WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 128

(By Mr. Bordes)

PASSED

Mar 17 1955

In Effect 90 days from Passage

Filed in the Office of the Secretary of State
MAR 18 1955

of West Virginia

D. PITT O'BRIEN
SECRETARY OF STATE
AN ACT to amend article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections two-j and twenty-three; by amending and reenacting sections one, two-a, two-b, two-c, two-d, two-i, three, four, five, six, seven, eight, eleven, twelve, thirteen, fourteen, sixteen, seventeen, twenty and twenty-two; and by enacting four new sections to be designated sections two-j, seven-a, seven-b and eight-a, all relating to the administration and enforcement of the business and occupation tax.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended,
be amended by repealing sections two-j and twenty-three; by
amending and reenacting sections one, two, two-a, two-b, two-c,
two-d, two-i, three, four, five, six, seven, eight, eleven, twelve,
thirteen, fourteen, sixteen, seventeen, twenty and twenty-two;
and by enacting four new sections to be designated sections
two-j, seven-a, seven-b and eight-a, all to read as follows:

Section 1. Definitions.—When used in this article, the
term “person” or the term “company”, herein used inter-
changeably, includes any individual, firm, copartnership,
joint adventure, association, corporation, trust, or any
other group or combination acting as a unit, and the
plural as well as the singular number, unless the intention
to give a more limited meaning is disclosed by the context.
“Tax year” or “taxable year” means either the calendar
year, or the taxpayer’s fiscal year when permission is
obtained from the tax commissioner to use same as the
tax period in lieu of the calendar year.
“Sale”, “sales” or “selling” includes any transfer of the
ownership of, or title to, property, whether for money
or in exchange for other property.
3 Enr. Com. Sub. for H.B. No. 128

"Taxpayer" means any person liable for any tax hereunder.

"Gross income" means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest or discount paid or any other expense whatsoever.

"Gross proceeds of sales" means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind.

The terms "gross income" and "gross proceeds of sales" shall not be construed to include (1) cash discounts allowed and taken on sales; (2) the proceeds of sale of
goods, wares or merchandise returned by customers when
the sale price is refunded either in cash or by credit; or
(3) the amount allowed as "trade-in value" for any article
accepted as part payment for any article sold.

"Business" shall include all activities engaged in or
cau sed to be engaged in with the object of gain or
economic benefit, either direct or indirect. "Business"
shall not include a casual sale by a person who is not
engaged in the business of selling the type of property
involved in such casual sale. "Business" shall include the
production of natural resources or manufactured products
which are used or consumed by the producer or manu-
facturer.

"Service business or calling" shall include all non-
professional activities engaged in for other persons for a
consideration, which involve the rendering of a service
as distinguished from the sale of tangible property, but
shall not include the services rendered by an employee
to his employer. This term shall include persons engaged
in manufacturing, compounding or preparing for sale,
profit, or commercial use, articles, substances, or commodi-
ties which are owned by another or others, as well as persons engaged as independent contractors in producing natural resource products for persons required to pay the tax imposed by section two-a of this article.

"Selling at wholesale" or "wholesale sales" shall mean and include: (1) sales of any tangible personal property for the purpose of resale in the form of tangible personal property; (2) sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article or by article twelve-a of this chapter; (3) sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the state of West Virginia, its institutions or political subdivisions.

"Contracting" shall include the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.
Sec. 2. *Imposition of Privilege Tax.*—There is hereby levied and shall be collected annual privilege taxes against the persons, on account of the business and other activities, and in the amounts to be determined by the application of rates against values or gross income as set forth in sections two-a to two-j inclusive, of this article.

If any person liable for any tax under sections two-a or two-b shall ship or transport his products or any part thereof out of the state without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the state shall be the basis for the assessment of the tax imposed in said sections, except in those instances in which another measure of the tax is expressly provided. The tax commissioner shall prescribe equitable and uniform rules for ascertaining such value.

