

The 1939 IRC preamble comes first here, followed by the actual sections of the 1862 revenue act (§§ 86, 90, 91, 92 and 93) by which the income tax makes its debut.

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE FIRST SESSION OF THE
SEVENTY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1939

AND

TREATIES, INTERNATIONAL AGREEMENTS OTHER
THAN TREATIES, AND PROCLAMATIONS

COMPILED, EDITED, INDEXED, AND PUBLISHED BY AUTHORITY OF LAW
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PART 1

INTERNAL REVENUE CODE

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PREFACE

The Internal Revenue Code, approved February 10, 1939, and published in this volume as Public Act No. 1 of the Seventy-sixth Congress, is the first Federal act of its kind since the Revised Statutes of the United States, approved June 22, 1874. Title XXXV of the Revised Statutes embraces the general and permanent statutes relating exclusively to internal revenue, in force on December 1, 1873.

The internal revenue title, which comprises all of the Code except the preliminary sections relating to its enactment, is intended to contain all the United States statutes of a general and permanent nature relating exclusively to internal revenue, in force on January 2, 1939; also such of the temporary statutes of that description as relate to taxes the occasion of which may arise after the enactment of the Code. These statutes are codified without substantive change and with only such change of form as is required by arrangement and consolidation. The title contains no provision, except for effective date, not derived from a law approved prior to January 3, 1939.

The derivation of the title, in its textual sequence, is shown in the appendix, part I, table A. Conversely, the placement of the statutes in the title, cited in their chronological order, is shown in table B. The Revised Statutes of the United States and the Statutes at Large of the United States are the sources of the law codified. The Revised Statutes cover the period ended December 1, 1873. The Statutes at Large codified cover the period following December 1, 1873, and are published in the 35 volumes numbered 18 to 52, inclusive. The separate enactments carried into the internal revenue title, wholly or in part, from the Statutes at Large are 143 in number, exclusive of 93 statutes involving express amendment, reenactment, or repeal. The 277 Revised Statutes sections codified were derived from 21 basic statutes. The whole body of internal revenue law in effect on January 2, 1939, therefore, has its ultimate origin in 164 separate enactments of Congress. The earliest of these was approved July 1, 1862; the latest, June 16, 1938.

The Internal Revenue Code is an enactment without change of the 1939 edition of the Codification of Internal Revenue Laws prepared by Mr. Colin F. Stam and Mr. L. L. Stratton, of the staff of the Joint Committee on Internal Revenue Taxation, with the assistance of the Department of the Treasury and the Department of Justice. The bill embodying that codification, H. R. 2762, was introduced on January 18, 1939, by Mr. Doughton, of North Carolina, chairman of the Committee on Ways and Means of the House of Representatives and vice chairman of the Joint Committee on Internal Revenue Taxation. Mr. Doughton submitted the unanimously favorable report of the Committee on Ways and Means on January 20. Unanimous consent for consideration of the bill was requested and objected to on January 23. It was called up on the following Calendar Wednesday, January 25, and passed on that date by a vote of 350 to 16. On January 27, the bill was messaged to the Senate and referred to the Committee on Finance, before whom a hearing was held on the 30th. At the direction of Mr. Harrison, of Mississippi, chairman of the Joint Committee on Internal Revenue Taxation and of the Committee

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on Finance, Mr. George, of Georgia, a member of both committees, submitted the unanimously favorable report of the Committee on Finance on February 1. The bill was considered by the Senate on the following day and passed without a record vote.

The 1939 codification was the fourth to be published by the staff of the Joint Committee on Internal Revenue Taxation. The first, published in 1930, embraced the general and permanent internal revenue laws in force on December 1, 1930; the second, published in 1933, the laws in force on July 16, 1932; and the third, published in 1938, the laws in force at the beginning of that year.

In the preparation of these codifications, invaluable assistance was received from the Department of the Treasury, the Department of Justice, and the Legislative Reference Service of the Library of Congress. To the Division of Research and Publication of the Department of State grateful acknowledgment is made of the index to this volume and of their expert aid in the revision of the proof of the appendix.

The appendix, published under the provisions of section 9 of the Internal Revenue Code, is divided into four parts. Part I consists of tables of reference to internal revenue statutes. Tables A and B have been described above. Table C cites the statutes expressly repealed, in whole or in part, together with the repealing statutes. Table D cites the statutes expressly amended or reenacted, with the amending or reenacting statutes. The derivation of the sections of the Revised Statutes relating to internal revenue is shown in table E. Mr. W. H. McClenon, of the Legislative Reference Service of the Library of Congress, rendered indispensable aid in the preparation of these tables, as well as of the Code generally.

