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HISTORY
OF
THE SALES TAX IN THE UNITED STATES
To January 1, 1938

by

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B.S. in Education Northern State Teachers' College
Aberdeen, South Dakota
1935

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for the degree of Master of Arts.

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1938

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PART TWO

Sales History and Legislation of Sales Taxation in the States

HISTORY OF THE SALES TAX
IN THE UNITED STATES

* * * *

PART ONE

1. Introduction.

The material for this thesis is taken from reports, bulletins, pamphlets, periodicals, and books sent to me by request from every state in the Union. I wrote to the governor of every state and also to Federal government officials and my results far exceeded expectations. The responses were prompt and exceptionally gratifying and I am deeply indebted to the state executives, tax commissioners and directors for this assistance.

An attempt has been made to compile an accurate record of the sales tax activities within the United States until January 1, 1938, and this data should be of value to teachers, legislators, economists, tax commissioners, executives, and every individual interested in such a vital subject as the sales tax.

No one can dispute the importance of this tax, and there is no doubt in the minds of most taxpayers that it will become one of the major tax revenue measures of the Federal government within the next few years.

Roger W. Babson, one of our great leading economists today in an article published at Babson Park, Florida, January 13, 1938, believes that a Federal sales tax is inevitable and states, "The biggest problem facing the nation today is not the recession; not the jobless, not the railroads. It is our taxation system. If we continue at the rate we are going, we will ultimately commit suicide by taxation. Our present system is just a big piece of patchwork. Its only basic policy is to conceal taxes from the ultimate payer - the consumer. Among the bad features of our present tax set-up is the high cost of collection. Some corporations pay taxes to as many as 7,000 separate public agencies each year. Enormous accounting staffs are necessary to handle tax reports; tax advising has become a major business.] All this should be out out. After giving the subject much thought, I have come to the conclusion that a general Federal sales tax is the inevitable solution. In my opinion, this, plus a limited real estate tax and an altered income tax, is the soundest plan. We should have only three separate revenue taxes - all others should be abolished."¹

The sales tax is important in that it is exceedingly fruitful and the best revenue income that can be assessed and, furthermore, it is the lowest in administrative costs.

Many people object to a tax that is direct and hate the term "sales taxation," but nevertheless, it is of economic importance to many of the states in the Union and of estimable value. It seems odd that the average individual does not object to an indirect tax very much. The probable explanation is "what one doesn't know, doesn't hurt him." Many people abhor the idea of paying direct taxes. Why will the average citizen do this? What is the difference between a tax on clothing and a tax on food, or a tax on numerous other articles of daily consumption or use? It certainly is a matter of plain fact and common knowledge that there is no substantial difference.

1. New York Times Jan. 14, 1938, p. 7.

There are seven hidden taxes upon every loaf of bread purchased. Therefore, the better plan is to be honest even in the field of taxation and increase the number of direct consumer taxes while decreasing the number of indirect consumer taxes.

That the general sales tax is a very prominent factor in the life of millions of people within the United States today, and that it is going to play a more prominent part is unquestionable. This tax has been used by thirty-one states, although thirty-four states passed sales tax legislation, and this is a percentage of sixty-four and 7/12 per cent of the states that have used the sales tax.² These states have used it in some form or another since its adoption within the United States in 1921 and several states are seriously considering its adoption in the future. In three of the thirty-one states mentioned little revenue was derived from the sales tax because it was in effect for only a short period of time. Pennsylvania can be used as an example because it was called the Emergency Relief Tax and was in effect from September 1, 1932, to February 28, 1933, or for a period of only six months.

Many of the states that adopted a general sales tax had rather doubtful hopes of its survival, but in most cases the law is still in effect and is the chief source of revenue although numerous changes have been made in both the base and the rate. The State of California gets forty-one and four-tenths per cent of its revenue from the general sales tax,

2. See Table Two p. 67.

while the next best revenue producer is the tax on motor fuel and this is twenty-four and three-tenths per cent. This state does not have a state property tax today. Other states in which the general sales tax is the greatest revenue producer are, Illinois, Iowa, Michigan, North Dakota, Ohio, and Utah.³

Some states are having splendid success with this powerful "legislators' tool" and again some states have discontinued its use. We must acknowledge that the recent widespread adoption certainly marks a most significant development in state finance and several governors admit that as an emergency measure it brought their states out of chaos.

In a paper entitled, "The Sales Tax In Operation In Wyoming," which was read to the Young Men's Literary Club at Cheyenne, Wyoming, upon March 27, 1936 by Governor Leslie A. Miller, he stated, "When I discussed with the legislature the apparent necessity for a sales tax, I had in mind that it perhaps should be a temporary or emergency measure to be scrapped immediately after the emergency had passed. I have changed my mind about this. I believe now the sales tax should be retained as a part of our tax system for an indefinite period."⁴

3. See Table Ten p. 77.

4. Issued by State Board of Equalization Sales Tax Division

Government revenues have been falling off at an enormous rate during the depression and many states are faced with the problem of finding sources that will supply necessary funds for the operation of the government. General property has been and is still the principal source of revenue for local governments. In some states the total tax burden is borne by general property taxes in rates from fifty to seventy-six per cent of their entire revenue. In Wisconsin sixty-six and two-thirds per cent of the total tax is borne by the general property.⁵ Ninety per cent of the cost of education throughout the United States comes from taxes on general property.⁶ In Wisconsin general property bears about eighty-three per cent of the cost of education and in some states it is still higher. Now, most of the states that have a general sales tax today are helping the schools enormously. The State of New Mexico passed a general sales tax act upon gross receipts and called this the "New Mexico Emergency School Tax Act." This was passed under Chapter 7, Special Session Acts of 1934 and is still in effect. In the State of South Dakota of all the revenue derived from the general sales tax, the schools get twenty-one and six-tenths per cent and it is to be remembered that this state also has a five cent state tax upon every package of cigarettes sold in the state and the revenue from this goes into the school fund, which is used annually in the school revolving fund.⁷ During

5. Wisconsin Legislative Reference Library Sales Taxation p.3.

6. Ibid, p. 4.

7. Letter From Assistant Tax Director Nov. 2, 1937.

the fiscal year of 1936, this revenue from the cigarette tax amounted to \$678,000. Their new rate of three per cent, for the retail sales tax went into effect July 1, 1937, and a revenue is expected for the next fiscal year from the general sales tax of \$3,500,000. Their aid to schools then, from the general sales tax and cigarette taxes alone should be about \$1,400,000 annually and this is certainly commendable.

In most states the governments have been realizing that the general property tax has been inadequate for a number of years and that general property cannot be taxed any higher. It has been a current issue in most state legislatures of relieving the general property tax of some of its enormous burden and new legislation has been enacted in many states to give the property owner some relief. Many general property taxpayers have been unable to pay their taxes and the result has been an enormous increase in tax delinquencies. In some states there has been a revolt against the general property tax because it has become inequitable and unfair. Generations ago the general property tax was considered fair when the majority of our population was engaged in farming or many were real estate owners. Today, this is not a true picture of our dilemma and only a little more than one-fifth of the total of all incomes of this country is derived from the ownership of real property. This would indicate clearly that the tax burden on general property of two-thirds and more is wholly unfair.⁸

8. Wisconsin, op. cit., p.6.

In the State of Arizona many corporations refused to pay taxes based upon excess valuations placed upon their property by the Tax Commission, and because of this fact the small property owner was financially distressed. This, of course, placed the revenue and finances of this state in a deplorable condition. Since the adoption of a general sales tax in 1933, this state at the present time has a very commanding position and the state officials believe that the future will be a bright one, now, that their sales tax measure is permanent and has no future expiration date attached to it.⁹

That the general sales tax has reduced property taxes can be clearly shown by using the State of Iowa as an example. From a bulletin, "Iowa Taxation And Budget Control" by Dr. John E. Brindley of Ames, Iowa, the following is taken: "It is a striking fact that about three quarters of a century elapsed in which less than 3% of total annual state and local tax revenue was derived from sources other than the property tax. Property produced 97.1 per cent of the tax revenue in 1912, 89.9 per cent during the high price year of 1920, 79.2 per cent in 1930, and, on the basis of the tax levy, 75.9 per cent in 1934 and 64.5 per cent in 1935. However, the tax levy was reduced \$3,243,584.34 in 1934 and \$4,000,997.99 in 1935 as a result of the allocation of money to the state and local governments from the net income and retail sales taxes as provided by law."¹⁰

9. Letter Director Sales Tax Division, Oct. 27, 1937.

10. Iowa Taxation And Budget Control, p. 1.

This state adopted the retail sales tax in 1934 and has been exceptionally gratified by its use.

Now, in those states which had income tax laws there was little hope of getting the needed revenue from higher income taxes. Incomes, generally, had fallen off as much as fifty per cent, with a corresponding decrease in the yield from the income tax, so many states enacted emergency sales or gross income tax laws.

The general sales tax was used during the Civil War period and was then nonexistent for many years. It was revived in the United States after the year 1920, and many European countries also adopted it shortly after the World War. This tax is viewed as bearing relatively hard on the lower income groups and its adoption has been made with termination expiration dates in the future. The justification for its adoption has rested usually upon "emergency existence" and has been used as such in most of the states enacting general sales tax legislation.

The State of New Mexico inaugurated the sales tax to save her schools. The State of Arizona adopted this tax because certain corporations had refused to pay taxes based upon excess valuations placed upon their property. In Washington it was the aim of the legislature that the burden of taxation should be more equitably distributed. It was also necessary in this state to increase the revenue because of increased expenses in education, old age pensions, and unemployment relief. Her Revenue Act of 1935 was immediately necessitated because of the passage by the electorate through initiative of legislation

restricting the state to a levy of two mills on the dollar of assessed valuation to be used exclusively for purposes of higher education. In Ohio it was for the problem of providing aid to the local governments on account of their enormous relief requirements. In Indiana a gross income tax was passed as a replacement tax to raise money which would substitute for an equal amount that would have to be levied against property. The people in Colorado voted upon an amendment to the state constitution providing that 85% of the revenue derived from the sales tax be used exclusively for old age pensions and the remainder was to go into the state general fund.¹¹

The sales tax is an effective revenue producer and its yield far exceeded expectations in twenty of the states that first adopted it. In 1937 it was the greatest revenue source of seven states and one state collected almost fifty per cent of its entire state revenue from a three per cent general sales tax. Of course, it must be taken into consideration, that such encouraging results as these have not been viewed with favor in all parts of the states in which the sales tax is in operation. Many legislators look upon this tax as here to stay, while others doubt the continuance of its future use for a very lengthy period. Others are of the opinion that it will stay in effect as long as business is in the "doldrums" and the unemployment situation is serious. Some state executives think it a permanent part of a sound tax structure for the state, while Governor Allred of Texas is opposed to it and has cam-

11. Letter, Director Legislative Reference Office, Oct. 26, 1937.

paigned against it as a "tax on poverty."¹² Several states have increased their rates since its original adoption, the most recent being South Dakota which increased its rate in 1937 from two to three per cent. Many of the states renewed their statutes in which the tax was about to expire and in 1937 five enacted measures making it permanent. Also, in 1937, two states Alabama and Kansas adopted the general sales tax for the first time. The first state to adopt the general sales tax in the United States was West Virginia in 1921, and it became a permanent measure in 1937.¹³ Then, for several years no state adopted the general sales tax, but in 1930, Mississippi and Pennsylvania enacted such a law. In the State of Mississippi the tax is still in effect but it was in effect in Pennsylvania for only six months. The year of its greatest adoption was in 1935 when fourteen of the states enacted legislation to this effect and the next greatest year for such enactment was in 1936 when nine states passed sales tax legislation. January 1, 1938, still claimed twenty-three states with general sales tax laws in effect and operation.¹⁴

In Louisiana the situation is unique because this state has a two per cent general sales tax law in effect, and the city of New Orleans has an additional sales tax of two per cent.

The city of Philadelphia just recently adopted a sales tax after considerable opposition. An article in the New York Times of January 27, 1938, in reference to this: "To a serenade of

12. Letter, Received from Governor Allred's Secretary, Nov. 3, 1937.

13. Letter, Received from Governor Holt, Nov. 6, 1937.

14. See Table Two, p. 67.

hisses from a crowded gallery, the city council passed a 2 per cent sales tax that was opposed by the merchants and their mayor.

"Fist fighting broke out as the vote of 17-to-7 became known to several thousand persons who packed the galleries.

"The sales tax and other proposed levies are intended to raise sufficient revenue to balance the 1938 city-county budget. Because the budget has not been adopted, 19,000 city-county employees have gone without pay for several months."

The city of New York was upheld in a state supreme court decision in April, 1938, in that her two per cent sales tax for emergency purposes was declared constitutional.¹⁵

In most states the intent of the law appears to be that of replacing, in part at least, the general property tax and this in itself is an item of vast significance to every property owner.

Many states have adopted Social Security and Social Welfare legislation. This has necessitated emergency legislation for current revenues. Moreover, aid to schools, old age pensions, public relief, and other factors such as unbalanced budgets, inability to borrow on favorable terms at low interest rates, and the creating of new bureaus and departments in state governments have been some of the major and current reasons for the speedy adoption of the general sales tax in most of the states.

There are many arguments both for and against the sales tax. It is not the purpose of this thesis to try and develop any arguments as to its future feasibility or importance to any

15. New York Times, April 22, 1938, p. 4.

state or the Federal government, but the reader can form his own opinion. The extent to which it will become a permanent part of our governmental development and organization will undoubtedly be decided within the next few years. These decisions will be fostered either by direct legislative action or by the direct vote of the people. In Europe the national governments have resorted to this tax, whereas in this country it has been a device employed primarily by the states.

11. EARLY HISTORY OF SALES TAXES

The sales tax is not a novel development. It was used centuries ago but not upon the same scope of goods, it merely taxed one or two commodities at auction sales and these generally were luxuries. Our sales taxes today are rather a spontaneous development and bear little or no relation to those used during the fifteenth century. Historically they can be traced back to the time of Pitt in England and to our sales taxes used in the United States during the Civil War. However, in both of these periods only a few articles were taxed, whereas, our modern equivalent has been excises on practically everything.¹⁶

The sales tax has been used in thirty-four countries during the past twenty years. In some of these countries it has encountered little opposition, while in others it was hated, hissed, and almost entirely boycotted which led to a great deal of "bootleg sales." Canada has had fair success with this type of taxation and the Philippines regard it very highly. The populace of some countries at first almost unanimously disapproved of this tax, but after it had been in operation for some time the opposition to it decreased quite rapidly. Most of the countries using the sales tax had certain exemptions, especially upon the foods commonly used in daily consumption and upon medical supplies; others exempted fuel of all kinds, newspapers, and some even all agricultural products unless the farmers were carrying on some kind of manufacturing at the same time. Most of these countries also exempted services but Germany was too necessitous

16. Alzada Comstock, Taxation in the Modern State, p.113.

in 1918 to permit even exemptions on foods or services. However, practically all of these foreign countries that imposed post-war sales taxes were very careful not to hinder exports. Germany adopted a turn-over sales tax in 1918; France and Canada in 1920, and Belgium and Italy in 1921.¹⁷

The trouble with the very early sales tax was that the rates were entirely too exorbitant. One southern European country during the Middle Ages had the preposterous rate of sixteen per cent. This excessive rate was not the case of the post-war sales taxes in Europe shortly after the World War because they at least followed the wise policy of low rates. Even with low rates, their revenues were tremendous and, both in France and Germany, this tax furnished more than one-fifth of their tax revenue. In the years of 1924 and 1925 Germany received as much as twenty-five per cent of its total tax receipts from the sales tax. France, during the year of 1927, collected 20.8 per cent of its total tax revenue from the sales tax, while Austria in 1926 collected 22.1 per cent of its total tax revenue from sales taxes. On the other hand, however, Italy in 1927 had a very small yield from the use of the sales tax, their revenue from this source being only 5.8 per cent of their total revenue, but their rate was, however, only one-half of one per cent. Austria started with a rate of one per cent. After using this rate for a few years

17. Comstock, op.cit., PP. 146 and 147.

it was increased to two per cent, and today they are operating upon a base rate of three per cent.¹⁸ In most of the European countries that inaugurated the sales tax, however, the rates are much higher upon articles classified as luxuries, varying from eight to thirteen per cent.

Practically all of the foreign countries that enforced sales tax laws considered them usually as temporary measures with the idea of abolishment when prosperity returned. Present indications, however, signify that such taxes will be continuous in the future as a permanent part of their tax structure. The rate varies, in the foreign countries having sales taxes, from one-half of one per cent to three per cent.¹⁹ Several other countries are today considering the adoption of the sales tax and there is no question that it will be one of the foremost issues of governments for some time to come. In Russia the sales tax is at the present time the principal and almost sole source of revenue. In both Mexico and the Philippines it has been in continuous use since before the World War and furnishes most of their entire total tax revenue.²⁰

In 1920, when Canada was faced with decreasing revenues and new methods of taxation had to be found, a sales tax was introduced. The rate was first fixed at six per cent but was reduced to one per cent in 1930. However, in 1931, the rate was increased to four per cent and in 1932 it was again raised

18. Austria no longer exists.

19. Comstock, op.cit., pp. 114 and 115.

20. L. T. Seman, Current Problems in Taxation, pp. 180 & 181.

to six per cent. At the present time Canada is operating upon a three per cent rate.²¹ Just why did Canada develop a sales tax instead of other types of taxation? We can clearly see the reasons from a statement made by their Special Excise Tax Auditor.

"It might be asked why Canada decided to try out this form of sales tax when it had already in operation an income tax, and during the war years had had also a business-profits tax from which a considerable amount of revenue was derived. Of necessity the business-profits tax, which was imposed as a result of the necessities of war, would decrease and eventually entirely disappear. So far as the income tax is concerned, it is good in its way, but necessarily there is a point beyond which you cannot tax capital without running the risk of doing grave harm to the economic and commercial stability of the country. So the sales tax was considered as a new form, having certain advantages over the income tax. Purchases have to be made in good times and in bad; sales are constantly going on; buying power, even though at times it is considerably diminished, is always present in certain degrees; consequently in the sales made there is a basis of taxation. Under the income tax you may have, we will say, a bad year following a very good year, and you are therefore required to pay your tax at a time when business is not so good and when you would much prefer to use your capital than pay it out by way of income tax.

"There is another respect in which the sales tax has an advantage over the income tax. Suppose you have two companies engaged in the same line of business. One is efficiently managed and therefore makes a profit, and at the end of the year has to pay income tax; the State receives a certain amount by way of income tax for the services rendered through the commercial and other bureaus maintained for the encouragement and assistance of business. The other company, through incompetent management, makes no profits and has no income tax to pay; consequently the State receives no revenue for the services given by it. But sales are made by the incompetent as well as the competent, and under a sales tax act those sales form a basis of taxation in both cases, thus providing a revenue for the Government and at the same time placing both companies on an equality in so far as that phase of taxation is concerned.

21. Sales Taxes: General, Selective, and Retail, National Industrial Conference Board, P.8.

"Our sales-tax experience in Canada extends over a period of eleven years. In its various manifestations we have come in contact with certain difficulties. In framing legislation having to do with taxation it is not possible, as you know quite well, to anticipate every contingency and to avoid running contrary to some people's ideas. But the experience in Canada justifies the Government in considering that it is a method of taxation that should be continued even under the present conditions.

"It is generally considered by taxation and economic experts that there are three tests to be applied to any form of taxation legislation. First, will it produce revenue; second, can it be administered economically and efficiently; and third, will it affect business adversely? As regards to the first, statistics are available which show that the sales tax has been a very large revenue producer. At one time it represented about 24% of the total revenue of the country; that was when it was not 1% but 4.5% and later 5%. So that from the point of view of revenue its operation has been eminently satisfactory. As to economical and efficient administration, exact statistics have not been and probably could not be compiled, but it is reasonable to assume that at no time has the cost of collection exceeded 5%, and I think you will agree that a tax, the collection of which requires only 5 cents out of every dollar received, is a reasonably economical one to have in operation. As to the question of its affecting business adversely, the answer is found in the fact that the sales tax has been in operation in Canada for over eleven years. Of course there are differences of opinion with regard to its merits. You may talk with one business man who will give you all his objections to it, whereas the next one you meet is very much in favor of it. But taking it by and large, our experience and the information gained by contact with business men all over the country enables us to say that the manufacturers and business men generally of Canada recognize that the sales tax does not affect business any more adversely than any other form of taxation; in fact, it could be proved that it does so to a much lesser degree.

"Furthermore, as I have indicated, no government would have continued such a form of taxation for a period of eleven years if it had been found to affect business adversely. As against any objections that have been offered by individual manufacturers, the Retail Merchants Association of Canada, a national organization, has placed itself on record as being heartily in favor of the retention of the sales tax. So that the sales tax has been found to comply satisfactorily with the requirements of the three tests I have mentioned, and therefore it has been retained."²²

22. Testimony of George W. Jones, Special Excise Tax Auditor, Department of National Revenue, Canada. Revenue Revision, 1932, 72nd Congress, First Session, pp. 240 & 241.

In 1862 a general sales tax was proposed in the Congress of the United States as a means of raising revenues with which to carry on the Civil War. The measure was supported by business interests of the country, but was defeated in both houses. In the same year, however, a sales tax covering all manufactured articles was imposed, and also a sales tax on selected commodities, including leaf tobacco, liquor, coal, and raw cotton. In 1870 all the Federal sales taxes were repealed, except those on tobacco and liquor.

111. LATER DEVELOPMENTS

In 1918, discussion of the sales tax again arose in Congress and continued through a period of several years. During this period from 1918 to 1921, a general sales tax was proposed as a substitute for the excess profits tax, which had become very irksome to business in the post-war period. In 1931, the sales tax again became a subject of general interest when the Federal government and many states found themselves facing embarrassing deficits. Several senators have made proposals in the present session of Congress about the adoption of a Federal sales tax. One state, after having a sales tax for two years tried repeatedly for three years to again enact this law and succeeded in doing so, only to have it defeated by the referendum vote of the people in 1934, 1935, and 1936.²³

There is, however, little question in the minds of most people today that the importance of sales taxation as a current question of public policy is recognized. Not long ago such taxes were of interest in this country to only a limited number of persons and these were principally tax experts and tax commissioners. That the sales tax is a live issue today is without doubt. When thirty-one states have had such a tax and the people of twenty-three states today are paying it, it

²³. Letter, Secretary of State of Oregon, October 29, 1937.

certainly makes the sales tax a vital issue of current importance to every intelligent citizen. This tax is studied and discussed by legislators, economists, tax commissioners, business men, state and federal officials, journalists, professors, teachers, the proletariat, and even by the housewives "across the breakfast tables" in practically every home today.

With the steadily increasing indebtedness of the Federal government today its possibilities loom up greater than ever, and this type of tax will eventually be inaugurated by our Federal government. This prediction is admitted by many federal senators and representatives and thousands of tax students and officials proclaim that it is practically inevitable and cannot be dodged much longer.

Many of the states today, through the inauguration of the sales tax, have paid off bonded indebtedness and have "wiped out" in part, and some all, of their deficits and are giving aid to many needy persons who had been sadly neglected before, due to a lack of finances.

The Federal government is again faced with a serious problem of financing expenditures for the next fiscal year, and financing in a period of a severe depression is difficult. The Roosevelt administration hates to admit that we are in a business depression, or a general unemployment situation that is critical, but prefers to use the modified

term of "business recession". Many and various suggestions have been offered but no solution for solving the present tax problem has as yet been found. No individual, corporation, local, state, or national government can continuously spend more than its income and get away with it indefinitely. Morgenthau, Secretary of the Treasury, recently stated that, "Congress had to quit priming the pump."²⁴

No doubt, many people with money to invest fear investing in periods of adverse conditions. When an administration uses the income from Social Security payments, such as the Old-Age Benefits, and others, for current expenses, and these funds paid in are supposed to be safely guarded and built up into a permanent fund for future use and payment to those coming under this Act in 1942, it seems as if a halt must be called soon or new taxation enforced. What new type of taxation could Congress enforce today to get more revenue and get it quickly? There should be little doubt in the mind of anyone that this new revenue producer will likely be a "Federal Sales Tax."

The amount of revenue that a tax at two per cent would produce in this country would be enormous. It is estimated that it has possibilities of from four to seven billions of dollars, depending upon the rate and exemptions that would be

24. The Daily Missoulian, March 17, 1938, p.1.

inaugurated. A very reasonable estimate at a rate of two per cent would be about four and one-half billions of dollars, while a rate of one per cent would at the very least produce practically two billions annually.

The Federal government has a sales tax in effect today⁵⁷ but it is not a general sales tax. It is upon the sales of gasoline, liquor, and other items. These are called excise taxes.

In Table 11, under the heading of, Revenue of The United States, 1934-35 there are listed:²⁵

Customs	\$344,292,569.75
Corporation income tax	572,117,876.28
Individual income tax	527,112,506.42
Excess-profits taxes	6,560,482.64
Dividend tax	961,479.73
Alcohol taxes	411,021,772.35
Capital stock	91,508,121.29
Estate and gift	212,111,959.23
Tobacco manufactures	459,178,625.46
* SALES TAXES	492,626,529.28
Agricultural adjustment	526,222,358.24
Other receipts	13,861.26

* Please notice the amount collected during this fiscal year from the sales tax by the Federal government, yet these are all "hidden sales taxes."

25. J.E. Brindley, Net Income and Retail Sales Taxes of Iowa, p. 1.

IV. TYPES OF SALES TAXES

The scope of sales taxes and those of the so-called turnover taxes have many variations and come under numerous names. Some of these extend to all transactions, both wholesale and retail, while a few apply to wholesale only, but by far the majority apply to retail sales. The tax which includes both wholesale and retail transactions is most commonly called a turnover tax. Certain taxes include both goods and services, while others include goods but not services, while others include only goods. The turnover tax in Germany is the best example because this tax includes nearly every type of transaction in the line of goods and services that can be had. Therefore, turnover taxes would apply to services as well as goods, while wholesale taxes are imposed on transfers of goods only. In the French turnover sales tax they considered the taxation of physicians and lawyers as outside of the purpose of the law, therefore, they exempted the liberal professions. Germany, however, made no exemptions of this kind, with the exception of the fact that medical and similar services paid for from trade union or public funds were not taxable.

The objection to a turnover tax is that it can be passed on from one transaction to another and by the time it reaches the consumer it makes it fairly high. This can be illustrated by a one per cent turnover tax in the following way by the purchase of a pair of shoes:

1st.	Purchasing of hides . . .	1%
2nd.	Hides to tanner	1%
3rd.	Tanner to leather	1%
	merchant	
4th.	Leather merchant to shoe manufacturer	1%
5th.	Shoe manufacturer to jobber	1%
6th.	Jobber to retailer	1%
7th.	Retailer to consumer . . .	1%
	<hr/>	
	Total	7%

We can easily see why this type of sales tax would certainly be a real hardship upon the consumer. This tax then becomes cumulative by the addition of the tax to each successive sale and is sometimes called the pyramiding of a sales tax.

The sales tax as used by the states, in the United States, is usually placed only upon one transaction, which can be paid by the wholesaler, the retailer, or the consumer, depending upon the status of the law. Most of the states having had or still having a sales tax in operation make it unlawful for the retailer to consume the tax. The law usually states very clearly that the retailer cannot absorb the tax, it must be passed on to the consumer. Failure to do this was, and is, punishable by a fine, a prison sentence, or both a fine and prison sentence. However, it must be borne in mind that both the sales tax and the turnover tax can include goods and services; therefore, the law must state specifically just what

can be included or what is to be excluded. It is rather difficult to define what a so-called "true sales tax" really is or what it should include. Many different definitions are given for a sales tax.

My personal definition is that, "It is a tax placed at a small percentage rate upon goods, wares, products, services, and merchandise, whether manufactured, partially manufactured, or raw material and can be placed upon goods and also upon services with certain exemptions in each."

The definition most commonly used by the states is that it is a tax upon tangible personal property, and every state defines what tangible personal property consists of within that state. Variations can be found in the definitions, but in the main they are similar in composition and meaning. The best definition of tangible personal property that I been able to find is that which is used in the State of Ohio. This definition is given in the book of the "Ohio Sales Tax Law (H.B.694), Regulations and Special Rulings and Ohio Use Tax Law (H.B.698) And Regulations." This book was issued January 1, 1937 by The Tax Commission of Ohio and the definition is listed on pages 32 and 33 under the following:

Article VI.- Tangible Personal Property Defined

"The tax levied by this section applies to the sales of tangible personal property and does not apply to transfers of real estate, sales of stocks and bonds, bank deposits, insurance, transportation or admission charges. Tangible per-

sonal property is corporeal personal property. This means that it is movable, has substance and intrinsic value or worth. It includes furniture, food clothing, machinery, tools, equipment, livestock, vehicles of all kinds, jewelry, works of art and all property which is not real property or intangible personal property."

The names applied to general sales taxes, within the United States, are numerous and though they differ in name, they do not differ in purpose very much. Some of these are called, Retail Sales Tax, Gross Sales Tax, Occupation Tax, Gross Receipts Tax, Consumers Sales Tax, General Sales Tax, Gross Income Tax, Use Tax, Retailers Occupation Tax, Compensating Tax, Sales Tax, Emergency Gross Receipts Tax, Excise Tax, Emergency Relief Sales Tax, Business and Occupation Tax, Selective Sales Tax, Gross Purchases, Net Sales, Etc.

Sales Taxes are similar in their purpose and intent, yet it is practically impossible to group them into three or four divisions because no two tax provisions are exactly alike even if they happen to be of the same type. Differences exist in the size and composition of the base to which the rate applies as well as in the exemptions permitted. No two states have exactly the same base or the identical exemptions. It is true, however, that states have like rates but that is all that can be said about their being identically alike. The same may be said of retail sales including services. A retail sale may mean not only the sale of tangible personal

property, but certain types of services as well. The services are also subject to considerable variations but ordinarily embrace public utility services, admissions, amusements, radio broadcasting, communication, laundry, professional services, and in some states personal services. The State of South Dakota charged a fee upon personal services but has eliminated this by amendment.

The General Sales Tax in the States of North Carolina and Arizona applies not only to retail sales, but to sales of tangible personal property at wholesale as well as to the acts of extracting natural resources and manufacturing.

Certain excise taxes placed ordinarily on the sales of items such as liquor, gasoline, luxuries, tobacco, etc., are found in most states but cannot be considered in the category of sales taxes because they are entirely too limited in scope. These commodities, where they occur, are usually exempt from the sales tax.

The Retail Sales Tax that is employed by most states is considered as a tax on business sales of tangible personal property that is not for resale.

