

No. 352, S.]

[Published July 10, 1933.]

CHAPTER 367.

AN ACT to repeal subsections (3) and (4) of section 71.10 and section 71.195; to create subsections (5) and (6) of section 20.09 and subsections (3), (4) and (4m) of section 71.10; to amend subsections (3), (6) and (7) of section 71.09, subsection (6) of section 71.095, subsection (2) and paragraphs (c), (d) and (e) of subsection (6) of section 71.10, subsection (11), paragraph (a) of subsection (12) and subsection (13) of section 71.16, subsection (6) of section 71.17, subsection (2) of section 71.18, subsections (3) and (4) of section 71.19, section 71.24, subsection (2) of section 73.07 and subsection (1) of section 74.26 of the statutes, relating to payment and apportionment of income taxes, providing penalties and making appropriations.

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

SECTION 1. Subsections (3) and (4) of section 71.10 and section 71.195 of the statutes are repealed.

SECTION 2. Two new subsections are added to section 20.09 and three new subsections are added to section 71.10 of the statutes, to be numbered and to read: (20.09) (5) COLLECTION OF DELINQUENT INCOME TAXES. Annually, beginning July 1, 1933, ten thousand dollars for the purpose of collecting delinquent income taxes as provided in paragraph (f) of subsection (3) of section 71.10.

(6) COLLECTION OF INCOME TAXES. On January 1, 1934, twenty thousand dollars and annually beginning July 1, 1934, forty thousand dollars for the collection of income taxes. In addition to the amounts herein appropriated, the emergency board is authorized, if it deems it necessary, to allot an additional five thousand dollars for the fiscal year 1933-34 and an additional ten thousand dollars for the fiscal year 1934-35 to the tax commission for the same purpose.

(71.10) (3) All income taxes shall be paid to the tax commission. Income taxes payable by corporations shall be paid to the tax commission at its office at Madison and income taxes payable by persons other than corporations shall be paid to designated representatives of the tax commission located at the office of the assessor of incomes for the district in which the taxpayer resides.

(a) The initial payment of taxes on incomes of persons who file on a calendar year basis shall be paid on or before the fifteenth day of March following the close of the calendar year. Such initial payment shall be in an amount equal to at least one-third the total tax, and shall not be less than five dollars if the total tax exceeds five dollars, nor less than the total amount of the tax if the same does not exceed five dollars. The balance of such tax shall be paid on or before the first day of August following the close of the calendar year.

(b) If the return is made on the basis of a fiscal year such initial payment shall be paid on or before the fifteenth day of the third month following the close of such fiscal year. The balance shall be paid on or before the first day of the eighth month following the close of such fiscal year.

(c) All taxes as computed on the return, paid in full on the date provided for the initial payment shall be discounted in an amount equal to two per cent of the total tax.

(d) Back assessments of income taxes omitted from initial rolls and additional income taxes assessed under sections 71.10 and 71.11 shall become due and payable on entry upon the assessment roll and certification of the tax roll.

(e) The tax commission shall accept in advance income taxes and surtaxes from taxpayers desirous of making such payments before the same shall become due and payable. Advance payment of taxes under this provision shall not relieve the taxpayer from additional taxes which may result from subsequent legislation or from additional taxable income disclosed or discovered subsequent to such payment.

(f) Income taxes shall become delinquent if not paid when due as provided in this section, and when delinquent shall be subject to a penalty of two per cent on the amount of the tax and interest at the rate of one per cent per month until paid, and the tax commission shall immediately proceed to collect the same. For the purpose of such collection the tax commission or its duly authorized agent shall have the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

(4) At the time the tax rolls are transmitted to the state treasurer the tax commission shall notify each taxpayer by mail of the amount of income taxes appearing against him on said rolls, of the amount paid thereon, of the balance due, of the date when such

balance shall be paid and of the date when the taxes become delinquent.

(4m) (a) The tax commission shall accept payments of income taxes in accordance with the provisions of this chapter, and shall give a printed or written receipt therefor. Representatives of the tax commission directed by it to accept payment of income taxes shall file bonds with the state treasurer in such amount and with such sureties as the state treasurer shall direct and approve. In collecting income taxes as provided in this chapter, the tax commission shall be deemed to act as agents of the state, counties and towns, cities or villages entitled to receive the taxes collected.

(b) Within fifteen days after receipt of any income tax payments the tax commission shall transmit the same to the state treasurer. Upon the first day of March, June, September and December of each year the state treasurer shall apportion and pay income taxes collected and transmitted to him to the county and local treasurers in the manner provided by section 71.19.