Part II of the appendix contains the provisions of the Constitution of the United States relating to taxation.

Part III of the appendix, prepared by the Department of the Treasury, contains miscellaneous statutory and treaty provisions affecting the administration of internal revenue laws but omitted from the Code for the reason that they are of a temporary nature or do not relate exclusively to internal revenue.

Part IV of the appendix digests several court opinions construing the repeal provisions of the Revised Statutes. The similarity of the repeal provisions of the Revised Statutes and those of the Code suggests the possible applicability of these decisions to questions that may arise affecting the Code.

Salaries, &c.
Passports.

SALARIES AND PAY OF OFFICERS AND PERSONS IN THE SERVICE OF THE UNITED STATES, AND PASSPORTS.

Salaries.

SEC. 86. *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including senators and representatives and delegates in Congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment.

Passports.

SEC. 87. *And be it further enacted,* That for every passport issued from the office of the Secretary of State, after the thirtieth day of June, eighteen hundred and sixty-two, there shall be paid the sum of three dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State, or any agent appointed by him. And the collectors shall account for all moneys received for passports in the manner hereinbefore provided, and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account therefor to the treasury.

Advertisements.

ADVERTISEMENTS.

Returns under oath.

Duties, when payable.

Penalty for neglect.

SEC. 88. *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts for all advertisements, or all matters for the insertion of which in said newspaper or other publication, as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of three per centum; and the person or persons, firm or company, owning, possessing, or having the care or management of any and every such newspaper or other publication, as aforesaid, shall make a list or return quarterly, commencing as heretofore mentioned, containing the gross amount of receipts as aforesaid, and the amount of duties which have accrued thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review, or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the Commissioner of Internal Revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review, or other publication, as aforesaid, that the same is true and correct, and shall also, quarterly, and at the time of making said list or return, pay to the collector or deputy collector of the district, as aforesaid, the full amount of said duties; and in case of neglect or refusal to comply with any of the provisions contained in this section, or to make and render said list or return, as aforesaid, for

the space of thirty days after the time when said list or return ought to have been made, as aforesaid, the assistant assessor of the respective districts shall proceed to estimate the duties, as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties, as aforesaid, for the space of thirty days after said duties become due and payable, said owner, possessor, or person or persons having the care or management of said newspapers or publications, as aforesaid, shall pay, in addition thereto, a penalty of five per centum on the amount due; and in case of fraud or evasion, whereby the revenue is attempted to be defrauded, or the duty withheld, said owners, possessors, or person or persons having the care or management of said newspapers or other publications, as aforesaid, shall forfeit and pay a penalty of five hundred dollars for each offence, or for any sum fraudulently unaccounted for; and all provisions in this act in relation to liens, assessments, and collection, not incompatible herewith shall apply, to this section and the objects herein embraced: *Provided*, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law, as aforesaid, to the contrary notwithstanding: *Provided, further*, That the receipts for advertisements to the amount of one thousand dollars, by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, news publication, issued periodically, shall be exempt from duty: *And provided, further*, That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes for advertisements.

Advertisements.

Penalty for neglect, &c.

Liens, collections, &c.

Duty may be added to price.

What amount of receipts exempt.

Certain newspapers exempt.

INCOME DUTY.

Income duty.

SEC. 89. *And be it further enacted*, That for the purpose of modifying and re-enacting, as hereinafter provided, so much of an act, entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved fifth of August, eighteen hundred and sixty-one, as relates to income tax; that is to say, sections forty-nine, fifty, (except so much thereof as relates to the selection and appointment of depositaries,) and fifty-one, be, and the same are hereby, repealed.

Repeal of 1861, ch. 45, §§ 49 50 51.

ante, pp. 309, 310.

SEC. 90. *And be it further enacted*, That there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such annual gains, profits, or income over and above the said sum of six hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars; and upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States residing abroad, except as hereinafter mentioned, and not in the employment of the government of the United States, there shall be levied, collected, and paid a duty of five per centum.

Duty on income;

if over \$600 and not over \$10,000;

if over \$10,000, on rents, dividends, &c.

SEC. 91. *And be it further enacted*, That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per centum, or of five per centum, all other national, state, and local taxes, lawfully assessed upon the property or other sources of income of any person as aforesaid, from which said annual gains, profits, or income of such person is or should be derived, shall be first deducted from the

Local and other taxes to be first deducted.

Post, p. 723.