In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject
matter of the sale, the tax commissioner shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar.

Gross income included in the measure of the tax under sections two-a and two-b of this article, except in the case of production of natural gas, shall neither be added nor deducted in computing the tax levied under the other sections of this article.

A person exercising any privilege taxable under sections two-a or two-b of this article and engaging in the business of selling his natural resources or manufactured products at retail in this state shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in section two-c of this article for the privilege of engaging in the business of selling such natural resources or manufactured products at retail
in this state. But any person exercising any privilege taxable under section two-a or two-b of this article and engaging in the business of selling his natural resources or manufactured products to producers of natural resources, manufacturers, wholesalers, jobbers, retailers or commercial consumers for use or consumption in the purchaser's business shall not be required to pay the tax imposed in section two-c of this article.

Manufacturers exercising any privilege taxable under section two-b of this article shall not be required to pay the tax imposed in section two-c of this article for the privilege of selling their manufactured products for delivery outside of this state, but the gross income derived from the sale of such manufactured products outside of this state shall be included in determining the measure of the tax imposed on such manufacturer in section two-b.

A person exercising privileges taxable under the other sections of this article, producing coal, oil, natural gas, minerals, timber or other natural resource products the production of which is taxable under section two-a,
and using or consuming the same in his business, shall be deemed to be engaged in the business of mining and producing coal, oil, natural gas, minerals, timber or other natural resource products for sale, profit or commercial use, and shall be required to make returns on account of the production of the business showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers, which rules the tax commissioner shall prescribe.

Sec. 2-a. Production of Coal and Other Natural Resource Products.—Upon every person engaging or continuing within this state in the business of producing for sale, profit or commercial use any natural resource products, the amount of such tax to be equal to the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided, multiplied by the respective rates as follows: Coal, one per cent; limestone or sandstone,
quarried or mined, one and one-half per cent; oil, three
per cent; natural gas, in excess of the value of five thou-
sand dollars, six per cent; blast furnace slag, three per
cent; sand, gravel or other mineral product, not quarried
or mined, three per cent; timber, one and one-half per
cent; other natural resource products, two per cent. The
measure of this tax is the value of the entire production in
this state, regardless of the place of sale or the fact that
the delivery may be made to points outside the state.

Sec. 2-b. Manufactured or Compounded Products; Pro-
cessing of Poultry and Turkeys Not Considered as Manu-
ufacturing or Compounding.—Upon every person engaging
or continuing within this state in the business of manu-
ufacturing, compounding or preparing for sale, profit or
commercial use, either directly or through the activity of
others in whole or part; any article or articles, substance
or substances, commodity or commodities, or electric pow-
er not produced by public utilities taxable under other pro-
visions of this article, the amount of the tax to be equal to
the value of the article, substance, commodity or electric
power manufactured, compounded or prepared for sale,
as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of three-tenths of one per cent. The measure of this tax is the value of the entire product manufactured, compounded or prepared in this state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state. However, the dressing and processing of poultry and turkeys by a person, firm or corporation, which poultry and turkeys are to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products, on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in section two-c of this article. It is further provided, however, that in those instances in which the same person partially manufactures products within this state and partially manufactures such products outside this state the measure of his tax under this section shall be that proportion of the sale price of the manu-
factured product that the payroll cost of manufacturing
within this state bears to the entire payroll cost of manu-
facturing the product; or, at the option of the taxpayer,
the measure of his tax under this section shall be the
proportion of the sales value of the articles that the cost
of operations in West Virginia bears to the full cost of
manufacture of the articles.

Sec. 2-c. Business of Selling Tangible Property; Sales
Exempt.—Upon every person engaging or continuing
within this state in the business of selling any tangible
property whatsoever, real or personal, including the sale
of food, and the services incident to the sale of food in
hotels, restaurants, cafeterias, confectioneries, and other
public eating houses, except sales by any person engaging
or continuing in the business of horticulture, agriculture
or grazing, or of selling stocks, bonds or other evidences
of indebtedness, there is likewise hereby levied and shall
be collected, a tax equivalent to one-half of one per cent
of the gross income of the business, except that in the
business of selling at wholesale the tax shall be equal to
fifteen one-hundredths of one per cent of the gross income of the business.

