

of water adjacent thereto shall be made to the circuit court of the county in which the village or any part thereof lies, in the same manner and form as heretofore set forth in this section, except that proceedings regarding a census and an election shall not be applicable. Notice of such application shall, however, be served upon the supervisors of the township within which such water lies and upon all other municipalities bordering on such inland body of water. Said municipalities may be heard in opposition to such alteration. If the court after such hearing shall be satisfied that the public good demands that any part of said inland bodies of water be incorporated in said village limits, it shall enter an order so modifying the village limits.

(b) The procedure outlined in section 61.02 to 61.18 shall be followed in so far as the provisions therein set forth are applicable.

**SECTION 2.** This act shall take effect upon passage and publication.

Approved July 3, 1931.

No. 769, A.]

[Published July 8, 1931.]

### **CHAPTER 453.**

AN ACT to repeal subsection (7) of section 71.095; to amend subsections (1) to (4) of section 71.26, paragraph (d) of subsection (2) and paragraph (a) of subsection (5) of section 71.02, subsections (2), (4) and (7) of section 71.03, subsections (6) and (7) of section 71.04, paragraph (d) of subsection (2) of section 71.05, subsection (3), paragraph (c) of subsection (4) of section 71.09, subdivision 1 of paragraph (d) of subsection (1) of section 71.095, and section 71.12; and to create paragraph (dm) of subsection (2) of section 71.02 of the statutes, relating to the income tax.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** Subsection (7) of section 71.095 of the statutes is repealed.

**SECTION 2.** Subsections (1) to (4) of section 71.26 (as renumbered in section 51 of chapter 67, Laws of 1931), paragraph (d) of subsection (2) and paragraph (a) of subsection (5) of section 71.02, subsections (2), (4), and (7) of section 71.03, subsections

(6) and (7) of section 71.04, paragraph (d) of subsection (2) of section 71.05, subsection (3), paragraph (c) of subsection (4) of section 71.09, subdivision 1 of paragraph (d) of subsection (1) of section 71.095, and section 71.12 of the statutes are amended to read: (71.26) (1) In addition to the income tax imposed by section 71.01 to \* \* \* 71.26, inclusive, and the surtax imposed by section 5 of chapter 5 of the laws of the special session of 1919, there shall be levied, collected, and paid upon the incomes of all individuals, copartnerships and fiduciaries, except as otherwise provided by law, a surtax on \* \* \* *taxable income assessable under the provisions of chapter 71 or any amendment that may hereinafter be made to chapter 71*, computed \* \* \* *as follows: From the normal tax computed pursuant to subsection (1) of section 71.06, deduct the exemption provided for in sections 71.05 or 71.095 and thirty-seven dollars and fifty cents, and divide the remainder by six.*

(2) In addition to the income tax imposed by sections 71.01 to \* \* \* 71.26, inclusive, and the surtax imposed by section 5 of chapter 5 of the laws of the special session of 1919, there shall be levied, collected, and paid upon the incomes of corporations, joint stock companies or associations, or *common law trusts*, except as otherwise provided by law, a surtax on \* \* \* *taxable income assessable under the provisions of chapter 71 or any amendment that may hereinafter be made to chapter 71*, computed \* \* \* *as follows: From the normal tax computed pursuant to subsection (2) of section 71.06 deduct seventy-five dollars and divide the remainder by six.*

(3) \* \* \* *The surtax provided for herein shall be based upon the taxable income assessable as hereinafter defined, and shall apply to the income received during the calendar year ending December 31, 1920, or corresponding fiscal year, and to the taxable income assessable annually thereafter, and shall be assessed and collected in the same manner as the income taxes provided for in chapter 71, except as otherwise herein provided.*

(4) \* \* \* *The term "taxable income assessable" as used in this section shall be construed to mean the amount to which the rates provided for in section 71.06 are applied in the computation of the income taxes provided for in chapter 71.*