The Use Tax as a sales tax measure is one of the most recent developments in taxation and is in use today by California, Colorado, Iowa, Michigan, Ohio, Oklahoma, Utah, and Wyoming. This tax imposes a like tax with the same rate as that used in their sales tax for the privilege of use, storage or other consumption of tangible personal property within the state. This Use Tax applies to the use of property purchased

in interstate commerce or in other states for the purpose of use in the state having the Use Tax law, but it is not a burden on interstate commerce. The tax does not attach until the property has come to rest within these states. The State of Michigan describes this tax very well and can be used as an example. From a bulletin entitled, "State of Michigan Use Tax Rules And Regulations", issued November 1, 1937 by the State Board of Tax Administration, page 3, the following is taken:

"The 'Use Tax Act' was enacted at the 1937 session of the Michigan legislature to provide for the levy, assessment and collection of three per cent (3%) of the price of any and all tangible personal property stored, used or consumed in the State of Michigan, and to prescribe penalties for violations of the provisions of the Act, as to all purchases subject to the Act made on or after November 1st, 1937, the effective date of the Act.

"The 'use tax' applies to the storage, use or consumption of tangible personal property purchased in interstate commerce or in any other state or county, for the purpose of storing, using or consuming same in this state.

"The 'use tax' does not apply until the tangible personal property, moved into interstate commerce, has come to rest in this state.

"The 'use tax' is not upon shipments or operations of interstate commerce, but upon the privilege of storing, using or consuming tangible personal property in this state after such commerce is at an end. The tax is not a burden on interstate commerce, nor does the tax in any manner hamper, interfere with or discriminate against transactions of interstate commerce.

"The purpose of the 'use tax' is to place Michigan manufacturers and merchants on an even basis with those shipping their goods into Michigan from out-state, who have enjoyed tax exempt advantages since the adoption on July 1, 1933, of the Michigan 'General Sales Tax Act' known as Act No. 167 of the Public Acts of 1933, as amended. It is not a discriminatory tax and the two taxes, sales and use, taken and applied together, provide a uniform tax upon either the sale or use of all tangible personal property irrespective of where it may have been purchased.

"All purchases who store, use or consume tangible personal property in this state on or after November 1st, 1937, are subject to the payment of the 'use tax', which is imposed and collected at the rate of three per cent (3%) of the price of such tangible personal property regardless of where the property is purchased, and the tax applies to the storage, use or consumption of tangible personal property in this state the sale of which has not already been subjected to the provisions of the Michigan 'General Sales Tax Act' above referred to, or the sale of which is exempt from sales tax."

Another tax almost identical to the Use Tax is the Compensating Tax. This title is used by two states only, namely, Washington and Kansas. I will list the Washington Compensating Tax taken from the "State of Washington Revenue Act of 1935, As Amended, Chapter 180, Laws of 1935, pp. 16 & 17.

"Title IV. Compensating Tax

Imposition of Tax"

"Section 31. From and after the first day of May, 1935, there is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state any article of tangible personal property purchased at retail or produced or manufactured for commercial use. This tax will not apply with respect to the use of any article of tangible personal property purchased, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property of this state. Such tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of two per cent. (Section 1, Chapter 191, Laws of 1937).

"Section 31, Chapter 180, Laws of 1935, provided as follows:

"Section 31. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state any article of tangible personal property purchased subsequent to April 30, 1935. Such tax shall be levied and collected in an amount equal to the purchase price paid by the taxpayer multiplied by the rate of 2%.

The "service tax" is also worthy of a short discussion. It materially increases the number of objects subject to the

sales tax. Most of the taxpayers think this "service tax," as it is popularly termed by six states today, is deceptive, since it conveys the impression that heretofore the sales tax has applied only to tangible personal property at retail. As a matter of fact, the tax paid on public utility services is a service tax, yet it is in many states a part of their sales tax act. The term "service tax" as used means upon personal and professional services. The State of Colorado classifies personal services under several different headings such as Business Services, which includes employment agencies, collection bureaus, etc.; Structural Services, as contracting and building; Repair services such as used in tire repair shops; Recreational Services, such as in amusement parks; while barber shops, mortuaries, laundries, packing, delivery, etc. also come under the heading of personal services. In Colorado the rate for the service charges are the same as the state rate of 2%, while in Washington they are only $\frac{1}{2}$ of 1 per cent, and the same rate applies to the State of West Virginia as that of Washington. Indiana uses a 1 per cent rate upon services and this is identical with their rate used upon tangible personal property. This then would make the revenues received from it rather large in Colorado but relatively small in West Virginia or Washington. For the year ending April 30, 1936, collections in Washington from this source amounted to \$689,300, or about $7 \frac{3}{10}$ per cent of the revenues from their 2 per cent retail sales tax, which yielded \$386,200.²⁶ Now,

26. State of Washington Second Annual Statistical Report,
Nov. 1, 1936, Table No. 6.

if, their rate had been 2 per cent for their tax upon services, the same as it is in Colorado, they would have received the sum of about \$2,780,000. This then would be approximately 30 per cent of their entire collections from retail sales tax collections. The states of Mississippi and New Mexico employ the same rate as Colorado, and this is 2 per cent upon services.

Definitions

It might be advisable to define the four most commonly used types of sales taxes, namely: the Retail Sales Taxes; the General Sales Taxes; the Gross Receipts Taxes; and the Gross Income Taxes.

Retail Sales Taxes are generally those that are primarily applied to the retail sales or gross receipts from retail sales.

The General Sales Taxes apply, in addition to retail sales, to items sold for resale by wholesalers, and manufacturing and mining sales are frequently included in this base.

The Gross Receipts Taxes have a much broader base and these usually include receipts from services and professional occupations.

The Gross Income Taxes have the broadest base and these include receipts from practically all sources, including even such items as rentals, investments, salaries, agriculture, etc.

V. Rates and Bases

One of the most perplexing problems of the sales tax is to understand clearly the rates and bases of sales taxation within the United States. The rates vary in some states although the majority of the states have the rate fixed at two per cent. The variations in the United States have been from 1/8 of 1% to as high as 4%. The following rates were in effect January 1, 1938 within the states using the sales tax: one state with a rate of 1 per cent; sixteen with a rate of 2 per cent; and six states having the 3 per cent rate in effect.

The states are in no apparent agreement as to what should constitute the tax base under a retail sales tax. Some states confine the base of the tax to tangible personal property only, but most of them cover a large number of items, including services. The entire range of the base of the tax usually covers four main headings, with subdivisions in each. Under the main heading of "Retail sales, Tangible Personal Property and Services" we find the subdivisions of tangible personal property, transportation, financial, publications, advertising, radio broadcasting, communications, admissions, and utility services. Under the main heading of "Sales or Value of Products" are listed agriculture, wholesalers, oil, coal, gas, timber, and manufacturers. Under the main heading of "Other Services" only two subdivisions are listed and these are professional, and personal services. Under the main heading of "Gross Income"

we have the divisions of rentals, investments, wages, and salaries.

The Chart, Table one, will help to explain what some of the rates are based upon and will show the rates and the bases of the tax of five different states. Only two states, California and Ohio, limit the base upon tangible personal property. The reason evidently is that they both use a high rate. This rate is 3% in both of these states, although six states use this same rate the other four also limit their bases. Illinois uses a 3% rate and their base is upon tangible personal property and publications. North Carolina, using this same rate of 3%, uses as its bases, tangible personal property at 3% and a rate of 1/20 of 1% upon the wholesalers. On the other hand, South Dakota has a rate of 3%, but uses as its bases tangible personal property, utility services, admissions, and communications. Indiana, with the low rate of one per cent, uses about every conceivable base that can be taxed and has the largest list of bases in the Union. About the only base eliminated is radio broadcasting. The only state in the Union that used the base of the tax upon radio broadcasting was Washington.²⁷ This state has by far the greatest variations in rates, ranging from as low as 1/2 of 1% to as high as 5%; the 5% tax being based upon admissions only. It must also be taken into consideration that all of these states do not employ the same type of tax.

27. Declared unconstitutional in Fisher's Blend Station Inc. V. Tax Commission, 297, U.S. 650, by Supreme Court of the U.S.

California uses the Retail Sales Tax; Washington the Gross Receipts Tax, and Indiana the Gross Income Tax.

Some states use the term "Retail Sales Tax," but they also include certain services in addition to the tax upon the sales at retail of tangible personal property. Services ordinarily embraced are utility services, communications, and admissions. Again, some states stand out as unique because of their bases. Six states today tax professional and personal services and these are Colorado, Mississippi, New Mexico, Washington, Indiana, and West Virginia, although the rates are not the same. Washington was the most unique in that it did tax radio broadcasting. The General Sales Tax as used in some states, applies not only to retail sales but also to tangible personal property at wholesale, as well as to the acts of extracting natural resources and to manufacturing. Again, varying rates are applicable to the different items subject to the tax.

The Gross Receipts Tax, found in some states like Washington, New Mexico, and Mississippi, differs only from the General Sales Tax in that it applies also to professional and personal services.

The Gross Income Tax, found in states like West Virginia and Indiana, taxes gross receipts from almost every available base or source. This is the most inclusive of all of the different types of taxes used in the "Sales Tax." West Virginia is rather odd about the incidence because the tax is absorbed by the person engaging in business or in the professions, such as doctors, dentists, etc.

VI. EXEMPTIONS

An analysis of the tax base is not complete without a consideration of certain exemptions that exists. The latter may account materially for variations in productivity as between two different state measures which on the surface, at least, may appear to be quite the same. Exemptions are also important from the standpoint of administration, since they add to the complexity of the laws.

In no two countries throughout the world are general sales taxes quite the same. This is also true of any two States within the United States that have the general sales tax. In the Philippines all farming products are exempted; in Canada, necessities of life are exempted including even coal; in France newspapers, magazines, services, and some foods are exempted; thus, we can see there is a great variation of exemptions. Canada exempts canned meats, milk, cream, butter, cheese, lard, eggs, coffee, tea, rice, vegetables, fruits, flour, fish, honey, sugar, molasses, ice, etc.²⁸ This is only a partial list.

In the United States the exemptions are numerous and differ greatly. Alabama and California exempt utility services, agriculture, coal, gas, oil, advertising, transportation, communications, admissions, wholesalers, wages, salaries, rentals, and manufacturers. On the other hand Indiana goes to the extreme and does not exempt any of these. Out of the list mentioned above Washington exempts only agriculture, wages, salaries, and rentals but did tax radio broadcasting. Most states

28. Comstock, op.cit., p. 151.

exempt goods that are stored within the state, but recently the states of California, Alabama, Colorado, Iowa, Michigan, Oklahoma, and a few others are even taxing storage. Some states tax the rental of goods and some even the "use" of goods.

South Dakota exempts non-profit organizations and articles already taxed, while Washington exempts public utilities, insurance companies, farmers, horticulturists, goods up for resale, boxing, wrestling, horse racing, employees, servants, hospitals, non-profit organizations, and rental or sale of real estate. Washington uses the type of tax known as the Gross Receipts, while South Dakota has the Retail Sales.

Most of the states in the south that use the sales tax exempt baled cotton, tobacco, peanuts, and fertilizers, while many of the Central States, having the sales tax in effect, exempt seeds, hay, farm produce by producer, stock food, and feeds.

Many of the states exempt books for school use and sales in interstate commerce and to state and federal bodies. Food is exempt in four states and in many states medicines are exempt, if prescribed by a doctor or by doctor's prescription. In about one-half of the states religious and charitable institutions are exempt both as to purchases made by them, as well as to such sales that they may make. Some states tax school books and exempt them only if made by some non-profit organizations. Colorado exempts bread and milk, providing that the purchase is less than 15 cents. California is rather freakish in that they exempt most foods for human use, but this does

not apply to meals served in restaurants.

Foods are items of necessity and produce a large percentage of the amount of the states' revenues that employ sales taxes. In 1935 California did not exempt foods and her revenues from retail food sales during this year were about \$11,650,000. For the year ending 1936, after an exemption had gone into effect which applied to the principal food items, receipts from this source were only \$1,720,000, or a drop of about 85 per cent.²⁹ Food sales usually represent about 20 per cent of all the revenue collected from the general sales taxes, therefore, we can readily see the relative importance of these commodities represented by food consumption.

Indiana allows an exemption of \$3000 to all retail merchants. This state operates under the type of tax known as the Gross Income. Michigan and Illinois allow annual exemptions of \$600 and \$3000 on Gross Receipts respectively, while the law in West Virginia, under the Gross Income, provides for only an annual tax exemption not to exceed \$25. Oklahoma exempts news sales under 20 cents, and fares under 16 cents. Washington exempts business upon the gross proceeds of sales less than \$1000 bi-monthly. Wyoming exempts all goods that are subject to excise taxes in excess of 5 per cent, while Arkansas exempts commodities paying an excise tax of more than 12½ per cent of sales prices; Iowa exempts admissions to local fairs; Kansas exempts articles already subject to an excise tax;

29. University of Denver Reports - Business Study No. 87, June, 1937, p. 5.

Kentucky exempts coal in lots of less than 40 tons; Louisiana exempts clothing sales less than \$3; Michigan, under the "Use Tax" exempts property already taxed up to \$10 a month; Mississippi exempts insurance; New Mexico exempts salaries, interest, dividends, and water, with others also listed; North Carolina exempts timber, milk, etc.; North Dakota exempts any article already taxed by the state; Ohio exempts food for human consumption sold off the premises; Utah exempts poultry foods, newspapers, etc.

We can now see the range of the wide variations that exist in exemptions. Some states list exemptions in only two categories, one relating to commodities and the other to institutions, although there is no set rule that you can follow. Certain exemptions are meritorious and benefit every one, while others only favor the minority. Exemptions depend upon the legislative groups and they usually exempt a few articles that are most unpopular to the consumer. Exemptions also depend upon the necessity of the article and also considerably upon the group benefited.

VII. Productivity Of Sales Tax

That the sales taxes are highly productive within the United States can easily be seen by some figures. The revenues derived from such taxes are furnishing the states today an average of about 34 per cent of their total revenues collected. It is, however, true that in some states their revenues from other sources are by far greater and for a comparison for the fiscal year ending June 30, 1936, we will take the States of Arkansas and Oklahoma for examples. Arkansas derived during this year $37 \frac{1}{10}$ per cent of its total revenue from the tax upon motor fuel compared to only $12 \frac{9}{10}$ per cent from the sales tax; Oklahoma received during this same fiscal year $29 \frac{9}{10}$ per cent of its total revenue from the motor fuel tax and only 13 per cent from the sales tax.

The above situation is reversed, however, by using the states of West Virginia, Illinois and Michigan as examples. During this same fiscal year Michigan received 41 per cent of its total revenue from the sales tax source, while her revenue from the tax upon motor fuel was $21 \frac{4}{10}$ per cent. West Virginia ranked first amongst the States, having a sales tax, receiving $56 \frac{1}{10}$ per cent of its total revenue from this source and $12 \frac{8}{10}$ per cent from the motor fuel tax. Illinois was second to West Virginia with her rate being $43 \frac{6}{10}$ per cent of the entire revenue source collected from the sales tax, and only $22 \frac{7}{10}$ from the tax on motor fuel. Another state showing decidedly increased returns from the sales tax is

California and this state ranked third. This State, also during the fiscal year mentioned, collected the enormous percentage of $41 \frac{4}{10}\%$ of all its revenues from the sales tax, and only $24 \frac{3}{10}$ per cent from the motor fuel tax. This indeed is a remarkable showing for California, in view of the fact that although it exempts practically all foods used in home consumption (not including foods consumed in restaurants), it collected from the sales taxes the enormous amount of over \$73,000,000 during that fiscal year.

Of the states mentioned West Virginia shows the greatest difference. During t is fiscal year this State received from its entire revenues the huge percentage of $56 \frac{1}{10}$ per cent from the sales taxes alone. The two next greatest revenue sources were respectively from the tax upon motor fuel and upon motor vehicles. To show how enormous this increase really is we will divide the motor fuel tax income of $13 \frac{2}{10}$ per cent, into the percentage received from the sales tax, namely $56 \frac{1}{10}$ per cent. This shows that this State received 425 per cent more revenue from the sales tax than upon the next best source. This is indeed staggering and only goes to prove that the sales tax is certainly highly productive.

During the fiscal year ending June 30, 1936, in twenty states their total revenues received from the so-called sales taxes, excluding receipts from cigarettes, liquor, fuel, oil, etc., which are not included in the category of sales taxes amounted to the sum of over \$336,450,000. This figure may be compared with Motor Fuel receipts of \$273,770,000, Motor Vehicle

receipts of \$52,597,000, and Property Tax receipts of \$48,501,000,³⁰

It is quite difficult to make exact relative productivity comparisons of the states using the same rate, because even if the same rate is used their bases and exemptions may be entirely different. Nevertheless, allowing for the population in each state and comparing only those with retail sales taxes with a uniform rate, it would be interesting to list a few comparative figures, and some per capita figures as a basis would be fairly accurate, although not entirely. Seven states with a retail sales tax of 2 per cent will show that the per capita receipts vary from \$1.78 in Arkansas to \$6.60 in Wyoming. If we subtract \$1.78 from \$6.60, we get \$4.82 as the difference per capita in revenue from states using the same rate. To get the average per capita revenue of this as an idea, the following list can be used.

Arkansas	\$1.78
Colorado	5.63
Iowa	5.45
North Dakota	4.64
South Dakota	4.63
Utah	5.86
Wyoming	6.60

7	\$33.99
	\$ 4.85+

This then gives us an average of about \$4.86 per capita revenue

of the states using the 2 per cent rate. However, the State of South Dakota has increased its from 2 to 3 per cent, since July 1, 1937.

It is only reasonable to expect that the higher the rate the greater per capita revenue. Illinois with her rate of 3 per cent ranks the lowest in this group with the per capita revenue being \$8.40, while California ranks the highest with a per capita revenue of \$12.86.

Taking the per capita revenue receipts from each state and finding the average per capita revenue from this source, it equals approximately \$5.98 that could be used as an average per capita revenue basis in the United States, according to the states having the sales tax in effect. The two states having the closest approximate identical per capita revenue receipts are Missouri and North Carolina; they are respectively listed as \$3.20 and \$3.21. The next in similar per capita revenue are Iowa with \$5.45, and Colorado with \$5.63. These two states then compare quite favorably. The average tax of \$5.98 per person is the revenue that is derived from the general sales tax in the United States by the States that have the sales tax in effect.

31. These figures were derived by dividing the population of each state into the respective revenues derived from the sales taxes of each.

VIII. Administrative Organization

The task of administering a sales tax is perhaps one of the greatest ever to fall upon any state agency. The administrative organization is usually in the hands of such agencies as the State Tax Commission; the Commissioner of Revenue; the Board of Equalization; the Commissioner of Finance; the Board of Assessment and Review; the State Comptroller; the Board of Tax Administration, or the Bureau of Revenue and other similarly named State agencies. It is marvelous to think that efficiency can be maintained when it is recognized that thousands of accounts are involved and these same accounts must be handled, either upon a monthly, bi-monthly, or quarterly basis with the same degree of care that any private sales organization would use in managing its accounts that are due. It is necessary for any State to have an efficient administrative organization so that its Sales Tax Acts can be placed upon an effective and economical basis. "In Colorado approximately 25,000 active accounts are being handled monthly, revenues from which now amount to over \$6,000,000 a year".³²

The administrative organization in Colorado is designated as their Sales Tax Division of the Department of Finance and Taxation headed by the State Treasurer. A director is in immediate charge and is assisted by an office force of fifty persons and a staff of fifty-eight men in the State Field Territory.

32. Denver University Reports, Business Study No. 87, June, 1937, p. 7.

Their field representatives include fifty sales tax revenue collectors and eight store license inspectors working jointly for the sales tax and store license divisions. These are each assigned to an area which will approximate five hundred reporting firms. Upon the field representatives fall the duties of general inspection, auditing, and the checking of accounts in arrears. Without this field contact, it would be impossible for their sales taxation system to function to any adequate degree.

The monthly system of reporting and sending in tax dues is probably the best method. It leads to less confusion than when they are rushed by a bi-monthly or quarterly report. It is also easier to check and the people engaged in this type of work can more easily familiarize themselves with their duties and the requirements of their State sales taxation laws.

In the State of California the administration is in charge of the State Board of Equalization. They have divided the State into thirteen districts which are arranged as far as possible for the convenience of the taxpayers. Each district is in charge of a tax administrator with headquarters in some city in the district. He is assisted by his office force and district field staff, who make their reports to their respective district administrator, and this is an exceptionally accurate and efficient system. Long delays are by far more infrequent than by having one centralized agency only.

IV. Administrative Costs

Most of the States measure their cost of administering taxes by expressing the costs as a fixed percentage of the revenues received, although some states set aside a fixed sum for that year. No state having a sales tax in effect or having had the tax has allowed more than 5% for the expenditures of the administrative department and most states operate with a much lower rate than the maximum allowed by their laws. The percentage rate varies from 3 to 5 per cent. In Colorado the retailer is allowed 5 per cent to cover his expenses for handling the tax, while Alabama specifies a maximum of 5 per cent to the agent or retailer appointed for the collection.

Arizona allows the State Tax Commission 4 per cent for costs, while in Arkansas the rate is set at 3 per cent. In California they have a fixed appropriation for their annual expenditures, although this State allows the retailer 2 per cent for his collection costs.³³

The administrative costs vary considerably even in the states where the same rate is allowed for expenditures. The first year of the inauguration of the sales tax is usually the highest in costs. This is due to expenses involved such as furniture, fixtures, printing of licenses, forms, and their cost of tokens, if employed within that state. A state that uses tokens, which may be in the form of metal, stamps, coupon

33. The Tax Digest, Vol. 15- Number 7, July, 1937, p. 233.

books, etc. naturally has a higher expenditure rate than a state that does not use them. Their percentage figures will also vary, depending upon the degree of enforcement with respect to this tax. The higher the amount that the administration or administrator collects, the greater the collection costs, because more field men are needed. Again, with the use of tokens in certain states their percentage for collection costs vary. Arkansas furnishes tokens but allows the Commissioner of revenue only 3 per cent for expenditures. Arizona issues tokens and allows 4 per cent for collection costs, while Alabama also issues tokens and sets the maximum rate at 5 per cent. In the State of Kentucky the Tax Commission allows the county sheriffs 2 per cent for collecting the tax.

In New Jersey, while the sales tax was in effect, they appropriated for the year of 1936 the sum of \$150,000 for administrative costs, while Idaho allowed \$40,000 and an additional \$10,000 for refunds. Louisiana, in which a sales tax is in effect at the present time, allows a maximum of \$173,000 annually.

The State of Michigan has the lowest percentage collection costs of any state in the Union. For the fiscal year ending June 30, 1937 the costs were only 1 4/10 per cent. Under Table No. 20 - Revenue Act of 1935 for her operating statement year of May 1, 1935 to April 30, 1936 the following is given:³⁴

34. Bulletin, Issued by State Board of Tax Administration,
1936, p.4.

B. Administrative Expenses.

<u>Item</u>	<u>Amount</u>	<u>Per Cent of Collections</u>
Salaries and Wages.....	\$225,594.01	1.49 %
Operating Expense.....	125,701.85	.83 %
Furniture and Fixtures....	4,501.64	.03 %
	\$355,797.50	2.35 %

Her revenue for this same year from the sales tax was \$19,544,908.49, therefore, the percentage figure of 2.35% is derived from this.

Of the states on a 2 per cent basis, North Dakota had a cost ratio of 4 3/10 per cent, which was the highest of any state in the Union for the fiscal year ending June 30, 1936. For this same fiscal year Colorado had a cost ratio of 3 72/100 per cent, and Wyoming showed a ratio of 3 38/100 per cent.³⁵

Michigan had a ratio of 1 4/10 per cent for the fiscal year ending June 30, 1937. Now the question may be asked; Why has this State such a low percentage ratio for costs of collections? This is due to its having a general sales tax rate of 3 per cent which naturally brings in more revenue, and the higher the revenue, the lower the percentage ratio. It costs very little more to collect the tax by having a state rate of 3 per cent than it does if the rate is 1 per cent. The only difference would be a few office helpers. For an example we could use the following case: Two states have annual sales, within the state subject to the sales tax, of \$400,000,000. The first state has a 1 per cent state sales tax rate. One per cent of four hundred million would give this state an annual revenue of \$4,000,000. Now, the other

35. See Table Thirteen, p. 80.

state has a 3 per cent state sales tax rate. This state would receive for her revenue \$12,000,000 and the collection costs would be very little higher than in the other state.

Let us assume that the state having the 1 per cent rate has annual collection administrative costs of \$180,000. By dividing four million into one hundred and eighty thousand we would get a percentage ratio of $4\frac{1}{2}$ per cent for collection costs.

On the other hand suppose that the state which has a state sales tax rate of 3 per cent, allows \$240,000 annually for administrative costs. Its annual revenue, however would be \$12,000,000. By dividing twelve million into two hundred and forty thousand we would get the low percentage ratio of only 2 per cent for the administrative costs. This should conclusively prove that the higher the state rate, the lower the percentage ratio of administrative costs.

For the fiscal year ending June 30, 1936, North Dakota, operating under a state sales tax rate of 2 per cent, collected as her revenue the sum of \$2,751,599, with a percentage ratio for administrative costs of $4\frac{3}{10}$ per cent. For this same fiscal year California, with a state rate of 3 per cent upon sales taxes, collected the enormous sum of \$73,035,982, yet the percentage ratio for administrative costs was only $1\frac{79}{100}$ per cent.

36

X. Methods of Collection

Most of the states make it mandatory that the amount of the tax shall be stated separately from the sales price and collected by the merchant. These states work upon the theory that a tax on retail sales should be paid directly by the ultimate consumer and eighteen states today state this specifically in their laws.

The retailer or vendor is required by most states, as far as practicable, to add the imposed tax, or the average equivalent thereof to the sales price or charge, showing such tax as a separate and distinct item.

Some laws specifically state that it shall be a misdemeanor, subject to fine or imprisonment, for any retailer to advertise or hold out, or state to the public or to any customer, directly or indirectly, that the tax, or any part of it, will be assumed or absorbed by the retailer, or that it will not be added to the selling price of the goods sold, or, if added, that it will be refunded.

Five states today make the collection of the tax optional. Four of these have adopted, however, the practice of stating the tax separately and collecting from the consumer.

The problem of collections relating to small purchases involving tax charges under one cent is handled in two ways. Twelve states have adopted tokens of one, two, or five mill denomination. Some of these states are California, Colorado, Kansas, New Mexico, Washington, and others.³⁷

37. See Table Twelve, p. 79.

The State of Ohio uses tax stamps and tax cards. The stamps are issued in denominations of from one cent up to \$15. These stamps are issued in duplicate form that show both the vendor and the consumer's receipts. At the time of the sale the vendor is required to collect the tax from the consumer and cancel prepaid tax receipts in the exact amount of the tax collected. The receipt is automatically cancelled at this time as the vendor tears the same at the perforation which runs through the numbers printed between the vendor's and consumer's portion and delivers the latter portion to the consumer. No distinction is made between cash and credit sales as in either case the tax is to be collected and the prepaid tax receipts cancelled at the time of the transaction.

Inasmuch as the tax is to be collected in certain specified brackets, the tax card serves to level the tax to a flat 3%. Without these cards under the Ohio law where a sale is made at 10 cents, it is necessary to collect a 1 cent tax which is equivalent to a rate of 10%, and while it is true that the majority of retail transactions are in such denominations as would normally be taxable at 3%, the use of the tax card serves to level the rate, particularly in variety stores and similar establishments. In using the tax card, the consumer pays 3 cents tax for his card at the time of the initial purchase and the amount of each sale is punched out until the entire card is exhausted.³⁸

38. See Page 53.

Every vendor is required to maintain a sufficient inventory of tax receipts to cover reasonable business needs. As the vendor purchases these stamp receipts from the County Treasurer in advance of the actual retail transaction, the tax is collected by the State in advance.

Ten states today rely wholly upon the so-called "bracket system" method; the merchant systematically overcharges on some sales and undercharges on others, depending in degree upon the character of the bracket used. The following bracket systems as used in two states are illustrative:

The first is taken from "Regulations prescribed by the Commissioner of Revenues for the Administration of the Arkansas Retail Sales Tax Law."³⁹ This state has a 2 per cent retail sales tax.

"Article 1. Brackets. The following brackets are hereby set up for the purpose of collecting the tax, to-wit:

- .01 to 12¢ inclusive - No tax to consumer.
- .13 to 62¢ inclusive - 1¢ tax to consumer.
- .63 to \$1.12 inclusive - 2¢ tax to consumer.
- \$1.13 and up inclusive - Scales accordingly.

South Dakota has a 3 per cent retail sales tax and uses the following bracket:⁴⁰

\$.01 - \$.14	No tax.	\$1.15 - \$1.44	\$.04
.15 - .44	\$.01	1.45 - 1.74	.05
.45 - .74	.02	1.75 - 2.14	.06
.75 - 1.14	.03	etc. For each additional dollar.	

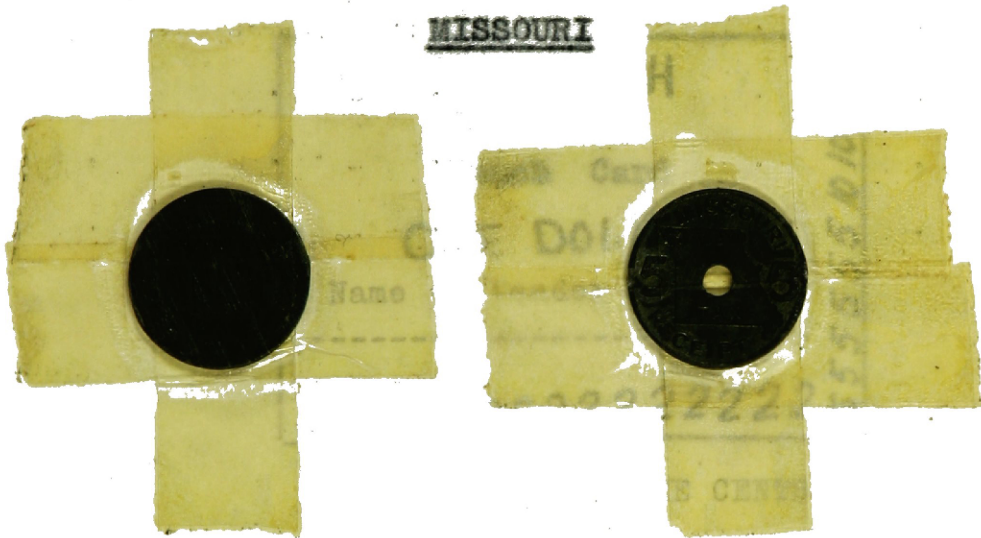
39. Arkansas Retail Sales Tax Law-Act 154 of 1937, p. 23.

