THE INVESTMENT TAX LAW OF THE STATE OF NEW YORK AND THE MORTGAGE TAX LAW OF THE STATE OF NEW YORK

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The Investment Tax Law of the State of New York and the Mortgage Tax Law of the State of New York by Various

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VARIOUS

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Trieste

The Investment Tax Law

of the State of New York

and

The Mortgage Tax Law

of the State of New York

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Foreword

The Investment Tax Law of June 1, 1917, is substantially a reenactment of the Secured Debts Tax Law as amended in 1916, with a number of important changes.

The Main Differences Between the Investment Tax Law and the Secured Debts Tax Law.

A. **Change in definition.** To be an "Investment," a security must be part of a series of similar securities.

B. **Change of rate.** The tax is now 20c. *per year* on each $100 or fraction thereof.

C. **The tax is now an annual one, payable at the option of the holder and may be Prepaid for a Period of Not More than Five Years.**

D. **Additional tax in certain cases.** An additional Inheritance Tax at the rate of five per cent. of the appraised inventory value, must be paid upon any "investment" found in the estate of a deceased person upon which the Investment Tax, the Secured Debts Tax or the personal property tax has not been paid.

E. **When a portion of a bond is an "Investment"** and exemptible only under the Investment Tax Law and another portion is exemptible under the Mortgage Tax Law because the obligation is secured by property within and without the State of New York, if the holder does not desire to pay both taxes but to waive a determination and pay one tax, he may now pay it only under the Investment Tax Law instead of under the Mortgage Tax Law, as formerly.

Summary

What the Investment tax is. A special tax at a fixed rate payable at the option of the holder in respect to an "investment" which exempts the "investment" for a limited period from personal property tax in the State of New York. (Sec. 331, page 22.)

Definition of "Investment": Any bond, note, debt, debenture, equipment bond or note or written or printed obligations forming part of a series of similar bonds, notes, debentures, written or printed obligations which are payable one year or more from their date of issue and which are either secured or unsecured.

EXCEPT

(a) Bonds of New York State or any civil division thereof.

(b) Obligations secured by a deed of trust or mortgage on real property situated wholly within the State of New York.

(c) Obligations held as collateral to secure the payment of investments taxable under this article, or bonds taxable under the Mortgage Tax Law.

(d) Such proportion of the obligation secured by deed of trust or mortgage on property or properties situated partly within and partly without the State of New York, as the value of the mortgaged property or properties situated within the State of New York bears to the value of the entire mortgaged property or properties. (Sec. 330, page 21.)

This definition includes, as bonds which are exemptible, public bonds of States other than New York, and obligations of foreign countries and their political subdivisions. Ordinary promissory notes can not be made exempt.

Rate of tax. 20c. per year on each $100 or fraction thereof of the face value of the "investment." (Sec. 331, page 22.)

Period of exemption which may be secured. One or more years, not exceeding five, from the date of the payment of the tax, at the option of the holder. (Sec. 331, page 22.)

When the tax may be paid. Any time after June 1, 1917, the date upon which the law became effective. (Sec. 331, page 22.)

How exemption is secured. By payment of the tax to the Comptroller of the State of New York at his office in Albany, or at his branch office in the Woolworth Building, New York City. Payment of the tax is evidenced by stamps affixed to the "investment," and cancelled. (Secs. 331, 332, 333, pages 22, 23.)

The "Investment," itself, must be presented and stamped. The Comptroller shall affix to the investment and cancel the stamps evidencing payment of the tax and no exemption shall be valid unless stamps are so affixed and cancelled. (Secs. 332, 333, page 23.)

Investments may be registered, no matter what the denomination. (This continues the provision of the Law of 1915. Under the Law of 1911 they could not be registered if in denominations exceeding $1,000.)

Offset of debts. A person holding an "investment," as defined under the law, permanently for investment purposes, on which the tax has not been paid, may not deduct his just debts against the assessed value of such "investments."

Persons holding "investments," *temporarily in their possession for sale,* and not permanently for invest-

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NOTE—Section 6 of Article 1 of the Tax Law provides that all personal property subject to taxation shall be assessed at its full value, but the owner of personal property shall be allowed a deduction from the full value of his taxable personal property to the extent of the "just debts" owing by him. The "just debts" which may be deducted have been defined in the circular published by the Department of Taxes and Assessments of the City of New York as—

"1—Amount owing on bond and mortgage, on which the person claiming the offset is liable, while he remains the owner.

2—Amount owing on promissory notes.

3—Amount owing on book debits or contracts.

Just debts do not include contingent liabilities as guarantor or endorser, unless such liabilities have become fixed; nor do they include debts incurred for the purpose of evading taxation."

ment purposes, who are actually engaged in the purchase and sale of such securities as a business, and who maintain an office or place of business in this State for carrying on an actual *bona fide* business of purchasing and selling such securities, as distinguished from their purchase for investment, *shall be allowed to deduct their just debts* from the tax against the assessed value of such "investments," *provided* that the "investments" *have not been owned and held for a longer period than eight months.* (Sec. 336. Page 25.)

Exemption of secured debts upon which tax has previously been paid. If the tax has been paid upon a "secured debt" under the Law enacted September 1, 1911, and prior to May 1, 1915, such secured debt is stated to be exempt from personal property tax.

If a "SECURED DEBT" has been exempted under the amendments to the Mortgage Tax Law of 1916, in cases where the "SECURED DEBT" was secured by property within and without the State of New York, such "SECURED DEBT" remains tax exempt. (Sec. 338. Page 26.)

Where the tax has been paid upon secured debts under the Law as amended April 30, 1915, and again amended April 21, 1916, and effective between the first day of May, 1915, and December 31, 1916, such secured debt remains exempt from personal property tax for a period of five years from the date of the payment of the tax. (Sec. 339, page 27.)