(71.02) (2) (d) All profits derived from the transaction of business or from the sale or *other disposition* of real estate or other

capital assets; provided, that for the purpose of ascertaining the gain or loss resulting from the sale or other disposition of property, real or personal, acquired prior to January 1, 1911, the fair market value of such property as of January 1, 1911, shall be the basis for determining the amount of such gain or loss; and, provided, further, that the basis for computing the profit or loss on the sale of property acquired by gift after 1922 shall be the same as it would have been had the sale been made by the last preceding owner who did not acquire it by gift; and in case the taxing officers are unable to ascertain the cost of the property to such prior owner, if acquired after January 1, 1911, then the basis shall be the value thereof at or about the time it was acquired by him, and such value shall be determined from the best information obtainable. In computing profit or loss on the sale of property acquired by descent or by will since January 1, 1911, the appraised value of such property in the administration of the estate of the deceased owner as of the date of his death shall be deemed to be the fair market value of said property at said date. The basis mentioned above shall in cases of sale of property be diminished by the amount of the deduction for exhaustion, wear and tear and depletion which have, since the acquisition of the property, been allowed as deductions under all Wisconsin income tax laws; and such basis shall also be diminished by the amounts of all income deferred by the taxpayer and used to reduce property, and all anticipated losses on such property which have been deducted from taxable income. If property, exclusive of inventories (as raw materials, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is within one year in good faith, under regulations prescribed by the tax commission, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use to the property so destroyed, or in the establishment of a replacement fund which, within two years from the date of the fire or other casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired, for purposes of depreciation and all other purposes of taxation, shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended, the gain,

if any, shall be recognized, but in an amount not in excess of the money which is not so expended. A replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him from the insurance company for the purposes of this subsection.

(5) (a) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the income year. \* \* \* Partners *shall be required* to file \* \* \* individual returns on the basis of a fiscal or calendar year which coincides with that upon which the partnership \* \* \* *return is \* \* \* filed.*

(71.03) (2) Other ordinary and necessary expenses and cash bonuses to employes, actually paid within the year out of the income in the maintenance and operation of its business and property, including a reasonable allowance for depreciation by use, wear and tear of property from which the income is derived and in the case of mines and quarries an allowance for depletion of ores and other natural deposits on the basis of their actual original cost in cash or the equivalent of cash; and including also interest paid during the year in the operation of the business from which its income is derived; provided, the debtor reports the amount so paid, the form of the indebtedness, together with the names and addresses of the parties to whom interest was paid *in the manner provided in subsection (3) of section 71.09.*

(4) Taxes other than special improvement taxes paid during the year upon the business or property from which the income taxed is derived, including therein taxes imposed by the state of Wisconsin and the government of the United States as income, excess or war profits and capital stock taxes, provided that such portion of the deduction for federal income and excess profits taxes as may be allowable shall be confined to cash payments made within the year covered by the income tax return, *and provided further that deductions for income taxes paid to the United States government shall be limited to taxes paid on net income which is taxable under this chapter;* and provided further that income taxes imposed by the state of Wisconsin shall accrue for the purpose of this subsection only in the year in which such taxes are assessed.

(7) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to any corporations, community chest fund, foundation, or associations, operating within this state, organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum of the taxpayer's \* \* \* *net income of the calendar or fiscal year* as computed without the benefit of this subsection.

(71.04) (6) Taxes other than inheritance and special improvement taxes upon the property or business from which the income hereby taxed is derived paid by such persons during the year, including therein taxes imposed by the state of Wisconsin or the United States government as income taxes; provided, that such portion of the deduction for federal income taxes as may be allowable shall be confined to cash payments made within the year covered by the income tax return; *and provided further, that deductions for income taxes paid to the United States government shall be limited to taxes paid on net income which is taxable under this chapter*; and provided further that income taxes imposed by the state of Wisconsin shall accrue for the purposes of this subsection only in the year in which such taxes are assessed.

(7) Contributions or gifts made within the year to the state or any political subdivision thereof for exclusively public purposes, or to any corporation, community chest fund, foundation, or association operating within this state, organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum of the taxpayer's \* \* \* *net income of the calendar or fiscal year* as computed without the benefit of this subsection.

