

CHAPTER 410—H. F. No. 663

An act relating to taxes on and measured by incomes; amending Minnesota Statutes 1941, Section 290.03.

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

Section 1. Minnesota Statutes 1941, Section 290.03, is hereby amended to read as follows :

290.03. Classes of taxpayers. An annual tax for each taxable year, computed in the manner and at the rates herein-after provided, is hereby imposed upon the taxable net income for such year of the following classes of taxpayers :

(1) Domestic and foreign corporations not taxable under section 290.02 which own property within this state or whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both ;

Business within the state shall not be deemed to include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters which are made international for navigation purposes by any treaty or agreement to which the United States is a party ;

(2) Resident and non-resident individuals, except that no non-resident individual shall be taxed on his income from compensation for labor or personal services within this state during any taxable year unless he shall have been engaged in work within this state for more than 150 working days during such taxable year ;

(3) Estates of decedents, dying domiciled within or without this state ; and,

(4) Trusts (except those taxable as corporations) however created by residents or non-residents or by domestic or foreign corporations..

Approved April 19, 1945.

CHAPTER 411—H. F. No. 882

An act relating to taxation, under Article 19 of the state Constitution, of certain aircraft using the air space overlying the State of Minnesota and the airports thereof, in lieu of all other taxation thereon; providing methods of registering and

listing such aircraft for taxation and for the collection of such taxes; and prescribing penalties for violations of the act.

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

Section 1. **Definitions.** Subdivision 1. For the purposes of this act the following words, terms, and phrases shall have the meanings herein given, unless otherwise specifically defined, or unless another intention clearly appears or the context otherwise requires:

Subd. 2. "Person" means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor.

Subd. 3. "Aircraft" means any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 4. "Air commerce" means the transportation by aircraft of persons or property for hire in interstate, intrastate, or international transportation on regularly scheduled flights.

Subd. 5. "Airline company" means any person who undertakes directly or indirectly to engage in the business of air commerce.

Subd. 6. "Commissioner" means the commissioner of aeronautics of this state.

Subd. 7. "Owner" means any person owning or renting an aircraft, or having the exclusive use thereof, under a lease or otherwise, for a period greater than 30 days.

Subd. 8. "Dealer" means any person regularly engaged in the business of manufacturing or selling, purchasing, and generally dealing in new and unused aircraft, having an established place of business for the trade, sale, and display thereof and having in its, his, or their possession new and unused aircraft for the purpose of sale or trade.

Subd. 9. "Airports thereof" (referring to airports of the state of Minnesota) includes all airports located in this state owned by the state, by any political subdivision or municipality thereof, or by any person.

Subd. 10. "Municipality" means a city, a county, a town, a village or a borough, in this state and includes metropolitan airports commissions organized pursuant to the provisions of Laws 1943, Chapter 500.

Sec. 2. Limitation. None of the provisions of this act apply to aircraft or airline companies used in air commerce.

Sec. 3. Taxation. Subdivision 1. A lieu tax. All aircraft using the air space overlying the state of Minnesota and the airports thereof, except as set forth in Section 5 of this act, shall be taxed in lieu of all other taxes thereon, on the basis and at the rate for each calendar year as follows:

Subd. 2. Rate. The tax shall be at the rate of one per cent of value; provided that the minimum tax on all aircraft subject to the provisions of this act shall be \$10.00.

Subd. 3. Base price. Value until the end of the first calendar year of aircraft life, construing the year of manufacture as the first year of such life, shall be construed to mean the "base price for taxation" as hereinafter defined.

Subd. 4. Base price for taxation. For the purpose of fixing a base price for taxation from which depreciation in value at a fixed per cent per annum can be counted, such price is defined as follows:

(1) The base price for taxation of an aircraft of which a similar or corresponding model was being manufactured on August 1 preceding the year for which the tax is levied shall be the manufacturers' list price of such similar or corresponding model in effect on such August 1.

(2) The base price for taxation of an aircraft of which no similar or corresponding model was manufactured until after such August 1 shall be the manufacturers' list price at the factory when the aircraft taxed was first manufactured.

(3) The commissioner shall have authority to fix the base value for taxation purposes of any aircraft of which no such similar or corresponding model has been manufactured since a time prior to such August 1, and of any rebuilt or foreign aircraft, any aircraft on which a record of the list price is not available in his office, or any military aircraft converted for civilian use, using as a basis for such valuation the list price on such August 1 of aircraft with comparable performance characteristics, and taking into consideration the age and condition of the aircraft.

Subd. 5. Similarity of corresponding models. Models shall be deemed similar if substantially alike and of the same make. Models shall be deemed to be corresponding models for the purpose of taxation under this act if of the same make and having approximately the same weight and type of frame and the same style and size of motor.

