

CHAPTER 293

TAX ON INCOME FROM EXEMPT PROPERTY OF EDUCATIONAL INSTITUTIONS

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293.01 TAX ON INCOME RESERVED TO DONOR IN CONVEYANCE TO EDUCATIONAL INSTITUTION. When real property shall be conveyed to any educational institution in the state which has or claims to possess the right or privilege of exemption from taxation under or by virtue of the provisions contained in a territorial charter where such property is not devoted to, and reasonably necessary for the accomplishment of, the educational purposes of such institution, if in connection with such conveyance, or in consideration thereof, in whole or in part:

- (1) Such real property is charged with the payment of; or
- (2) There is reserved to the grantor or to his or its nominees; or
- (3) The grantee shall be or become under obligation to pay; any sum by way of an annuity or income to such grantor or to his or its nominees, whether for life or for a term of years, there shall be levied and collected upon such payments a tax of 50 per cent.

[*Ex. 1937 c. 91 s. 1*] (2394-91)

293.02 PERSON. For all purposes of this chapter, the word "person" shall be construed to include individuals, copartnerships, associations, companies, and corporations.

[*Ex. 1937 c. 91 s. 2*] (2394-92)

293.03 PLACE OF TAXATION; LIEN. Such annuity or income shall have a taxable status in the assessment district wherein is located the real property conveyed under the terms and conditions set forth in section 293.01, and the tax herein provided shall be a specific lien upon all and singular the amounts as they accrue, which are payable to any person entitled to receive income or annuity thereunder, and upon the right, title, estate, and interest of such person in and to the real property conveyed as aforesaid.

[*Ex. 1937 c. 91 s. 3*] (2394-93)

293.04 ANNUAL REPORT BY TAXPAYER. Every person to whom any such annuity or income payments are made or reserved shall, annually, on or before the first day of February, make and file with the commissioner of taxation a report, verified by the person making the same, setting forth the amount of income or annuity received by such person during the preceding calendar year and such other information as the commissioner may require.

[*Ex. 1937 c. 91 s. 4*] (2394-94)

293.05 REPORT BY EDUCATIONAL INSTITUTION. It shall be the duty of every educational institution making any annuity or income payment on or before the first day of February, of each year, to make and file with the commissioner of taxation a report covering the preceding calendar year, verified by the oath of the officer making the same and setting forth:

- (1) The name and post-office address of each person to whom such annuity or income is paid;
- (2) A legal description of every parcel of real estate conveyed to such institution in connection with the conveyance of which, or in consideration whereof, the grantee became obligated to pay any such annuity or income;

(3) The amount of income or annuity paid on account of each tract of land separately; and

(4) Such other information as the commissioner of taxation may require.

[*Ex. 1937 c. 91 s. 5*] (2394-95)

293.06 CONSIDERATION AND DETERMINATION OF REPORT. Upon the receipt by the commissioner of taxation of the report provided for in section 293.03, he shall determine, from such information as he may possess or obtain, whether the same is correct or otherwise and, if found correct, he shall determine therefrom the amount of tax due from such income or annuity recipient, and shall enter the amount thereof in his records and shall make his certificate of taxes due thereon from such person; and, on or before the first day of May, of each year, file the same with the state auditor and a duplicate thereof with the state treasurer; and the commissioner of taxation shall have power, in case he shall deem the report incorrect, to make his findings as to the amount of such taxes due after hearing upon notice to the person interested, and his findings shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided.

[*Ex. 1937 c. 91 s. 6*] (2394-96)

293.07 PENALTY FOR FAILURE TO MAKE REPORT; ASSESSMENT BY COMMISSIONER OF TAXATION. If any person subject to the tax provided by this chapter shall fail to make the report provided for in section 293.05, at the time and in the manner therein provided, there shall accrue upon the tax herein imposed a penalty, in an amount equal to ten per cent of the tax so imposed, to be added to and collected with such tax. The commissioner of taxation shall, in such case, determine the amount of the annuity or income paid or payable to such person and shall fix the tax due thereon from such person, together with such penalty, upon such information as he may possess or obtain and shall proceed as provided by law when such taxes are determined upon the sworn report of the person receiving such payment.