40. South Dakota 3% Retail Sales Tax-Effective July 1, 1937, p.1.

Some people object to the use of tokens, especially if they are made of metals, because they are small in size and easily lost. It is of interest to note that the last two states adopting the sales tax have issued tokens. These two states are Kansas and Alabama.

Samples of tax tokens:

MISSOURI



NEW MEXICO



XI. Abhorrence and Regression of Sales Taxes

A senator once stated, "tax them for everything, but keep the tax hidden." This cannot be the case in sales taxation because the tax is listed separately and the person purchasing goods for \$5, within a state having a 2 per cent general sales tax, must then pay the tax. If the merchants were allowed to add a hidden tax, instead of having the tax visible, the purchaser would not say anything. The Federal government does not list its processing taxes upon a loaf of bread, therefore, it is unnoticeable. The honesty of listing the sales tax with each purchase, above purchase exemption, is what really makes it disliked. The usual objections to any uniform tax placed on necessary commodities widely consumed is that it is an unfair tax as far as the low income groups are concerned, since it violates the tax principle of "capacity to pay." For example, a tax upon bread, butter, sugar, and a few other necessary foods such as upon meat and potatoes, is felt more severely by a family with an annual income of \$1000 than it is by a family with an income of \$2000.. If the families are the same in size, the consumption of these commodities will be practically the same, but this is not true of other items purchased. The person in the lower income bracket will purchase a pair of shoes for his child at \$1.98, while the person in the upper income group will pay \$5.00 for a pair of shoes for his child. If the rate would be 3 per cent, the first mentioned would pay a sales tax of 6 cents, while the person getting the higher income would pay a sales tax of 15 cents, not consider-

ing the quality of the two items, only the purchase price. Therefore, the person in the lower income group would pay relatively less taxes during a period of one year than the one getting the higher income. It is true that as far as commodities listed as necessities are concerned, there is little difference. The ratio in California for the per capita revenue is \$12.26. Now, the people in the lower brackets pay about 30 per cent of what those pay within the higher brackets in sales taxes over a period of one year. Therefore, we will say that within two families, each having one child, and one family being in the lower income bracket and the other family in the higher income group, the state revenue for these two children would total \$25.72 for one year. The family with the one child in the lower income group, paid only 30 per cent of this, or the amount of \$7.72. On the other hand the family in the upper income group, with the one child, paid \$18. Possibly in this case it would be reasonable to state that the sales tax would still be much more regressive to the family paying the least tax.

It is a matter of educating people to the idea that an exposed tax should not be any more hateful than a hidden tax. The time is coming when the people will become more and more "tax conscious" and demand the exposure and listing of all taxes. It is hard to complain about taxes when they are hidden. When exposure is demanded of all taxes, the sales tax

will be far less despised. We can truthfully say at least one thing for a sales tax, and that is that it is at least honest in principle by being exposed.

XII. Arguments For and Against Sales Taxation

Arguments For:

1. They are not hidden; the consumer is not swindled by several unexposed taxes.
2. They are being successfully used in many foreign countries today.
3. Two states, within the United States, adopted them in 1937.
4. Thirty-four states have passed sales tax legislation.
5. Thirty-one have had them in effect.
6. Many state executives look upon the sales tax as a permanent part of their tax structure.
7. They will produce ample revenue.
8. They will encourage thrift instead of waste.
9. Every one pays them.
10. Many intangibles are not listed when the tax assessor comes.
11. They cannot increase the price of commodities beyond the amount of the tax itself.
12. They are absolutely uniform in rate.
13. They do not hamper business.
14. The manufacturer does not raise the price of his goods.
15. Only about 70 per cent of the people now pay taxes.

16. They are simple and economical to collect.
17. There are no tax delinquencies.
18. They spread the tax load out equitably.
19. They are distributed over a great mass and throughout the year so as to be scarcely noticeable.
20. They are collected by the state from the vendor monthly, bi-monthly, or quarterly.
21. They cannot be shifted to someone else.
22. Canada has used the sales tax for over twenty years.
23. The taxes are so small that they are not felt by the ultimate consumer.
24. Cities are beginning to adopt them.
25. They do not spell "taxation suicide" for the property owner.
26. Property taxes have been reduced as much as 33 per cent in some states that use the sales tax.
27. There is very little variation in revenue from year to year.
28. The one who consumes the most and spends the most pays the most in taxes.
29. Mexico has used this type of tax since 1906.
30. Many states have made them permanent.
31. States that have them are keeping up their old-age pensions and social security program.
32. States that have them are giving more state aid

to schools.

33. They are based upon sound democratic principles.
34. They are difficult to evade.

Arguments Against:

1. The amounts that such taxes produces can never be the same year after year.
2. Perplexing administrative difficulties.
3. The poor pay the same tax as the rich.
4. The jobless pay the tax, as well as those that are sick.
5. The man with a large family pays more taxes than the one that has a small family.
6. They are costly and difficult to collect.
7. They increase prices.
8. Much unnecessary work and increased expenses for the merchants in keeping their records.
9. No two general sales taxes are the same.
10. They are the most disturbing, irritating, and unpopular taxes ever invented.
11. Sales taxes bring about undesirable changes in business practices.
12. The unemployed pay the same tax as the employed.
13. Sales taxes put an undue and extravagant burden upon the consumer, instead of on the producer or the possessor of wealth.
14. Sales taxes rest more heavily upon the poor than upon the rich and repudiate the principle of taxing according to ability to pay.

15. What has been successfully tried in other countries may not prove true in the United States.
16. Some states have repealed their sales tax laws that were in effect.
17. Many people can evade them.
18. They depress the standard of living.
19. Only the well-to-do favor sales taxes.

XIV. Conclusion

An attempt has been made to picture the history of the sales tax in the United States without trying to develop any argument either for or against it. It is more or less generally recognized that a tax on general sales is rather inequitable, being regressive in nature. It has been an excellent revenue producer, and most states that use it issue publications stating that it has saved their schools, helped the unfortunate, met their old-age payments, enabled them to participate in the Federal government social security program, and has enabled them to meet their obligations.

Some states in which their sales tax laws become ineffective by expiration are again trying to pass sales tax legislation, however, using a different title for the tax. Several states are using such titles as the "Use Tax," "Business Occupation Tax," "Compensating Tax," "Luxury Tax," "Emergency Gross Receipts Tax," "Storage Tax," "Selective Tax," etc. The purpose seems to be to do away with the words "Retail Sales," or "General Sales," or with that much hated term "Sales Tax."

The State Tax Commissions of several states that do not have sales taxes, within the past year declared themselves favoring such a tax; the state of New Hampshire being the most recent.

"The Sales Tax. In the opinion of the Commission, a

sales tax is the fairest form of taxation which can be devised. The tax varies with the amount of the purchase, and like the tax on gasoline, being payable by the addition of a few cents to the purchase price, is less of a hardship upon the taxpayer than a larger lump-sum payment would be. It is comparatively easy to administer and its yield would be large. Most states where such a law is in force have found it very satisfactory. It is proposed in the present law to do away with the use of stamps or tokens and have the tax collected by the retailer and paid on the fifteenth day of every month, or every three months. This tax is primarily a consumers' tax, and is based on the amount of the purchase. It is so framed as to make the individual taxpayer conscious of the fact that he is paying a tax. In the opinion of the Commission this is one of the most salutary features about such legislation. The man who actually pays the tax uses his influence to keep down the expense of government; the man who has to pay no tax except possibly a poll tax is usually the man who encourages expenditure.⁴¹

The Tax Commission of this state recommended the sales tax for adoption.

Many states having sales taxes in effect maintain that they have been benefited by their change in the tax structure. As proof of this statement, we will use as an example the following:

Change Has Benefited Taxpayer

"Definite benefit to taxpayers generally may be found from the revision of the California Tax system following adoption of the 1933 constitutional amendment. Not only has the State taken over school costs amounting to some \$40,000,000 annually, financing these from the proceeds of the sales tax instead of from county ad valorem levies, but there has been returned to local tax rolls utility property assessed at approximately \$900,000,000. Annual ad valorem taxes on this utility property amount to \$30,000,000. This means that tax burdens of at least \$70,000,000 per year have been removed from common property owners. Moreover, the new law has resulted in greater uniformity in assessments and assessment practices."⁴²

41. New Hampshire- The Tax Crisis in New Hampshire, Jan, 1937, p. 31.

42. California- Biennial Report of State Board of Equalization, 1935-1936, pp. 8 and 9.

If the property owners can be thoroughly convinced that the sales tax reduces their burden, they will undoubtedly become boosters for sales taxation. The farmers and the laborers appear to be the principal objectors to this tax. The latter honestly believe that it is a menace to them, but on the other hand the farmers are property owners and should benefit from such a tax because it will reduce their property taxes. Taxes on common property owners in California were reduced in the period from 1932 to 1935 by more than \$85,000,000 or approximately one-third.

Before Indiana adopted the sales tax, or for the fiscal year of 1931-1932, this state distributed to her local schools \$5,052,487. For the fiscal year of 1936-1937 the state distributed for the same purpose \$14,926,011. Out of this sum, \$9,312,600 came from the sales tax.⁴³ It must be remembered that this is only about 50 per cent of her revenue that is collected from the sales tax.

This state for the fiscal year of 1936-1937, paid into the Teachers' Retirement Fund (Paid to teachers or invested), the sum of \$2,821,812, and this is certainly commendable.

On the other hand, the sales tax in Idaho went into effect upon March 21, 1935, and was nullified November 25, 1936, by a popular vote of the people.

43. Indiana & Co. 1937 Edition Fiscal Year 1936-1937, p. 8.

Oregon passed a sales tax law in 1933, and for the years of 1934, 1935, and 1936. The law in each instance was put up to the people as a referendum measure and has been defeated each time. At a special election held in that state upon January 31, 1936, the measure was defeated by the vote of 187,319 against and only 22,106 voted for it.⁴⁴

Kentucky, after having the sales tax in effect from July 1, 1934, repealed the law upon January 15, 1936, although the law as originally enacted was to stay in effect for two years, or until June 30, 1936.

Minnesota passed a sales tax law in 1935 and this was vetoed by her governor in this same year.

In 1937 Maine passed a sales tax law, which was put up to the people as a Referendum measure upon August 16, 1937, and the tax was defeated.⁴⁵

In four states, in which the law lapsed by the expiration date, it was not renewed.

The sales tax and the future policy of sales tax legislation is one of the vital issues today. If the consensus of authoritative opinion is against the tax as a long run proposition, can we look toward the repeal or lapsation of twenty-three state ^{sales} /tax laws as soon as the emergency will have passed? Or will the tax, now that it has proven itself highly productive as well as subject to acceptance with a reasonably small degree of consumer resistance, become a permanent American institution?

44. Abstract of Votes Cast--Compiled by Secretary of State,
Feb. 14, 1936.

45. Letter--Chief Clerk Property Division.

TABLE ONE

State Sales Taxes, Showing Rates and Bases of Tax

June 1, 1937

		Subject to Tax																																							
		A Tangible Personal Property & Services								B Other Services		C Sales or Value of Prod.					D Gross Income																								
		1. Tang. Pers. Prop.		2. Communication		3. Transportation		4. Admissions		5. Advertising		6. Publications		7. Radio Broadcasting		8. Financial		9. Utility Services		10. Personal		11. Professional		12. Agriculture		13. Timber		14. Wholesalers		15. Manufacturers		16. Oil, Gas, Coal		17. Rentals		18. Investments		19. Salaries & Wages		20. Checking Accounts	
State	Rate %	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20																				
Calif.	3	T	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-								
Colorado	2	T	T	-	T	T	T	-	-	3	T	T	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-								
Arizona	2	T	T	T	T	T	T	-	-	T	-	-	T	T	T	T	T	-	-	-	-	-	-	T	T	T	T	T	-	-	-	-	-								
		(1)			(2)	(1)	(1)			(1)			(1)	(1)	(1)	(1)	(1)																								
Washington	2	T	T	T	T	T	T	T	T	T	T	T	-	T	T	T	T	-	-	-	-	-	-			(1)	(1)	(1)	-	-	-	-	-								
		(3)	(1-3)	(5)	(1)	(1)	(1)	(1)	(1)	(2-3)	(1)	(1)			(1)	(1)	(1)																								
Indiana	1	T	T	T	T	T	T	-	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(1)	(1)	(1)	(1)	(1)	-	-	-	-	-								
													(1)	(1)	(1)	(1)	(1)																								

T--Same rate as listed and those subject to the tax. ((1) or (1) shows the rate for that object taxed)

XIV. General Sales Taxation Summarizedby Tables, Graphs, etc.Table Two

Sales Tax Development in American States.

<u>State</u>	<u>Adoption Date</u>	<u>Type of Tax</u>	<u>Status January 1, 1938.</u>
West Virginia	1921	Gross Income	In Effect
Georgia	1929	Gross Receipts	Lapsed 1931
Mississippi	1932	Gross Income	In Effect
Pennsylvania	1932	Retail Sales (6 mo.)	Lapsed 1933
Arizona	1933	Gross Income	In Effect
California	1933	Retail Sales	In Effect
Illinois	1933	Retail Sales	In Effect
Indiana	1933	Gross Income	In Effect
Michigan	1933	Retail Sales	In Effect
New York	1933	Retail Sales	Lapsed 1935
North Carolina	1933	Gross Sales (Retail)	In Effect
Oklahoma	1933	Retail Sales	In Effect
Oregon	1933	Gross Receipts	Defeated Ref. 1933.
South Dakota	1933	Retail Sales	In Effect
Utah	1933	Gross Sales (Retail)	In Effect
Vermont	1933	Gross Sales (Retail)	Repealed 1935
Washington	1933	Retail Sales	In Effect
Iowa	1934	Retail Sales	In Effect
Kentucky	1934	Gross Receipts	Repealed 1936
Missouri	1934	Gross Receipts	In Effect
Ohio	1934	Retail Sales	In Effect
New Mexico	1934	Gross Receipts	In Effect
Arkansas	1935	Retail Sales	In Effect
Colorado	1935	Retail Sales	In Effect
Idaho	1935	Retail Sales	Lapsed 1936
Maryland	1935	Gross Receipts	Lapsed 1936
Minnesota	1935	Retail Sales	Vetoesd 1935
New Jersey	1935	Gross Receipts	Repealed 1935
North Dakota	1935	Retail Sales	In Effect
Wyoming	1935	Retail Sales	In Effect
Louisiana	1936	Gross Receipts	In Effect
Alabama	1937	Gross Receipts	In Effect
Kansas	1937	Retail Sales	In Effect
Maine	1937	Gross Receipts	Defeated Ref. 1937.

Summary

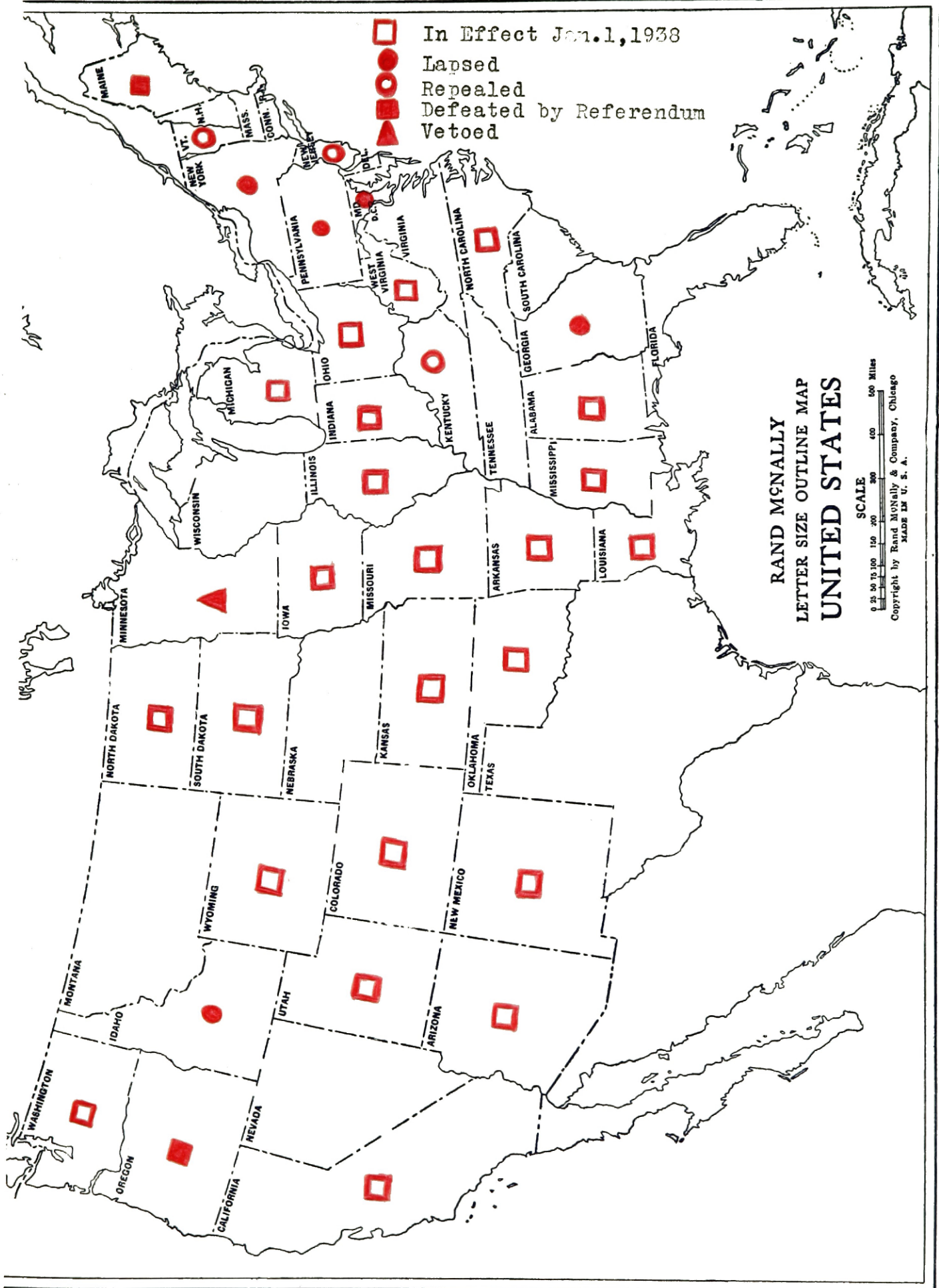
Number of States having had Sales Taxes in Effect.	31
Number of States Adopting Sales Tax Legislation	34
Number lapsed, vetoesd, repealed, or defeated by Referendum	11
States with Sales Tax In Effect January 1, 1938	23

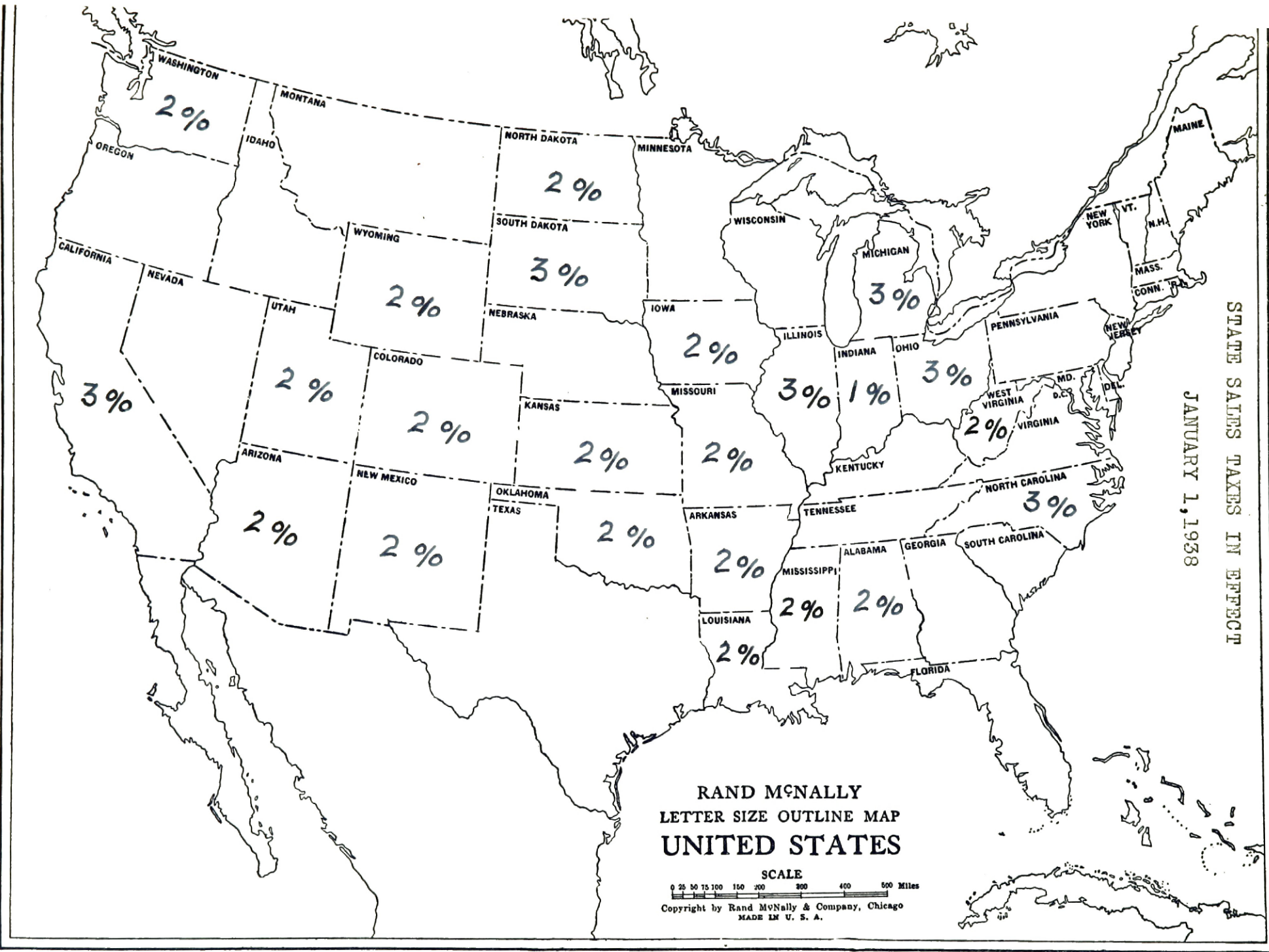
Table ThreeEnforcement, Development and Enactments

State	Rate	Time in Effect	Later Enactments	Status Jan. 1, 1938.
Virginia	2%	Since 1921	1925-'31-'33-'35	Made permanent 1937
Alabama	$\frac{1}{2}$ to 3 mills	2 yr. 3 mo.	None	Lapsed Dec. 31, 1931
Mississippi	2%	Since 1932	1934	Made permanent 1936
Pennsylvania	1%	6 months	None	Lapsed Feb. 28, 1933
Massachusetts	2%	Since 1933	New Law 1935	Biennial Enactment
California	3%	Since 1933	Amended 1935	Made permanent 1935
Ohio	3%	Since 1933	Amended 1935	Expiration date Feb. 14, 1939.
Washington	1%	Since 1933	None	Made permanent 1937
Illinois	3%	Since 1933	Amended 1935	Made permanent 1935
New York	2%	1 yr. 3 weeks	None	Lapsed Dec. 31, 1935
North Carolina	3%	Since 1933	New Law 1935	Expiration date June 30, 1939
Indiana	2%	Since 1933	New Law 1935	Expiration date June 30, 1939
Montana	2%	Never in effect	Rejected by Referendum 1933-'34-'35-'36.	
Dakota	3%	Since 1933	New Law 1935	Made permanent 1935
Idaho	2%	Since 1933	Amended 1935	Made permanent 1935
Utah	2%	2 yr. 4 da.	None	Repealed March 20, 1935
Washington	2%	Since 1933	New Law 1935	Biennial Enactment
Wyoming	2%	Since 1934	Reenacted	Made permanent
Nevada	3%	18 $\frac{1}{2}$ mo.	None	Repealed Jan. 15, 1936
Arizona	2%	Since 1934	New Law 1937	Expiration date Dec. 31, 1939
Colorado	3%	Since 1934	Reenacted	Made permanent Jan. 1, 1937
Mexico	2%	Since 1934	New Law 1935	Made permanent 1935
Texas	2%	Since 1935	Reenacted	Expiration date July 1, 1939
Florida	2%	Since 1935	Reenacted	Expiration date June 30, 1939
Georgia	2%	1 yr. 8 mo. 5 da.	None	Defeated by Referendum Nov. 3, 1936
Alabama	1%	1 year	None	Expired March 31, 1936
North Carolina	$\frac{1}{2}$ %	Never in effect	None	Vetoed in 1935
New Jersey	2%	3 mo. 25 da.	None	Repealed Oct. 25, 1935
Dakota	2%	Since 1935	Reenacted	Expiration date June 30, 1939
Illinois	2%	Since 1936	Reenacted	Made permanent 1937
Indiana	2%	Since 1936	None	Made permanent 1936
Ohio	2%	Since 1937	None	Expiration date Sept. 30, 1939
Alabama	2%	Since 1937	None	Made permanent 1937
North Carolina	1%	Never in effect	None	Defeated by Referendum August 16, 1937.

Table FourCities With Sales Taxes in The United States

<u>City</u>	<u>Rate</u>	<u>Adoption Date</u>	<u>Status July 1, 1938</u>
New Orleans	2%	October 1, 1936	In Effect
New York	2%	December 10, 1934	In Effect
Philadelphia	2%	January 27, 1938	In Effect





STATE SALES TAXES IN EFFECT
JANUARY 1, 1938

RAND McNALLY
LETTER SIZE OUTLINE MAP
UNITED STATES

SCALE
0 25 50 75 100 150 200 300 400 500 Miles
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United States

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Table Five

Percentage Distribution
of
California Sales Tax

	<u>1934-1935</u>	<u>1935-1936</u>
Food Products and Household Supplies	19.5%	2.4% *
Meals and Beverages	8.9%	10.1%
Drugs, Confectionery, etc.	6.9%	7.4%
Building Materials, Hardware, Machinery & Farm Implements	9.6%	12.8%
Books, Stationery, & Musical Instruments	3.7%	4.3%
Motor Vehicles and Accessories	16.9%	24.3%
Household Furnishings	4.1%	5.2%
Department, Clothing and Variety Stores	20.2%	21.1%
Miscellaneous	10.2%	12.4%
	<u>100.0%</u>	<u>100.0%</u>

*
Most Foods exempted in 1935-1936.

Meals in restaurants not exempt.

Table SixPercentage Distribution of Sales TaxFiscal Year of 1935-1936.

	West Virginia Rate ^{2%}	Washington Rate ^{2%}
Retail Sales Tax	38.5%	59.4%
Occupation Business Tax	6.7%	8.5%
Manufacturing	6.5%	5.7%
Wholesaling	1.4%	4.7%
Extracting	18.2%	0.8%
Utilities	25.1%	12.3%
Contractors	1.0%	0.4%
Amusements	0.2%	4.8%
Personal and Professional Services	2.4	3.4%
	<u>100.0%</u>	<u>100.0%</u>

Table SevenShowing Levies in Mills Before Adoption and AfterAdoption of Sales TaxesState of Washington

<u>Counties</u>	<u>1929 (Before Sales Tax)</u>	<u>(After Adoption 1935 of Sales Tax.)</u>
Adams	15.90 Mills	7.65 Mills
Asotin	21.57	13.70
Benton	21.64	14.86
Chelan	26.08	18.28
Clallam	28.15	18.99
Clark	27.24	17.43
Columbia	15.98	10.24
Cowlitz	34.34	17.23
Douglas	17.13	10.98
Ferry	23.05	20.56
Franklin	20.81	14.82
Garfield	16.56	9.40
Grant	20.59	15.04
Grays Harbor	30.88	22.86
Island	25.10	17.18
Jefferson	24.84	18.57
King	35.22	24.07
Kitsap	34.77	17.94
Kittitas	20.77	14.37
Klickitat	20.59	12.02
Lewis	25.04	15.19
Lincoln	16.48	8.70
Mason	27.96	16.91
Okanogan	25.24	17.34
Pacific	29.87	17.65
Pend Oreille	21.45	15.23
Pierce	33.97	25.27
San Juan	24.43	17.56
Skagit	27.79	18.18
Skamania	22.41	12.16
Snohomish	28.41	20.35
Spokane	25.74	20.28
Stevens	24.34	14.83
Thurston	29.20	18.50
Wahkiakum	30.95	14.40
Walla Walla	19.36	13.82
Whatcom	28.30	18.45
Whitman	19.09	11.05
Yakima	25.99	17.13
<u>State Averages</u>	<u>28.39</u>	<u>19.45</u>

Table Eight

(Gross Receipts)

Retail Sales, Business and Occupation, and Public Utility Taxes

State of Washington

Accrued Tax by Chief Classes of Business-Year of May 1, 1935 to April 30, 1936.

A. 2% Retail Sales Tax:

25.07%	Foods	\$2,344,817.67
18.51	Automotive	1,731,169.25
17.38	General Merchandise	1,625,989.11
10.20	Building Material, etc.	954,088.40
6.41	Apparel	599,275.01
5.22	Furniture - Fixtures	438,532.57
17.21	Miscellaneous	1,609,563.01
		<u>\$9,353,435.02</u>

B. Business And Occupation Tax:

35.75%	Retailing	\$1,360,470.63
23.89	Manufacturing	908,894.35
18.84	Wholesaling	716,748.70
18.11	Service	689,301.19
3.41	Extracting	129,801.65
		<u>\$3,805,216.52</u>

C. Public Utility Tax:

36.67%	Light, Power	\$ 721,930.16
19.20	Telephone, Telegraph	377,997.58
18.62	Railroads	366,409.14
9.75	Water	191,989.14
5.95	Highway Transportation	117,216.64
3.11	Gas	61,131.29
1.73	Docks, Wharve, Warehouses	34,112.80
1.65	Electric Interurban, Street Railways	32,308.29
1.53	Water Transportaion	30,085.20
1.79	Other	35,321.69
		<u>\$1,968,731.93</u>

Table NineState of IndianaCalendar year of 1936

(Gross Income)
(Sales)

Revenue Derived from Sales Tax.

Taxes collected at 1 per cent rate	\$16,804,051.28
Taxes collected at $\frac{1}{2}$ of 1 per cent rate	2,460,945.29
Deficiency tax paid	992,904.06
Interest and penalty paid	184,669.68
	<hr/>
	\$19,942,550.31

Table Ten
Revenues from the Sales Tax Compared with Other State
Tax Revenues 1936
N.