Subd. 6. Depreciation. After the first year of aircraft life the base value for taxation purposes shall be reduced as follows: ten per cent the second year, and 15 per cent the third and each succeeding year thereafter, but in no event shall such tax be reduced below the minimum.

Subd. 7. Prorating of tax. Except for the year 1945, when an aircraft first becomes subject to taxation during the calendar year for which the tax is paid, the tax on it shall be for the remainder of that year prorated on a monthly basis of one-twelfth of the annual tax for each calendar month, counting the month during which it becomes subject to the tax as the first month of such remainder.

Subd. 8. 1945 only. All aircraft subject to the provisions of this section on the effective date of this act shall be subject to the entire annual tax for the year 1945. Aircraft becoming subject to taxation in that year after such effective date shall be subject to taxation according to the provisions of subdivision 7 of this section.

Subd. 9. Not assessed as personal property. Aircraft subject to taxation under the provisions of this act shall not be assessed as personal property in the year 1945 or any subsequent year and shall be subject to no tax for any year subsequent to 1944, except as provided for by this act.

Sec. 4. Subject to tax; exception. Every aircraft shall be deemed to be one using the air space overlying the state of Minnesota and the airports thereof, and hence subject to taxation under this act, if such aircraft has prior to the effective date of this act used such air space and airports, or shall actually use them or if it shall come into the possession of an owner in this state, other than as a manufacturer, dealer, warehouseman, mortgagee, or pledgee. New and unused aircraft in the possession of a dealer solely for the purpose of sale, and used or second-hand aircraft which have not theretofore used the air space and airports aforesaid, which are in the possession of a dealer solely for the purpose of sale and which are duly listed as in this act provided, shall not be deemed to be aircraft using said air space and airports. The operation of an aircraft through the air space over the state of Minnesota or on any airport thereof by a dealer or any of his employees for demonstration purposes or for any purpose incident to the usual conduct and operation of his business in which he has been licensed pursuant to the provisions of this act to engage, or solely for the purpose of moving it from points outside or within this state to the place of business or storage of a licensed dealer within the state, or solely for the

purpose of moving it from the place of business of a manufacturer or licensed dealer within the state to the place of business or residence of a purchaser outside the state, shall not be deemed to be using the air space over the state of Minnesota and the airports thereof within the meaning of this act or article 19 of the constitution and shall not be held to make the aircraft subject to taxation under this act if during such operation or moving the dealers' plates, labels, or stamps herein provided for shall be duly displayed upon such aircraft.

Sec. 5. Exemptions. Subdivision 1. Non-residents. Any aircraft owned by a nonresident of this state and transiently or temporarily using the air space overlying this state and the airports thereof shall be exempt from taxation under the provisions of this act unless it uses the air spaces overlying this state and the airports thereof for more than 90 days continuously in any calendar year.

Subd. 2. Other exemptions. Aircraft owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, or by the state or any municipality thereof shall be exempt from the provisions of this act requiring the payment of a tax, but all such aircraft, except those owned by representatives of foreign powers or by the federal government, shall be registered as required by this act and shall display tax exempt number plates, labels, or stamps furnished by the commissioner at cost. The exemption herein provided shall not apply to any aircraft except those owned by representatives of foreign powers or by the federal government and except such aircraft as may be used in general police work, unless the name of the state department or the municipality owning such aircraft shall be plainly printed on both sides thereof in letters of a size and character to be prescribed by the commissioner.

Sec. 6. Equipment; accessories. In all instances in which there have been added to a complete aircraft additional parts, equipment, or accessories not included in the factory list price upon which the tax is computed in accordance with the requirements of Section 3 of this act, the reasonable cost thereof, if amounting in the aggregate to more than \$100, shall be added to the list price upon which the tax is computed. Such added parts, equipment, or accessories to the extent of \$100 shall be exempt from taxation.

Sec. 7. Sworn statement by manufacturer. Every manufacturer of an aircraft sold or offered for sale within this state, either by the manufacturer, distributor, dealer, or any other person, shall, on or before the first day in August of each year,

file in the office of the commissioner a sworn statement showing the various models manufactured by him and the retail list price of each model being manufactured August 1 of that year, and shall also file with the commissioner, in such form as manufacturers usually use for advertising, complete specifications of the construction of each model that has been manufactured by him. Upon each change in such price and upon the manufacture of each new model thereafter such manufacturer shall in like manner file a new statement setting forth such change.

