MASSACHUSETTS INCOME TAX LAW

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INTRODUCTION

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THE recent enactment of the Massachusetts Income Tax Law marks the culmination of a movement to readjust the existing tax laws of the State to present day conditions.

The constitutional principle upon which taxes in the Commonwealth of Massachusetts have been imposed originated at a time when there was little intangible personal property in existence. Until recently *real estate*, including buildings thereon, *tangible personal property*, including household furniture, livestock, jewelry, vehicles, machinery, merchandise, etc., *intangible personal property*, including stocks, bonds, notes, bank deposits, etc., have been taxed locally at the same rate. Income from annuities and the excess above $2000 of incomes from professions, trades or employments have been taxed at the same rate as property.

Under this system the tax on intangible personal property absorbed a disproportionately large share of the income derived from such property, and resulted not only in the concealment of this form of property, but in the migration of capital from the State.

In order to permit a change in the existing laws, the legislature in 1914 took favorable action upon an amendment to the constitution authorizing the imposition of an income tax. In accordance with the provisions of the State constitution the proposed amendment was referred to the next session of the legislature when it again received favorable action. Thereafter it was submitted to the people and ratified by them on November 2, 1915.

This amendment authorized the legislature to impose income taxes at different rates upon income derived from different classes of property, and also authorized the taxation of income not derived from property at a lower rate than income derived from property.

In 1915 a Special Commission was directed by the legislature to draft a law for the taxation of incomes under the power and authority contained in the constitutional amendment. The law just passed is based upon that drawn by this Commission. This law makes no changes in the method of taxing *real estate* and *tangible personal property*, but it eliminates the old tax on *intangible property* at varying local rate, and substitutes in place thereof a tax on the *income* therefrom uniform throughout the Commonwealth. It also changes the manner of taxation of incomes from annuities and from professions, trades or employments. Adequate provision is made for the enforcement of the law by requiring the making of returns and by the imposition of severe penalties for evading the tax.

It is the purpose of this pamphlet to explain in brief the principal provisions of this Act.

PART ONE

To Whom Law Applies

Every person, regardless of how small his total income may be, is required to make a return under the Act if he receives any income from intangible property (except from tax-exempt intangible property) or if he receives any income in the form of an annuity (except an annuity from trust property) or if his gains from the purchase and sale of securities exceed his losses therefrom. Any person whose total income from all sources exceeds $2000 is required to make a return, irrespective of the source of his income. The Act applies to trustees, executors, guardians and other fiduciaries as well as to individuals. It also applies to partnerships and voluntary associations. Corporations are, however, not affected, except where acting in a fiduciary capacity.

The Act applies to income received during the calendar year 1916 as well as to income received during succeeding years. Taxes become due on the fifteenth of October of the year following that for which they are assessed.

Schedule of Rates

Under the Act, taxes are levied on income from different sources at the following rates: —

I. Income from intangible property (except when exempt) at six per cent.

II. Income from annuities, at one and one-half per cent.

III. Income from professions, employments, trade or business, at one and one-half per cent.

IV. Income from gains on the sale of securities, at three per cent.

The rates are not progressive as under the Federal Income Tax Law, but are uniform, irrespective of the size of the income of the tax payer.

I.

TAXATION OF INCOME FROM INTANGIBLE PROPERTY

In General

In general, the new law substitutes a tax at the uniform rate of six per cent on income from intangibles in place of a tax on principal at the full local rate. Accordingly stocks and bonds which heretofore have been subject to taxation by the city or town where the tax payer resides are now exempt,* and instead the income from such securities is taxed directly by the Commonwealth; and conversely the income from stocks and bonds which were not subject to taxation under the old law, will be exempt under the new law. In addition to this change in the law, special provision is made in the Act for the taxation of shares of voluntary associations.

Income subject to the six per cent rate includes: —

(A) Interest.

(B) Dividends on stock in corporations.

(C) Dividends on shares in voluntary associations.

No distribution of capital whether in liquidation or otherwise is taxable as income, but accumulated profits are not regarded as capital.

As all income from the above sources is, however, not taxed, it becomes necessary to consider separately income from these different sources.

(A) Interest

The six per cent rate applies generally to interest from bonds, notes, money at interest, and all debts due the tax payer.

Interest on Bank Deposits

Interest on deposits in banks is taxed except interest on: —

1. Deposits in Massachusetts Savings Banks.

*Note. — National Banks located in Massachusetts are still required to pay taxes on the shares of their capital stock—stockholders in National Banks will however not be required to pay taxes on dividends received.

2. Deposits in the Massachusetts Hospital Life Insurance Company.

3. Deposits in the Savings Department of any trust company so far as the amount deposited does not exceed in amount the limits imposed upon deposits in Massachusetts Savings Banks.

Interest on Bonds and Notes

Income from bonds and notes is taxed with the following exceptions:

1. Interest from bonds and notes that are secured exclusively by mortgages of real estate taxable as real estate situated within the Commonwealth of Massachusetts to an amount not exceeding the assessed value of the mortgaged real estate.

This follows the analogy of the previous law, so that in the case of bonds which have heretofore been tax exempt the income therefrom will, under the Act, also be exempt.

2. Interest on all bonds of the United States.

3. Interest on bonds or certificates of indebtedness of the Commonwealth issued after January 1, 1906, and bonds, notes and certificates of indebtedness of any county, fire district, water supply district, light district, watch district or improvement district, city or town in the Commonwealth issued after May 1, 1908, stating on their face that they are exempt from taxation in Massachusetts.

The interest from municipal or state bonds of other states and also the interest from all other Massachusetts State or Municipal bonds except those mentioned is taxable.

Interest received on other Debts

Interest received on any other debts due the tax payer is taxable except in the case of loans secured exclusively by mortgages of real estate taxable as real estate situated within the Commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate.