

## CHAPTER 93—H. F. No. 1

*An act imposing and relating to a tax on the conducting of business by the system of mail order establishments and by the system of chain stores, and repealing Laws 1933, Chapter 213, as amended by Extra Session Laws 1933-1934, Chapter 16.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Definitions.**—The term "person" when used in this act shall include individuals, partnerships, trusts, associations, joint stock companies, corporations and firms however organized or whatever be the plan of operation.

## PART I

Section 1. **Tax on chain stores.**—There is hereby imposed upon every person engaged within the State of Minnesota in conducting a business by the system of chain stores from which are sold or otherwise disposed of at retail any goods, wares or merchandise, excepting any person selling at retail one or more of the following: fuel, lumber, building material, gasoline and oils and grain, if the gross sales by any such person of such produce or products shall, during any year for which the tax is imposed, equal or exceed 95 per centum of the total gross sales from all sources of any such person, and excepting, further, cooperative associations organized under the laws of this state in good faith and not for the purpose or with the intent of evading the tax hereby imposed, and excepting, further, any person who within this state produces, manufactures, prepares, distributes and sells at retail only, food products which he himself produces, manufactures or prepares, where such retail sales are made only from stores owned, operated and controlled exclusively by any such person, an annual tax for each calendar year during any part of which such taxpayer shall be so engaged which tax shall be computed at the rate provided in the following section.

Sec. 2. **Rate of tax.**—The tax imposed by Section 1 shall be at the following rates upon each store or mercantile establishment within this state under a single or common ownership, supervision or management:

1. \$10.00 on each of the first and second;
2. \$20.00 on each of the third and fourth;
3. \$30.00 on the fifth;
4. \$40.00 on the sixth;
5. \$50.00 on the seventh;
6. \$60.00 on the eighth;
7. \$70.00 on the ninth;

8. \$80.00 on the tenth;
9. \$95.00 on the eleventh;
10. \$110.00 on the twelfth;
11. \$125.00 on the thirteenth;
12. \$140.00 on the fourteenth;
13. \$155.00 on each from the fifteenth to twenty-fifth, inclusive;
14. \$175.00 on each from the twenty-sixth to thirty-fifth, inclusive;
15. \$200.00 on each from the thirty-sixth to forty-fifth, inclusive;
16. \$225.00 on each from the forty-sixth to fifty-fifth, inclusive;
17. \$250.00 on each from the fifty-sixth to sixty-fifth, inclusive;
18. \$300.00 on each from the sixty-sixth to the one hundred fiftieth, inclusive;
19. \$350.00 on each from the one hundred fifty-first and over.

Sec. 3. **What are chain stores.**—The terms “store” and “mercantile establishment”, shall mean any fixed place at which said business is conducted even if such place is at the same time being used for other purposes. Conducting a business by the system of chain stores shall mean conducting such business from two or more stores under a single or common ownership, supervision, management or control. Two or more stores or mercantile establishments shall be treated as being under a single or common ownership, supervision, management or control if directly or indirectly owned or controlled by a single person or by any group of persons having a common interest in such stores or mercantile establishments, or if 20% or more of the gross revenues, net revenues, or profits from any such stores or mercantile establishments shall directly or indirectly be required to be immediately or ultimately made available for the beneficial use, or shall directly or indirectly inure to the immediate or ultimate benefit of any single person or any such group of persons having a common interest therein.

Sec. 4. **Computation of tax.**—The tax imposed hereby shall be computed on the basis of the number of stores or mercantile establishments under a single or common ownership, supervision, management or control during each calendar year; provided, however, that if any such store or mercantile establishment is established or is discontinued during any calendar year, the tax shall be computed in accordance with the number of stores in operation before and after such change, and for the purpose thereof a fractional part of a month shall be disregarded unless more than one-half of a month, in which case it shall be considered as a month.

## PART II

**Sec. 1. Definitions.**—The term "mail order establishment" shall mean any place or places, order offices, warehouses and reserve depots in which are stored or kept or orders taken for goods, wares, and merchandise, owned or controlled directly or indirectly by a person engaged in selling same at retail within this State and at least fifteen per cent (15%) of whose total intrastate sales therefrom are filled and completed in response to orders from purchasers for such goods received by or through the mails, express, messenger or written communication, and which person issues and distributes price lists, circular advertisements, pamphlets or catalogs to prospective purchasers or customers describing such goods, wares and merchandise for sale.

**Sec. 2. Tax on mail order establishments.**—There is hereby imposed upon every person engaged within the State of Minnesota in conducting a business by the method or system of mail order establishments from any of which are sold or otherwise disposed of in intrastate commerce at retail any goods, wares or merchandise, excepting any person selling at retail one or more of the following, horticultural and nursery products, seeds, tomb stones and building stone, books, pamphlets, circulars, magazines, newspapers, greeting cards and church equipment, if the gross sales of any such person from such product or products shall, during any year for which the tax is imposed, equal or exceed 95 per centum of the total gross sales from all sources of any such person, an annual tax for each calendar year during any part of which such taxpayers shall be so engaged, which tax shall be computed as hereinafter provided for in this Part.

**Sec. 3. Rate of tax.**—The tax imposed by this Part shall be at the following rates upon each mail order establishment within this state under the same general management, supervision, ownership or control, as such general management, supervision, ownership and control is defined in Part I, Section 3.

1. \$200.00 on the first store;
2. \$300.00 on the second store;
3. \$400.00 on the third store;
4. \$500.00 on the fourth store;
5. \$600.00 on the fifth store;
6. \$700.00 on the sixth store;
7. \$800.00 on the seventh store;
8. \$900.00 on the eighth store;
9. \$1000.00 on the ninth store;
10. \$1100.00 on the tenth store;
11. \$1200.00 on each store thereafter.

**Sec. 4. Computation of tax.**—The tax imposed by this Part shall be computed on the basis of the number of mail order establishments under a single or common ownership, supervision, management or control during each calendar year; provided, however, that if any such mail-order establishment is established or is discontinued during any calendar year, the tax shall be computed in accordance with the number of establishments in operation before and after such change, and for the purpose thereof a fractional part of a month shall be disregarded unless more than one-half of a month, in which case it shall be considered as a month.

### GENERAL PROVISIONS

**Sec. 1. To file report with Minnesota tax commission.**—Every person on whom a tax is imposed by this Act shall make and file with the Minnesota Tax Commission on or before January 20 of each year, beginning with January, 1938, on such forms as shall be prescribed therefor by said commission showing the number of stores or mercantile establishments, or mail order establishments under such single or common ownership, supervision, management or control during the preceding calendar year. The tax imposed shall be paid to the commission at the time of the filing of such return.

If any person subject to a tax hereunder shall fail to make and file a return and pay the tax as hereinbefore provided within the time specified therefor, the said tax commission shall make and file a return for such person, based upon the best information which it possesses or is able to obtain, and shall assess a tax upon the basis of such return and shall add thereto a specific penalty of 10 per cent of the tax as so assessed. The commission shall forthwith mail to such person, if his address is known, a statement of the tax and penalty so assessed, and such person shall pay said tax and assessment, together with interest thereon from the time it should have been paid at the rate of six per cent per annum, within 30 days after the mailing of such notice.

**Sec. 2. To bring action for unpaid tax.**—If any tax remains unpaid for more than 30 days after the same shall become due and payable, an action shall be brought in the name of the state against such person for the collection thereof in the manner in which other general debts due the state are enforced by action.

**Sec. 3. Refund of excess tax.**—A taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected other than by suit as aforesaid, an amount in excess of the tax legally due, may file with said commission a claim for the refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected. If the commission finds that the taxpayer has paid more than was legally due, it shall issue its certificate

for the refundment of such excess, with interest at the rate of 6% per annum computed from the date of the payment or collection of the tax until the date of refund, and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by this Act as other state moneys are expended. So much of the proceeds of the taxes imposed by this Act as may be necessary therefor are hereby appropriated for the purpose of such refundments.

**Sec. 4. Violation a misdemeanor.**—Any taxpayer who shall willfully make a false return with intent to evade the payment of any tax imposed by this Act shall be guilty of a misdemeanor.

**Sec. 5. Tax commission to administer act.**—The Minnesota Tax Commission shall administer this Act and enforce the collection of the taxes imposed hereby, and it may make and publish such rules and regulations, not inconsistent with this Act, as it may deem necessary to the efficient enforcement of this Act. It shall prepare blank forms for the returns required hereby, and shall distribute the same throughout the state and shall furnish them upon application, but the failure to receive such blanks shall not relieve any person from the obligation of making any return required of him by this Act.

**Sec. 6. Tax commission to examine books and record.**—For the purpose of determining the correctness of any return or of determining whether any person should have made a return hereunder, the commission shall have power to examine or cause to be examined any books, papers, or records relevant to making such determinations. It shall further have power to require the attendance of any taxpayer or other person having knowledge or information relevant to such determination, to compel the production of books, papers or records, to take testimony in matters material to such determinations and to administer oaths or affirmations in any such connection. The commission may require any owner or manager of any store in the state to file with it a statement under oath showing the ownership, management and control of such store for the purpose of determining whether such store is subject to the tax hereby imposed.

**Sec. 7. Tax to be credited to general revenue fund of state.**—The revenue derived from taxes, interest, or penalties provided for in this act when collected shall be paid into the general revenue fund of the state.

**Sec. 8. Application of act.**—No taxes shall be levied or assessed under Laws 1933, Chapter 213, for the year 1937 or thereafter, but said law shall remain in full force and effect with respect to any tax levied or assessed or which should have been levied or assessed thereunder for any year prior to 1937. If any taxes have been paid to the state under said law for the year 1937, the same shall be credited upon any tax for said year due under this Act from the taxpayer who made such payment.

Sec. 9. **Limitations of act.**—Any store or establishment taxable under Part II as a mail order establishment shall not be included in computing the tax imposed by Part I, if otherwise taxable hereunder.

Sec. 10. **Provisions severable.**—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate any other part or provision in the remainder of the Act; and, if any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction constitutionally inapplicable to any case or situation within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other case or situation within their terms; and, if any exception from the tax hereby imposed shall for any reason be adjudged by any court of competent jurisdiction invalid, the tax shall be imposed upon the taxable subject as to whom or which such exception has thus been held invalid.

Sec. 11. **Effective until 1941.**—No tax shall be imposed or collected under this Act for the year 1941 and years subsequent thereto, but the provisions hereof shall remain in full force and effect with respect to any tax levied or assessed or which should have been levied and assessed for any year prior to 1941.

Approved July 24, 1937.

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#### CHAPTER 94—H. F. No. 285

*An act relating to persons in possession of registered land under unregistered contracts for deed and providing for the limitation of actions against them in certain cases.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Unregistered contracts in certain cases.**—In any case where a vendor of land shall have sold the same under an unregistered contract for deed followed immediately by actual possession thereunder by the vendee, and shall have thereafter conveyed the same by deed of conveyance and surrender of his owner's duplicate certificate of title to a grantee to whom a new certificate was thereupon issued, without mention, however, in said deed or in said certificates, of the previous contract for deed, and more than fifteen years have elapsed since said conveyance during which period said vendee has remained continuously in undisturbed possession of the premises and has paid the whole of the contract price therefor, and