<u>11 Sales Tax-</u>	<u>Sales</u>	<u>Income</u>	<u>Property</u>	<u>Vehicles</u>	<u>Motor Fuel</u>	<u>Liquor</u>	<u>Others</u>
Mass	12.9	1.6	17.9	12.3	37.1	4.8	13.4
California	41.4	12.3	None	7.1	24.3	7.4	8.5
Colorado	26.2	None	17.4	9.1	32.8	10.6	3.9
Illinois	43.6	None	1.3	18.6	22.7	6.3	13.5
Indiana	26.1	7.3	2.5	20.1	25.3	2.3	16.4
Iowa	41.0	None	None	16.1	21.4	9.2	12.3
Kentucky	12.8	11.0	4.8	20.7	24.1	12.0	14.6
North Dakota	24.3	3.1	22.3	15.7	20.4	6.8	7.4
Ohio	28.8	3.6	None	13.9	24.1	11.8	17.8
Oklahoma	13.0	10.5	.9	11.4	29.9	2.0	32.5
South Dakota	29.4	.8	2.8	8.0	39.0	5.9	14.1
Texas	28.9	9.9	11.1	12.3	28.3	1.0	8.5
Washington	31.6	None	12.8	3.5	41.9	6.5	3.7

12 Sales Tax:

Alabama	19.1	5.8	22.9	6.0	29.1	5.9	11.2
North Carolina	19.1	14.5	.7	12.4	35.3	1.2	16.8

13 Receipts Tax:

Kentucky	19.1	3.9	7.8	10.0	39.8	.7	18.7
Mexico	24.1	1.8	20.7	11.3	31.3	4.1	4.7
Washington	25.5	None	17.6	8.9	31.6	8.2	8.2

14 Income Tax:

Alabama	27.1	None	10.2	12.1	34.4	9.2	7.0
Virginia	56.1	3.3	3.7	12.8	13.2	2.7	8.2

Fiscal year for 18 States in 1936. Two States for 1935.

Table ElevenSales Tax Revenues by States, 1936

State	Rate %	Rate \$	Total	Per Capita
Alabama (1937)		2	- - - - -	- - -
Arizona		2	\$ 2,916,777	\$ 6.70
Arkansas		2	3,300,000	1.78
California		3	73,035,982	12.86
Colorado		2	5,838,001	5.63
Illinois		3	64,089,000	8.40
Indiana		1	16,629,000	5.13
Iowa		2	13,450,641	5.45
Kansas (1937)		2	- - - - -	- - -
Louisiana (1936) <u>Estimated</u>		2	3,500,000	1.32
Michigan		3	46,596,381	9.62
Mississippi		2	4,236,000	2.10
Missouri (2% after 1936)		1	11,626,000	3.20
North Carolina		3	10,184,000	3.21
North Dakota		2	2,751,599	4.04
New Mexico		2	2,362,000	5.58
Ohio		3	58,552,000	8.89
Oklahoma (2% after 1936)		1	4,211,000	2.03
South Dakota (3% after 1937)		2	3,211,000	4.63
Utah		2	2,966,966	5.86
Washington		2	16,207,008	10.37
West Virginia		2	19,807,000	7.13
Wyoming		2	1,484,951	6.60

* Fifteen states for June 30, 1936. Oklahoma Dec. 31, 1935. Ohio Dec. 31, 1936. Wyoming and Washington year ending Apr. 30, 1936. (1936) - (1937) This is adoption date of Sales Tax. Figures not available.

Table TwelveRetail Sales Tax Provisions

States	Retailer to Collect from Consumer		Method of Adding Tax		Use of Tokens	
	Mandatory	Optional	Hidden as Part of Price	Separate Item	Yes.	No.
Alabama	X	--	--	X	X	--
Alaska	--	X	--	X	--	X
Arizona	X	--	--	X	--	X
California	X	--	--	X	X	--
Colorado	X	--	--	X	X	--
Connecticut	--	X	--	X	--	X
Delaware	--	X	X	--	--	X
District of Columbia	X	--	--	X	--	X
Florida	X	--	--	X	X	--
Georgia	X	--	--	X	X	--
Idaho	--	X	--	X	--	X
Illinois	X	--	--	X	X	--
Indiana	X	--	--	X	X	--
Iowa	X	--	--	X	--	X
Kansas	X	--	--	X	--	X
Kentucky	X	--	--	X	X	--
Louisiana	X	--	--	X	X	--
Maine	X	--	--	X	X	--
Maryland	X	--	--	X	--	X
Massachusetts	X	--	--	X	X	--
Michigan	X	--	--	X	X	--
Minnesota	X	--	--	X	--	X
Mississippi	X	--	--	X	X	--
Missouri	X	--	--	X	X	--
North Carolina	X	--	--	X	--	X
North Dakota	X	--	--	X	--	X
Oklahoma	--	X	--	X	X	--
Oregon	X	--	--	X	X	--
Rhode Island	X	--	--	X	--	X
South Carolina	X	--	--	X	--	X
South Dakota	X	--	--	X	--	X
Tennessee	X	--	--	X	X	--
Texas	X	--	--	X	--	X
Utah	X	--	--	X	--	X
Vermont	X	--	--	X	X	--
Virginia	X	--	--	X	--	X
Washington	X	--	--	X	--	X
West Virginia	X	--	--	X	--	X
Wisconsin	X	--	--	X	X	--
Wyoming	--	X	--	X	--	X
Total	18	5	1	22	11	12

Table FourteenGroup Distribution of Retail Sales TaxState of IowaFiscal Year Ending June 30, 1935

	<u>Per Cent</u>
Apparel Group	5.98
Automotive Group	12.22
Food Group	24.94
Furniture Group	2.29
General Merchandise Group	22.79
Jobbers - Merchandise - General - Special	0.002
Lumber and Building Group	6.35
Professional and Personal Service Group	0.64
Public Utility Group	8.87
Unclassified Group	11.60
Farm and Garden Produce	0.41
Manufacturing and Trading or Jobbing	3.91

Table FifteenTotal Sales Tax Revenues by Business GroupsPercentage and Per Capita DistributionFiscal and Calendar YearsFour Fiscal - Two CalendarStates With
3% RateStates With 2% Rate

<u>Business Group</u>	<u>Illinois</u>	<u>Michigan</u>	<u>Colorado</u>	<u>Iowa</u>	<u>Utah</u>	<u>Wyoming</u>
Hotel	7.94	7.14	8.01	5.65	5.79	4.14
Motive	13.37	22.37	13.87	14.29	15.85	16.65
	28.81	26.95	27.66	22.89	22.02	26.65
Structure	2.65	3.37	3.02	2.49	4.66	1.90
Retail Merchandise	22.97	20.75	23.84	21.28	21.88	26.25
Transportation & Building	4.41	4.25	4.78	7.25	5.93	4.77
Public Utility	No tax	5.23	7.26	6.55	7.65	9.01
Other	19.85	10.07	11.54	17.80	16.24	10.63
	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>

Per Capita

Hotel	\$.74	\$.69	\$.48	\$.31	\$.34	\$.27
Motive	1.24	2.14	.83	.78	.93	1.07
	2.67	2.59	1.66	1.24	1.30	1.72
Structure	.25	.32	.18	.13	.27	.12
Retail Merchandise	2.13	2.00	1.43	1.16	1.29	1.69
Transportation & Building	.41	.41	.89	.39	.35	.31
Public Utility	No tax	.50	.44	.45	.45	.58
Others	1.84	.97	.69	.97	.96	.69
	<u>\$9.28</u>	<u>\$9.62</u>	<u>\$6.02</u>	<u>\$5.45</u>	<u>\$5.86</u>	<u>\$6.60</u>

Table SixteenState of IowaAll State And Local Taxes

(2)	(3)	(4)	(5)
<u>Property</u>	<u>Special</u>	<u>Total</u>	<u>Property Per-centage of Total</u>
\$ 36,197,221.58	\$ 1,094,169.00	\$ 37,291,390.58	97.1 %
45,415,792.83	1,732,468.20	47,148,279.03	96.3
50,050,164.53	2,552,549.52	52,602,714.05	95.1
61,760,475.49	3,612,342.82	65,372,818.31	94.5
79,872,708.75	9,018,660.29	88,891,369.04	89.9
104,225,257.31	10,302,164.22	144,527,421.53	91.0
106,861,583.07	11,888,163.45	118,749,747.12	90.0
101,709,575.19	18,634,450.01	120,344,025.20	84.5
102,136,679.49	23,760,164.96	125,986,844.45	81.1
110,754,929.08	29,063,263.07	139,818,192.15	79.2
100,247,342.91	26,642,480.48	126,889,823.39	79.0
91,243,765.00	25,251,009.49	116,494,744.49	78.3
81,162,514.00	25,283,588.88	106,996,102.88	75.9
78,889,902.42	42,364,514.83	119,254,417.25	64.5

Year of Sales Tax Adoption

Bracket SchedulesFor Passing Tax on to Consumer

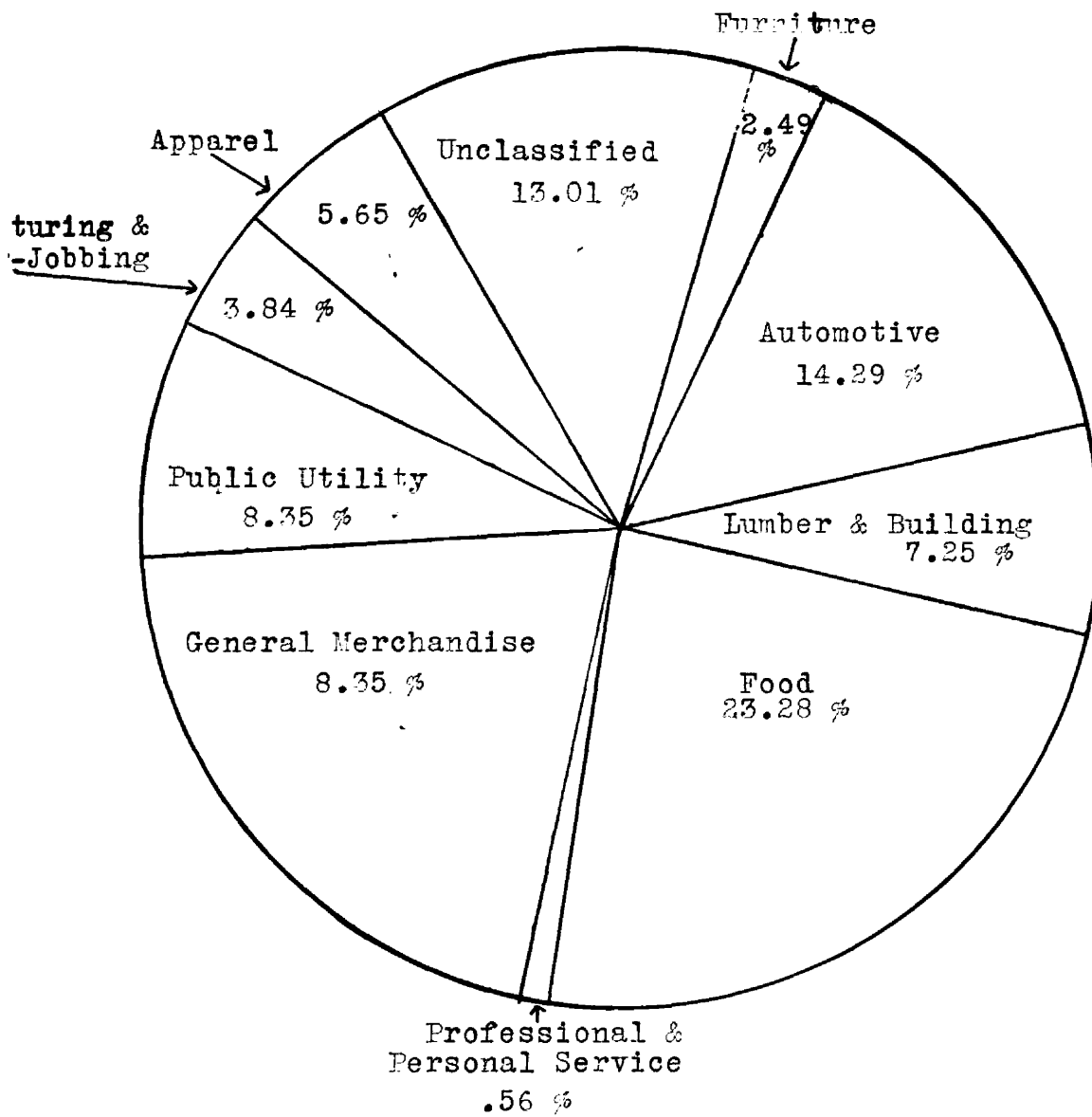
<u>Kansas (2%)</u>				<u>Ohio (3%)</u>			
0	0	45¢ to 54¢-1¢		Less than 9¢ . No Tax			
- 14	1 token (1/5¢)	55 -- 64	1¢ & 1 token	9¢ to 40¢ inc.	1¢		
- 24	2 "	65 -- 74	1¢ & 2 tokens	41¢ -- 70¢ inc.	2¢		
- 34	3 "	75 -- 84	1¢ & 3 tokens	71¢ -- 1.00¢ inc.	3¢		
- 44	4 "	85 -- 94	1¢ & 4 tokens				

95¢- 99¢---2¢, and higher sales
proportionately

<u>Missouri (2%)</u>				<u>South Dakota (3% Tax)</u>		
to 7¢	1 Mill	55¢ to 57¢	1¢ & 1 Mill	\$.01 -	\$.14	None
-- 12	2 "	58 -- 62	1¢ & 2 "	.15 -	.44	\$.01
-- 17	3 "	63 -- 67	1¢ & 3 "	.45 -	.74	.02
-- 22	4 "	68 -- 72	1¢ & 4 "	.75 -	1.14	.03
-- 27	5 "	73 -- 77	1¢ & 5 "	1.15 -	1.44	.04
-- 32	6 "	78 -- 82	1¢ & 6 "	1.45 -	1.74	.05
-- 37	7 "	83 -- 87	1¢ & 7 "	1.75 -	2.14	.06
-- 42	8 "	88 -- 92	1¢ & 8 "	2.15 -	2.44	.07
-- 47	9 "	93 -- 97	1¢ & 9 "	2.45 -	2.74	.08
-- 52	1¢	98 -- 1.02	2¢	2.75 -	3.14	.09

Etc. for Each Additional
Dollar.

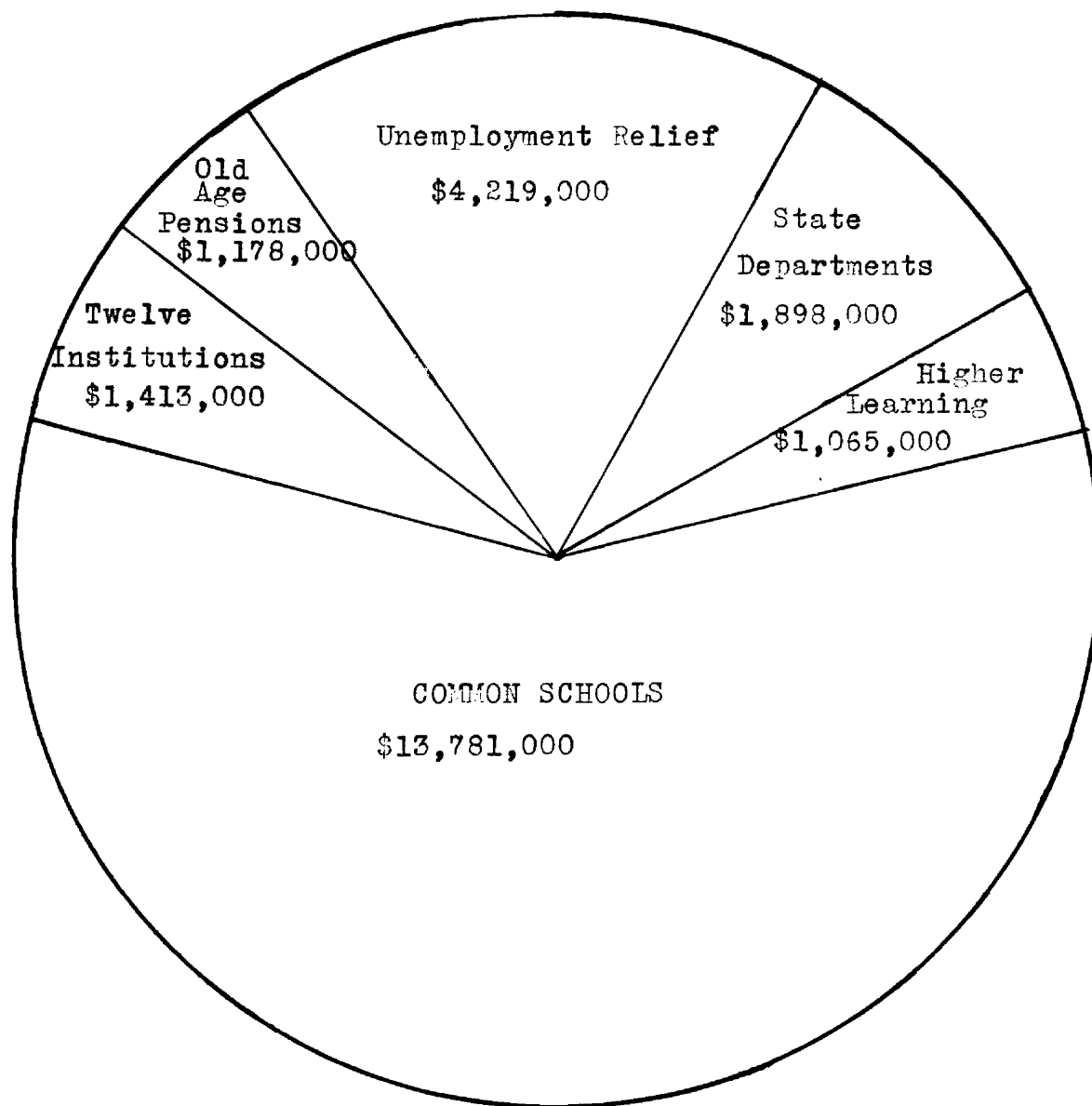
GROUP DISTRIBUTION OF RETAIL SALES
STATE OF IOWA
Fiscal Year Ending June 30, 1936



STATE OF WASHINGTON

Distribution of Net Collections for Year of May 1, 1936 to April 30, 1937

REVENUE ACT OF 1935 (Sales Tax)



Sources of Sales Tax DollarsOhio -----1936Sales Tax Section - Tax Commissioner of Ohio

<u>Source</u>	<u>Revenue Collected</u>	<u>Percentage</u>
Groceries and Meats	\$17,600,000	32 %
General Merchandise	8,552,500	15.55
Automobiles and Accessories	7,623,000	13.86
Apparel and Accessories	5,648,000	10.27
Lumber and Other Building Supplies	1,936,000	3.52
Furniture and Fixtures	1,826,000	3.32
Miscellaneous and Unclassified	11,814,000	21.48
	<u>\$54,999,500</u>	<u>100.00 %</u>

Distribution of Sales Tax DollarsOhio-----1936Sales Tax Section - Tax Commission of Ohio

	<u>Amount Distributed</u>	<u>Per Cent</u>
Public Schools	\$24,750,000	45.00 %
Local Governments	16,500,000	30.00
Poor Relief	10,000,000	18.18
Administration and Collection	1,825,000	3.32
Vendors and County Treasurers	1,925,000	3.50
	<u>\$55,000,000</u>	<u>100.00 %</u>

State of IdahoDepartment of Finance - Sales Tax Division

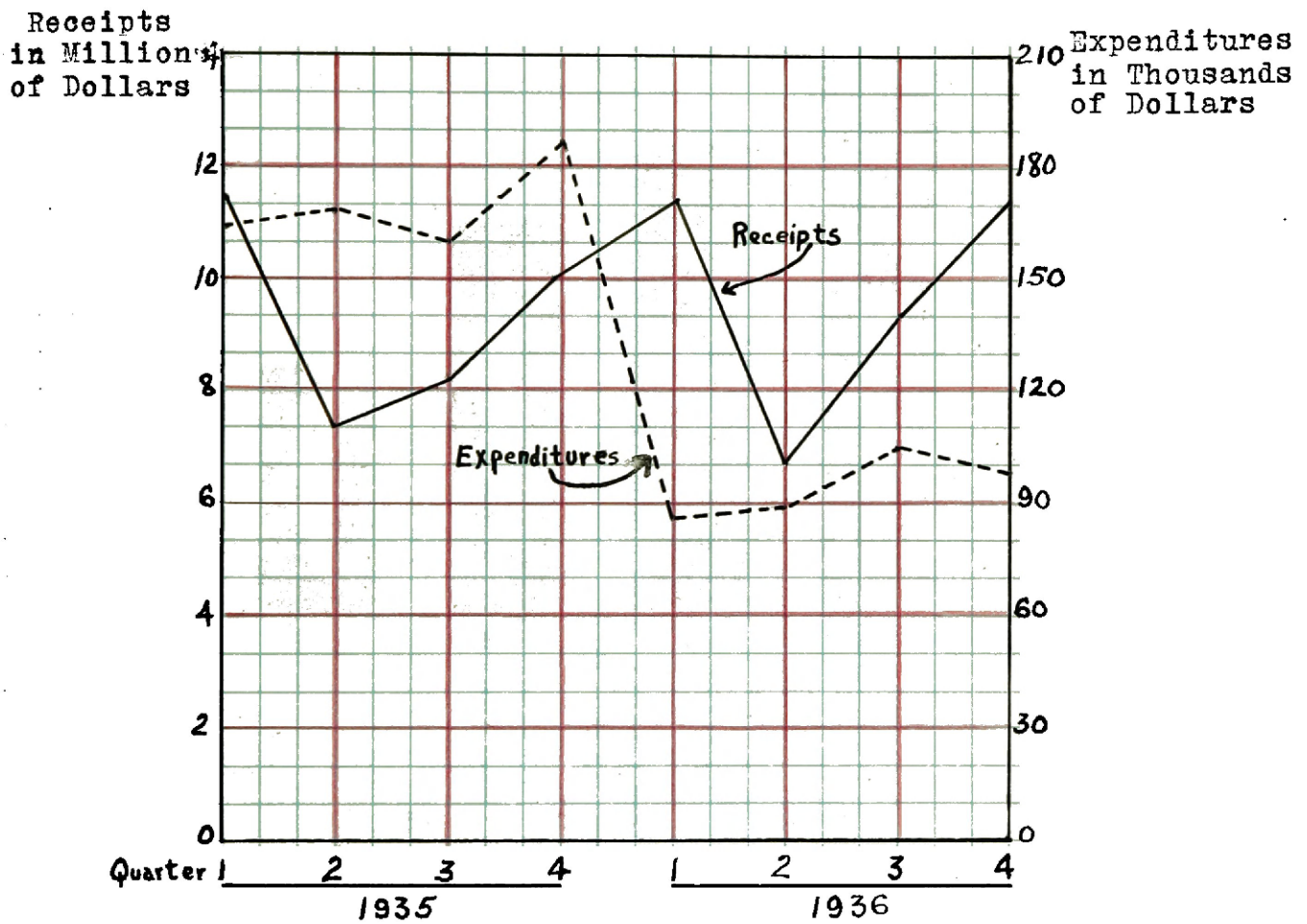
ive	\$378,374.54	21.46 %
ng Material	142,555.61	8.09
ng and Dry Goods	358,107.83	20.32
	33,228.99	1.88
ainment & Recreation	26,444.40	1.50
uffs	217,092.57	12.37 *
	58,618.65	3.33
ure	50,970.02	2.89
	37,855.36	2.15
g	34,406.03	1.95
ry and Hardware	155,175.33	8.80
rants	19,192.02	1.09
les	138,961.93	7.88
lanous	110,049.94	6.20

se note that Food Stuffs rank third in percentage.

STATE OF KENTUCKY

SALES TAX

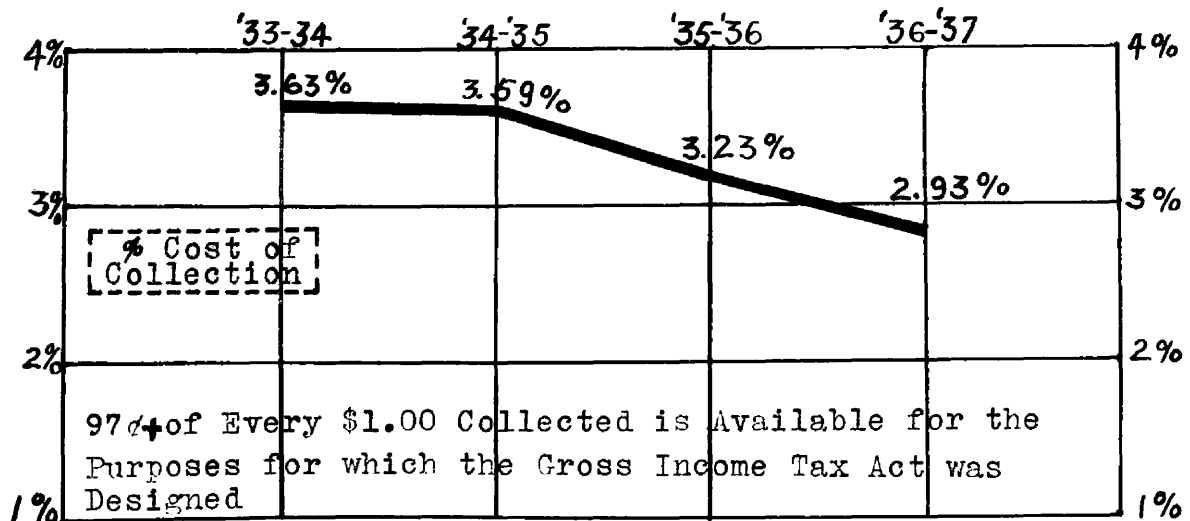
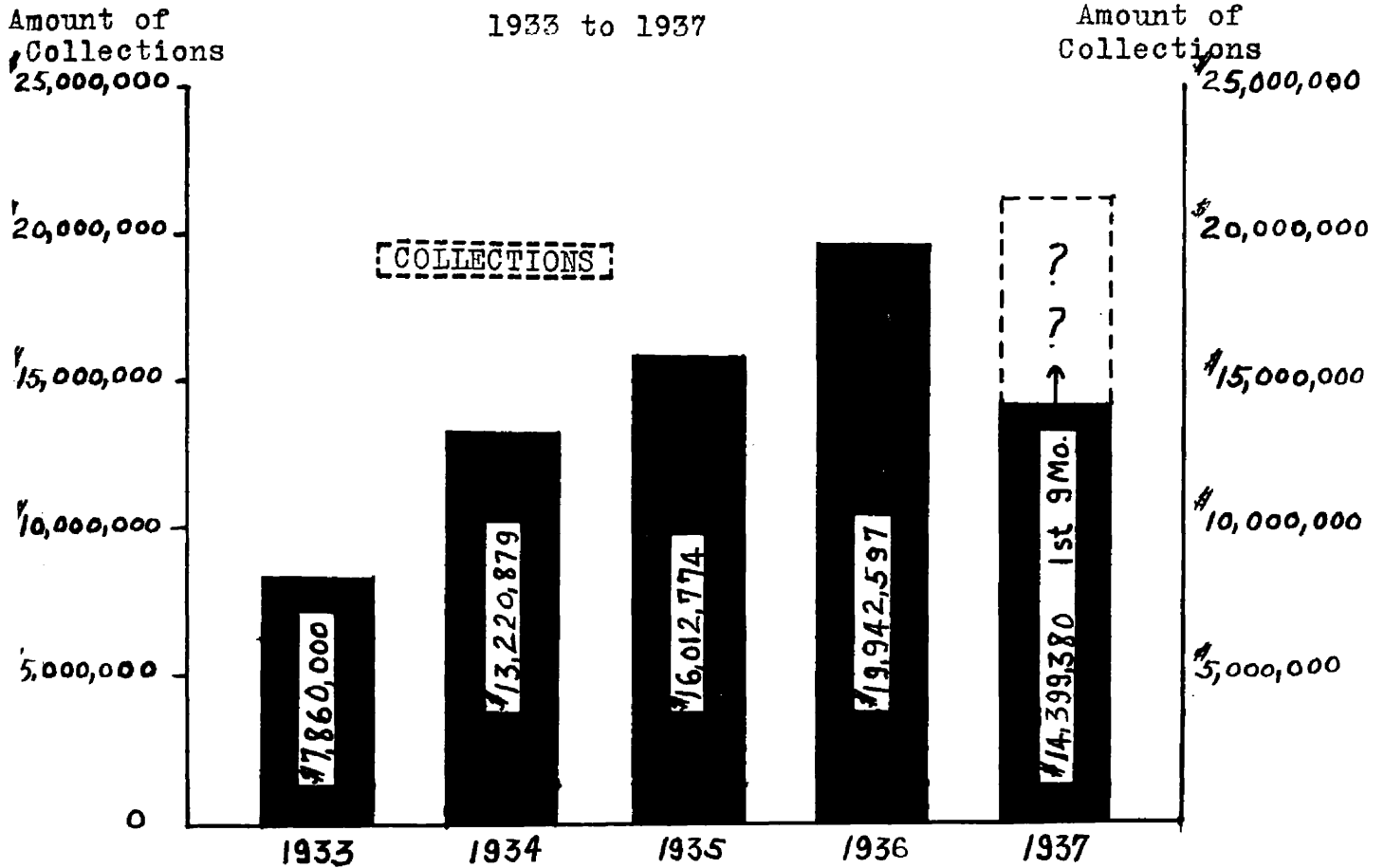
Receipts and Administrative Expenditures--1935 & 1936



STATE OF INDIANA

GROSS INCOME TAX COLLECTIONS (SALES)

For Calendar Years



Law Provides % Cost of Collection Shall Not Exceed 4%

Cost of Collection (as a percent of total collections) is on the Fiscal Year Basis

PART 11.

HISTORY AND LEGISLATION OF
SALES TAXATION IN THE STATES

* * * * *

I have given the history of each State within the Union in the following material, regardless if they have a general sales tax in effect; if they had a general sales tax and discontinued its use, or if they never had a general sales tax.

Every State is listed in different articles or sections of certain parts of the laws in such a manner as to bring out, which I consider, some of the best and most commendable divisions of the law. I have listed articles, sections, subsections, regulations, chapters, acts, titles, rules, and definitions in such manner as to avoid unnecessary repetition. The purpose is for an exhaustive study of sales tax legislation and how the legal and academic language is worded. This should be of inestimable value to legislators, tax commissioners, executives, economists, and others interested in drafting sales tax legislation.

To list all sections of the entire laws would be too voluminous and entirely too much data for a master's thesis, therefore, I studied the laws of each State and selected certain sections from their laws which will give the person an idea of how to draft a law, or for the drafting of different acts. It must be taken into consideration that these states do not all have the same types of sales taxes or the same laws, but in the main there is very little difference.