SECTION 3. Subsections (3), (6) and (7) of section 71.09, subsection (6) of section 71.095, subsection (2) and paragraphs (c), (d) and (e) of subsection (6) of section 71.10, subsection (11), paragraph (a) of subsection (12), and subsection (13) of section 71.16, subsection (6) of section 71.17, subsection (2) of section 71.18, subsections (3) and (4) of section 71.19, section 71.24, subsection (2) of section 73.07 and subsection (1) of section 74.26 of the statutes are amended to read: (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 * * * *on or before the fifteenth day of the third month following the close 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.

(6) In case of the failure on the part of any person to make a report of income within the time and in the manner prescribed by law, the tax commission or assessor of incomes may enter an assessment against said person upon ten days' notice in writing in a sum of not less than five hundred dollars. Such notice may be served by mail. After the tax on such assessment has been * * * *entered on the assessment roll* the person assessed shall be forever barred from questioning the correctness of the same in any action or proceeding.

(7) In case of neglect occasioned by the sickness or absence of a person, or of an officer of any corporation required to file a return, or for other sufficient reason, the tax commission in the case of corporations and the assessor of incomes in the case of persons other than corporations may on written request allow such further time for making and delivering such return as they may deem necessary not to exceed thirty days. *Income taxes payable upon the filing of the tax return shall not become delinquent during such extension period, but shall be subject to interest at the rate of six per cent per annum during such period. The granting of any extension of time for filing any return shall not serve to extend the discount date provided by paragraph (c) of subsection (3) of section 71.10.*

(71.095) (6) An executor, administrator, guardian or trustee applying to a court having jurisdiction for a discharge from his trust and a final settlement of his accounts, before his application shall be granted, shall file with the assessor of incomes of the county in which the trust or estate is being administered a return of all incomes received in his representative capacity during the

time between the last preceding January first and the date of his application for discharge and also similar returns of income received by the deceased during each of the years open to audit under sections 71.10 and 71.11 if such returns have not heretofore been filed. Upon the receipt of such returns, the * * * assessor of incomes shall immediately determine the amount of taxes to become due and shall certify such amount to the court and the court shall thereupon enter an order directing the executor, administrator, trustee or guardian, as the case may be, to pay to the * * * tax commission the amount of tax, if any, found due by the assessor of incomes, and take his receipt therefor. The certificate of the assessor of incomes shall contain the names of the taxing districts to which the tax is attributable under section 71.18, and a copy thereof shall be filed with the state treasurer * * * and with the assessor of incomes of each county named in the certificate. The receipt of the * * * tax commission shall be evidence of the payment of the tax and shall be filed with the court before a final distribution of the estate is ordered, and the executor, administrator, trustee or guardian is discharged. The * * * state treasurer, upon receipt of such taxes, shall enter the amount received on a ledger account termed "advance income taxes" and * * * at the next quarterly settlement provided by paragraph (b) of subsection (4m) of section 71.10, the * * * state treasurer shall pay to the county and local treasurers * * * named in the certificate of the assessor of incomes, the portion of taxes payable to such county treasurer and to the local treasurers of his county. The assessor of incomes shall enter all such assessments upon the proper assessment and tax roll and shall enter thereon opposite each such assessment the words: "paid * * * by order of court." Any taxes found to be due from the estate for any of the years open to audit under sections 71.10 and 71.11 shall be assessed against and paid by the executor or administrator; any taxes found to be due after the executor or administrator is discharged, shall be assessed against and paid by the beneficiaries in the same ratio that their interest in the estate bears to the total estate.

(71.10) (2) The tax commission or the assessor of incomes shall presume the incomes reported on the current return to be correct for the purpose of preparing initial assessment rolls, and shall enter on initial assessment rolls by taxation districts the taxable income computed according to the preceding subsection. Such

assessment rolls and all subsequent assessment rolls shall remain on file in the office of the tax commission or the assessor of incomes as the case may be. The tax commission and the assessor of incomes shall make duplicate copies of such assessment rolls and all subsequent assessment rolls provided by this section, and such duplicate rolls shall be known as *the tax rolls*. The tax commission and the assessors of incomes shall *transmit a * * * certified copy of such tax rolls * * ** to the ** * * state treasurer* within ** * * six* months after the close of the fiscal or calendar year of any taxpayer. Additional assessment rolls and corresponding duplicate tax rolls shall be prepared from time to time, which shall include corrections made by office audits of current returns, initial assessments on any return omitted from the first initial roll, initial assessments of fiscal year returns, and corrections made after field audit pursuant to sections 71.10 and 71.11.