[*Ex. 1937 c. 91 s. 7*] (2394-97)

293.08 DATE OF PAYMENT; PENALTY FOR NON-PAYMENT. Such tax shall be due and payable to the state treasurer, annually, on the first day of June; and, if not paid on or before that date, a penalty of ten per cent shall immediately accrue thereon.

[*Ex. 1937 c. 91 s. 8*] (2394-98)

293.09 WITHHOLDING OF TAX BY EDUCATIONAL INSTITUTION; LIABILITY ON FAILURE TO WITHHOLD. Every educational institution making such income or annuity payments which are subject to tax hereunder and upon which the tax has not been paid shall, at the time the payments are made, withhold and deduct therefrom the amount of the tax due thereon, and pay the same to the state treasurer. Failure to withhold the tax and to make payment, at the time and in the manner hereinbefore required, shall render the educational institution liable for the amount of the tax, with interest at the rate of 12 per cent per annum from the time the tax should have been paid, to be recovered in an action by the commissioner of taxation for and in behalf of the state.

[*Ex. 1937 c. 91 s. 9*] (2394-99)

293.10 DRAFT ON DELINQUENT; EVIDENCE. On or before the tenth day of June, in each year, the state auditor shall make his draft upon the person delinquent in the payment of such tax for the amount of taxes and penalty due thereon and place the same in the hands of the state treasurer for collection. The draft of the state auditor for the tax and penalty imposed by the provisions of this chapter shall be prima facie evidence in any court where proceedings may be brought for its enforcement that the amount therein stated is due from the person against whom the same is drawn.

[*Ex. 1937 c. 91 s. 10*] (2394-100)

293.11 NOTICE TO TAXPAYER; ACTION BY COMMISSIONER OF TAXATION; INTEREST; LIEN OF JUDGMENT; SALE. The state treasurer, within ten days after the receipt of the draft mentioned in section 293.10, shall notify by mail the persons designated therein of the amount thereof, and if not paid within 30 days after presentation, shall deliver the same to the commissioner of taxation, whose duty it shall be to bring an action thereon in the district court of the county wherein is the taxable status of the annuity or income, for the amount of such draft, together with interest and costs of the proceeding. Such tax shall draw interest at the rate

of 12 per cent per annum, commencing 30 days after the same falls due; and the judgment of the court, when so obtained and properly docketed, shall be a lien upon all right, title, and interest of the taxpayer to the land upon which such tax is a lien from the time the same is docketed; and the lien shall continue without limitation, with interest at the rate of one per cent per month, and the property may be sold in satisfaction of such judgment in the manner provided by law.

[*Ex. 1937 c. 91 s. 11*] (2394-101)

293.12 FALSE REPORT; PERJURY. Any person who, for the purpose of evading the payment of the tax herein provided, or any part thereof, makes any false return or report, shall, in addition to the tax provided by this chapter, pay a penalty of 50 per cent of the amount of the tax; and any person who shall knowingly make, under oath, any false report or return required by this chapter shall be guilty of perjury; and, upon conviction thereof, shall be punished therefor as provided by law.

[*Ex. 1937 c. 91 s. 12*] (2394-102)

293.13 EXAMINATION OF BOOKS AND PAPERS; REFUSAL AS MISDEMEANOR. All books, contracts, deeds, instruments, correspondence, and memoranda relating to, or used in connection with, the conveyance of any real property, as set forth in section 293.01, shall, upon request of the commissioner of taxation, be open to his inspection or examination. If any person shall neglect or refuse, on request of the commissioner of taxation, access to the papers and books aforesaid, he shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished therefor as provided by law.

[*Ex. 1937 c. 91 s. 13*] (2394-103)

293.14 REFUND OF TAX ERRONEOUSLY COLLECTED; DISPOSITION OF PROCEEDS. Out of the proceeds of the taxes imposed hereby, including penalties and interest, the commissioner of taxation shall refund any tax erroneously paid or collected, and shall reimburse the revenue fund or any other fund of the state of its proper proportion of the expense of administering this chapter. The balance of the proceeds of any such taxes shall be paid to the treasurer of the county wherein the annuity or income taxed has a taxable status, and shall by him be placed to the credit of the proper funds and distributed as in the case of general taxes collected.

[*Ex. 1937 c. 91 s. 14*] (2394-104)