For some States I used an introductory summary, while for others I did not. The tables that I have listed in Part 1 will summarize most of the important parts of sales taxation to the reader.

In compiling this material I have listed the definition of tangible personal property, intangibles, and different utility services that are taxed, in addition to practically all objects and services that are subject to the sales tax. These include communications, transportation, financial, radio broadcasting, publications, advertising, professional and personal services, wages, salaries, rentals, investments, agriculture, timber, oil, gas, coal, wholesalers, retailers, manufacturers, and many others too numerous to mention. I have also listed the administration of the tax, exemptions, licenses, collection costs, interstate sales, returns and payment of tax, penalties, adjustments, distribution of the proceeds, yield, measure, tokens, consumption of tax, use tax, compensating tax, sale of a business, credit and installment buying, discounts, refunds, trade-in property, incidence of collecting, absorption of tax, storage within a state, purchasing without a state, hotels, vendor, sales by charitable and religious organizations, fraternities, casual and isolated sales, license revocation, agents, auctions, motor vehicles, consumer, deductions, established business, agents, hospitals, contractors, prosecutions, retail merchant, schools, school texts, Federal exemptions, keeping of records, offenses and punishment, merchandise returns, morticians, purpose of the sales tax act, extensions for filing returns, fraud or evasion of tax, security for payment of tax, constitutionality, and others.

This list contains sufficient material and is broad enough in scope to cover the entire field of sales taxation.

ALABAMA

Alabama had a Gross Receipts (sales) Tax initiated by House Bill 30 in the Session Laws of 1936 at a rate of $1\frac{1}{2}\%$ and this was effective from January 1, 1937 to February 28, 1937. This House Bill was repealed by House Bill 179 during the same year of 1936 and this new law had a rate of 2% and first became effective on March 1, 1937 and has an expiration date of September 30, 1939. The tax is collected from the gross proceeds from retail sales of tangible personal property and amusements. The exemptions are upon gasoline, oils, tobacco, public utilities, newspapers, farm produce sold by producers, baled cotton, peanuts, hay, textbooks, second hand automobiles, certain foods, sales to school children, and materials, in certain kinds of construction of barges and vessels. The rate is 2% upon retail sales and amusements but only $\frac{1}{2}$ of 1% upon new automobiles. The tax must be added to purchaser or consumer and the tax must be added separately to the price. The tax is to be paid monthly by the retailer and is under the control of the State Tax Commission. There is a maximum of 5% allowed to the collecting agent or to the retailer appointed for collection as such. There is no special license required under this tax but all business and occupations are licensed under the so-called General Revenue Act. The yield has averaged about \$425,000 per month and the distribution of the proceeds are that 75% goes into the State Treasury Fund and 25% goes to the credit of the County Fund through the State Treasurer. Two tokens are used in this state. One is for 1 mill and the other is $\frac{1}{2}$ of 1 cent or 5 mills.

In 1935 an Act was passed to provide for the General Revenue of the State of Alabama, approved July 10, 1935, by adding Schedule 155.4A and Schedule 155.4B to Section 348 of said Act. This Act was amended by the Special Session of 1936-1937. This Act is listed in Eight Sections.

"Section 1. That an Act entitled, "An Act to provide for the General Revenue of the State of Alabama, Approved July 10, 1935, be amended by adding thereto Schedule 155.4A to Section 348 of said Act: Section 348- Schedule 155.4A. Every person, firm, corporation, association or co-partnership opening, establishing, operating or maintaining one or more retail stores or retail mercantile establishments within the State, whether under one general management or not, shall, in addition to all other licenses or taxes of whatever kind now levied by laws, pay to the State of Alabama, as a license or privilege tax for the privilege of doing such business, an amount equal to one and one-half per cent (1½%) on the gross sale of said business." ^{1.}

"Section 2. That such license tax so levied shall be payable not later than the 20th of the next succeeding month, based upon the gross sales for each month at the rate above specified. Provided, however, that any person, firm, corporation, association or co-partnership engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds or receipts of such retail business at the rates specified, when his books are kept so as to show separately,

1. Alabama General Laws H. B. 179 Special Session 1936-1937, p.1.

the gross proceeds or receipts of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross proceeds or gross receipts of the entire business.

"The taxpayer shall, on or before the 20th day of the succeeding month, make out a return showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same to the State Tax Commission upon forms to be prescribed by the State Tax Commission. Provided, however, anyone taxable under this Act, having cash and credit sales, must report such cash and credit sales separately, and upon making application therefor may obtain from the State Tax Commission an extension of time for the payment of taxes due on such credit sales, and such extension shall be granted by the State Tax Commission under such rules and regulations as the Commission may prescribe. If such extension is granted, the taxpayer shall thereafter include in each monthly report, all collections made during the month next preceding on credit sales heretofore reported, and shall pay the taxes due thereon on or before the 20th day of said month, but in no event shall the gross proceeds of credit sales be included in determining the measure of the tax to be paid until collection of such credit sales shall have been made." 2.

"Section 3. That an Act entitled, "An Act to provide for the General Revenue of the State of Alabama, Approved July 10, 1935," be further amended by adding thereto Schedule 155.4B to Section 348 of said Act: Section 348--Schedule 155.4B.....

2. Alabama op. cit., pp. 1 & 2.

Upon every person, firm, corporation, association or co-partnership engaged or continuing within this State in the business of conducting places of amusement or entertainment, billiard and pool rooms, bowling alleys, theatres, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contest, including wrestling and prize fights, boxing exhibitions, football and baseball games, skating rinks, race tracks, or any other place at which amusement or entertainment is offered to the public, including public bathing places, public dance halls of every kind and description within the State of Alabama, shall pay to the State of Alabama, a license tax in addition to all other taxes now or hereafter levied, in an amount equal to one and one-half per cent of the gross receipts of such business or places of amusement." ^{3.}

"Section 4. That such license tax so levied shall be payable not later than the 20th of the next succeeding month, based upon the gross receipts for each month at the rate above specified. The taxpayer shall, on or before the 20th day of the succeeding month, make out a return showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same to the State Tax Commission upon forms to be prescribed by the State Tax Commission." ^{4.}

3. Alabama op. cit., p. 2.

4. Ibid, p.2.

"Section 5. Provided, however, that the license levied by Schedule 155.4A and by Schedule 155.4B shall not apply to the Sale of gasoline and lubricating oils, cigars, cigarettes and tobacco products otherwise taxed, and shall not apply to persons, firms, corporations, associations or co-partnerships, on whom or for engaging in the business for which a privilege tax is levied by or under the provisions of Section 140--Public Utilities other than Electric and Hydro--Electric Public Utilities not manufacturing, Section 142--Commonly known as the Kilowatt tax, Section 143--Railroads, Section 145--Telephones, Section 146--Telegraphs, Section 147--Express Companies, and Schedule 91 of Section 348--Coal, Schedule 92 of Section 348--Iron, of the General Revenue Laws of the State of Alabama, Approved July 10, 1935, and shall not apply to persons, firms, corporations or associations engaged in publishing newspapers." ⁵

"Section 6. That the monies derived from the license tax levied by Schedule 155.4A and Schedule 155.4B hereinabove set forth shall be covered into the State Treasury and become a part of the Alabama Special Educational Trust Fund; provided, however, that so much thereof as may be necessary, shall be charged with the replacement in the General Fund of the three-mill Constitutional levy for schools, the one-mill levy for Soldiers Relief and the two and one-half mills for general purposes lost by the exemption of homesteads in the amount of Two Thousand Dollars (\$2000.00) and the Comptroller, with the approval

of the Governor, is hereby directed to draw his warrants payable out of the Alabama Educational Trust Fund as herein provided in such sum as shall be found necessary to take care of and replace the three-mill Constitutional school levy, the one-mill Soldiers Relief levy and the two and one-half mill levy for general purposes of the State ad valorem tax lost as above set forth."^{6.}

"Section 7. That the license taxes levied by Schedule 155.4 A and Schedule 155.4B shall become effective January 1, 1937, and shall cease and determine as of September 30, 1939."^{7.}

"Section 8. That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Approved December 17, 1936."^{8.}

6. Alabama op. cit., p. 2.

7. Alabama op. cit., p. 3.

8. Ibid, p. 3.

ARIZONA

Arizona adopted the sales tax in 1933 and in 1935 the new law was enacted and is in effect. It is known or classed as General Sales.

The Act of 1933 imposed a tax at an amount equal to $\frac{1}{8}$ of 1% upon all businesses classed as manufacturing; a tax at an amount equal to $\frac{1}{4}$ of 1% upon the income received from motor buses and truck companies; a tax at an amount equal to $\frac{1}{2}$ of 1% upon income received from mining, furnishing of light and power, telephone, railroads and printing; and a tax at an amount equal to $1\frac{1}{2}$ % upon all sales made at retail.

The income received from the retail classification constituted more than 75% of the total revenue received from this Act.

In 1935, the act was amended, increasing the rates upon manufacturing and other classifications to 1%. It imposed a tax upon rentals, which includes hotels, apartment houses, tourist courts, etc. at an amount equal to 2%. A tax at an amount equal to $\frac{1}{4}$ of 1% was imposed upon the income received from sales made at wholesale.

You will note in this instance that the retail classification carried a burden of twice the amount of any other classification.

The revenue received under this 1935 Act kept the state financially sound, but as before the retail classification carried the brunt of the burden; approximately 65% of the total revenue coming from retail tax sources.

Section 1. Definitions.

"(a) When used in this article the term "person" or the term "company," herein used interchangeably includes any individual, firm, co-partnership, joint adventure, association, corporation, municipal corporation, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context."

"(d) The term "sale" or "sales" includes the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale."

"(e) The word "taxpayer" means any person liable for any tax hereunder."

"(f) The term "gross income" means the gross receipts of a taxpayer derived from trades, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses.

"(h) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible property without any deduction on account of the cost of property sold, expenses of any kind, or losses; provided, however, that cash discounts allowed and taken on sales shall not be included as a gross income. But the terms "gross income" and "gross proceeds of sales" shall not be construed to include goods, wared or merchandise, or value thereof, returned by customers when the sale of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in

the "gross income" or "gross proceeds or sales," as the case may be.

"(k) The term "retail" when used in this article, shall mean the sale of tangible personal property for consumption and not for resale.

"(l) The term "wholesaler" or "jobber" when used in this article shall mean any person who sells tangible property for resale and not for consumption by the purchaser."^{1.}

"Section 2. Imposition of the tax.

"From and after the effective date of this act, there is hereby levied and shall be collected by the tax commission for the purpose of raising public money to be used in liquidating the outstanding obligations of the state government and to aid in defraying the necessary and ordinary expenses of the state and to reduce or eliminate the annual tax levy on property for state purposes and to reduce the levy on property for public school education to the extent hereinafter provided, annual privilege taxes measured by the amount or volume of business done by the persons on account of their business activities, and in the amounts to be determined by the application of rates against values, gross proceeds of sales, or gross income, as the case may be, in accordance with the following schedule:

"(a) At an amount equal to one per cent of the gross proceeds of sales or gross income from the business upon every person engaged or continuing within this state in the following businesses:

1. Arizona Privilege Sales Tax Act, H.B. 179, Special Session 1936-1937, pp. 1 & 2.

"1. Manufacturing, baling, crating, boxing, barrelling, canning, bottling, sacking or preparing for sale, profit or commercial use, agriculture and horticulture products, including livestock prepared for sale, or commercial use, and any product or products, article or articles, substance or substances, commodity or commodities not included within paragraph 1, subdivision (c) of this section.

"2. Any product, article, substance or commodity included in sub-section a-1 which shall be sold at retail, or to the ultimate consumer or user by any person classified in such sub-section shall be deemed to be a sale at retail of tangible property within the meaning of sub-section (d) and the gross proceeds from sale of such product, article, substance or commodity so sold at retail shall be exempt from the provisions of subdivision (d).

"1. Transporting for live persons or property by motor vehicle from one point to another in this state.

"(a) Mining, quarrying, smelting or producing for sale, profit, or commercial use any oil, natural gas, limestone, sand gravel, copper, gold, silver, or other mineral product, compound or combination of mineral products, or felling, producing or preparing timber or any product of the forest for sale, profit or commercial use.

"2. Furnishing to consumers electricity, electric lights, current, power or gas, natural or artificial, and water.

"3. Transmitting local or long distance messages or conversations by telephone or messages by telegraph from one point to another point in this state, including gross income derived from tolls, subscriptions and services on behalf of subscribers

or by the publication of any directory of the names of subscribers.

"4. Transporting for hire freight or passengers by railroads from one point to another point in this state.

"5. Operating a pipe line or lines for transporting of oil or natural or artificial gas through pipes or conduits from one point to another point in the state.

"6. Operating private lines.

"7. Publication of newspapers, magazines or other periodicals and publications, when published within this state including the gross income derived from subscriptions.

"8. Job printing, engraving, embossing, and copying, advertising by billboards, direct mail, radio, or by any means calculated to appeal to prospective purchasers.

"1. Selling any tangible property whatsoever at retail, except bonds and stock.

"When any person is engaged in the business of selling such tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of sales of each class, and when his books are not so kept the retail rate shall be applied to the gross proceeds of every sale made.

" The sale to hotels, restaurants, dining cars, lunch rooms, boarding houses or similar establishments of articles used by man for food, drink, or condiment, whether simple, mixed or compounded, where such articles are customarily prepared and served to patrons for consumption on the premises or on such dining cars, shall be deemed wholesale sales as to such commodities, and the person who then resells such commodities in a cooked, or prepared

form shall be deemed to be engaged in business.

"(e) At an amount equal to one per cent of the gross proceeds of sales or gross income from the business of, upon every person engaging or continuing within this state in the following businesses:

"1. Restaurants, dining cars, dining rooms, lunch rooms, lunch stands, soda fountains or similar establishments where articles of food or drink are sold for consumption on the premises or on such dining cars.

"(b) At an amount equal to two per cent of the gross proceeds of sales or gross income from the business upon everyone engaging or continuing within this state in the following businesses:

"1. Operating or conducting theatres, operas, shows, of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard and pool parlors and bowling alleys, dance, dance halls and any business charging admission fees for exhibition, amusement or instruction, other than projects of bona fide religious or educational institutions. Provided, however, moving picture shows which exhibit pictures as a major attraction at any performance shall be taxed at a rate equal to one per cent of the gross income of such shows.

"2. Hotels, guest houses, dude ranches and resorts, rooming houses, apartment houses, automobile rental services, automobile storage garages, parking lots, tourist camps or any other business or occupation charging storage fees or rents and adjustment and credit bureaus and collection agencies.

"(g) At an amount equal to one-fourth of one per cent of the gross proceeds of sale or the gross income from the business upon every person engaging or continuing within this state in the following businesses: Compounding, packing, preserving, processing and or selling any tangible personal property whatsoever at wholesale."^{2.}

"Section 9.

Any person engaging in two or more forms of business of like classification taxable under this article shall file a consolidated return covering all business activities of such like classification engaged within this state."^{3.}

"Section 11. Licenses.

No person, who shall have a gross income or gross proceeds of sales upon which a privilege tax is imposed by this article, shall engage or continue in such business until he shall have applied to and obtained from the tax commission a privilege license. Said application shall be accompanied by a fee of \$1.00 payable to the tax commission and, provided the applicant shall not be in arrears as to the tax herein imposed, the tax commission shall issue a license authorizing the applicant to engage in or conduct such business upon condition that he shall pay the tax accruing to the state of Arizona under the provisions of this article. Such license shall be non-transferable by the licensee, shall be valid until revoked by the tax commission, and shall so state on its face, and shall be displayed in the applicant's place

2. Arizona op. cit., pp. 2,3,4,5, & 6.

3. Ibid, p. 8.

of business. Any person engaged in or conducting a business in two or more locations shall procure for each of such locations a license as required by this section and this requirement shall be construed as collateral to and not in conflict with section (2) of this article. Any person violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10, or by incarceration in the county jail of not less than 10 days or both, for each individual offense."⁴

"Section 15.

"Tax payable monthly; return required.

The tax levied under this article shall be due and payable monthly on or before the fifteenth day of the month next succeeding the month in which the tax accrues, and shall be delinquent five days thereafter. The taxpayer shall on or before the fifteenth day of the month make out a return showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same together with a remittance, in the form required for the amount of the tax, to the office of the commission. Such return shall be verified by the oath of the taxpayer, or his or its authorized agent.

"Any taxpayer who shall have failed to pay such tax within five days from the date upon which such payment shall have become due shall be subject to and shall pay a penalty of twenty per cent of the amount of such tax.

4. Arizona op. cit., pp. 8 & 9.

"In addition to the monthly returns required by this article, it shall be the duty of every person who has made any of the monthly returns hereinbefore provided, to make an annual return on or before thirty days after the end of the tax year, which shall be in the nature of a summary of the monthly returns made by the taxpayer and which may be used by the commission in checking the accuracy of the monthly returns. Such returns shall be verified in the same manner as monthly returns. Provided, however, that any person taxable under this article having cash and credit sales, shall report such cash and credit sales separately, and upon making application therefor may obtain from the commission an extension of time for the payment of taxes due on such credit sales. Such extension shall be granted by the commission, under such rules and regulations as the commission may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report, all collections made on such credit sales during the month next preceding, and shall pay the taxes due thereon at the time of filing such report.

"For the purpose of computing the tax levied by this article, "conditional sales" as that term is defined by section 2908, Revised Code of 1928, shall be treated as credit sales and the tax paid only upon the amounts received under such conditional sales contracts; provided, that in the event the seller transfers his interest in such contract to some third person he shall pay upon the full sale price of the commodity unless a record is kept of payments thereafter made on such contract in such manner that the tax commission can at all times ascertain from the records of the seller, the amount paid thereon by the purchaser,

and if at any time the tax commission cannot so ascertain the amount paid thereon, the tax shall become due and payable as to any sums not shown to be paid by the records of such seller or to the satisfaction of the commission.

"The monthly and annual returns required under this article shall be made upon forms to be prescribed by the commission.

"The commission, for good cause, may extend the time for making any returns required under this article, and grant such reasonable additional time within which to make such return as it may deem proper, but the time for filing such return shall not be extended beyond the fifteenth day of the second month next succeeding the regular due date of such return." 5.

"Section 25.

"Commission or agent may examine books, etc.

"The commission or its authorized agents may examine any books, papers, records, or other data bearing upon the correctness of any return or for the purpose of making a return where none has been made, as required by the provisions of this article and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness shall fail to obey any summons to appear before the Commission, or its authorized agent, or shall refuse to testify or answer any material question or to produce any book, record, paper or other data when required to do so, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the superior court of the county

where such witness resides to compel obedience to any summons of the commission or its authorized agent. Officers who serve summons or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the justice of the peace courts, to be paid from the proper appropriations for the administration of this article." ^{6.}

Article 111.

"Administration; appropriation; expiration date, divisibility; declaration of emergency.

"Section 1. The tax commission shall from time to time promulgate such rules and regulations not inconsistent with this act for making returns and for the ascertainment, assessment and collection of the tax imposed by the provisions of this act, as it may deem necessary to enforce the same, and upon request shall furnish any taxpayer with a copy of such rules and regulations. All forms necessary and proper for the enforcement of this act shall be prescribed, printed, and furnished by the commission.

"The tax commission shall have power and authority in the event that any ambiguity shall appear or arise in the application or construction of any of the provisions of this act, to interpret the same in accordance with the intent and purpose of this act as evidenced by its context, and such interpretation or interpretations by the tax commission, when reduced to writing and spread upon the records of the commission, shall obtain and remain in full force and effect until set aside by decisions of the courts.

"Section 2.

For the purpose of carrying out the provisions of this act, there is hereby appropriated to the tax commission out of the taxes collected hereunder an amount not to exceed four per cent of the taxes collected each month hereunder, which appropriation shall be credited by the state treasurer to a special fund to be known as the license fee and privilege tax administration fund. The necessary expenses of the administration of this act shall be paid out of the license fee and privilege tax administration fund upon claims duly itemized, verified and approved by the tax commission, which claims shall be presented and filed with the state auditor who shall draw his warrant therefor on the state treasurer, and the state treasurer shall pay the same out of the license fee and privilege tax administration fund. No expenditures shall be made by the tax commission in excess of the amount herein appropriated.

"Section 3.

Immediately upon this act becoming effective, the tax commission is hereby authorized and directed as a preliminary matter to the application and enforcement of this act, to formulate rules and regulations, and prescribe the forms and procedure necessary to the efficient enforcement thereof.

"Section 4.

If any article, section, subdivision, phrase or sentence of this act shall be declared unconstitutional, it shall not affect the constitutionality or validity of the remainder of the act.^{7.}

7. Arizona op. cit., pp. 19 & 20.

"Section 6. Reporting Sales Made in More Than One Class.

A person engaged in any business in which sales are made on which the same rate does not apply, or in two or more businesses with respect to which the rate to be applied is not the same, shall make separate returns of the gross proceeds of sales or the gross income of each business separately classified." ^{8.}

"Section 1. (a) Tokens.

"(a) The commission shall issue tokens of the nominal face value of one mill and multiples thereof, for the use of purchasers in reimbursing to persons engaged in business the amount of tax applicable to any sale or sales, and to expend from the appropriation made for the enforcement of this act, such amounts as may be necessary for such purposes.

"(b) The commission is authorized to promulgate rules and regulations directing the manner and method of use, and governing distribution, sale and resale of such tokens, which shall provide convenient methods of sale thereof to prospective users, at face value, without the payment to any agency or person of any commission, fee, discount or emolument.

"(c) Such tokens shall be accepted at their face value by all persons engaged in business within the meaning of this act, as payment to them of any and all amounts added to the gross receipts of any business taxable under this act. They shall not be accepted by the commission in payment of a tax, but shall be by the commission redeemed at their face value.

8. Arizona op. cit., P. 20.

"(d) Whoever, with the intent to defraud, shall:

1. falsely make, alter, forge or counterfeit, 2. knowingly aid in the false making, altering, forging or counterfeiting, or, 3. sell or have for sale or in any manner circulate any forged, counterfeited, spurious or altered token, or who shall steal or embezzle any genuine token issued pursuant to this act, shall be guilty of a felony and upon conviction fined for each offense not to exceed twenty-five hundred dollars, imprisoned not to exceed five years, or both." ^{9.}

9. Arizona Thirteenth Legislature, S.B. 2, Session Laws of 1937,

ARKANSAS

Arkansas adopted the sales tax first in 1935 with expiration date two years hence but was reenacted in 1937 and has an expiration date of 1939. The 1935 law was repealed by Act 154. Laws of 1937 supplant revenue loss from Homestead exemptions. The new law is to be in effect from February 26, 1937 to July 1, 1939. For the fiscal year of 1936, she collected \$2,889,000 from this tax. The proceeds are distributed in that 7% is put into the Textbook fund up to \$350,000. Eight per cent for Homestead tax exemption fund up to \$500,000 and 10 % into the Charitable fund. Twenty-five ^{per cent} is paid to the State Welfare fund and 50% goes into the Common School fund. If there is a surplus from the Textbook fund and the Homestead tax exemption fund the proceeds shall then go, 35% Welfare, 32% Property tax reduction fund, and 17% Common School fund. The collection costs allowed by the Commissioner of Revenue is 3%. They also have a Consumer Tax on automobiles which is paid directly to the Commissioner of Revenue at the time the license is issued. The rate is 2% except on state line, there same as adjoining state if rate is less. Goods of \$200 or more sold outside state ^{are} taxed at foreign rate--1¢ to 12¢, no tax; 13¢ to 62¢, 1¢ tax; 63¢ to \$1.12, 2¢ tax. Agricultural proceeds when sold by producer and dairy products are exempt. Others are State privilege taxes deductible, and there are refunds to government agencies. Cotton is exempt and a few articles of medicines and foods. The measure is a gross proceeds tax from retail sales of tangible personal property, utilities, meals, admissions, etc.

"The Fiftieth General Assembly of the State of Arkansas enacted our first Sales Tax Law which was known as the Emergency Sales Tax Law of 1935. It went into effect on July 1, 1935, and expired June 30, 1937. A copy of this law is not available, but it was a 2% sales tax on all retail sales, with exemptions of necessities of life; such as milk, medicine, meat, salt, flour, sugar, soda, etc. This law was not satisfactory because of the fact that many of the merchants took advantage of it and took off too many exemptions. It was purely an emergency law and was destined to die a natural death on June 30, 1937; however, the 1937 Legislature, which was our Fifty-first General Assembly, enacted the Arkansas Retail Sales Tax, which became effective February 26, 1937.

"However, the Commissioner of Revenues did not actually start collecting under the new law until March 1, 1937.

"It is our opinion that the psychology of the merchants paying so much with the exemptions under the 1935 law created a habit in them of paying near a certain amount each month. For that reason it is harder for us to collect the larger amount which is due under the new law with the exemptions taken off. In other words, we probably are not receiving under 60% of the money which we should get under the 2% Sales Tax Law; however, we have a better set-up now in our Sales Tax Division, with more auditors and more experienced men, and are making vast improvements as time goes on.

"During the calendar year of 1937 we expect between \$5,500,000 from this tax." 1.

1. Letter from D.L.Ford-Commissioner of Revenues for State of Arkansas Retail Sales Tax Law, Act.154 of 1937, p. 3.

Arkansas Retail Sales Tax Law

"An act to provide for raising revenue to sustain the common schools, to provide free text books for the first eight grades thereof; to substitute homestead exemption taxes and to provide funds for library service and for the objects of the Welfare Commission by prescribing and levying specific taxes; to provide for the ascertainment, assessment, and collection thereof; to make provision for the carrying out of the purposes of this act; to prescribe penalties for a violation thereof; and to provide for the distribution and the disposition of the monies raised under the provisions of this act." ^{2.}

"Section 2. Purposes. The purposes of this Act are to provide relief for Common Schools, to provide funds to buy free textbooks for the first eight grades thereof, to provide funds for circulating library service in connection with the public schools and funds to take the place of homestead exemptions, and to provide for the wards of the State who will receive support through the State Welfare Commission and for other worthy causes." ^{3.}

"Section 3. Definitions.

"(b) The term "sale at retail" shall not include an isolated or occasional sale of tangible personal property, substance, or thing by a person not engaged in such business.

"(c) The term "retailer" shall mean any person, persons, partnership, firm or corporation engaging in "sale at retail."

2. Arkansas Retail Sales Tax Law, Act 154 of 1937, p. 3.

3. Arkansas op. cit., pp. 3 & 4.

"(g) The term "Governmental agency" shall mean the State, any county, city, municipality, district or subdivision thereof."^{4.}

"Section 5. Tax on credit merchants--cotton exempted.

The tax imposed by this Act shall be in addition to any and all other taxes except as may herein be provided otherwise. Any person taxable under this Act, doing business wholly or partly on a credit basis may make application to the Commissioner for permission to prepare his returns on the basis of cash actually received. Such application shall be granted by the Commissioner under such rules as he may prescribe. Any person making such application shall be taxable on all monies collected during the period this Act is in force regardless of date of sale. Provided, however, nothing in this Act shall be construed as levying any taxes upon the gross proceeds received by any person whatsoever from the sale of any cotton or seed cotton or lint cotton or baled cotton whether compressed or not, or cotton seed in its original condition. Provided, further, that nothing in this Act shall be construed as levying any tax upon the gross proceeds received by the breeder, grower, or producer of any milk, poultry, livestock or agricultural or horticultural, product or commodity, from the first or initial sale of same, and providing that nothing in this Act shall be construed as levying a tax on the following: All agricultural production produced by farmers, while the said production is in their possession and being offered for sale by

4. Arkansas op. cit., p 5.

them, the following items being named herein; cotton, cotton seed, corn, wheat, oats, hay, sorghum, rice, sagrain, high-gear, strawberries, raspberries, peanuts, peas; furthermore, all horticultural products, namely; peaches, apples, pears, etc. Furthermore, all vegetables and eatables produced on the farm by farmers. Furthermore, all livestock, namely: horses, mules, cattle, sheep, hogs, goats, etc. Furthermore, all poultry, namely: turkeys, chickens, ducks, and all other fowls so raised and the products of these fowls. Furthermore, all dairy products, namely: milk, in all of its forms and butter, and pecans, grapes, watermelons, cantaloupes, tomatoes, pumpkins. The naming of specific products herein as being exempt from the taxing provisions of this Act shall not be construed to exclude any other products herein stated to be exempt."^{5.}

"Section 6. Administration Cost. The State Commissioner of Revenues shall administer and enforce the assessment and collection of taxes and penalties imposed by this Act. He may make and publish such rules and regulations, not inconsistent with this Act, as he may deem necessary in enforcing its provisions. Inasmuch as the tax herein provided will be inappreciable on single articles of small value, the tax on articles of larger value must be more or less approximate in order to equalize them. The Commissioner shall, therefore, prepare instructions to dealers by setting out to them suitable brackets of prices for applying the tax.

5. Arkansas op. cit., pp. 7& 8.

"All forms necessary and proper for the enforcement of this Act shall be prescribed, printed and furnished by the Commissioner."^{6.}

"Section 7. Appropriation. The administration cost of this Act shall not exceed three per centum (3%) of the actual revenues collected."^{7.}

"Section 9-A. Remittance and Distribution. The person making the monthly return herein provided shall pay to the Commissioner the amount of taxes herein levied at the time of making such return. Of the monies received by the Commissioner the amount of taxes collected under this Act pay into the State Treasury to a fund known as the "Textbook Fund" seven per cent (7%) during the fiscal year 1937-38, until \$350,000 shall have been paid in for said fiscal year; and thereafter seven per cent (7%) each fiscal year, until \$350,000 shall have been paid in each year with which to furnish free textbooks for the first eight grades in the Common Schools. He shall, beginning with the calendar year 1938, pay into a fund known as "Homestead Tax Exemption Fund" eight per cent (8%) of the monies collected during each fiscal year, until \$500,000 is paid into said fund each fiscal year hereafter, to be used to replace monies heretofore accruing to the different funds from homestead taxes, and to be distributed according to the statute on that subject. He shall pay into a

6. Arkansas op. cit., pp. 8 & 9.

7. Ibid, p. 9.

fund known as the "Charitable Institutions Fund" ten per cent (10%) during each fiscal year, which fund is to be used for the purpose of maintaining the State Charitable Institutions. He shall pay into the State Treasury to the credit of the Welfare fund twenty-five (25%) per cent of the taxes collected under this Act and to the Common School fund fifty (50%) per cent thereof; and any excess from the percentage allocated to the "Textbook Fund" and the "Homestead Exemption Fund" over the maximum sums up in this section for the benefit of said funds shall be divided as follows: Thirty-five per cent (35%) to the Welfare Fund and Thirty-two and one half (32½%) to a general property tax reduction fund, which fund is hereby created and seventeen and one half (17½%) to the common school fund, and fifteen per cent (15%) to counties to reimburse the general fund of counties in proportion to amounts allowed by the various county courts for the support of the County Agricultural Extension Service. Said monies are to be used only for the purposes for which collected and distributed. Provided that there may be appropriated from the said Common School Fund necessary funds to maintain a library service as provided by law. The monies paid into the Common School Fund shall be used only for the payment of warrants issued for the maintenance of schools and said library service, to be paid in order of registration as now provided by law".^{8.}

"Section 20-A. The sales tax on automobiles shall be paid to the Commissioner of Revenues instead of being collected by the Dealer and the Commissioner of Revenues shall be required by this

law in issuing auto license for new cars to require a payment of two per cent (2%) as sales tax before issuing said license?^{9.}

"Section 25. Emergency Clause. Whereas, the people of the State of Arkansas, by their votes, have adopted the policy of furnishing free textbooks to public school pupils in the first eight grades, calling upon the Legislature to provide funds therefor; and Whereas, it is necessary to provide funds therefor and make certain their availability at an early date so that a set-up may be established, texts selected and purchased, if the declared will of the people is carried out and textbooks furnished to said pupils by the summer and fall sessions of the public schools; and whereas, delay and uncertainty would nullify the declared will of the people; an emergency therefore exists for this Act to become effective at an early date.