Income duty.	gains, profits, or income of the person or persons who actually pay the same, whether owner or tenant, and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including senators, representatives, and delegates in Congress, above six hundred dollars, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, gas, bridge, express, telegraph, steamboat, ferry-boat, or railroad company, or corporation, or on any bonds or other evidences of indebtedness of any railroad company or other corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, insurance, gas, bridge, telegraph, steamboat, ferry-boat, express, or railroad companies, as aforesaid, or derived from advertisements, or on any articles manufactured, upon which specific, stamp or ad valorem duties shall have been directly assessed or paid, shall also be deducted; and the duty herein provided for shall be assessed and collected upon the income for the year ending the thirty-first day of December next preceding the time for levying and collecting said duty, that is to say, on the first day of May, eighteen hundred and sixty-three, and in each year thereafter: <i>Provided</i> , That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per centum or of five per centum, which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid a duty not exceeding one and one-half of one per centum, anything in this act to the contrary notwithstanding.
Post, p. 718.	
Post, p. 718.	
For what year to be assessed and collected.	
Income from United States securities.	
Duties on incomes, when payable.	SEC. 92. <i>And be it further enacted</i> , That the duties on incomes herein imposed shall be due and payable on or before the thirtieth day of June, in the year eighteen hundred and sixty-three, and in each year thereafter until and including the year eighteen hundred and sixty-six and no longer; and to any sum or sums annually due and unpaid for thirty days after the thirtieth of June, as aforesaid, and for ten days after demand thereof by the collector, there shall be levied in addition thereto, the sum of five per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons; and if any person or persons, or party, liable to pay such duty, shall neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities, and debts of every description from which the income upon which said duty is assessed or levied shall have accrued, or may or should accrue; and in default of the payment of said duty for the space of thirty days, after the same shall have become due, and be demanded, as aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt, by whomsoever holden; and for this purpose the Commissioner of Internal Revenue, upon the certificate of the collector or deputy collector that said duty is due and unpaid for the space of ten days after notice duly given of the levy of such duty, shall issue a warrant in form and manner to be prescribed by said Commissioner of Internal Revenue, under the directions of the Secretary of the Treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities, and evidences of debt, a further sum, to be fixed and stated in such warrant, over and above the said annual duty, interest, and penalty for non-payment, sufficient for the fees and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale by the collector or deputy collector of the sale, shall give title to the purchaser, of all right, title, and interest of such delinquent in and to such property, whether the property be real or personal; and where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the
Penalty for delay in payment;	
for default in payment.	
Distress.	
Notice.	
Sale.	

proper corporation, company, or association, to record the same on the books or records, in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether cancelled or not; and said certificates of sale of the collector or deputy collector, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person or party holding the same, as against any person or persons, or other party holding, or claiming to hold, possession of such securities or other evidences of debt.

Certificates of sales.

SEC. 93. *And be it further enacted*, That it shall be the duty of all persons of lawful age, and all guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators, or other fiduciary capacity, to make return in the list or schedule, as provided in this act, to the proper officer of internal revenue, of the amount of his or her income, or the income of such minors or persons as may be held in trust as aforesaid, according to the requirements hereinbefore stated, and in case of neglect or refusal to make such return, the assessor or assistant assessor shall assess the amount of his or her income, and proceed thereafter to collect the duty thereon in the same manner as is provided for in other cases of neglect and refusal to furnish lists or schedules in the general provisions of this act, where not otherwise incompatible, and the assistant assessor may increase the amount of the list or return of any party making such return, if he shall be satisfied that the same is understated: *Provided*, That any party, in his or her own behalf, or as guardian or trustee, as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or that he or she has been assessed elsewhere and the same year for an income duty, under authority of the United States, and shall thereupon be exempt from an income duty; or, if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, he or she may be permitted to declare, as aforesaid, the amount of his or her annual income, or the amount held in trust, as aforesaid, liable to be assessed, as aforesaid, and the same so declared shall be received as the sum upon which duties are to be assessed and collected.

Each person to make return of income.

Post, p. 718.

Provision in cases of neglect or refusal.

Proviso.

STAMP DUTIES.

SEC. 94. *And be it further enacted*, That on and after the first day of October, eighteen hundred and sixty-two, there shall be levied, collected, and paid, for and in respect of the several instruments, matters, and things mentioned, and described in the schedule (marked B) hereunto annexed, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

Stamp duties on articles in Schedule B.

Post, p. 561.

SEC. 95. *And be it further enacted*, That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind, or description whatsoever, without the same being duly stamped for denoting the duty hereby imposed thereon, or without having thereupon an adhesive stamp to denote said duty, such person or persons shall incur a penalty of fifty dollars, and such instrument, document, or paper, as aforesaid, shall be deemed invalid and of no effect.

Penalty for making, &c., instrument without using stamp.

1862, ch. 163, § 24. Post, p. 560.

Post, pp. 724, 725.