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Commonwealth of Kentucky

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Taxation

By J. E. LUCKETT*

IN ADDITION TO THE 1956 Regular Session, there were four special sessions of the General Assembly of the Commonwealth of Kentucky. Legislation pertaining to revenue and taxation was passed in the Regular Session and the Second and Fourth Extraordinary Sessions. It is the purpose of this article to review briefly the more important tax legislation. In treating this subject, the legislation will be divided into the following categories: Income Taxes, Excise Taxes, and Property Taxes.

I. INCOME TAXES

Fourth Extraordinary Session

The most significant tax legislation enacted by the 1956 General Assembly is House Bill 1 passed at the Fourth Extraordinary Session. This session was called by Governor Chandler to enact legislation relating to revenue and taxation sufficient to meet the General Fund needs and requirements of the Commonwealth of Kentucky for the biennium beginning July 1, 1956.

House Bill 1 made several revisions in the state's existing individual and corporation income tax laws. It represented the core of the state administration's revenue program. These revisions will be discussed in as much detail as space will permit.

The first major amendment to Chapter 141 of the Kentucky Revised Statutes was, in the case of individuals, the inclusion of a surtax of ten per cent on the amount of normal tax not in excess of \$25, twenty per cent on the next \$75.00 of normal tax, and thirty per cent on all normal tax in excess of one hundred dollars. A standard twelve dollar credit was substituted for each of the former credits to which an individual was entitled ranging from \$10 to \$20.

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In the case of corporations, the former rate of tax of $4\frac{1}{2}$ per cent was raised to 5 per cent of the first twenty-five thousand dollars of taxable net income and 7 per cent of all in excess of twenty-five thousand dollars of taxable net income.

Other notable changes in the income tax law included (1) the elimination of the deduction for state taxes measured by net income, and (2) the requirement that the taxpayer must notify the Department of Revenue of any audit of his Federal Income Tax liability by the Internal Revenue Service. The provision for deductibility of Federal income taxes in determining Kentucky income tax liability was retained for both individuals and corporations. A number of minor changes were made, particularly in the definitions, with a view toward making Kentucky's income tax statutes conform more completely with the Federal income tax laws. It is believed that such conformation results in greater convenience to the taxpayer and in more simple administration of the law.

The provisions of House Bill 1 became effective as to individuals, fiduciaries and partnerships for all taxable years beginning on or after January 1, 1956. As with respect to corporations, the provisions became effective for all taxable years ending on or after June 30, 1956. Withholding, according to the new rates and tables, began July 1, 1956.

II. EXCISE TAXES

A. *Regular Session*

House Bill 45 exempts associations and corporations, which operate a nonprofit race track, from payment of the tax on pari-mutuel betting imposed by KRS 138.510. This restored the tax exemption to which Keeneland Race Track was entitled prior to the 1954 session of the General Assembly.

House Bill 282 amends KRS 243.706 to provide that persons desiring to manufacture distilled spirits in lieu of tax-paid distilled spirits destroyed by fire must make application for tax free production permits within two years of the time fire occurred. No time limit was included in the prior law.

House Bill 365 amends KRS 137.040 to permit an itinerant operator, who has already paid a state occupational tax in the

county in which he first engaged in business, to engage in the same business in any other county for a period not exceeding ten days without being required to purchase an additional license. The bill also amends KRS 137.060 to require all persons selling food or tobacco products from a cart or vehicle to purchase a \$10.00 license for each vehicle in the county in which business is first conducted.

House Bill 479 amends KRS 138.655 to permit motor carriers to file, quarterly rather than monthly, the reports of gasoline purchased outside the state but used on Kentucky highways. This bill also amends KRS 138.990 to reduce the maximum penalty for violation of the gasoline use tax law in order to permit violators to be prosecuted in courts of a lesser jurisdiction than circuit court.

House Bill 516 amends KRS 243.680 to increase the tax on the production and importation of distilled spirits from five cents to ten cents on each proof gallon. (Suit has been filed attacking the validity of this Act and is now pending before the Franklin Circuit Court as of August 20, 1956.)

Senate Bill 124 enacts a law to establish a minimum price on cigarette sales in Kentucky. The Act prohibits sale or advertisement of cigarettes, at wholesale or retail at less than cost to the wholesaler or retailer, with intent to injure competitors or destroy or substantially lessen competition. The Department of Revenue is charged with enforcement of the Act.

B. *Second Extraordinary Session*

House Bill 2 provides for the county clerk to register trailers and semi-trailers not required to be registered with the Department of Motor Transportation under the provisions of KRS Chapter 281 and house-trailers. The registration fee for trailers and semi-trailers is \$4.50; the fee for a house-trailer \$9.50. The provisions of this Act become effective January 1, 1957.

House Bill 4 amends KRS 138.240 to limit the gasoline tax exemption allowed to dealers, for sales to the United States Government, to single deliveries of not less than two thousand gallons each. Prior to this Act, all sales to the U.S. Government or its agencies were tax exempt.

This bill also amends KRS 138.250 to limit the monthly allowance to gasoline dealers, for unaccountable losses while in storage,

to actual loss not to exceed three-fourths of one per cent of the total number of gallons of gasoline stored. The prior law permitted a flat monthly deduction of three-fourths of one per cent.

House Bill 8 amends KRS 138.560 and related sections to impose a surtax of two cents per gallon on gasoline and special fuels used by any person, operating on the public highways of Kentucky, a motor vehicle, including a trailer or semi-trailer having more than three axles, none of which are closer together than 42 inches.

C. *Fourth Extraordinary Session*

House Bill 41 amends KRS 138.020 to exempt admission charges of fifty cents or less from payment of the excise tax on admission to places of amusement or entertainment.

III. PROPERTY TAXES

Regular Session

House Bill 19 amends KRS 132.670 to authorize the Department of Revenue to aid city assessors in the reappraisal of property for ad valorem taxes.

House Bill 363 requires all life insurance companies organized in Kentucky, or doing business in this state, to report annually to the Department of Revenue the names and addresses of Kentucky residents entitled to proceeds of life insurance policies left on deposit with the company and amount left on deposit.

House Bill 503 provides that no vehicle shall be registered by the county clerk until the owner has presented a tax receipt showing the ad valorem tax on such vehicle has been paid or a statement by the sheriff that the vehicle was not subject to ad valorem tax. (This Act was declared unconstitutional by the Jefferson Circuit Court on the 24th day of April, 1956 in the case of *City of Louisville v. George C. Trager, Tax Commissioner, et al.* This judgment was permitted to become final without an appeal.)

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