(71.05) (2) (d) For each additional person, *except persons defined in subsection (2) (c) of section 71.05*, who is actually supported by and entirely dependent upon the taxpayer for his support an additional three dollars, except in case of head of a family. In computing taxes and the amount of taxes payable by persons residing together as members of a family, the income of the wife and

the income of each child under eighteen years of age shall be added to that of the husband or father, or if he be not living, to that of the head of the family and assessed to him except as hereinafter provided. The taxes levied shall be payable by such husband or head of the family, but if not paid by him may be enforced against any person whose income is included within the tax computation.

(71.09) (3) Every corporation, whether taxable under this chapter or not, shall furnish to the tax commission a true and accurate statement, on or before March fifteenth of each year (except that returns for fiscal years ending on some other date than December thirty-first, shall be furnished within seventy-five days after the last day of such fiscal year) in such manner and form and setting forth such facts as said commission shall deem necessary to enforce the provisions of this chapter. Such statement shall be made upon the oath or affirmation of the president, vice president, or other principal officer and the treasurer of said corporation, and in the case of corporations in liquidation or in the hands of a receiver such return shall be made upon the oath or affirmation of the person responsible for the conduct of the affairs of such corporation. All corporations doing business in this state shall also file with the tax commission on or before March fifteenth of each year on forms prescribed by the tax commission, a statement of such transfers of its capital stock as have been made by or to residents of this state during the preceding calendar year. Such schedule shall contain the name and address of the seller and the purchaser, date of transfer, and the number of shares of stock transferred; \* \* \* *and such corporation shall also file with the tax commission on or before March fifteenth of each year any information relative to payments made within the preceding calendar year to residents of this state of salaries, wages, fees, rents, royalties, interest, dividends and liquidating dividends in amounts and in the manner and forms prescribed by the tax commission.* Any corporation failing to file any such statement \* \* \* or form shall be subject to a fine of not less than fifty nor more than five hundred dollars.

(4) (c) Married persons living together as husband and wife may make separate returns or join in a single joint return. \* \* \* The tax shall be computed on the combined average taxable income. *On written request, a separate statement or tax bill shall be issued*

*to husband and wife and in that event* the exemptions provided for in subsection (2) of section 71.05 shall be allowed but once and divided equally and the amount of tax due shall be paid by each in the proportion that the average income of each bears to the combined average income.

(71.095) (1) (d) 1. \* \* \* No personal exemption under section 71.05 (2) (a) and 71.05 (2) (b) for the decedent *shall be allowed except for the year of death.*

71.12 No additional assessment by office audit or field investigation shall be placed upon the assessment roll without notice in writing to the taxpayer giving him an opportunity to be heard in relation thereto. Such notice shall be served as a circuit court summons or by registered mail. *Service of such notice by regular mail shall also be sufficient notice of such assessment if receipt thereof is admitted by the person assessed, or if there is other satisfactory evidence of the receipt thereof.* Any person feeling aggrieved by such assessment shall be entitled to a hearing before the tax commission in the case of corporations or the county board of review in the case of persons other than corporations, if within twenty days after \* \* \* notice of such \* \* \* assessment he shall apply for such hearing in writing, explaining in detail his objections to such assessment. If no request for such hearing is so made, such assessment shall be final and conclusive. If a request for hearing is made the taxpayer shall be heard by the tax commission or the board of review as the case may be and after such hearing the tax commission or the board of review shall render its decision regarding such assessment.

SECTION 3. A new paragraph is added to subsection (2) of section 71.02 of the statutes to read: (71.02) (2) (dm) When property other than cash is distributed by a corporation in payment of a dividend other than a dividend or distribution in liquidation the profit or loss that arises in so disposing of such property, shall be that of the corporation and shall be measured by the difference between the fair market value of such property at the time of such disposition and the income tax cost thereof to said corporation.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 3, 1931.