(6) (c) If the tax is increased the ** * * tax commission* shall proceed to collect the additional tax in the same manner as other income taxes are collected.

(d) If the normal income tax is decreased *upon direction of the * * * tax commission or assessor of incomes the state treasurer* shall refund to the taxpayer such part of the overpayment as was actually paid in cash, and the entry of such overpayment on the tax roll by the tax commission or the assessor of incomes shall be sufficient authorization to the treasurer for the refunding of such overpayment. No refund of income tax shall be made by ** * * the treasurer* unless such refund is so certified.

(e) Such part of the overpayment paid to the *county and the local taxation district* shall be deducted by the ** * * state treasurer* in his next settlement with the *county and local treasurer * * **

(71.16) (11) As soon as the appellant shall have served notice of appeal to the circuit court on the parties provided by this section, ** * ** all collection proceedings *shall be stayed* until final determination of the appeal, but *such notice* shall not operate to stay the delinquent penalty and interest on unpaid amounts as provided in subsections (12) and (13) of this section.

(12) (a) Any person who shall contest an assessment in court shall state in his notice of appeal what portion if any of the tax is admitted to be legally assessable and correct. The tax commission or the assessor of incomes, as the case may be, shall apportion the tax so admitted to the various counties *and taxing districts* when

an apportionment is necessary, and shall file a certificate of such apportionment with the circuit court in which the case is pending *and with the state treasurer*, and shall serve a copy thereof on the appellant or his attorney by registered mail. * * * Within five days after the receipt of the certificate of apportionment the appellant shall pay to * * * *the tax commission* the * * * *whole* amount of the admitted tax * * * *and upon transmission to the state treasurer such tax shall be divided as provided in section 71.19 at the next quarterly settlement provided by paragraph (b) of subsection (4m) of section 71.10.* Any such payment shall be considered an admission of the legality of the tax thus paid, and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding. The * * * *state treasurer* shall not accept payment of any tax included in a contested assessment unless he shall have received proper certificate for the collection of such tax.

(13) After final decision and return of the record to the tax commission or the county clerk, the tax commission * * * shall proceed to collect the taxes in the same manner as other delinquent *income* taxes are collected.

(71.17) (6) No action or proceeding whatsoever shall be brought against any town, village, city, * * * county *or the state* or the treasurer thereof for the recovery, refund or credit of any income or surtaxes; except in case * * * *the state treasurer* shall neglect or refuse for a period of sixty days to refund any overpayment of normal income tax so certified on the income tax roll, the taxpayer may maintain an action to collect the overpayment against the county so neglecting or refusing to refund such overpayment, without filing a claim for refund with such county, provided that such action shall be commenced within one year after the certification of such overpayment on the tax roll.

(71.18) (2) The entire taxable income of every person deriving income from within and without the state or from within different political subdivisions of the state, when such person resides within the state, shall be combined and aggregated for the purpose of determining the proper rate of taxation. The tax commission or the assessor of incomes, as the case may be, shall compute the tax on the combined taxable income of such person. The income so computed, in the manner provided in section 71.10, shall be apportioned, in the manner provided in paragraph (c) of subsection (3) of section 71.02, to the several towns, cities and villages in

proportion to the respective amounts of income derived from each, counting that part of the income derived from without the state when taxable as having been derived from the town, city or village in which said person resides. The tax on the combined taxable income shall be apportioned on the tax roll to the various towns, cities and villages in proportion to the respective amounts of taxable income so attributed to each. * * *

(71.19) (3) The * * * *tax commission* shall account for and pay all delinquent taxes collected by * * * *it*, * * * to the state treasurer, *who shall apportion and pay the same* * * * to the several *county*, town, city and village treasurers entitled thereto at the time of the next division of revenues as provided for in *subsection (4m) of section* * * * 71.10.

(4) This section and the provisions of this chapter relating to the apportionment of taxable income to the several *counties*, towns, cities and villages and those relating to the collection of the income tax by the * * * *tax commission*, shall not apply to telegraph companies, or transportation companies as defined in subsection (4) of section 76.02 and in section 76.39, respectively. All such telegraph companies and transportation companies shall pay their taxes under this chapter directly into the state treasury, and such taxes shall not be apportioned or distributed to the taxing districts within which the properties lie, but shall be retained entirely by the state, to be used as specified in section 20.255.