Sec. 2-d. Public Service or Utility Business.—Upon any person engaging or continuing within this state in any public service or utility business, except railroad, railroad car, express, pipe line, telephone and telegraph companies, water carriers by steamboat or steamship and motor carriers, there is likewise hereby levied and shall be collected taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: Street and interurban and electric railways, one per cent; water companies, four per cent, except as to income received by municipally owned water plants; electric light and power companies, four per cent on sales and demand charges for domestic purposes and commercial lighting and three per cent on sales and demand charges for all other purposes, except as to income received by municipally owned plants producing or purchasing electricity and distributing same; natural gas companies, three per cent on the gross income, said gross income for this purpose to be determined by deducting
from gross income from all sales of gas to consumers the
amount of the tax paid by the taxpayer under section
two-a of this article on the production of the same gas;
toll bridge companies, three per cent; and upon all other
public service or utility business, two per cent. The
measure of this tax shall not include gross income derived
from commerce between this state and other states of the
United States or between this state and foreign countries.
The measure of the tax under this section shall include
only gross income received from the supplying of public
services. The gross income of the taxpayer from any
other activity shall be included in the measure of the tax
imposed under the appropriate section or sections of this
article.

Sec. 2-i. Business of Furnishing Property for Hire.—
Upon every person engaging or continuing within this
state in the business of furnishing any real or tangible
personal property, which has a tax situs in this state, or
any interest therein, for hire, loan, lease or otherwise,
whether the return be in the form of rentals, royalties,
fees or otherwise, the tax shall be one per cent of the gross income of any such activity.

The term “tangible personal property”, as used herein, shall not include money or public securities.

Sec. 2-j. Small Loan Business.—Upon every person engaging or continuing within this state in the business of making loans of money, credit goods, or things in action, who because of such activity is required under the provisions of article seven-a, chapter forty-seven, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to obtain a license from the commissioner of banking of the state of West Virginia, the tax shall be one per cent of the gross income of any such activity.

Sec. 3. Exemptions.—There shall be an exemption in every case of fifty dollars in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion to fifty dollars that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person,
whether he exercises one or more privileges taxable hereunder.

The provisions of the article shall not apply to: (a) Insurance companies which pay the state of West Virginia a tax upon premiums: Provided, however, That said exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in this state, whether such income be in the form of rentals or royalties; (b) persons engaged in the business of banking: Provided, however, That said exemption shall not extend to that part of the gross income of such persons which is received for the use of real property owned, other than the banking house or building in which the business of the bank is transacted, whether such income be in the form of rentals or royalties; (c) non-profit cemetery companies organized and operated for the exclusive benefit of their members; (d) fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; (e) corpora-
tions, associations and societies organized and operated exclusively for religious or charitable purposes; (f) production credit association, organized under the provisions of the federal "Farm Credit Act of one thousand nine hundred thirty-three": Provided, however, That the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; (g) building and loan associations and federal savings and loan associations; (h) persons engaged in conducting the business of industrial loans under authority granted them by article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one: Provided, however, That said exemption shall not extend to that part of the gross income of such persons which is received from the use of real property owned, other than the business house or building in which the business of the industrial loan company is transacted, whether such income be in the form of rentals or royalties.

Sec. 4. Computation of Tax; Payment.—The taxes
levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue. The taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he is liable for such quarter, sign the same, and mail the same together with a remittance, in the form required by section eleven of this article, of the amount of the tax to the office of the tax commissioner. In estimating the amount of the tax due for each quarter the taxpayer may deduct one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of one hundred dollars in any year, the taxpayer may pay the same quarterly as aforesaid or, with the consent in writing of the tax commissioner, at the end of the month next following the close of the tax year.