"And, Whereas, the people by their votes have adopted the policy of exempting homesteads from certain taxes, if and when the Legislature shall provide funds to substitute the loss to various revenue funds affected; and whereas, it is the will of the people that homesteads be exempted from such taxes, therefore, in order that said exemptions may be effected, it is necessary to provide funds to substitute the same and make the same certain and effective at an early date, which presents an emergency for this Act to go into effect earlier than it would otherwise.

"And, Whereas, the Legislature of 1935 passed an emergency sales tax for the aid of the common schools and the public welfare, which will expire by limitation on July 1, 1937; and

^{9.} Arkansas op. cit., P. 19.

whereas, if said Act should expire before this Act shall take effect, it would be hazardous and ruinous to the public schools and the public welfare funds, and whereas, it is absolutely necessary for the Sales Tax Law to be continued without interruption if the Welfare Department of the State is to function and needy persons be cared for, and the State receive from the Federal Government funds to aid in taking care of the needy people of the State, all of which presents an emergency for this Act to go into effect prior to the expiration of the Sales Tax Act of 1935, and at an early date, so that said aid may continue and the State perform its necessary functions in the support of the common schools and the public welfare.

"Therefore, an emergency exists and is declared, and this Act being necessary for the public peace, health and safety, shall be in force and full effect and operation from and after its passage."^{10.}

In the year of 1935, the State collected \$1,190,796.79 and in 1936 the amount rose to \$3,554,081.34 from revenues of the Retail Sales Tax and it is expected to be near \$5,500,000 for the year of 1937.

10. Arkansas op. cit., pp. 20 & 21.

CALIFORNIA

California has had a Retail Sales Tax which became effective in 1933 and is permanent with no future expiration date stated. The revenue is derived from the gross receipts from all tangible personal property not sold for resale. There are exemptions upon gas, electricity, water service, gold bullion, food for human use (restaurant meals not exempt), and gasoline except where refunds apply. She started out with a rate of 2½% and it was increased to 3% in 1935. The tax is paid by the consumer and the Board of Equalization permits a fee of 2% of the amount collected. The dates due are every three months for remittances to be made. The distribution of the proceeds is all done from the State General Fund and all monies collected from the sales tax go into the general fund. The yield for the fiscal year of 1936 was \$73,036,000. All merchants must have a license and the cost of this license is \$1. per year.

"Ruling No. 2. Auctioneers.

"Every auctioneer entrusted with possession of any bill of lading, custom house permit or warehouseman's receipt for delivery of any tangible personal property for the purpose of sale, is deemed to be the owner thereof, and upon the sale of such property is required to file a return of the receipts of sale and pay a tax thereon. The same rule applies to lienors, such as storage men, pawnbrokers, mechanics and artisans.

"Ruling No. 4. Barbers and Beauty Shops.

"Barbers and beauty shop operators are required to pay the sales tax upon retail sales of cosmetics, hair tonics, lotions

and like articles when not used in connection with their service. Gross receipts from sales of these articles to barbers and beauty shops for the purpose of resale are not taxable.

"Ruling No. 4.1 Beer, Wine, and Spirituous Liquors.

"Gross receipts from retail sales of beer, wine and spirituous liquors are taxable. The retail selling price of the beer, wine and spirituous liquors is the entire amount charged therefor without any deduction for other state or federal taxes imposed with respect to the beer, wine and spirituous liquors.

"Ruling No. 8. Charitable Organizations.

"The taxability of gross receipts from sales by charitable organizations must be decided upon the facts in each particular case. In no case, however, is an organization exempt unless it is engaged in relieving poverty and distress and its sales are made as a matter of assistance to the purchasers. The tax applies, however, to receipts from sales of all tangible personal property to charitable organizations which are held exempt from the payment of the tax to the state. Receipts from sales of charitable organizations which are held exempt from the payment of the tax to the state. Receipts from sales of charitable organizations, charity leagues, gift shops, etc., which are not made as a matter of assistance to the purchasers are taxable, even though the profits or earnings of the organizations may be devoted to the relief of poverty and distress or other charitable purposes.

"Ruling No. 9. Circulating Libraries.

"Gross receipts of circulating libraries from book rentals are not taxable. Gross receipts from both new and used books sold by such libraries, however, are taxable. Gross receipts from sales of books to such libraries for rental purposes are taxable.

"Ruling No. 22½. Fertilizer.

"Gross receipts from the sale of fertilizer are not taxable if the products from the land upon which the fertilizer is applied are to be sold.

"Ruling No. 25. Hospitals and Sanitariums.

"When hospitals make one charge to cover meals, rooms and other services, the charge is not taxable. Where, however, the hospital charges a definite amount for meals furnished nurses or doctors and for drugs and medicines sold to patients, the gross receipts from such sales are taxable.

"Ruling No. 32. Meals.

"Gross receipts from meals furnished by restaurant, hotels and boarding houses are taxable. In the case of American plan hotels and boarding houses a segregation must be made between the charges for room and the charges for meals.

"Ruling No. 36. Non-Profit, Private, Religious, or Charitable Schools.

"A non-profit, private, religious or charitable school, a large percentage of whose enrollment consists of charity pupils, is deemed to be the consumer of food products purchased for the preparation of meals. The tax will not apply to the receipts

from sales of food products to such schools for use in the preparation of the meals.

"Ruling No. 43. Pharmacists or Prescription Druggists.

"Pharmacists or prescriptions druggists selling drugs or other medicines on prescription are engaged in the business of selling tangible personal property at retail and the total price charged for filling the prescriptions is taxable.

"Ruling No. 50. Refunds to Consumers.

"Where a retailer allows a refund or credit to a customer and the refund or credit is deductible from the retailer's gross receipts, the retailer must return to, or credit the customer with, the amount of "tax" passed on to the customer or the amount of deductible gross receipts. For example, where a jeweler sells a ring for \$100 and passes on to the customer a "tax" of \$2.50 and later allows the customer a refund or credit of \$100 on the return of the ring, the "tax" of \$2.50 must also be refunded or credited to the customer.

"Ruling No. 55. School Annuals.

"Elementary and high school student bodies are consumers of annuals and other publications prepared for them and the tax applies to the charges made by printers, photographers, engravers, mimeographers, etc., for the preparation of such annuals or other publications.

"Ruling No. 56. Seeds.

"Gross receipts from the sale of alfalfa, grain, vegetable and similar seeds are not taxable if the products raised from the seeds are to be sold.

"Gross receipts from sales of seeds to persons engaged in the business of selling dairy, poultry or live stock products are not taxable if the products raised from the seeds are to be used as feeds.

"Ruling No. 57.1 State Emergency Relief Administration.

"Retailers must pay the sales tax upon receipts from sales to the State Emergency Relief Administration (commonly designated as the SEERA) regardless of the circumstance that the funds disbursed by such administration may have been obtained as loans or granted from the Federal government.

"Ruling No. 58. Service Organizations.

"Gross receipts from retail sales to persons in the Army and Navy service of the United States, notwithstanding the circumstances that such merchandise may be billed through a Ship Service Store, Post Exchange, Officers Mess, or similar service organizations, are taxable.

"The tax applies to receipts from such sales made by retailers regardless of whether the delivery of the merchandise is at the retailer's place of business, or elsewhere. The circumstances that the delivery made be made in some instances to premises within a military reservation does not affect the taxability of the gross receipts derived from the transaction.

"Ruling No. 60. Trade--Ins.

"Gross receipts" includes not only cash or money received but also the value in money of any property of any kind or nature received in exchange. For example, if a new car is sold for \$1,000 and a credit of \$600 is allowed on an old car taken in in

trade, the tax applies to the \$1,800 even though but \$1,200 was paid in cash. When the old car taken in in trade is subsequently sold at retail, the tax applies to the gross receipts from the sale of that car.

"Ruling No. 63. Sale of a Business.

"The tax does not apply to any portion of the consideration paid in connection with the sale of an entire business; equipment, fixtures, etc.

"Ruling No. 72. Replacement Parts.

"Sales to a retailer of parts and materials furnished by the retailer to his customers as replacement parts or materials pursuant to the guaranty provisions of his contracts of sale are for sales for resale.

"The sale by the retailer of tangible personal property includes the furnishing of the replacement parts or materials furnished or installed in the property by the retailer pursuant to the guaranty provisions of his contracts of sale."^{1.}

Present Tax Structure Sound

"Changes in the revenue system, made largely upon recommendation of the State Board of Equalization, have combined with better economic conditions to give California a sound tax structure.

"This improvement is to be noted especially in State finances, but the close relationship between the central and local

1. California Retail Sales Tax Act of 1933, Chapter 1020

Rulings, Nos. 2, 4, 4.1, 8, 9, 22 $\frac{1}{2}$, 25, 32, 36, 43, 50, 55, 56, 57.1, 58, 60, 63, & 72 taken from this Act. Pages not numbered.

governments makes it possible to say that the entire fiscal structure is sounder than it has been in several years.

"If present sources of revenue are left undisturbed and if public expenditures are kept reasonably in check, there should be a substantial surplus in the State treasury within the next two years."^{2.}

Sales Tax Meets Costs Of Education

"This estimated income is approximately the amount required for the State's outlay for the support of common schools and for the maintenance of the University of California, the State colleges and other State establishments for public education.

This form of tax now has become a well-established part of the revenue system, not only in this State but also in a substantial number of other states. The fact that the per capita yield, after making due allowances for differences in per capita income and for exemptions, is higher in this State than in any other jurisdiction, is evidence of efficient administration."^{3.}

Further Sales Tax Exemptions Universe

"Exemption of food products, through the 1935 amendment, has done much to remove such irritation as the buying public may have felt because of the sales tax. Those, who by reason of limited resources, have been required to spend a relatively large share of their income for food doubtless have found this exemption of appreciable benefit.

1. Biennial Report of State Board of Equalization-1935-1936,
State of California, p.1

1. Ibid, p. 2.

"Other exemptions will be advocated during the current legislative session. The wisdom of allowing them is subject to serious question. Individually many of the proposals may appear to have merit, but their enactment would tend to impair materially the effectiveness of the tax.

"If the sales tax is to continue as a successful revenue measure, it must be kept on as broad a base as possible. Its principal value as a source of public funds is the universality of its application. Extending to practically all retail sales of personal property, it is producing a large amount of revenue at a low rate. This can continue only so long as the base of the tax is left undisturbed.

"One additional exemption will undoubtedly lead to another. Soon others will follow, supported by the argument that they are fully as meritorious as those allowed previously. Exemptions, reasonable enough when considered individually, will form a vicious cycle destroying the usefulness of the measure, and will plunge the State back into the "tax crisis" from which it was rescued through the adoption of the Sales Tax Act." ⁴:

Change Has Benefited Taxpayer

"Definite benefit to taxpayers generally maybe found from the reversion of the California tax system following adoption of the 1933 constitutional amendment. Not only has the state taken over school costs amounting so some \$40,000,000 annually, financing these from the proceeds of the sales tax instead of from

4. California op. cit., p. 3.

County ad valorem levies, but there has been returned to local tax rolls utility property assessed at approximately \$900,000,000. Annual ad valorem taxes on this utility property amount to \$30,000,000. This means that tax burdens of at least \$70,000,000 per year have been removed from common property owners. Moreover, the new law has resulted in greater uniformity in assessments and assessment practices.^{5.}

5. California op. cit., pp. 8 & 9.

COLORADO

Colorado passed a Retail Sales Tax Act by House Bill 984, Laws of 1935 and went into effect March 1, 1935 to June 30, 1937. In 1937 House Bill 615 was passed, and this reenacted the Sales Tax Act and this most recent law carries no expiration date. The measure as enacted is from gross proceeds from retail sales of tangible personal property, certain utility services, meals, and others. There are certain exemptions such as sales to certain institutions, commodity now paying an excise tax of more than $12\frac{1}{2}\%$ of sales price; sales less than 10 cents; bread and milk less than 15 cents. The first bill excluded a tax on services but certain services are now included, The rate on the first Bill was at 2% and the new law kept it at the same rate. The consumer tax to be added to sales price. Retailer is collecting agent of State, and the retailer is allowed 5% of the taxes collected. The collection costs allowed the State Treasurer is a 5% maximum but it is operating at an actual cost of only $3\frac{1}{2}\%$. The tax is due monthly from the retailers. The distribution of the proceeds for the fiscal year of 1935 was made in the following manner: 85 per cent of the money went for Old Age Pensions and 15% into the General Fund. The yield in 1935, for the fiscal year, amounted to \$5,812,000 and for the fiscal year of 1936 it was \$6,037,000. Each retailer must have a license and the cost of this is \$2.00. The revenue per capita for the fiscal year of 1936 was \$5.63 and the per family cost averaged \$21.84. The state employs the use of tokens.

"Section 1. This Act shall be known, and may be cited, as the Emergency Retail Sales Act of 1935.^{1.}

"Section 2. (m) "Gross taxable sales" shall mean the total amount received in money, credits, property or other consideration valued in money from sales and purchases at retail within this state; and embraced within the provisions of this Act; provided, that the taxpayer may take credit in his report of gross sales for an amount equal to the sale price of property returned by the purchaser when the full sale price thereof is refunded either in cash or by credit; and provided further that the sale price of any article accepted as part payment on any new article sold shall not be included if the full price of the new article is included in gross sales; and provided further that on all sales at retail, valued in money, when such sales are made under conditional sales contract, or under other forms of sale where the payment of the principal sum thereunder be extended over a period longer than sixty (60) days from the date of sale thereof, only such portion of the sale amount thereof may be counted for the purpose of imposition of the tax imposed by this Act as has actually been received in cash by the taxpayer during the period for which the tax imposed by this Act is due and payable; and provided further that taxes paid on gross sales represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided, but if any such accounts are thereafter

collected by the taxpayer, a tax shall be paid upon the amounts so collected.

"(m) Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing, compounding for sale, profit or use, any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label, or the furnished shipping case thereof, shall be deemed to be wholesale sales and shall be exempt from taxation under this Act.

"(e) Sales and purchases of electricity, coal and gas for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone and radio communication, street and railroad transportation services and all industrial uses shall be deemed to be wholesale sales and shall be exempt from taxation under this Act." ^{2.}

"Section 4. (p) A tax equivalent to two (2) per cent of the amount paid: (1) for telephone and telegraph service, whether furnished by public or private corporations or enterprises, for all intrastate telephone and telegraph service; (2) for gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas or electricity furnished and sold for domestic and commercial consumption and not for resale.

"(c) A tax equivalent to the (2) per cent of the amount paid for all meals and cover charges, if any, furnished at any restaurant, eating house, hotel, drugstore, club, resort, or other place at which meals or food are regularly served to the public." ^{3.}

"Section 17. Any person guilty of a misdemeanor, as defined and declared in this Act, upon conviction, shall be punished by a fine of not exceeding One Thousand Dollars (\$1000) or by imprisonment not exceeding six (6) months in the county jail, or both such fine and imprisonment." ^{4.}

"Interstate Sales

"10. Sales and purchases made in interstate commerce are not subject to the tax. The fact, however, that after a sale and purchase, tangible personal property is transported in interstate commerce, does not avoid the tax. It is only those sales and purchases directly and a part of interstate commerce that are exempt as required by the Constitution of the United States.

"The Colorado Sales Tax will not apply to receipts from a sale made in interstate commerce, that is, if the purchase of the merchandise is made by letter, telegram or telephone from a merchant in another state and shipped by the merchant directly to the consumer, it is not taxable.

"Where tangible personal property is located within the State of Colorado and delivery of such property is made within the State, such sale is within the Act and taxable irrespective of where the parties to the contract of sale are located or where

3. Colorado op. cit., p. 5.

4. Ibid, p. 13.

this contract was made or accepted or the funds paid.

"If sales are made within the State of Colorado by representatives of parties living without the State of Colorado and delivered in the State of Colorado the sale is taxable."

"Wholesale Sales

"13. The tax is not imposed upon or applicable to wholesale sales. A "Wholesaler" is defined to mean a person doing a regularly organized wholesale or jobbing business, and known to the trade as such and selling to retail merchants, jobbers, dealers or other wholesaler, for the purpose of resale. However, retail sales, if any, made by a wholesaler are subject to the tax." ^{5.}

"Manufacture and Service

"20. In many cases the vendor agrees not only to fabricate, manufacture, furnish or sell a product, but also to make alterations therein and or install it for the customer. In such cases the vendor may segregate in his accounts the fair selling price of the article manufactured, sold or furnished, as distinct from the installation or alteration charge, showing each separately. If this is done and if the sale is a retail sale, the tax will apply to the fair selling price of the article manufactured, furnished or sold, exclusive of the installation or alteration charge. The alteration and or installation charge is a service charge in addition to the selling price of the product or commodity.

4. Colorado-Rules and Regulations Relating to an Excise Tax On Sales At Retail, March 11, 1935, p. 4.

5. Ibid, p. 5.

"If the seller does not segregate his accounts the tax will apply to the entire contract price, including the installation or alteration charge.

"In the case of motor vehicle repairs which include the installation of parts, the tax shall be computed only upon the parts installed or taxable material furnished."^{6.}

"31. Trading Stamps, Coupons, and Other Media Of Exchange

"(e) Where tokens, coupons, stamps or other media of exchange are accepted in lieu of lawful money of the United States as consideration for tangible personal property, such media of exchange is deemed to be the same as cash and must be included in Gross Proceeds within the meaning of the Act.

Premiums And Gifts

"(d) Gross proceeds from the sale of goods to be given away as premiums or otherwise are taxable."^{7.}

"Tax Not To Be Included In Price

"35. Except as provided by this rule, when any retailer shall pricemark any article for retail sale and display, or advertise the same with such pricemark to the public, the price so marked or advertised shall include only the retail sale price of such article.

"Example: The advertised or marked price is \$1.00. When the sale is made, the purchaser pays or agrees to pay \$1.02, representing the purchase price plus tax, which, when added, becomes a part of the sale price or charge.

6. Colorado op. cit., p. 8.

7. Ibid, p. 9.

"This rule does not prohibit advertising or displaying the sales price plus tax, as in the following examples:

"This dress \$10.00 plus tax," or

"This dress \$10.00 plus 20 cent tax." ^{8.}

"Overpayment Of Tax

"39. If any person makes overpayment of the tax, or is entitled to a credit on his tax payments, on account of discounts, rebates, refunds, or cancelled sales, credit for the amount of repayment due from the state shall be taken on subsequent returns, unless such person is no longer engaged in business, in which event he shall be paid in cash the amount to which he is entitled!" ^{9.}

8. Colorado op. cit., pp. 13 & 14.

9. Ibid, p. 15.

CONNECTICUT

(Copy of letter)

Hartford, Connecticut

October 29, 1937.

The Governor's office has turned over to this department your letter asking for the complete history of the sales tax in the State of Connecticut.

Connecticut has never had a sales tax.

Very truly yours,

W. H. Hackett
Tax Commissioner

7.

DELEWARE

State of Delaware
Executive Department
Dover
October 25, 1937.

Dear Sir:

Replying to your letter of October 20 addressed to the Governor of Delaware, please be advised that Delaware does not now, nor has it ever had a Sales Tax. Such a tax has not been looked upon by the citizens of this State with favor, and it has not been necessary for the General Assembly to raise funds by this method of taxation.

Yours very truly,

Bella Sylvester
Acting Secretary

FLORIDA

(Copy of letter)

State of Florida
Executive Department
Tallahassee

October 26, 1937

Dear Mr. Kusler:

In reply to your letter of October 20th this is to advise that Florida has no sales tax and it will be impossible to furnish you with pamphlets, bulletins, etc., as stated in your letter.

Very truly yours,

E. Meill
Assistant Secretary to The
Governor

GEORGIA

Georgia had a Gross Receipts Sales Tax which was in effect from October 1, 1929 to December 31, 1931, the rate varying from $\frac{1}{2}$ to 3 mills.

The revenue derived from the gross receipts sales tax was considerably below the estimates made by some members of the General Assembly. That was due principally to the low rates imposed, the high exemption, the large classes of business wholly excepted from the act, the financial depression, and the necessity of exempting from the act all receipts derived from interstate commerce.

There was very little opposition to this tax from the people within the state and this evidently was due to the low rate.

"During its first year in operation of 1930 it netted \$1,212,404.13 and the collection cost was 2.85 per cent."^{1.}

She had three auditors in use in the gross receipts tax division for office and field audits and searching out delinquents.

"The number of returns made covering the last quarter of 1929 and the first three quarters of 1930 aggregated 22,007. The revenue derived has amounted to \$1,212,098.29, divided among the various classes of business as follows:

1. Retailers	\$454,578.58	4. Amusements ..	\$ 11,127.14
2. Wholesalers	223,746.07	5. Public Utilities	170,126.19
3. Manufacturers	231,252.85	6. Other businesses	121,267.46 ^{2.}

1. Georgia-The Gross Receipts Tax. Jan. 2, 1931, p. 8.

2. Georgia op. cit., p. 2.

"The rates imposed, after deduction of the exemption, yield from the manufacturer \$35 upon \$100,000, and \$485 upon \$1,000,000; from the wholesaler \$70 per \$100,000, and \$970 upon \$1,000,000; from the retailer and other businesses \$140 upon \$100,000, and \$1940 upon \$1,000,000, and from the utilities and amusements \$210 upon \$100,000, and \$2910 upon \$1,000,000."^{3.}

3. Georgia-Op cit., p. 1.

IDAHO

The state of Idaho had a sales tax initiated by House Bill 76, Session Laws of 1935. The duration of the tax was for two years and the expiration date was to be March 15, 1937. It became effective March 21, 1935 and was defeated by a referendum at a state election on November 3, 1936 and became ineffective on November 25, 1936. The tax was on gross receipts from retail sales of tangible personal property, meals, services of certain utilities and admissions. Some exemptions applied to Public Works contract made previous to March 15, 1935; motor fuel; sales by non-profit organizations; farm produce that was sold by the producer. The rate was fixed at 2% and the distribution of the proceeds was \$100,000 per month upon relief and unemployment; \$100,000 per month for relief of poor school districts; balance, 50% to general fund, 50% to public school income fund. The tax was to be paid by the consumer and the collection costs were \$40,000 under the Commissioner of Finance. A license of \$2 was charged for all retailers but Chain Stores were exempt from paying the license.

Idaho does not have a sales tax at the present but did have some commendable legislation and I will list a few.

"Section 19. Collection of Delinquent Tax Sale of Property. At any time within two years after any retailer is delinquent in the payment of the tax herein provided for, the commissioner may proceed forthwith to collect the tax due from the retailer in the following manner; the commissioner shall seize any property of the

retailer, real or personal, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent retailer and to all persons appearing of record to have an interest in such property in writing at least ten days before the date set for such sale by enclosing such notice in an envelope addressed to such retailer at his last known residence or place of business in this state if any, and in the case of any person appearing of record to have an interest in such property addressed to such person at the last known place of residence if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least ten days before the date set for such sale in a newspaper of general circulation published in the county in which the property seized is to be sold; provided, that if there be no newspaper of general circulation published in such county, then by the posting of such notice in three public places in such county ten days prior to the date set for such sale. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and the estimated costs, the name of the retailer, and the further statement that unless such taxes, interest and penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

"At any such sale, the property shall be sold by the commissioner in accordance with law and said notice, and the commissioner shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest any interest or title of the retailer in the purchaser. The unsold portion of any personal property so seized may be left at the place of sale at the risk of the retailer. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the state from such retailer, any such excess shall be paid to the retailer, and his receipt therefor obtained; provided, however, that if any person having an interest or lien upon the property has filed with the commissioner prior to any such sale notice of such interest or lien the commissioner shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction, or by agreement of said parties filed with the commissioner. If, for any reason, the receipts of such retailer shall not be available, the commissioner shall deposit such excess moneys with the state treasurer, as trustee for such owner, subject to the order of such retailer, his heirs, successor or assigns, to be paid as other refunds under this Act.

"It is expressly provided that the foregoing remedies of the state shall be cumulative and not exclusive and that no action taken by the commissioner or Attorney General shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of the right to proceed by appropriate judicial procedure for the collection of

such tax or for the foreclosure of any lien hereby created or any other remedy for which provision is made in this Act." ^{1.}

"Section 29. Appropriation For Relief Of Common School Districts In Distress.—There are certain common school districts in this state which are unable, after having levied the maximum tax permitted by law against the property within the boundaries thereof, to maintain the minimum number of months of school and the educational requirements prescribed by the State Board of Education. Therefore, for the purpose of relieving such districts, there is hereby appropriated out of the Cooperative Emergency Revenue Fund, the sum of \$100,000 or so much thereof as may be necessary not otherwise appropriated, which sum is hereby made available to the State Board of Education of this State to be distributed by it in such manner and in such sums as said Board shall determine as being necessary for the relief of the common school districts of this State of the class herein designated.

"Section 30. On December 31 of each year following the enactment of this law, the state treasurer shall, if there be a surplus in the Cooperative Emergency Revenue Fund after making allowance for the appropriations hereinabove set out and after setting aside a reserve for the payment of any treasury notes authorized by law to be issued against the anticipated revenue coming into the Cooperative Emergency Revenue Fund, transfer such surplus fund in the following manner: fifty (50) per cent thereof to the general fund of the State of Idaho and the remaining fifty (50) per cent to the public school income fund." ^{2.}

1. Idaho-Co-Operative Emergency Revenue Act. H. B. No. 76, Year of 1935, pp. 11, 12. & 13.

2. Idaho op. cit., pp. 15 & 16.

"Article 8. Meaning Of "Purchase Price."--The term "purchase price" means the price to the consumer and includes not only the amount of money paid, but also the value in money of any property of any kind or nature given in exchange for the article purchased.

"To illustrate: If A purchases from a dealer a new automobile for \$700, turning in his old auto for an allowance of \$300, the amount of the purchase price is \$700 even though only \$400 is paid in cash the entire purchase price is taxable.

"Purchase price" does not include any federal tax imposed upon the consumer by the federal government or the tax imposed by this Act.

"Federal taxes, imposed upon the manufacturer or importer cannot be taken as a deduction in computing the "purchase price" under the Act, even though such tax be passed on from the manufacturer to the consumer.

"Any charges for coverings, containers, etc., incident to placing the article in condition packed ready for delivery shall be included as a part of the purchase price for the purpose of computing the tax. Therefore, the amount paid for the article and its covering or container is the basis for computing the tax, even though a separate charge for such covering or container is billed on the invoice. If there is an agreement that the vendor will refund to the purchaser a specified amount upon return of the covering or container, the tax nevertheless attaches to the whole price, including the amount agreed upon to be refunded. However, when such coverings or containers are returned by the purchaser,

and the vendor actually refunds the amount agreed upon, the vendor may take credit on any subsequent monthly return for that portion of the tax paid by the purchaser and actually refunded to him." ^{3.}

"Article 15. Automotive And Similar Repairs.--When repairs are made to a customer's automobile and both parts and labor are furnished, the tax applies to the parts but does not apply to the labor." ^{4.}

"Meals Furnished To The Public

"Article 18. Scope Of The Tax.--The tax is imposed upon the amount paid for meals furnished at any restaurant, eating house, hotel, drug store or other place where meals are regularly served to the public. In the case of boarding houses, where meals are served only to regular boarders, and not to the public, no tax attaches to the payment for such meals.

"Articles of food which are purchased by persons engaged in serving meals which are taxable under this chapter and which actually become a component part of such meals are construed to be purchased for resale. The purchase of such articles is not taxable under the provisions of Section 6 of the Act relating to retail sales, when purchased by the proprietor or owner of the restaurant, eating house, hotel, etc." ^{5.}

3. State Of Idaho Sales Tax Regulations March 21, 1935, pp. 5 & 6.

4. Ibid, p. 9.

5. Ibid, p. 10.

ILLINOIS

Illinois passed her sales tax law by Senate Bill 665 during the year of 1933. In 1935 Senate Bill Number 207, Laws of 1935, it was amended. The new revised law House Bill 563, Laws of 1937, extended the tax to February 14, 1939. The rate started at 2% in July 1933 and was in effect until June 30, 1935. After this date it was raised to 3% and will be in effect at this rate until February 15, 1939; after this date the rate will again drop back to 2%. It is classified as a Retailers' Occupation Tax and is upon the gross receipts from sales of tangible personal property. The proceeds are distributed in this manner. Prior to July 1, 1935, and after January 1, 1937, it went into the Occupational Tax Fund. From July 1, 1935, to December 31, 1936, one-third went into the Emergency Relief Fund and two-thirds into the Occupational Tax Fund. The first Bill, which was Senate Bill 156, Laws of 1933, was declared unconstitutional.

Article 2.—Sale At Retail. The test of a sale at retail is whether the sale is to a purchaser for use or consumption and not for resale in any form as tangible personal property. A sale is made at retail when it is made to a person who does not purchase the goods for resale either in the form or condition in which purchased, or made over or changed into or included in some form of tangible personal property. Sales of goods which, as ingredients or constituents, physically enter into and form part of tangible personal property for resale by the buyers are not within the Act. If a sale is made of goods which are for resale by the buyer as anything other than tangible personal property such sale is a sale at retail within the provisions of the Act.

"In general, the tax is intended to be measured by receipts from a sale which constitutes the last actual transaction prior to ultimate use or consumption."¹

"Article 10.--Gross Amount Of Sales Basis Of Tax. The Department of Finance will grant permission to file the monthly returns required by the Retailers' Occupation Tax Act, and to pay the tax imposed therein on the basis of gross amount of sales instead of gross receipts from sales, in cases where retailers keep their books in such manner as not readily to reflect gross receipts, and where unusual expense and difficulty would be incurred in making the returns on the basis of gross receipts. In such cases the gross amount of sales is used by the retailer as a method of determining his gross receipts from sales.