71.24 Whenever an incorrect income tax assessment has been certified or no assessment has been certified when one should have been certified and such error shall be discovered after the income tax roll has been certified to the * * * *state treasurer*, the tax commission, in case of assessments made by it, and the assessor of incomes, in case of assessments made by him, may correct such error at any time before the tax becomes delinquent by certifying the tax properly due, or if no tax is due, by certifying that fact to the * * * *state treasurer* * * *. Whereupon such treasurer shall enter upon the tax roll the words "Reduced to dollars", or "Increased to dollars", or "Canceled", "by direction of the assessor of incomes", or "by direction of the tax commission", as the case may be, and shall be required to account in his settlement with the * * * *county* and local treasurers only for the amount appearing on the roll as corrected.

(73.07) (2) The county board of any county when requested to do so by the tax commission or the assessor of incomes shall

provide a suitable room or rooms in the courthouse or other convenient building at the county seat, for the use of such assessor, together with all furniture, fixtures, office equipment and office supplies necessary to properly conduct the duties of his office *and necessary for the collection of income taxes of persons other than corporations by the tax commission as provided by section 71.10.* Such expense shall be paid by the county furnishing the same unless such county be a part of an assessment district, in which event such expense shall be borne by all the counties in the district, each county to pay at the ratio that the total assessed value of all its property bears to the total assessed value of all the property in the district. If any county shall fail or refuse to furnish such quarters, equipment and supplies for the use of the assessor of incomes as herein provided, the tax commission may procure the same at the expense of the county or counties responsible therefor. The rent of such office and the cost of such equipment and supplies, if procured by the commission, shall in the first instance, be paid out of the state treasury as other claims against the state are audited and paid, and shall be apportioned by the tax commission in the case of the liability of two or more counties and included in the next apportionment and certification of state taxes and charges and collected from such county or counties as other special charges are certified and collected.

(74.26) (1) TO STATE * * * TREASURER. The several county treasurers shall pay to the state treasurer, the amount of state taxes charged to their respective counties, on or before the second Monday of March in each year. * * *

SECTION 4. Between July 1 and December 31, 1933, the tax commission shall succeed to the duties of county treasurers relating to the collection of delinquent income taxes. On the said first day of July and thirty-first day of December, 1933, county treasurers shall transmit to the tax commission a true and accurate statement of all delinquent income taxes on the tax rolls in their possession. For the purpose of such collection the tax commission shall have such powers relating to such collection as heretofore given to county treasurers.

SECTION 5. Subsection (5) of section 20.09 and Section 4 of this act shall take effect upon passage and publication, and the remainder of the act on January 1, 1934, as to income taxpayers filing on a calendar year basis and on the first day of the fiscal

year corresponding to the calendar year 1934 as to income taxpayers filing on a fiscal year basis.

Approved July 7, 1933.

No. 388, S.]

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CHAPTER 368.

AN ACT to amend section 20.035, subsection (7) of section 37.25, and subsection (7) of section 45.27 of the statutes, relating to the termination of the soldiers' bonus and the soldiers' educational bonus, and amending an appropriation.

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

SECTION 1. Section 20.035, subsection (7) of section 37.25, and subsection (7) of section 45.27 of the statutes are amended to read: 20.035 There is appropriated to the adjutant general, annually, on July first, the income and such part of the principal of the soldiers' rehabilitation fund as may in the judgment of the soldiers' rehabilitation board and the governor be necessary for the hospitalization of soldiers, as provided in subsection (2a) of section 45.27, and for * * * soldiers' educational bonus benefits under * * * section 37.25 * * * .

(37.25) (7) The benefits provided in this section shall not be available to veterans after July 1, * * * 1933, * * * *except only to veterans who enrolled prior to October 1, 1931, and who by July 1, 1933, have completed at least two years of college work. Nor shall the benefits of this section be available after July 1, 1945, to the child not under sixteen and not over twenty-four years of age of a veteran who was killed in action or died of wounds or disease, traceable to world war service, between the dates of April 6, 1917, and July 2, 1921.*

(45.27) (7) On July 1, 1924, the balance then in the fund provided for by chapter 5, special session of 1919, the balance then in the fund provided for by chapter 667, laws of 1919, and the balance then in the fund provided for by subsection (5) of section 20.03 of the statutes, together with additions to either such fund from taxes thereafter paid, shall be transferred to and constitute what shall be known as "Soldiers' Rehabilitation Fund," for the purpose of carrying out the provisions of section 45.27 of the statutes and the benefits provided by said chapter 5, special session of 1919, and chapter 667, laws of 1919. The benefits provided by