Any other provision of this section notwithstanding, the tax commissioner, if he deems it necessary to insure payment of the tax, may require the return and payment
under this section for periods of shorter duration than quarter-year periods.

Sec. 5. Return and Remittance by Taxpayer.—On or before the expiration of one month after the end of the tax year each taxpayer shall make a return for the entire tax year showing the gross proceeds of sales or gross income of business, trade or calling, and compute the amount of tax chargeable against him in accordance with the provisions of this article and deduct the amount of quarterly payments (as hereinbefore provided), if any, and transmit with his report a remittance in the form required by section eleven of this article covering the residue of the tax chargeable against him to the office of the tax commissioner; such return shall be signed by the taxpayer, if made by an individual, or by the president, vice president, secretary or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm, copartnership, joint adventure, association, trust or any other group or com-

20 bination acting as a unit shall sign the return on behalf
21 of the taxpayer. The tax commissioner, for good cause
22 shown, may extend the time for making the annual re-
23 turn on the application of any taxpayer and grant such
24 reasonable additional time within which to make the same
25 as may, by him, be deemed advisable.

Sec. 6. Erroneous Computation.—If the taxpayer shall
2 make any clerical error which shall be apparent on the
3 face of the return in computing the tax assessable against
4 him, the tax commissioner shall correct such error or
5 reassess the proper amount of taxes, and notify the tax-
6 payer of his action by mailing to him promptly a copy
7 of the corrected assessment, and any additional tax for
8 which such taxpayer may be liable shall be paid within
9 fifteen days after the receipt of such statement.
10 If the amount already paid exceeds that which should
11 have been paid on the basis of the tax so recomputed, the
12 excess so paid shall be immediately refunded to the tax-
13 payer upon the requisition of the tax commissioner to
14 the state auditor, who shall issue his warrant on the
15 treasurer, which shall be payable out of any funds avail-
able for the purpose. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder.

Sec. 7. Assessment of Tax When Insufficiently Returned.—If the tax commissioner believes that the tax imposed by this article is insufficiently returned by a taxpayer, either because the taxpayer has failed to properly remit the tax or has failed to make a return, or has made a return which is incomplete, deficient or otherwise erroneous, he may proceed to investigate and determine or estimate the tax liability of the taxpayer and make an assessment therefor.

Sec. 7-a. Jeopardy Assessments.—If the tax commissioner believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of the tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of no-

notice of the jeopardy assessment, such an assessment be-
comes final.

A petition for reassessment by a person against whom a
jeopardy assessment has been made must be accompanied
by such security as the tax commissioner may deem neces-
sary to insure compliance with this article.

Sec. 7-b. Notice of Assessment; Petition for Reassess-
ment; Hearing.—The tax commissioner shall give to the
taxpayer written notice of any assessment made pursuant
to this article. Unless the taxpayer to whom a notice of
assessment is directed shall, within thirty days after serv-
ice thereof (except in the case of jeopardy assessments),
either personally or by registered mail, file with the tax
commissioner a petition in writing, verified under oath
by said taxpayer or his duly authorized agent, having
knowledge of the facts, setting forth with definiteness
and particularity the items of the assessment objected to,
together with the reason for such objections, said assess-
ments shall become and be deemed conclusive and the
amount thereof shall be payable at the end of the thirty
day period. In every case where a petition for reassess-
ment as above described is filed, the tax commissioner shall assign a time and place for the hearing of same and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the tax commissioner for good cause. The hearing shall be informal and may be conducted by an examiner designated by the tax commissioner. At such hearing evidence may be offered to support the assessment or to prove that it is incorrect. After such hearing the tax commissioner shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice, the tax commissioner's decision shall be final.