"Written request for permission to report on this basis must be filed on forms prepared by the Department stating that books and records are kept in such a form as accurately to reflect the tax liability. The retailer must further obligate himself to pay an additional amounts which an audit of his books and records might disclose to be owing the State on the basis of gross amount of sales.

"Where permission to report and pay the tax on a basis of gross amount of sales had been granted, no change to another basis will be allowed except at the end of a tax year ending June 30th, and then only upon written authorization by the Department. The Department reserves the right, on notice, to withdraw permission to report and pay tax on any basis than gross receipts from sales

1. Illinois Retailers' Occupation Tax Act.--Amended and Annotated.
July 1, 1937, p. 10.

whenever it may deem such action necessary or expedient.

"In the event a taxpayer has previously filed any return or returns and paid tax on the basis of gross receipts from sales, pursuant to permission granted by the Department he shall include the amount of sales within the Act which has been previously deducted as "Charge and time sales" on such preceding returns with respect to which no tax has been paid, and shall pay the tax measured by three per cent of the amount of such sales, in filing his first return on the gross amount of such sales, in filing his first return on the gross amount of sales basis. Failure so to do will result in cancellation of permissions."^{2.}

"Article 23. Notice Of Sales Of Goods In Bulk.--In the event that a taxpayer under the Retailers' Occupation Tax Act sells, transfers or assigns his assets in bulk to another person, such purchaser is required by the Illinois Sale of Chattels in Bulk Act to notify all the creditors of the vendor of such stock of goods. Such intending purchaser will be required to notify the Department of Finance, which is a preferred creditor of such vendor. The failure of any intending purchaser of a stock of goods in bulk from a person who is liable for taxes under the Act so to notify the Department of Finance in accordance with the provisions of the Illinois Sale of Chattels in Bulk Act will result in such purchaser becoming liable for the payment of any Retailers' Occupation Tax owing by the vendor as of the date of sale of the stock of goods in bulk. This liability will not, however, operate to relieve the vendor of such stock from an equal liability."^{3.}

2. Illinois op. cit., P. 17.

3. Ibid., pp. 21 & 22.

"Rule No. 8.--Undertakers And Funeral Directors.

"A funeral director or undertaker is engaged in the business of selling tangible personal property to consumers, including such articles as caskets, grave vaults, and occasionally, grave clothing and flowers. He is also engaged in the business of rendering services such as embalming and providing livery service and other equipment in the conducting of funerals. A funeral director is liable for tax measured only by his gross receipts from sales of tangible personal property. No tax arises on receipts from services which he renders, such as those which are enumerated above.

"The funeral director must keep his books so as to show clearly these separate sources of receipts, and sales records must clearly reflect the selling price of tangible personal property sold.

"The Department will presume that the retail selling price of the casket is not less than double that at which the casket was purchased by the funeral director. The retail price of grave clothing, vault, flowers or other tangible personal property will be presumed to be not less than the retail price of like property as sold over the counter apart from the rendering of undertaking services."^{4.}

"Rule No. 13. Shoe Repairmen.--Persons engaged in the business of repairing shoes are deemed primarily to render service. They are purchasers for use or consumption of tangible personal property incidentally used by them in the rendering of such service. Consequently, the sale of sole leather, rubber heels, thread, nails and other findings to shoe repairmen for their use in connection

4. Illinois op. cit., pp. 29 & 30.

with the rendering of such service are sales at retail within the meaning of the Retailers' Occupation Tax Act. Receipts of shoe repairmen from the services of shoe repairing, shoe shining or re-molding are not subject to tax.

"Shoe repairmen become liable for tax when they sell sole leather, rubber heels, shoe laces or other shoe findings directly to purchasers for use, and a part from the rendering of repair service."⁵

"Rule No. 21. Artists.—Artists who are engaged in the business of designing, sketching, engraving, drawing or painting works of art having general commercial value, and in selling such designs, sketches, engravings, drawings or paintings to persons for use or consumption, are engaged in the business of selling tangible personal property at retail under the Retailers' Occupation Tax Act, and will be held liable for the tax with respect to their receipts from such sales.

"On the other hand, artists, such as commercial artists, who perform work of this kind for customers upon special order or specification of their customers, which work, when completed, is of little or no value to anyone other than the person for whom the work is performed, are not engaged in the business of selling tangible personal property, but are engaged in rendering a service to their customers. Consequently, they are not liable for tax under the Retailers' Occupation Tax Act with respect to receipts from such work. In the performance of this work they become the users or consumers of the drawing papers, paints, brushes and other tangible personal

5. Illinois op. cit., p. 21.

property employed by them, and persons who sell such tangible personal property to artists for use in rendering such service are engaged in the business of selling tangible personal property at retail and are liable for tax under the Act with respect to receipts from such sales." ^{6.}

"Rule No. 28. Sales Of Coal, Coke, Fuel Oil, and Other Combustibles To Industrial Users.--Sales of coal, coke, fuel oil, and other combustibles, whether in carload lots or other quantities, to persons who use or consume such substances in producing other tangible personal property, or in the rendering of service, constitute sales at retail within the meaning of the Retailers' Occupation Tax Act. Such coal, coke, fuel oil, or other combustibles do not physically enter into or become a constituent, component or integral part of any tangible personal property for resale with respect to such transactions, and hence are sold for use or consumption. The sellers thereof become liable for the tax." ^{7.}

"Rule No. 31. Chassis Lubrication.--Greasing performed by garage men and service station operators is a service, the receipts from which do not come within the Retailers' Occupation Tax Act. Greases or other lubricants are deemed to be used or consumed incidentally in the rendering of these services, and to be sold to a user or consumer when sold to a service station or garage operator for this purpose. However, where lubricants are sold separately and apart from the rendering of lubrication services, the tax must be paid with respect to receipts from such sales, if made to users or consumers." ^{8.}

6. Illinois op. cit., pp. 34 & 35.

7. Ibid, p. 39.

8. Ibid, p. 40.

"Rule No. 60. Sales of Seeds.--Sales of seeds to a person who plants them in the soil for the purpose of growing agricultural products are sales to a purchaser for use or consumption and not a sale for purpose of resale. Seeds are deemed to be used or consumed in the process of producing other products, and sellers thereof for this purpose become liable for Retailers' Occupation Tax." ^{9.}

"Rule No. 68. Student Fraternities And Sororities.--Student fraternities and sororities are not engaged in the business of selling tangible personal property at retail within the meaning of the Retailers' Occupation Tax Act, when they merely provide their members exclusively with meals and lodging. Sellers of foods, beverages and other tangible personal property to such associations for use in the preparation of meals are in such instances making sales for use or consumption, and will be held liable for the tax.

"However, where student fraternities or sororities engage in the business of serving meals to persons other than members, for which separate charges are made, or where they operate canteens through which tangible personal property is sold at retail, with respect to receipts from such sales they become liable for the tax.

"If the student fraternities or sororities do not provide their own meals but these are provided by caterers, concessionaires or other persons, such caterers, concessionaires or other persons will be held liable for the tax with respect to their receipts from meals so furnished. A similar liability attaches to persons engaged in the business of operating boarding houses, whether for students or other persons." ^{10.}

9. Illinois op. cit., p. 54.

10. Ibid, p. 60.

"Rule No. 71. Federal Admission Taxes.--Persons operating roof gardens, night clubs, cabarets, beer gardens, cafes and other similar places where public entertainment is offered (i.e. performances, dancing, etc) are not required to include in receipts with respect to which they pay Retailers' Occupation Tax the amount of Federal Admissions Tax actually collected by them from persons admitted to such places, which taxes are thereafter paid by them directly to the Federal Government.

"This rule applies equally to Federal Admissions Tax collected from persons who are charged a specific amount (e.g. a cover charge) for admission, or to admissions tax collected from persons where charges for admissions are included in the prices of refreshments, services or merchandise furnished. Such taxes are imposed upon persons paying for admission and not upon the persons operating such places of business."^{11.}

11. Illinois op. cit., p. 60.

INDIANA

Indiana has had a Gross Income Tax since 1933 and it became a law on February 27, 1933 but did not become effective until May 1, 1933. Upon the 9th of March, 1937, the 1933 law was amended by Chapter 117, Acts of 1937, and became effective April 1st of the same year. The measure is upon the gross income or receipts from personal services or sale of property and investments. Gross income means gross earnings in cases of financial institutions. Insurance and pensions not included. Corporations, partnerships, joint ventures and pools and estates are, however, subject to the tax. The proceeds are all paid into the general fund and are due quarterly and come under the administration of the Department of Treasury. The rate is 1% but only $\frac{1}{2}$ of 1% upon mining, farm produce, wholesalers, jobbers, and display advertising. The exemptions are \$1000 for everyone, but \$3000 exemptions for retail merchants, non-profit organizations and insurance companies. Withholding agent shall deduct 1% on all non-residents' income above \$1000. The yield for the fiscal year of 1936-1937 to June 1st was \$15,548,000.

"Section 2. There is hereby imposed a tax upon the receipt of gross income, measured by the amount or volume of gross income, and in the amount to be determined by the application of rates on such gross income as hereinafter provided. Such tax shall be levied upon the receipt of the entire gross income of all persons resident and or domiciled in the State of Indiana, except as herein otherwise provided; and upon the receipt of gross income derived from

activities or businesses or any other source within the State of Indiana, of all persons who are not residents of the State of Indiana, and shall be in addition to all other taxes now or hereafter imposed with respect to particular privileges, occupations, and/or activities. Said tax shall apply to, and shall be levied and collected upon, the receipt of all gross income received on or after the 1st day of May, 1933, with such exemptions and limitations as may be hereinafter provided." ^{1.}

"Section 4. Any person receiving gross income taxable at different rates under the provisions of this act shall be subject to taxation upon his entire gross income at the highest rate applicable to any part of such gross income unless he shall segregate the parts of his gross income taxable at different rates upon his records and in the returns which he files pursuant to the provisions of this act. Such segregation shall be subject to the review of the department as hereinafter provided." ^{2.}

"Section 16. Every individual, partnership, corporation, joint stock company, or association, whether or not exempt from taxation under this act, being a resident of, or having a place of business in, this state, in whatever capacity acting, including banking institutions, lessees or mortgagors of real or personal property, commissioners for sale of property, fiduciaries, brokers, employers, and all officers and employees of the state or of any political subdivision of the state, having the control, receipt, custody, disposal, or payment of dividends or interest (other than interest coupons payable to bearer) of three hundred dollars (\$300) or more, or rent, salaries, wages, premiums, annuities, compensa-

1. Indiana-The Gross Income Tax Act-Chapter 117, Acts of 1937, pp. 6 & 7.

2. Ibid, p.9.

tions, remunerations, emoluments, or other fixed or determinable annual or periodical income of more than one thousand dollars (\$1000), paid, payable, or credited during any year to any resident, received by such non-resident would be taxable under this act, shall make information returns thereof under oath to the department, under such regulations and in such form and manner and to such extent as may be prescribed by it. Such returns shall be filed on or before January thirty-first of each year unless the department shall extend the time for filing such returns." ^{3.}

"Section 22. At the end of each year, the books and records of the department shall be audited as provided by law." ^{4.}

"Section 23. The department shall keep full and accurate records of all money received by it, and how disbursed; and shall preserve, for a period of three years, all returns filed with it under this act." ^{5.}

"Section 24. Unless in accordance with a judicial order, or as herein provided, the department, its counsel, agent, clerks, stenographers, or other employees, shall not divulge the gross income, or the amount of tax paid by any person, or any other information disclosed by the reports filed under the provisions of this act, except to members and employees of the department, or to the governor or to the attorney-general or any other legal representative of the state in any action in respect to the amount of tax due

3. Indiana op. cit., p. 26.

4. Ibid, p. 28.

5. Ibid, p. 28.

under the provisions of this act, or to any duly authorized officer of the U. S. Any violation of the provisions of this section shall be followed forthwith by the dismissal of the offending officer or employee of the state from his office or employment, and in addition, the offender shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, and imprisonment for not less than ten days nor more than thirty days in the county jail." ^{6.}

"Article 4

"Flat Annual Exemptions

\$1,000-\$3,000

"Regulation 400. Retail Merchants. For the purpose of determining when and to whom the \$3,000 annual exemption is allowable, Retail Merchants will be deemed to include only those persons who make retail sales of tangible personal property at a fixed and established place of business. For the purpose of this regulation "tangible personal property" shall include only that which is held or handled as stock in trade for sale to customers in the ordinary course of the merchants trade or business and not tangible personal property which constitutes capital assets, even though such property is used in connection with his trade or business. The fact that a store license is possessed will not in itself entitle any person to qualify hereunder. No person will be considered as having a place regularly operated as a store and is recognized as such. The mere fact that sales or delivery routes originate at a fixed place will not necessarily bring any person within these qualifications unless such routes are established sales routes to which the public

has become accustomed. In no case will itinerant vendors, peddlers or solicitors be considered Retail Merchants hereunder." ^{7.}

"Regulation 1604. Withdrawal of Deposits does not constitute taxable gross receipts to the depositor to the extent of the principal amount of the original deposit. Any excess over the principal of deposit or earnings thereon is taxable." ^{8.}

"Regulation 1605. Outright gifts. Outright gifts, whether received in cash or property, may be deducted from the taxpayer's gross income tax returns when such amounts have been included in Schedule A. Receipts of this nature will be subject to strict scrutiny by the Department, and if it appears that there has been any consideration whatever given by a release of rights, payment of debts, past or present services or promise of future service or any other consideration whatever such receipts will be held to be taxable gross income." ^{9.}

"Regulation 1611. Death Benefits. The receipt of proceeds from life insurance policies received by an estate, trust or individual beneficiaries of an insured by reason of the death of the insured is not taxable income whether received in a single sum or installments. However, if such proceeds are held by the insurer for the beneficiary under an agreement to pay interest thereon such interest will be considered taxable gross income when received, credited or made available for withdrawal." ^{10.}

"Regulation 1803. Gross Earnings means generally the gross profits on individual transactions before costs of effecting the transactions are deducted, and with reference to sales of property

7. Indiana op. cit., p. 45.

8. Ibid., p. 73.

9. Ibid., pp. 73 & 74.

10. Ibid., pp. 77 & 78.

such gross earnings means and includes only the gross difference between the cost of such property, as of the date of its final acquisition by the taxpayer, and the gross receipts resulting from the sale of such property. "Gross Earnings" is stipulated as being the "Gross Income" for taxation of banks, trust companies, building and loan associations, brokers, dealers in securities, finance companies, dealers in commercial paper, persons engaged in the business of lending money or credit and of certain insurance companies. This also is applicable in the case of individuals dealing in margins."^{11.}

"Regulation 1804. National Banks will not be required to make gross income tax returns for gross receipts from business done strictly under their national bank charter."^{12.}

"Regulation 2204. Rates of Taxation on Farm Receipts. taxpayer engaged in the business of agriculture, including the product of the farm, orchard, garden or greenhouse shall reflect on his gross income tax return his gross receipts from the sale of such products, on which he will be taxed at the rate of $\frac{1}{4}$ of 1%, whenever such sales are wholesale sales as set out in Regulation 107; Provided, however, The agriculturist who deals in or produces any such farm products and sells same to a consumer will be deemed to have receipts from selling at retail and such receipts will be taxed at the rate of 1%, as will also receipts from sales of equipment or chattel property."^{13.}

1. Indiana op. cit., p. 90.

2. Ibid, p. 90.

3. Ibid, pp. 96 & 97.

"Regulation 3401. Alimony. Any money or property received as alimony other than property settlements will be considered taxable gross income, except that any amount awarded for care of children will not be taxable. Amounts received in property settlements in which the recipient has an existing interest will be considered non-taxable income to the extent of such interest, but any excess of such interest must be included on gross income tax returns for taxation." ^{14:}

"Regulation 3415. Threshermen. The gross receipts of threshermen are classified as receipts from personal services and are taxable at the rate of 1%." ^{15:}

14. Indiana op. cit., p. 113.

15. Ibid, p. 115.

IOWA

Iowa enacted its first sales tax by H. F. I., Law of 1934, and this expired on April the 1, 1937. During this same year the new Act S. F. 317, Law of 1937 was enacted, and this is in effect at the present and is permanent. The first measure was listed upon gross receipts from retail sales of tangible personal property, gas, electricity, water, communications, and admissions. The second is listed as a Use Tax and it is on the sales price of tangible personal property, including gas and electricity purchased for use in state. The exemptions are upon transportation service, non-profit organizations, and to local fairs; the second Act is the same as for retail sales tax plus all receipts upon which retail sales tax has been paid except motor vehicles and machinery for street railways not obtained in the state. The rate upon each measure is the same, that is 2%. The retailer passes the tax on to the consumer and is collected through the Board of Assessment and Review and is allowed 3% for its Administrative Costs. The due date is quarterly and the yield for the fiscal year ending June 30, 1936, was \$13,450,641.15. One feature of their sales tax is that the taxes on new automobiles must be paid to County Treasurer before machine is registered. The first measure distributed the proceeds in that 3% went into the General Fund, \$5,500,000 into the Old Age Pension Fund, \$500,000 into the Iowa Emergency Fund, and the balance into the Homestead Credit Fund. The new measure is that it is all paid into the General Fund.

"In recent months we have had no end of comment and discussion regarding the tax question. Perhaps the most debated of all tax problems at present is whether the new taxes on income and retail sales will or will not be replacement taxes. People, generally, approve the new taxes as necessary if they are to constitute only replacement taxes.

" It is a striking fact that about three quarters of a century elapsed in which less than 3 per cent of total annual state and local tax revenue was derived from sources other than the property tax. In 1912, property taxes produced 97.1 per cent of the tax revenue, 89.9 per cent during the high year of 1920, 72.2 per cent in 1930, and 64.5 per cent in 1935. The tax levy was reduced \$4,000,997.99 in 1935 as a result of the allocation of money to the state and local governments from the net income and retail sales taxes as provided by law."¹

Iowa has a so-called Three Point Tax Department and this comprises the Sales Tax, Income Tax, and Corporation Tax. Out of this Three Point Tax Law, Iowa at the end of the fiscal year, June 30, '35, collected a total of \$13,441,761.23 and this was also distributed that same year. For the fiscal year to June 30, 1936, the state collected and distributed \$17,196,333.42.

Under this Act only 3 per cent is allowed for the administration and collection expense. They have, however, been able to operate on a 2.632 per cent basis.

Now from the sales tax alone, for the year of 1935, ending June the 30th, the total revenue was \$11,287,682.56, and for the

year ending June 30, 1936, a very substantial increase was shown, or, \$13,422,356.14 was collected and distributed.

Food, general merchandise, automotive, and unclassified accounted for over 70 per cent of the retail sales tax, and the tax on food was 23.28 per cent only.

"For the first time, every man and woman in Iowa is a taxpayer."
2.

KANSAS

Kansas inaugurated a Retailers Sales Tax by S. B. 522, Laws of 1937, and went into effect June 1, 1937 and has no expiration date affixed, therefore, it is permanent. Retailers must have a certificate which is issued by the Tax Commission. The payments are due monthly and the measure is upon gross receipts from retail sales of tangible personal property and includes gas, water, electricity, heat, meals, admissions, etc. The rate is 2% but any article less than 5 cents has no tax; from 5 to 14 cents, 2 mills; 15 to 24 cents, 4 mills; 25 to 34 cents, 6 mills; graduated as sales charges increase. The distribution of the proceeds is for social welfare \$2,400,000; crippled children in lieu of ad valorem tax \$300,000; employment service account \$50,000; \$2,500,000 state school aid fund; 80% of balance to counties to reduce property tax. Tax limits reduced in proportion to sales tax revenue.

"Section 4. The tax levied hereunder shall be paid by the consumer or user to the retailer and it shall be the duty of each and every retailer in this state to collect from the consumer or user, the full amount of the tax imposed by this act, or an amount equal as nearly as possible or practicable to the average equivalent thereof; and such tax shall be a debt from the consumer or user to the retailer, when so added to the original purchase price, and shall be recoverable at law in the same manner as other debts."^{1.}

"Section 5. It shall be unlawful for any retailer to advertise or hold out, or state to the public, or to any consumer, directly or indirectly, that the tax, or any part thereof, imposed by

this cost will be assumed or absorbed by the retailer, or that it will not be considered as an element in the price to the consumer, or if added, that it, or any part thereof, will be refunded." ^{2.}

"Section 6. The following shall be exempt from the tax imposed by this act: (a) All sales of motorvehicle fuel and cigarettes, or other articles the sale or use of which is made subject to a sales or excise tax under the laws of this state; (b) all sales to the state of Kansas and political subdivisions thereof, except when engaged in business specifically taxable herein; (c) any sale which under the constitution and statutes of the United States or of this state; (d) all sales of tangible personal property or service used in or for the performance of a contract for public works." ^{3.}

"Section 10. The commission shall examine all returns filed under the provisions of this act, and shall issue final determinations of tax liability hereunder in the manner now prescribed by section 79-5226. Taxpayers may take appeals from such determination in the manner of the General Statutes of 1935. In case a person required by the provisions of this act to make a return fails or refuses to do so, the commission, after notice to such person, and a hearing thereon, shall make a final determination of the amount of such tax according to its best judgment and information." ^{4.}

2. Kansas op. cit., p.3.

3. Kansas op. cit., pp. 3 & 4.

4. Ibid, p. 5.

"Article 9. (b) Casual or Isolated Sales.--The tax is not imposed on casual or isolated sales. Where a person sells his household furniture, where a farmer sells his farm machinery, implements or other farm equipment, the same would be casual or isolated sales. All sales made by officers of a court, pursuant to court orders, as for example, sales made by sheriffs in foreclosure proceedings or sales of confiscated property, are casual sales.

"Manufacturers in the business of producing tangible personal property, whose sales are primarily other than at retail, are not deemed to be making casual or isolated sales, when they sell tangible personal property with any regularity to purchasers for use or consumption, even if these sales at retail may comprise a small fraction of their total sales.

"A farmer or truck-gardener making sales regularly from a roadside stand or a regular delivery route is not making casual sales, although a farmer selling products occasionally to transient callers is deemed to be making casual or isolated sales.

"If a person holds himself out as offering to sell any item of tangible personal property to any person desiring to purchase it for use or consumption, and if he makes frequent sales or deliveries, he is a retailer within the meaning of the act, and must secure a registration certificate and pay a sales tax to the state.

"(d) Sales of Livestock Feed, Seed and Seedlings.--Sales of feed for use in the feeding of poultry or livestock for marketing, are not subject to the tax. Likewise, sales of feed to dairymen and produce dairy products or eggs for sale at market, are not

and poultrymen for use in feeding dairy cattle or poultry which produce dairy products or eggs for sale at market, are not taxable. Sales of seeds or seedlings are exempt from taxation if the plants and plant products are being produced for resale. However, sales of seeds or seedlings, or of feed to purchasers for use in feeding livestock or poultry which are used or consumed and not sold, are subject to the tax. That is, persons purchasing feed for livestock or poultry, or seed or seedlings, the products of which they intend to use themselves, are considered to be the final consumers of the feed or seeds or seedlings, and as such the sales are taxable.

"(f) Admissions To State, County, District and Local Fairs-- These sales are exempt. No exemption is granted, however, to private concessions which engage in any of the taxable businesses at these fairs."^{5.}

"Article 14. (b) Charge Sales.--In the case of charge account sales, the retailers will not add the tax to each individual charge sale at retail, but will compute and separately bill the tax on the basis of two percent (2%) of the total charge account.

"When a consumer's tax on his credit account includes a fraction of a cent, the retailer shall disregard the fraction if under one-half cent ($\frac{1}{2}\%$), but if the amount is one-half cent ($\frac{1}{2}\%$) or over, he shall add one cent (1%)."^{6.}

"Rule No. 10. Community Sales

"Where a person operating a community sale sells merchandise on his own account, or sells merchandise for an unknown or undisclosed principal, he is deemed to be a retailer and is required to obtain a certificate of registration and collect the tax on such sales.

5. Kansas-Regulations and Rules Retailers' Sales Tax Act of 1937, p. 4.

6. Ibid, p. 5.

"Where the person operating a community sale sells merchandise for others on a percentage or commission basis, the tax liability shall be determined by the status of the seller. That is, if the seller would be deemed to be making a "casual or isolated" sale if the sale were made at home or his place of business, no tax would apply to a similar sale at a community sale. If, however, a merchant sells articles, and the sales would be taxable if made at his place of business, the merchant must collect the tax on such sales made at community sales.

"The responsibility shall be upon the person operating a community sale to see that the tax is collected on all taxable sales made at his place of business."^{7.}

"Rule No. 18. Tire And Tube Repairing

"No sales tax is imposed upon the charge made for tire and tube repairing. Sales to the person repairing tires and tubes, of articles, equipment and supplies used in performing such repair service are sales for final use or consumption and are taxable."^{8.}

"Rule No. 25. Baling Wire And Binding Twine

"Sales for agricultural purposes of baling wire and binding twine are sales for final use of consumption and as such are taxable."^{9.}

"Rule No 33. Food Sales And Sales Of Meals By

Churches, Lodges Or Similar Organizations.

"Dinners and luncheons or food sales conducted by churches, lodges or similar organizations^z are considered "casual or isolated

7. Kansas op. cit., p. 9.

8. Ibid, p. 10.

9. Ibid, p. 11.

sales" not subject to the tax, unless they are conducted regularly and at an established place. Sales to these organizations of food products or other tangible personal property which are to be resold casually, or are to be consumed in the process of making casual sales, are subject to the tax."^{10.}

"Rule No. 63. Well Drilling

"Persons who contract to drill wells for others are rendering services which are not subject to the tax.

"Sales to drilling contractors of materials, equipment and supplies used in the rendition of their services are sales for final use or consumption to which the tax applies. Where materials, equipment and supplies are furnished by the owner or lessee, said owner or lessee is the final user or consumer and sales to him of materials, equipment and supplies are taxable."^{11.}

"Rule No 83. Automobile Repaint Shops

"Persons who repaint automobiles for others are rendering a service which is not subject to the tax. Automobile repaint shops are the final users or consumers of all paints, brushes, and other equipment and supplies used in the rendition of their services, and must pay the tax upon their purchases of these items."^{12.}

"Rule No. 90. Coal And Other Fuels

"The sale of coal and other fuels to educational institutions not operated for profit, or to religious and charitable institutions are exempt from the tax."^{13.}

10. Kansas op. cit., p. 11.

11. Ibid, p. 18.

12. Ibid, p. 23.

13. Ibid, p. 25.

KENTUCKY

Kentucky had a Gross Receipts Tax which was initiated by H. B. 11 in the Laws of 1934, July 1 and was in effect for two years. It was repealed by H. B. 2, Laws of 1936, and had expired June 30, 1936, but repeal became effective January 15, 1936. The rate was 3%, and it was upon gross receipts from retail sales of tangible personal property, certain utilities, and upon admissions. The collection costs were in the hands of the Tax Commission and the Commission allowed county sheriffs 2% for collecting it. The minimum being \$1000 for fees and the maximum could not exceed \$2000; the collections to be made monthly. Certain exemptions were upon farm products, coal, less 40 tons, newspapers, radio, gasoline, and upon non-profit organizations. The proceeds were distributed so that 2/3 went to the general fund and 1/3 to the county road fund. It was based upon 1/3 on population, 1/3 upon area, and 1/3 equally.

In ten months time, from July 1, 1934, to April 1, 1935, they collected from this tax the sum of \$6,928,000. All merchants must have a license but no fee is charged for same. Sales from 1 cent to 9 cents, inclusive, are free from any tax.

1. "The Gross Sales Tax Issue In Kentucky

"Developments Prior to 1934 Session.--In the regular session of the General Assembly of 1930, a bill modeled after the Indiana Chain Store Tax was introduced. The Federal District Court declared the measure in that state invalid while the Kentucky bill was pending, and a substitute measure was drawn to enact a gradu-

ated Gross Sales Tax Act. This passed and became chapter 149 of the Acts of 1930. For present purposes it is inappropriate to analyze this measure; suffice it to say that it was applicable to all retail sales except those explicitly exempted, and that the rates ranged from .05 per cent on sales by one merchant of less than \$400,000 a year to 1 per cent on sales in excess of \$1,000,000. Enforcement of the act against certain large-scale merchants is enjoined pending the outcome of litigation involving constitutionality.

*When the 1932 session of the General Assembly convened soon after Governor Laffoon took office, it was apparent that new revenue was needed if the services of the state were not to suffer serious impairment. Moreover, the Governor had been elected on a program of cutting the real property tax; and there was strong sentiment for such a move. During the early days of the session, the Governor suggested no revenue program; and, although he later urged a gross sales tax, which was passed by the House, the measure was defeated in the Senate. From that time forward, the lines were drawn as between the faction of the Democratic Party to which the Governor belongs and the opposition; and a principal issue has been whether or not Kentucky should have a sales tax. While in many of the discussions of tax reform the merits of the sales tax as a revenue measure have been considered, much of the favorable and unfavorable political sentiment appears to have grown out of factional political alignments. The remark that sales taxation cannot receive consideration on its merits in Kentucky has been frequently heard.

"Early in the summer of 1933 it became apparent that additional revenue prior to the regular session of the 1934 General Assembly was almost a necessity. The relief program, for instance, threatened to break down completely and the Governor of the state as well as members of the legislature talked about possible riots in the event people were without food--even temporarily. After considerable delay the Governor acquiesced in the view that a special session of the General Assembly was essential and issued the call.

"When the legislature heard the message of the Governor it learned that he believed a gross receipts tax to be the solution of the financial problem. At his instance a measure providing for a flat-rate tax of 1 per cent and a surtax graduated from zero to 1 per cent was introduced, and a long dead-lock set in. The controversy was extremely bitter. The factional lines were drawn perhaps more sharply than at any other time during the entire course of the disagreement. In the end the proposed program was rejected; and the fifty-day session did nothing respecting the revenue situation, except to enact two or three comparatively unimportant excise tax measures.

"Owing to the heated interest in this summer and autumn session of 1933, the November election of members of the legislature was fought out largely on the sales tax issue. After the election it appeared that those favoring such a measure had been overwhelmingly defeated because a large majority of the persons chosen were committed against a gross sales tax. It is perhaps important, however, to note that many of these same individuals committed themselves to reduction of the real property tax, to additional state school funds to supplement the rapidly disappearing local tax in-

some for education, and to certain other programs necessitating increased expenditures. It is significant also that many of these elected appeared to be comparatively independent of the factional fight, and the press of the state held out some prospect of a legislature not dominated by either political faction. The election, however, was in some circles regarded as a decisive defeat of Governor Laffoon's sales tax program as well as of his faction of the party.