Sec. 8. Occupation without registration and payment of tax. No aircraft except as exempted by sections 4 and 5 of this act shall use or be operated in the air space over this state or upon any of the airports thereof in any calendar year until it shall have been registered as required in this act and the aircraft tax and fees herein provided shall have been paid and the number plates, labels, or stamps issued therefor shall be duly displayed on such aircraft. A purchaser of a new aircraft may operate his aircraft without such plates, labels, or stamps provided that he shall secure from the commissioner, or any person designated by the commissioner for that purpose, a permit to operate such aircraft pending the issuance of plates, which permit shall be valid for not to exceed 15 days.

Sec. 9. Registration and listing. Subdivision 1. Date of listing and application; form. Every owner of any aircraft in this state, except as exempted by Sections 4 and 5 hereof, shall, before July 1, 1945, and before February 15 in each calendar year thereafter, or as soon after such dates as he shall become the owner thereof, file with the commissioner, on a blank provided by him, a listing for taxation and application for the registration of such aircraft, in such form and stating such information as the commissioner may require. The said owner shall make an oath or affirmation before some officer authorized by law to administer oaths or affirmations that the statements made are correct and true, and any false statement wilfully and knowingly made in regard thereto shall be deemed a perjury and punished accordingly. Such listing for taxation and application for registration need not be sworn to when the applicant is listing the same aircraft for taxation and registration for the second and any succeeding time. The listing and application for registration by dealers or manufacturers' agents within the state of aircraft received for sale or use within the state shall be accepted as compliance with the requirements of this act imposed upon the manufacturer.

Subd. 2. Agent or lienor may list. Any act required herein of an owner may be performed in his behalf by a duly

authorized agent. Any person having a lien upon, or claim to, any aircraft may pay any tax due thereon to prevent the penalty for delayed registration from accruing, but the registration certificate and number plates shall not be issued until legal ownership is definitely determined.

Subd. 3. **Issuance of certificate.** The commissioner shall file such application and upon approval thereof and upon payment of the aircraft tax as provided in this act, together with all arrears and penalties, if any, and upon the delivery to him of the duly endorsed registration certificate of the former owner, if any, or proof of loss provided in lieu thereof, shall assign to it a distinctive number and issue to the owner a registration certificate which shall be similar in form to registration certificates issued on payment of motor vehicle taxes as provided for by Minnesota Statutes 1941, Section 168.11.

Subd. 4. **Number plates.** The commissioner, upon such approval and payment, shall also issue to the applicant number plates, decalcomania labels, or stamps bearing an abbreviation of the state name and the number assigned to the aircraft. After being issued for use upon an aircraft no number plate, label, or stamp or number shall be transferred to another aircraft during the same calendar year unless the aircraft for which the same was theretofore issued shall have been permanently lost, destroyed, or removed from the state.

Sec. 10. Certain sections of motor vehicle registration laws applicable. Subdivision 1. Wherever in this act any statute relating to the registration and taxation of motor vehicles is made applicable to the registration and taxation of aircraft, and made a part of this act by reference, the duties and powers of the registrar thereunder are conferred upon the commissioner; the provisions therein as to motor vehicles shall apply to aircraft; references to public highways therein are to be deemed references to the air space overlying the state of Minnesota and the airports thereof; and provisions as to number plates therein shall apply to number plates, labels, and stamps issued pursuant to the provisions of this act.

Subd. 2. The provisions of Minnesota Statutes 1941, Section 168.11 with reference to registration certificates, 168.13 with reference to proof of ownership required for motor vehicles previously registered in another state, 168.14 with reference to expiration of registration, 168.15 with reference to transfers of ownership, destruction, theft, dismantling, or permanent removal of motor vehicles and the parts thereof, 168.17 with reference to revocation of registrations, and of 168.29 with reference to duplicate plates and certificates are hereby

made applicable to the registration and taxation of aircraft and, as modified in accordance with the provisions of subdivision 1 of this section, are made by reference a part of this act as fully as though herein set forth. During the year 1945, in lieu of the surrender of the registration certificates required by Section 168.13, the initial registration of any aircraft may be made upon production for examination to the commissioner of the applicant's aircraft registration certificate issued by the United States Department of Commerce or by the filing of a certified copy of such certificate.

Sec. 11. Due date of tax; penalty. Subdivision 1. The tax required under this act to be paid upon an aircraft for the year 1945 shall become due on July 15, 1945, or as soon after such date as such aircraft shall first use the air space overlying the state of Minnesota and the airports thereof, and upon February 15 in each year thereafter, and shall become delinquent upon the expiration of two days thereafter, unless paid. The tax for any calendar year subsequent to 1945 may be paid at any time between January 1 and February 15.

