TAX EXEMPT AND TAXABLE INVESTMENT SECURITIES; A SUMMARY OF THE LAWS OF ALL THE STATES AND THE DISTRICT OF COLUMBIA RELATING TO THE TAXATION OF SECURITIES FROM THE STANDPOINT OF THE BANKER AND INVESTOR

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TAXATION OF INVESTMENTS.

PREFACE.

This book is intended as a manual for the use of investors and dealers in investment securities. It treats of the laws of the various states of the Union levying a direct property tax on investments. It does not include inheritance taxes[1] or stock transfer taxes. These are not properly described as included in the direct property tax. The taxes referred to are levied by states, counties, cities, towns, or specially created municipal districts within states, on property in the hands of its owner assessed at a given rate in proportion to the value of the property or upon incomes. These are the great fundamental annual taxes which form the backbone of our public revenue.

This book is not intended as a legal treatise and does not contain a discussion of the constitutional limitations on the taxing power or questions relating to the interpretation of tax statutes. The citations of the statutes are given for the convenience of those who may wish to make a more detailed study of a particular statute in a given state. The occasional citations of decisions do not purport to be exhaust-

1. Inheritance taxes by the several states have been fully treated in Blakemore and Bancroft, Inheritance Taxes, Boston Book Co., Boston, 1912. There seems, therefore, no need of discussing this subject here.

ive. The work includes all statutes in force, on January 1, 1913, except the Session Laws of Vermont for 1912 which were not available. The decisions have been examined up to December 1, 1912, in all states.

The arrangement adopted, it is hoped, will be more convenient for investors than a more elaborate statement. It necessitates, however, abbreviations and the use of terms throughout the scheme of classification in a somewhat arbitrary sense. To avoid prolix repetition, these terms are used in a uniform sense throughout the book except where expressly qualified. It is necessary, therefore, to give at the outset a series of definitions of terms which may not be technically accurate, but which, it is hoped, will prove convenient. It seems wise that these should be made decidedly elementary.

Investments have been roughly classified as stocks, bonds, notes, and deposits. There are frequently securities which partake so much of the nature of more than one of the above groups or, in other words, are so close to the dividing line between them, that there may well be a difference of opinion as to the class within which they should fall. In general, however, stocks represent proprietary interests in some association incorporated or unincorporated, and bonds, notes, and deposits are obligations or contracts. Stocks have been divided into several groups because some of the states have made such an arbitrary division for taxation purposes. It has seemed wise to adopt the most familiar of these classifications. Many states make no such distinctions, and the same rule applies to more than one of the kinds of stock distinguished in our classification. So far as possible, needless repetition has been avoided in such cases by grouping titles together in brackets, but to avoid confusion the same scheme of classification has been maintained.

STOCKS.

Corporations which issue certificates representing the shares in their capital stock owned by individuals are in theory artificial persons created by some sovereign power, such as the United States or a state of the Union. A corporation organized under the laws of one jurisdiction may transact business and hold property in another, and its shares may be owned by a citizen of a third. The technical terms for distinguishing between a corporation which receives its charter from the state levying the tax and a corporation which receives its charter from some other state are the words "domestic" and "foreign." So far as possible these words have been avoided, and the name of the state granting the charter to the corporation has been prefixed. For example, "Massachusetts Corporations" means corporations receiving their charter from that state and does not include corporations chartered by other states but doing all or part of their business in Massachusetts.

(1) The first group, "Bank Stocks," includes the following:

(a) A national bank is incorporated under the laws of the United States of America, but located and doing business in some one of the states. The tax referred to in this subdivision is a tax on the stock of a national bank doing business in the state imposing the tax. The right of the states to tax stock in national banks has been limited and defined by numerous decisions of the United States Supreme Court. States can tax stockholders but cannot tax the banks. Most state statutes try to get around this and collect the tax through the bank because that is practically the only way they can get it. Many of these statutes in their present form are of doubtful constitutionality. Shares in national banks under federal statute can be taxed only in the state where the bank is located. Hence this section includes only national banks located in the state in question. It is to be remembered in this connection that the same statute that prevents a state from taxing its own citizens on shares owned in national banks located in other states permits each state to tax nonresidents on shares owned in national banks located in the taxing state. (U. S. Rev. St., Sec. 5219; Tappan v. Merchant's National Bank, 19 Wall. 490.)

(b) The second group consists chiefly of state banks of discount. In many states there are no institutions incorporated under the laws of the state which are technically called banks. In those states there are usually, however, trust companies, which perform the functions of banks and are usually treated similarly for purposes of taxation. They are included in this section except where expressly distinguished. In some states savings banks have a share capital and issue certificates of stock. In such states these shares will be included in this group.

(c) The third group relates to the taxation of shares held by a citizen of one state in the capital stock of a bank organized under the laws of some other state or country.

(d) The shares in co-operative banks, or building and loan associations, as they are more generally called, perhaps should not technically be included in the classification of stocks since they more nearly resemble deposits in banks. It seemed more likely, however, that they would be looked for under the heading of bank stocks and they have been so classified. They are usually taxed by a special statute. Such shares are usually owned in the state incorporating the association and therefore the summaries deal only with shares in domestic building and loan associations except where the contrary is expressly stated.

(2) Public service corporations may be roughly defined as those which are held to be under greater obligations to the public than ordinary business corporations, either because of the semi-monopolistic character of their business or because of privileges