Sec. 8. Appeal.—An appeal may be taken by the taxpayer to the circuit court of the county in which the activity taxed was engaged, or in which the taxpayer resides, or in the circuit court of Kanawha county, within thirty days after he shall have received notice from the
tax commissioner of his determination as provided in section seven-b.

The appeal shall be taken by written notice to the tax commissioner and served as an original notice. When said notice is so served it shall, with the return thereon, be filed in the office of the clerk of the circuit court and docketed as other cases with the taxpayer as plaintiff and the tax commissioner as defendant. The plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by such clerk, in penalty double the amount of tax appealed from, and in no case shall the bond be less than fifty dollars, conditioned that the plaintiff shall perform the orders of the court.

The court shall hear the appeal in equity and determine anew all questions submitted to it on appeal from the determination of the tax commissioner. In such appeal a certified copy of the tax commissioner's assessment shall be admissible and shall constitute prima facie evidence of the tax due under the provisions of this article. The court shall render its decree thereon and a certified copy of said decree shall be filed by the clerk of said court with
the tax commissioner who shall then correct the assess-
ment in accordance with said decree. An appeal may be
taken by the taxpayer or the tax commissioner to the
supreme court of appeals of this state in the same man-
ner that appeals are taken in equity.

Sec. 8-a. Service of Notice.—Any written notice re-
quired by this article shall, unless otherwise specifically
provided, be served upon the taxpayer personally or by
registered mail.

Sec. 11. Payment; Penalty for Non-Payment.—Every
remittance of taxes imposed by this article shall be made
by bank draft, certified check, money order, or certificate
of deposit, to the tax commissioner who shall issue his
receipt therefor to the taxpayer and pay the moneys into
the state treasury to be kept and accounted for as pro-
vided by law.

If any taxpayer fails to make the return required by this
article, or makes his return but fails to remit in whole or in
part the proper amount of tax, there shall be added to the
amount of the tax unpaid, from the date such tax should
have been paid, a penalty in the amount of five per cent of
the tax for the first month, or fraction thereof, of delinquency and one per cent of the tax for each succeeding month, or fraction thereof, of delinquency: Provided, however, That if such failure is due to reasonable cause, the tax commissioner may waive or remit in whole or in part these penalties.

If the failure to pay is due to fraud or intent to evade this article and the rules and regulations promulgated thereunder, there shall be added an additional penalty of twenty-five per cent of the amount of the tax, exclusive of penalties.

The penalties so added shall be collected at the same time and in the same manner and as a part of the tax.

Sec. 12. Tax a Debt; Lien of Unpaid Tax; Recordation of Lien.—A tax due and unpaid under this article shall be a debt due the state. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer: Provided, That such lien shall be subject to the restrictions and conditions embodied in article ten-c, chapter thirty-eight of the code of West Virginia,
Sec. 13. Collection by Action or Suit; Injunction.—The tax commissioner may collect any tax, interest and penalty due and unpaid under the provisions of this article by action in debt, assumpsit, motion for judgment or other appropriate proceeding in the county in which (a) the activity taxed was engaged in or (b) the taxpayer resides; or by a suit to enforce the lien therefor in any county in which property of the taxpayer may be found; or, if the tax due and unpaid under this article is three hundred dollars or less, by suit in the court of any justice having jurisdiction of the taxpayer or of his property. If the failure of any taxpayer to comply with the provisions of this article shall have continued sixty days, the tax commissioner may proceed to obtain an injunction restraining the taxpayer from doing business in this state until he fully complies with the provisions of this article. In any proceeding under this section upon judgment or decree for the plaintiff he shall be awarded his costs. In the event a business subject to the tax imposed by
this article shall be operated in connection with a receivership or insolvency proceeding, the court under whose direction such business is operated shall, by the entry of a proper order in the cause, make provision for the regular payment of such taxes as the same become due.