Subd. 2. Every owner or person charged with the duty to register an aircraft or pay any tax payable under the provisions of this act who fails or delays to register such aircraft and pay such tax as required by the provisions of this act shall pay to the commissioner as an added fee for failure or delay in registering and paying the tax 25 cents per day, but in no event more than a total of \$2.50. When the last day for payment without penalty of any taxes shall fall upon Sunday or any legal holiday, such taxes may be paid without such penalty on the next succeeding business day.

Sec. 12. Certain sections made applicable. The provisions of Minnesota Statutes 1941, Section 168.16, and Section 168.31, Subdivisions 3 and 4, are hereby made applicable to taxes on aircraft and, as modified in accordance with the provisions of subdivision 1 of Section 10 hereof, are made by reference a part of this act as fully as though herein set forth.

Sec. 13. Dealers license. Except as they may be clearly inapplicable to aircraft, the provisions of Minnesota Statutes 1941, Section 168.271 as amended by Laws 1943, Chapter 265, relating to dealers' licenses, are hereby made applicable to dealers in aircraft and, as modified in accordance with the provisions of subdivision 1 of Section 10 hereof, are made by reference a part of this act as fully as though herein set forth.

Sec. 14. Taxation; in hands of dealers. The provisions of Minnesota Statutes 1941, Section 168.06, Subdivision 7, as amended by Laws 1943, Chapter 103, and Subdivision 8, relat-

ing to taxation of motor vehicles in the hands of dealers, are hereby made applicable to aircraft in the hands of dealers and, as modified in accordance with the provisions of subdivision 1 of Section 10 hereof, are made by reference a part of this act as fully as though herein set forth; it being understood that the exemptions referred to in said subdivision 8 are for the purposes of this act the exemptions provided for by Sections 4, 5, and 15 hereof.

Sec. 15. Manufacturers; exemptions. Manufacturers within this state of aircraft which shall not use the air space overlying the state of Minnesota and the airports thereof and manufacturers or dealers distributing aircraft which shall not have used such air space and airports and are not for sale in this state from points in this state to other states shall be exempt from the provisions of this act requiring the listing and registration thereof.

Sec. 16. State airports fund. Subdivision 1. **Tax credited to fund.** The proceeds of the tax imposed on aircraft under this act and all fees and penalties provided for herein shall be collected by the commissioner and paid into the state treasury and credited to the State Airports Fund created by other statutes of this state.

Subd. 2. **Reimbursements for expenses.** There shall be transferred by the state auditor each year from the State Airports Fund to the general revenue fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of this act.

Sec. 17. Violations and penalties. Subdivision 1. Any person who, with intent to escape payment of any tax on an aircraft as in this act provided, delays or neglects to properly list and apply to register the same, or, with intent to prevent the payment or collection of the proper tax, fee, or lien thereon, violates or neglects to comply with any of the provisions of this act shall be guilty of a gross misdemeanor.

Subd. 2. Any person who uses, or causes to be used or operated, any aircraft in violation of the provisions of this act, or while a certificate of registration of an aircraft issued to him is suspended or revoked, or knowingly delivers an aircraft to another to be used or operated in violation of this act, or violates any of the provisions thereof, shall be guilty of a misdemeanor.

Subd. 3. The possession of an aircraft the original motor number of which has been destroyed, removed, altered, or defaced shall be prima facie evidence that the same is stolen

property. Registration shall be refused such aircraft, provided, however, that within 60 days after this act takes effect any person possessing such an aircraft may apply for a special engine number. If the commissioner is satisfied on the sworn statements of the applicant that the applicant is the legal owner, a special motor number, preceded by the letters "MINN.," shall be assigned such aircraft. Upon certificate by a peace officer that the said number has been properly stamped on such motor, the aircraft may thereafter be registered as are other aircraft.

Subd. 4. Any person who:

(1) Uses any number plates, label, or stamp or registration certificate upon or in connection with any aircraft except the one for which the same were duly issued, or upon any such aircraft after the certificate, plates, label, or stamp or the right to use the same have expired, or retains in his possession or fails to surrender as provided in this act any such number plates, label, stamp, or registration certificate; or

(2) Displays, or causes to be displayed, or has in his possession any cancelled, revoked, suspended, or fraudulently obtained or stolen registration plates, label, or stamp; or

(3) Lends his registration plates, label, or stamp to any person or knowingly permits the use thereof by another; or

(4) Displays or represents as his own any registration plates, label, or stamp not issued to him, provided, this shall not apply to any legal change of ownership of the aircraft to which the plates, label, or stamp are attached; or

(5) Uses a false or fictitious name or address or description of the aircraft, engine number, or frame number in any application for registration of an aircraft or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application; or

(6) Defaces or alters any registration certificate or number plates or retains the same in his possession after the same have been defaced or altered;

shall be guilty of a misdemeanor.

Approved April 19, 1945.