

## CHAPTER 293

### EDUCATIONAL INSTITUTIONS; EXEMPT PROPERTY, INCOME

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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 the grantor's 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 the grantor's nominees, whether for life or for a term of years, there shall be levied and collected upon such payments a tax of 50 percent.

**History:** (2394-91) *Ex1937 c 91 s 1; 1986 c 444*

#### **293.02 PERSON.**

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

**History:** (2394-92) *Ex1937 c 91 s 2*

#### **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.

**History:** (2394-93) *Ex1937 c 91 s 3*

**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 revenue 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.

**History:** (2394-94) *Ex1937 c 91 s 4; 1973 c 582 s 3*

**293.05 REPORT BY EDUCATIONAL INSTITUTION.**

It shall be the duty of every such educational institution making any such annuity or income payment on or before the first day of February, of each year, to make and file with the commissioner of revenue 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 revenue may require.

**History:** (2394-95) *Ex1937 c 91 s 5; 1973 c 582 s 3*

**293.06 CONSIDERATION AND DETERMINATION OF REPORT.**

Upon the receipt of the report provided for in section 293.03, the commissioner shall determine, from information possessed or obtained, whether the same is correct or otherwise. If found correct, the commissioner shall determine therefrom the amount of tax due from such income or annuity recipient, and shall record the amount thereof and shall make a 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 commissioner of management and budget; and the commissioner of revenue shall have power, in case the report is deemed incorrect, to make findings as to the amount of such taxes due after hearing upon notice to the person interested, and the findings shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided.

**History:** (2394-96) *Ex1937 c 91 s 6; 1973 c 492 s 14; 1973 c 582 s 3; 1986 c 444; 2003 c 112 art 2 s 37; 2009 c 101 art 2 s 109*

**293.07 PENALTY FOR FAILURE TO MAKE REPORT; ASSESSMENT BY COMMISSIONER OF REVENUE.**

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 percent of the tax so imposed, to be added to and collected with such tax. The commissioner of revenue 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 possessed or

obtained and shall proceed as provided by law when such taxes are determined upon the sworn report of the person receiving such payment.

**History:** (2394-97) *Ex1937 c 91 s 7; 1973 c 582 s 3; 1986 c 444*

### **293.08 DATE OF PAYMENT; PENALTY FOR NONPAYMENT.**

Such tax shall be due and payable to the commissioner of management and budget, annually, on the first day of June; and, if not paid on or before that date, a penalty of ten percent shall immediately accrue thereon.

**History:** (2394-98) *Ex1937 c 91 s 8; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109*

### **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 commissioner of management and budget. 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 percent per annum from the time the tax should have been paid, to be recovered in an action by the attorney general for and in behalf of the state.

**History:** (2394-99) *Ex1937 c 91 s 9; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109*

### **293.10 DRAFT ON DELINQUENT; EVIDENCE.**

On or before the tenth day of June, in each year, the commissioner of revenue shall issue an order to any person delinquent in the payment of such tax for the amount of taxes and penalty due thereon and this order 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.

**History:** (2394-100) *Ex1937 c 91 s 10; 1973 c 492 s 14; 1976 c 231 s 25; 1986 c 444*

### **293.11 NOTICE TO TAXPAYER; ACTION BY COMMISSIONER OF REVENUE; INTEREST; LIEN OF JUDGMENT; SALE.**

The commissioner of management and budget, 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 attorney general, 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 percent 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 percent per month, and the property may be sold in satisfaction of such judgment in the manner provided by law.

**History:** (2394-101) *Ex1937 c 91 s 11; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109*

### **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 percent 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.

**History:** (2394-102) *Ex1937 c 91 s 12*

### **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 revenue, be open to inspection or examination. Any person who neglects or refuses, on request of the commissioner of revenue, access to the papers and books aforesaid, shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished therefor as provided by law.

**History:** (2394-103) *Ex1937 c 91 s 13; 1973 c 582 s 3; 1986 c 444*

### **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 revenue shall refund any tax erroneously paid or collected, and shall reimburse the general 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 placed to the credit of the proper funds and distributed as in the case of general taxes collected.

**History:** (2394-104) *Ex1937 c 91 s 14; 1969 c 399 s 49; 1973 c 582 s 3; 1986 c 444*