Sec. 14. Payment When Person Sells Out or Quits Business; Lien; Liability of Successor.—Any person exercising any privilege taxable under this article who shall sell out his business or stock of goods, or shall cease doing such business, shall file the return prescribed by section five of this article and remit the entire tax that may be chargeable against him because of all business done, within thirty days after selling out his business or stock of goods, or ceasing to do such business. The tax imposed by this article shall be a lien upon the property of such person.

The successor in business of any such person shall withhold so much of the purchase money as will satisfy the taxes and penalty which may be due until the former owner shall produce a receipt from the tax commissioner evidencing the payment of such taxes and penalty. If
the purchaser of a business or stock of goods shall fail

to withhold purchase money as above provided, and the
taxes and penalty shall remain unpaid after expiration
of the thirty day period allowed for payment thereof,
he shall be personally liable for the payment of all such
taxes and penalty, and the same shall be recoverable
by the tax commissioner by action or suit as provided
by section thirteen of this article.

Sec. 16. *Prerequisite to Final Settlement with State
or Political Subdivision Contractor; Penalty.*—All state,
county, district and municipal officers and agents making
contracts on behalf of the state of West Virginia or any
political subdivision thereof shall withhold payment in
the final settlement of such contracts until the receipt of
a certificate from the tax commissioner to the effect that
all taxes levied or accrued under this article against the
contractor have been paid. Any official violating this
section shall be guilty of a misdemeanor and, on convic-
tion thereof, shall be fined not more than one thousand
dollars or imprisoned not exceeding one year in the

13 county jail, or shall be subject to both said fine and im-
14 prisonment, in the discretion of the court.

Sec. 17. *Priority in Distribution in Receivership, etc.;*
2 *Personal Liability of Administrator.*—In the distribution,
3 voluntary or compulsory, in receivership, bankruptcy or
4 otherwise, of the estate of any person, firm or corpora-
5 tion, all taxes due and unpaid under this article shall be
6 paid from the first money available for distribution in
7 priority to all claims, except taxes and debts due the
8 United States which under federal law are given priority
9 over the debts and liens created by this article. Any
10 person charged with the administration of an estate who
11 shall violate the provisions of this section shall be per-
12 sonally liable for any taxes accrued and unpaid under
13 this article, which are chargeable against the person,
14 firm or corporation whose estate is in administration.

Sec. 20. *Collection by Distraint; Report of Collection.*—
2 The tax commissioner may distract upon any goods,
3 chattels or intangibles represented by negotiable evi-
4 dences of indebtedness, of any taxpayer delinquent under
5 this article for the amount of all taxes and penalties ac-
6 cruized and unpaid hereunder. The commissioner may re-
7 quire the assistance of the sheriff of any county of the
8 state in levying such distress in the county of which such
9 sheriff is an officer. A sheriff so collecting taxes due
10 hereunder shall be entitled to compensation in the amount
11 of all penalties collected over and above the principal
12 amount of the tax due, but in no case shall such compen-
13 sation exceed twenty-five dollars. All taxes and pen-
14 alties so collected shall be reported within ten days after
15 collection to the tax commissioner, who shall prescribe
16 by general regulation the manner of remittance of such
17 funds and of allowing the collecting officer the compensa-
18 tion due him under this section.

Sec. 22. Administration of Article by Tax Commis-
2 sioner.—The administration of this article is vested in and
3 shall be exercised by the tax commissioner who shall
4 prescribe forms and reasonable rules in conformity with
5 this article for the making of returns and for the ascer-
6 tainment, assessment and collection of the taxes imposed
7 hereunder; and the enforcement of any of the provisions
8 of this article in any of the courts of the state shall be
under the exclusive jurisdiction of the tax commissioner,
who shall require the assistance of and act through the
prosecuting attorney of any county where suit is brought;
but the prosecuting attorney of any county shall receive
no fees or compensation for services rendered in enforc-
ing this article in addition to the salary paid by the county
to such officer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 17
day of March, 1955.

Governor

Filed in the Office of the Secretary of State

West Virginia MAR 13 1955

D. Pitt O'Brien
SECRETARY OF STATE