If the taxpayer gives such notice, or if the Minister is dissatisfied with the decision, the Minister shall refer the matter to the Exchequer Court of Canada for hearing and determination, and such reference may be made in form IV of the Schedule to this Act, and he shall notify the taxpayer by registered letter that he has made such reference. On any such reference the Court shall hear and consider such matter upon the papers and evidence referred, and upon any further evidence which the taxpayer or the Crown produces under the direction of the Court, and the decision of the Exchequer Court thereon shall be final and conclusive. Appeal to Exchequer Court.

18. Except as hereinafter expressly provided, the Exchequer Court shall have exclusive jurisdiction to hear and determine all questions that may arise in connection with any proceeding taken under this Act, and may award costs in connection therewith. Exclusive jurisdiction of Exchequer Court.

19. (1) No assessment shall be set aside by a Board or by the Court upon the ground that there has been any error or omission in connection with any proceedings required to be taken under this Act or any regulation hereunder, but such Board or Court in any case that may come before it may determine the true and proper amount of the tax to be paid hereunder. No assessment to be set aside for technical reasons.

(2) All the proceedings of the Board and of the Exchequer Court shall be held *in camerâ* if requested by the taxpayer. Proceedings *in camerâ*.

20. The taxes and all interest and costs assessed or imposed under the provisions of this Act shall be recoverable as a debt due to His Majesty from the person on whom it is assessed or imposed. Tax a debt due the Crown.

21. Any tax, interest, costs or penalty that may be assessed, recovered or imposed under this Act may, at the option of the Minister, be recovered and imposed in the Exchequer Court of Canada or in any other Court of competent jurisdiction in the name of His Majesty. Recovery of tax, etc.

22. The Minister shall have the administration of this Act, and the control and management of the collection of the taxation levied hereby, and of all matters incident Minister to administer Act.

Regulations. incident thereto, and of the officers and persons employed in that service. The Minister may make any regulations deemed necessary for carrying this Act into effect.

Appointment of officers to administer Act, and their salaries.

23. The Governor in Council may from time to time appoint officers and other persons to carry out this Act or any order in council or regulations made thereunder, and the Governor in Council may assign the names of office of such officers and other persons, and grant such salaries or pay for their services and responsibilities as he deems necessary and reasonable, and may appoint the times and manner in which the same shall be paid.

First return under Act, Feb. 28, 1918, and 1917 first year's income to be taxed.

24. The first return to be made by taxpayers under section seven of this Act shall be made on or before the twenty-eighth day of February, one thousand nine hundred and eighteen, and all taxpayers shall (subject to the provisions of subsection two of section four) be liable to taxation in respect of their income for the year ending the thirty-first day of December, one thousand nine hundred and seventeen, and for each year thereafter, as provided by this Act.

SCHEDULE.

FORM I.

The Income War Tax Act, 1917.

I,make oath and swear that I will faithfully and honestly fulfil the duties which devolve upon me as a member of a Board of Referees under *The Income War Tax Act, 1917.*

Sworn before me this

.....day of

.....A.D., 19....

FORM II.

The Income War Tax Act, 1917.

In the matter of the assessment of.....
To the Minister of Finance,

I hereby give notice that I object to the amount at which I am assessed for the following reasons:

(here shortly describe reasons)

or, I am not liable to taxation under the above Act for the following reasons:

(here shortly describe reasons)

Dated this.....day of.....19..

(Signature).....

FORM III.

The Income War Tax Act, 1917.

In the matter of the assessment of.....
To the Minister of Finance,

I hereby give notice that I am dissatisfied with the decision given by the Board of Referees in this matter for the following reasons:

(here shortly describe reasons)

and that I desire to appeal to the Exchequer Court of Canada.

Dated this.....day of....A.D., 19 .

(Signature).....

FORM IV.

The Income War Tax Act, 1917.

In the matter of the assessment of.....

By virtue of the powers vested in me in this behalf under *The Income War Tax Act, 1917*, I hereby refer the appeal of.....(or my appeal) against the decision of the Board of Referees, to the Exchequer Court of Canada, for adjudication thereon, and enclose herewith the said decision and the other papers relating to the matter.

Dated this.....day of.....A.D., 19....

To the Registrar of the
Exchequer Court of Canada.

.....
Minister of Finance.