"The 1934 Session of the General Assembly.--Between the time of the November election and the day early in January on which the 1934 General Assembly convened, the administration group had conducted such an extensive campaign among the presumably independent members of both the House and the Senate that it was able to secure decisive control of the organization in both houses. Incident to this program the Lieutenant Governor, a leader in the anti-administration faction, was largely shown of the authority which he ordinarily has under the rules of the Senate. Thus it became possible to assure reference of all bills to committees sympathetic with the administration.

"With administration forces thus completely in the saddle, so much time was spent on state and county reorganization bills and on other matters in the Governor's program that, in the opinion of most legislators, an extraordinary session to deal with financial matters was necessary. Among the significant elements in the situation were the failure of the legislature to pass an appropriation bill, the radical reduction of the state property tax on real estate, and the refusal to enact any measures to replace the revenue lost by reduction of the property tax or to meet the current deficit.

There were other matters involved, but these illustrations indicate the character of the situation existing at the close of the regular session.

"The Legislative Interim Committee.--Before adjournment of the regular session a joint resolution requesting the Governor to call a special session late in the spring was passed. The General Assembly also authorized an Interim Committee, composed solely of members of the legislature, to study the financial problems and be prepared on the convening of the extraordinary session to recommend means whereby the budget could be balanced. A committee composed largely but not wholly of men sympathetic with the administration forces was appointed.

"Very shortly after the regular session adjourned the Legislative Interim Committee went to work seriously on the financial problem. The individuals making up the committee devoted a large amount of time to its work and finally reached the conclusion that the solution of the revenue problem of the commonwealth should involve a three-point program: (a) The expenditures of the state for all purposes should be cut; (b) a personal income tax measure, providing moderate exemptions and comparatively steep graduation, and a 3-per cent corporation income tax should be enacted; and (c) a gross receipts (sales) tax should be imposed at the rate of 3 per cent, 2 per cent for the purpose of rehabilitating state revenues and 1 per cent for the purpose of meeting the county highway debt situation and thereby still further relieving property taxpayers. The committee, with technical assistance it secured outside its membership, drafted bills to make its tax recommendations effective.

These bills were ready to submit shortly after the special session convened. In spite of the fact that several individuals not adhering to the administration forces were on the committee, only one member refused to concur in the majority report, which indicated on its face that some of the members of the committee were personally committed against a general sales tax. At least one member of the committee publicly indicated that he concurred in spite of personal belief that an income tax was not advisable but that in the interest of the entire program he would support such a measure.

"The 1934 Special Session of the General Assembly.--When the special session convened on May 9, after promptly passing the proposed income tax bill, practically unmodified, the House began its fight over the 3-per cent sales tax. For some time vote was sustained. After some further negotiations the proposition was brought to a vote a second time and this time defeated by a still narrower majority. Again the House sustained a motion to reconsider. On June 8 the bill passed the House with exactly fifty-one votes, including that of the Speaker, necessary in order to enact any bill containing an emergency clause. The measure went to the Senate, was immediately reported, and, after some deliberation, was enacted by a bare constitutional majority on Thursday afternoon, June 14. On the evening of the same day the Tax Commission and the Attorney General, that it should remain ineffective until July 1 so that the the Tax Commission could develop the administrative set-up and prepare regulations required by the statute. Meantime, the State Tax Commission, with the aid of Chairman A. H. Stone of the Mississippi Tax Commission, is at

work developing an administrative plan and preparing forms, rules, and regulations necessary to make the new act effective." ^{1.}

1. The New Kentucky Gross Sales Tax--1934, pp. 1 and 2.

LOUISIANA

Louisiana has in effect a general sales tax that is known as the Luxury Tax Act of 1936. This is a tax upon the Gross Receipts from retail sale of tangible personal property or services which are deemed luxuries. It is known as House Bill No. 547 and was passed in 1936, and became effective October 1, 1936, and has no expiration date. It is a 2% tax upon the consumer and payments are due monthly to the State Department of Revenue. The collection costs are allowed at \$175,000 and this is the maximum amount which can be used. The collection is in the hands of the Supervisor of Public Accounts. A certificate of registration is required but no fee is charged for same. The proceeds are distributed so that $\frac{1}{4}$ is paid into the Property Tax Relief Fund; $\frac{5}{8}$ into Social Security Fund; $\frac{1}{8}$ goes into the State Hospital Board. Some exceptions are upon tobacco, alcohol, soft drinks, food, meat, milk, oils, proceeds of insurance, personal property already subject to an excise tax, clothing less \$3.00, soap less 10%, farm implements, livestock, seed, newspapers, fishing equipment, kitchen equipment, etc.

"An Act

"To provide additional revenue for the State of Louisiana by imposing a tax upon articles of tangible personal property, which are luxuries, as herein defined, sold, leased or rented in this State, and upon the furnishing, preparing or serving of articles of tangible personal property, which are luxuries, as herein defined;

levying and providing for the assessment, collection, payment and disposition of such tax; dedicating its proceeds, less the cost of collecting as herein provided for, one-fourth to the Property Tax Relief Fund to furnish additional money for the purpose of the homestead exemptions, five-eighths to old age assistance, aid to needy blind and aid to dependent children, to be apportioned by the Governor, and one-eighth to the State Hospital Board for the care and treatment of the poor and indigent; defining and denouncing violations of the provisions of this Act and prescribing penalties therefor; and repealing all laws or parts of laws as may conflict herewith, except Act 15 of the Third Extraordinary Session of 1935, as amended, known as the Occupational License Tax Law,^{1.} which shall continue in full force, virtue and effect."

"Section One. (1) "Luxury" and "luxuries" mean any article or articles, other than such as are hereinafter included within the special exemption from the range, effect and operation of the provisions of this Act."^{2.}

"Section 5. Articles exempted from tax. There are hereby specifically exempted from the provisions of this Act and from the computation of the amount of tax levied, assessed or payable thereunder the following:

- (1) a. Cigars, cigarettes, chewing tobacco, smoking tobacco and snuff.
- b. Alcoholic beverages containing more than one-half of one per centum of alcohol by volume.
- c. Soft drinks.
- d. Fresh meat, milk and milk products.

1. Louisiana Tax Act of 1936 Act 75, Session of 1936, House Bill No. 547, p. 3.

2. Ibid, p. 3.

- (e) Gasoline, kerosene, lubricating oils, fuel oil, crude oil, natural gas, and natural resources as severed from the soil.
 - (f) Electric power or energy.
 - (g) Proceeds from sale or purchase of insurance.
 - (h) Any other personal property, as to which an excise tax for the sale thereof is now imposed by the laws of this State.
- (2).
- a. Clothing, where the garment sells at retail for less than \$3.00, except articles manufactured of or containing silk.
 - b. Shoes, selling at retail for less than \$5.00 per pair.
 - c. Bread in loaf form; ice; fresh vegetables and produce; fresh fish, seafoods and oysters; poultry and eggs; coffee, tea, sugar, cane syrup, and molasses, rice, grits, corn, meal, flour, baking powder, salt, pepper, beans, peas; salt and pickled meat; canned foods selling at retail for ten cents per can or less; and water.
Soap, the retail price of which is 10¢ or less per bar or package; lard, lard compounds and cooking oil.
 - d. Farm implements, farm machinery, and hand tools.
 - e. Livestock, seeds, feeds, and fertilizer; sacks, bags, crates, boxes and barrels, used as containers of agricultural pursuits.
 - f. Motors and equipment used in commercial fishing.
 - g. Newspapers, and advertising for publication.

h. Foods, sold in colleges, schools, universities, and at churches.

i. Kitchen utensils, pots, pans, and cans and jars used for home canning whether canned in the home or at community centers." ^{3.}

"Section 6. Vendor Made Agent Of The State.--And for the purpose of collecting and remitting to the State the Tax imposed by this Act, the vendor collecting such tax shall be, and is, hereby declared to be, the agent of the State, and the failure of any such vendor to remit or pay such tax to the State shall constitute embezzlement and shall be punishable, as provided by law for the embezzlement of public funds." ^{4.}

"Section 8. Tokens Authorized.--That in order to enforce the collection of the exact amount of the said tax hereby levied, the Supervisor is authorized and required to design and have manufactured tokens of such size and denominations as he may determine." ^{5.}

"Section 15. If any section, subsection, sentence, clause or phrase of this Act be held invalid, such decision shall not affect the validity of the remaining portions of said Act. The legislature hereby declares that it would have passed this Act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be so declared invalid." ^{6.}

3. Louisiana op. cit., pp. 6 & 7.

4. Ibid, p. 8.

5. Ibid, p. 10.

6. Ibid, p. 15.

MAINE

This state passed a sales tax during the year of 1937 and it was to become effective this same year after it was put up to the people as a referendum measure. This was voted upon August the 16th and the tax was voted down by the people. It was an Act entitling the state to collect 1% upon retail sales with a maximum of \$100 on any one article. Anything above \$100 on any one article was tax exempt. It was to be upon the gross receipts from retail sales of tangible personal property and services. There was also to be the same rate of tax upon all public utilities and amusements.

Exemptions included motor fuels, fertilizer, grains, stock feeds, and also all material used in manufacturing. Any merchant whose total annual sales were less than \$400 was also exempt because the tax was due from the merchants quarterly. A license fee of \$1.00 was to be issued and the tax was to be passed onto the consumer as of the stated 1% rate sales tax.

The Maine legislators must have felt assured of its permanency because they appropriated the sum of \$300,000 for the year of 1938 to provide old age assistance and a minimum educational program out of the supposed sales tax fund. The collection of the tax was to be in the hands of the state tax assessor and was to be collected every three months.

MARYLAND

This state had an emergency gross receipts sales tax in effect for one year beginning April 1, 1935, and the expiration date was March 31, 1936. It became a law under Chapters 188 and 539 during January of 1935, and became effective April 1, 1935. It was a tax based upon the gross receipts from the retail sale of personal tangible property and also upon the original certificate of title upon motor vehicles. The tax rate was 1% and the only exemption was upon the gross sales of motor vehicle dealers.

The tax was passed on by the retailer and was paid by him monthly. The collection of the tax was a joint affair between the State Comptroller and the Commissioner of Motor Vehicles. No certificate or license fee was required from the retail merchant.

The legislators overestimated their revenue from this 1% tax because the legislature in 1935 appropriated \$3,500,000 for relief to be taken from the sales tax fund and \$1,500,000 was appropriated for old age pensions. This made a total of \$5,000,000 which was to be distributed out of the proceeds and their yield from this tax was only \$2,629,000. However, to gain some benefits from emergency taxation measures they initiated in 1937 by Senate Bill 319 a tax measure of 1% upon motor vehicles and this is to be in effect until September 30, 1939. During this same session of early 1937, they passed by Senate Bill 1, Laws of 1937, a 1% tax on all admissions and this was in effect until September 30th, 1937.

MASSACHUSETTS

This state has never had a sales tax but proposals have been defeated in the House, two of these not getting past the Committee on taxation and finance.

MICHIGAN

Michigan has a retail general sales tax that was adopted in 1933 and became effective this same year upon June the 23rd. In 1935 the act was amended under Act 77 and became permanent with no expiration date listed. The act as originally passed was called a general sales tax and this was at a rate of 3%. In the later amendments this same rate was maintained. The measure is listed as a tax upon the proceeds from retail sales of tangible personal property and includes gas and electricity.

In 1937 were passed the Use Tax Acts and these became effective upon October 29th of the same year. Under the Use Tax Acts property already taxed upon to \$10 a month now became exempt. Before this last exemption the State but exempted \$50 a month from taxable gross proceeds. By this I mean, any merchant whose gross proceeds were \$50 or less during the month he was exempted from the tax although he was compelled to file a return to the Board of Tax Administration. Also exempted in the first act were materials used in industrial processing or agricultural producing.

Under the first act, there was no definite provision in the law about rules and regulations to permit passing it on to the consumer with notice but this was amended and the later act specifically states that the tax must be passed onto the consumer. A license fee of \$1.00 is assessed upon each merchant dealing in the sale of personal tangible property and the merchants must remit the amount of revenue monthly to the Board Of Tax Administration. The Board Of Tax Administration is allowed 1 2/5 per cent for collection costs and all money collected must be paid into the State General Fund. For the past fiscal year they collected \$45,642,000 from their tax upon the gross proceeds from retail sales of tang-

ible personal property.

“Last year they had legislation pending to try to increase the rate but this was defeated. The scope of her tax is upon tangible personal property, utility services, and upon publications.

During the fiscal year of 1936, I find that their revenue per capita from retail sales amounted to \$9.62 and the tax per family was \$39.47. In the per capita tax of all the states that had general sales taxes for the year of 1936, Michigan ranked third high, but in the per family tax she ranked second. There is only one state in the Union that has a higher per family tax and that is California. Michigan collects 41% of her entire revenue from the retail sales tax and in this respect ranks fourth amongst the states having this tax. The state does not employ the use of tokens.

This state enacted a Use Tax in 1937 and the nature of the act is:

“The “Use Tax Act” was enacted at the 1937 session of the Michigan legislature to provide for the levy, assessment and collection of three per cent (3%) of the price of any and all tangible personal property stored, used or consumed in the State of Michigan, and to prescribe penalties for violations of the provisions of the Act, as to all purchases subject to the Act made on or after November 1, 1937, the effective date of the Act.

“The “use tax” applies to the storage, use or consumption of tangible personal property purchased in interstate commerce or in any other state or country, for the purpose of storing,

using or consuming same in this state.

"The "use tax" does not apply until the tangible personal property, moved into interstate commerce, has come to rest in this state.

"The "use tax" is not upon shipments or operations of interstate commerce, but upon the privilege of storing, using, or consuming tangible personal property in this state after such commerce is at an end. The tax is not a burden on interstate commerce, nor does the tax in any manner hamper, interfere with or discriminate against transactions of interstate commerce.

"The purpose of the "use tax" is to place Michigan manufacturers and merchants on an even basis with those shipping their goods into Michigan from out-state, who have enjoyed tax exempt advantages since the adoption on July 1, 1933, of the Michigan "General Sales Tax Act" known as Act No. 167 of the Public Acts of 1933, as amended. It is not a discriminatory tax and the two taxes, sales and use, taken and applied together, provide a uniform tax upon either the sale or use of all tangible personal property irrespective of where it may have been purchased.

"All purchasers who store, use or consume tangible personal property in this state on or after November 1, 1937, are subject to the payment of the "use tax," which is imposed and collected at the rate of three per cent (3%) of the price of such tangible personal property regardless of where the property is purchased, and the tax applies to the storage^{use} or consumption of tangible personal property in this state the sale of which has not already been subjected to the provisions of the Michigan "General Sales Tax Act"

above referred to, or the sale of which is exempt from sales tax." ^{1.}

Public Acts 1933--No. 167.

"Section 19. Testimony; immunity. No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation, or upon any hearing, when ordered to do so by the board upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the board, or its Agent. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying." ^{2.}

"Section 23. Advertising; reimbursement. No person engaged in the business of selling tangible personal property at retail shall advertise or hold out to the public in any manner, directly or indirectly, that the tax herein imposed is not considered as an element in the price to the consumer. Nothing contained in this act shall be deemed to prohibit any taxpayer from reimbursing himself by adding to his sale price any tax levied hereunder." ^{3.}

"Section 25. All sums of money received and collected under the provisions of this act shall be deposited by the board in the state treasury to the credit of the general fund, to be disbursed only on an appropriation or appropriations by the legislature." ^{4.}

1. Michigan Use Tax Act--Act No. 94, Laws 1937, p. 3.

2. Michigan Public Acts 1933--No. 167, p. 7.

3. Ibid, p. 8.

4. Ibid, p. 9.

HOUSE Enrolled Act.

"Section 9. In case any seller who is required or authorized to collect the tax fails to do so, he shall be liable personally for such amount as he failed to collect. In such case, the board shall have power to make an assessment against such seller, based upon any information in, or which shall come into its possession. The board shall give to the seller written notice of such assessment. Such notice may be served, upon the seller personally or by registered mail."^{1.}

"Section 10. If any person required by this Act to make a return neglects or refuses to make such return at the time required by or under authority of this act, the board shall have power to make an assessment against such person, based upon any information in, or which shall come into its possession. The board shall give to such person written notice of such assessment. Such notice may be served upon such person personally or by registered mail."^{2.}

"Section 15. Any seller who fails to register with the board as required under this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined the sum of twenty-five dollars for each day such failure, neglect or refusal to so register continues after notice to such seller from the board that he is required to register under this act."^{3.}

"Section 20. The board shall have power to make rules and regulations for the enforcement of the provisions of this act, and the imposition and collection of the tax. The board may employ

1. Michigan House Enrolled Act No. 71 Bill No. 317 59th Legislature Session of 1937, p.4.

2. Ibid, p. 4.

3. Ibid, p. 5.

SUCH assistants, clerks, stenographers or other employees and incur such other expense as it shall deem necessary to carry out the provisions of this act. Such employees shall receive such compensation as shall be fixed by the board and provided for by legislative appropriation."^{4.}

"Section 21. All monies received and collected under the provisions of this act shall be deposited by the board, not later than thirty days after the receipt thereof, in the state treasury to the credit of the general fund, to be disbursed only by appropriations by the legislature."^{5.}

4. Michigan op. cit., p. 6.

5. Ibid, p. 6.

MINNESOTA

This state with an original adoption of 1935 of a retail sales tax never became effective because it was vetoed the same year. The measure as passed was to become a retail sales tax of $\frac{1}{2}$ of 1%.

In a letter received from H. A. Nelson, who is secretary of the Minnesota Tax Commission, he stated that the only sales tax in Minnesota is a four cent tax on a gallon of gasoline.

MISSISSIPPI

The sales tax of Mississippi was first inaugurated in 1930, amended in 1932, 1934, and 1936, and is a Gross Sales Tax. The duration is permanent with no expiration date. The rate varies from $\frac{1}{8}$ of 1% to 2 $\frac{1}{2}$ % but for retailers of tangible property it is a uniform 2% tax. The tax is paid by the consumer and up until the 1936 amendment the consumer did not have to pay the tax if he didn't want to. The collection costs come under the Tax Commission and are due monthly. A license of \$1.00 is required by all businesses. The proceeds all go into the State General Fund and are not earmarked or otherwise set aside for special purposes. The exemptions are excise taxes to be deducted from the gross and upon non-profit organizations, cotton sales, insurance, school books, farm produce by the producer, fertilizers, seeds, etc. The yield for the past fiscal year was \$4,537,000.

Mississippi enacted a general sales tax law in 1930, but because of extremely low rates, high exemptions and credits, it had produced little revenue; therefore in 1932, by House Bill No. 328, an Emergency Revenue Act of 1932 was passed. This was an act to provide for the raising of additional public revenue by imposing a tax upon the privilege of engaging in certain businesses, to provide for the ascertainment, assessment and collection of said taxes, and to provide penalties for the violation of the terms, and to repeal "Sections 1 to 20 of Article 1 of Chapter 90, of the Laws of Mississippi of 1930."¹

1. Mississippi - Emergency Revenue Act of 1932, House Bill No. 328, p.1.

This Act of 1932 was again amended in 1934 and in 1936 respectively, and in 1936 it made the collection of the tax compulsory.

There are five different rates, - $2\frac{1}{2}\%$ on the natural resources of oil and gas; 2% on most retail sales and intrastate receipts of public utilities; 1% on automobile sales, manufactured bottled drinks, brick and cement products, and industrial sales of gas; $\frac{1}{2}$ of 1% on almost all other manufactured products; $1/8$ of 1% on wholesale transaction. The measure of the tax for retailers, wholesalers and public utilities is gross sales, and for manufacturers and extractors of natural resources it is the value of their products.

The act, as originally passed in 1932, provided for exemptions to the amount of \$1200 annually of receipts, which might be taken as monthly deductions to the amount of \$100. This act of 1932 also imposed the same tax at 2% on receipts from personal and professional services.

Before the use of the sales tax in this state, the State's eight mill annual general property levy was reduced in 1934, by three mills, or $37\frac{1}{2}\%$.

"The sales tax during 1932 and 1933 yielded \$4,157,010.83. This was \$857,010.83 more than the amount which the Act was expected to produce. The State's budget has been balanced and kept in balance. Its credit is good, probably as good as that of any other State in the Union. It meets every dollar of its obligations promptly when due. It can purchase supplies for its institutions on as favorable a basis as that enjoyed by any other state or by the

Federal government itself. The state's warrants are not trafficked in, because they are paid one hundred cents on the dollar, immediately upon presentation." ²

The sales tax data by rates discloses some interesting results. Of the total tax collected, - \$3,854,987.64 - on sales made in 1934, the rate of 2½% on natural gas extraction produced \$2,249.26. The 2% rate yielded \$3,319,862.02. The 1% rate on automobiles and manufactured bottled beverages brought in \$212,302.66. The ½ of 1% rate on certain manufactured products realized \$219,448.76. The ⅓ of 1% rate on wholesalers produced \$101,124.98.

Certain Persons exempt from provisions.

"Section 6. There are, however, exempted from the provisions of this act:

" (a) Insurance companies which pay the State of Mississippi a tax upon premiums levied under the provisions of the laws of the state of Mississippi, persons paying a tax under the Sea Foods Act, and persons paying a tax under the amusement revenue Act of 1934.

" (b) Building and loan associations, federal savings and loan associations, state and national banks, and mutual savings banks, not having a capital stock represented by shares and which are operated exclusively for the benefit of their depositors.

" (c) Labor, agricultural and horticultural societies not operated for profit. All sales made by agricultural or co-operative associations organized under Chapter 69, code of Mississippi of 1930, of agricultural products, or the by products thereof produced in the preparation or processing of such agricultural products for market for the benefit of the producer thereof, and the products of farm,

grove or garden.

" (d) Fraternal benefit societies, orders or associations operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident or other benefits to the members of such societies, orders or associations, and to their dependents.

" (e) Corporations, associations or societies organized and operated exclusively for religious, charitable, scientific or educational purposes.

" (f) Cemetery associations

" (g) Business leagues, chambers of commerce, boards of trade, civic leagues and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and from which no profit inures to the benefit of any private stockholder or individual.

" (h) Hospitals, infirmaries and sanatoria.

" (i) The gross proceeds of sales of cotton, whether lint cotton or seed cotton, baled cotton, whether compressed or not, and cotton seed in its original condition.

" (j) Amounts received under life insurance policies and contracts paid by reason of the death of the insured.

" (k) Amounts received (other than amounts paid by reason of death of the insured) under life insurance endowment or annuity contracts, either during the term or at maturity, or upon surrender of the contract.

" (l) Amounts received from the sale of school books.

" (m) Sales of all fertilizers, bagging and ties, insecticides, seeds, boxes, crates and syrup cans used in growing and preparing agricultural products for market.

" (n) The gross proceeds of sales made by persons who produce live stock, poultry and other products of farm, grove or garden, when said sales are made by the producer, or members of his immediate family, or employees selling such products for the producer, in the original state or condition of preparation for sale at the place of production, and before such products are subjected to any other process coming within a class of business, the privilege of conducting which is taxed by the provisions of this act.

(o) Amounts received from sales to public schools, when such schools are supported wholly or in part by funds provided by the state of Mississippi.

" (p) The gross proceeds of sales made by persons who can, pack, bottle or pickle in this state any vegetable or fruit products of farm, grove or garden grown or produced in this state, when said sales are made in wholesale lots by the original canner, packer, bottler or person pickling and preparing the same for market." ^{3.}

3. Mississippi.- The Emergency Revenue Act Of 1934

(Amended) Chapter 119, Laws 1934,

House Bill No. 70, House Bill No. 559.

House Bill No. 597, pp. 12 & 13.

MISSOURI

The history of the sales tax in this state is quite unique because it has had three different laws and the last two laws enacted were for increased rates. The first law provided for a one-half of one per cent Retailers Occupation Tax, absorbed by the merchant of which one-third went to schools, the balance for relief purposes. This was in effect from January 15, 1934, to August 26, 1935, inclusive.

The second law, effective from August 27 to June 7, 1937, inclusive, was a one per cent sales tax paid by the user or consumer and used for schools, relief, care of insane, and Old Age Pensions. In connection with this law she used one mill and five mill cardboard tokens.

In her third law, starting June 8, 1937, this State now has a two per cent sales tax law that is similar in all respects to the one per cent law except as for rate and the use of metal tokens instead of the cardboard tokens formerly used.

She estimated this two per cent law to produce approximately \$2,000,000 per month and the estimates will evidently come very nearly being correct, because in October, 1937 the receipts from the sales for this month amounted to \$1,863,809.26.

"Chapter 11 (H) Gross Receipts

Gross receipts is defined as - In computing the gross receipts, the merchant or seller should include not only all sales for cash but all sales "capable of being valued in money, whether received in money or otherwise." The merchant is privileged to exclude from the

gross receipts the value of all merchandise returned by purchasers if the same is refunded in cash or by credit. The gross receipts derived from leasing and rental transactions, where the right to continuous possession or the use of any article of tangible personal property is granted under a lease or contract, are taxable and the amount so received should be included in the return. The tax is to be paid to the lessee and collected by the lessor. The courts have defined "Gross Receipts" as the entire operative income from a business, without deductions of any kind. When a retail sale is made on credit or by time payment or by installments the sale should be computed in the gross receipts for the month in which payment or payments are received." ^{1.}

"(K) Licenses.- No license or permit is required to be issued to any person by the State Auditor to engage in any of the businesses mentioned in the Act. The fact that a license fee or any other forms of excise taxes, may be required by municipalities or the State of certain business in the State of Missouri, does not excuse the payment of the sales tax exacted from the merchant in the Act." ^{2.}

"(N) Taxation By Municipalities

"Any city, town or village is not precluded from exacting any form of excise or property tax now delegated by the statutes and the constitution of such city, town or village, but are expressly prohibited from exacting or imposing a tax in the form of a sales tax

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1. Missouri Sales Tax Act - House Bill No. 6, 59th General Assembly
Laws 1937, p. 21.
2. Missouri op. cit., p. 22.

or which, in substance, is the same, directly or indirectly, as this Act." ^{3.}

"Chapter III

"(b) Merchandise Sold By Sample Or By Order.

When merchandise is sold by sample or the order is taken by the seller and the goods are to be delivered direct to the purchaser at a later date from a foreign state, such a sale is not within the terms of the Act.

"When goods are shipped into the State of Missouri to an agent of the seller and the agent in turn proceeds to sell the goods to various purchasers who have not ordered the goods before shipment, such sales are within the terms of the Act.

"When merchandise is brought into the State of Missouri by truck or other vehicles and delivered to merchants, no order having been previously placed for the goods and the persons in charge of the trucks or other vehicles being empowered to make the sale and complete the transaction, the gross receipts from such sales are taxable. The same will apply to peddlers engaged regularly in business and the transaction being of the same nature. Merchandise shipped C.O.D. into Missouri from another state on order of the purchaser is not taxable." ^{4.}

"Chapter IV

"A. Extension Of Time For Filing Returns

The Auditor, for a good cause, may extend for not to exceed sixty (60) days the time for making any return or paying any tax re-

3. Missouri op. cit., p. 23.

4. Ibid., pp. 24 & 25.

quired under the provisions of the Act." ^{5.}

"C. Items Of Cost Of Production Or Sale Not Deductible

No deduction shall be allowed from gross receipts on account of the cost of the property sold, or services rendered, cost of materials used, labor or service cost, interest or taxes paid, freight, or any other expense whatsoever. Thus the full price paid for a suit of clothes made to order by the tailor for the customer is included in the gross receipts. In such case, the labor and skill is furnished in the production of the property sold. Likewise, the full amount paid by patrons for food and beverages prepared and served in restaurants and other eating be allowed for any overhead costs whatever." ^{6.}

"K. (2) Returns Filed Late

Failure of any person to remit the tax on the day when the same becomes due and payable to the State Auditor shall forthwith bear interest at the rate of 3% for the calendar month or any fraction thereof." ^{7.}

"(3) Estimation Of Tax. - By Auditor

If any person required to collect and remit the tax shall fail to file a return and pay the tax when due, the State Auditor shall estimate the amount of taxes due and payable upon any information in his possession or that may come into his possession. In addition thereto, a penalty equal to 10% of the amount of taxes estimated shall be imposed." ^{8.}

5. Missouri op. cit., p. 27. 7. Missouri op. cit., p. 39.

6. Missouri op. cit., p. 28. 8. Ibid, p. 39.

"(4) Fraudulent Return

If any person under the provisions of the Act who is required to collect and remit the tax shall file a fraudulent return a penalty in the amount of tax due and payable has been determined by the Auditor."^{9.}

"(5) Lien Against Person

Failure to pay any tax, interest or penalty as imposed under the provisions of the Act when due, the Auditor may file for record, in the Recorder's office of the county wherein the person resides, a notice of lien which shall specify the amount of tax, together with interest and penalty due, which lien shall have the force and effect of a judgment against the person therein named."^{10.}

The measure of this gross receipts retail sale of tangible property includes the sale of specified services, as well as, the sale of admissions, gas, electricity, water, telephone, laundry, advertising, and meals, and has but one exemption which is only upon non-profit organizations.

The funds are paid to the State General Fund and are distributed for allotted purposes from there.

9. Missouri op. cit., p. 39.

10. Ibid, p. 39.

MONTANA

This state does not have a general sales tax but during the special session of the Legislature of 1933 and 1934 there was introduced a bill known as the General Sales Tax Law, but this bill was defeated on a committee report and before it was considered on the floor of the House. This particular bill was never printed. Montana has a sales tax upon gasoline and liquor only.

NEBRASKA

Nebraska does not have a general sales tax and the only sales tax in effect is on gasoline. This was first imposed under Chapter 172 of the 1925 Session Laws in the amount of 2 cents per gallon. In 1929 it was raised to 4 cents a gallon, and in 1935 one cent per gallon was added for relief purposes. In 1937, this additional one cent tax was extended to June 30, 1939.

NEW HAMPSHIRE

New Hampshire has no sales tax, but a determined effort was made to enact such legislation at the 1937 session. The Legislature did not see fit to adopt the recommendations made by this tax commission and consequently the proposed bill was never passed.

The recommendation of the commission as proposed:

"A. New Sources Of Revenue.

1. A Retail Sales Tax Measured by the Value of the Property Sold.

(a) Covering all retail sales of tangible personal property of twelve cents or over.

(b) At the rate of two per cent on the sale price.

(c) Sales of water, gas, electricity, and motor fuels which are at the present time subject to taxation, and sales of liquor in stores alone being excepted.

(d) The tax be administered by the State Tax Commission and collected by and paid to the State Treasurer.

(e) The tax to be passed on to the consumer and to be added to the price of the article sold.¹

NEW JERSEY

This State had a surprising record of a swift turn in events of the general sales tax method of obtaining revenue. The state passed a general sales tax law to be in effect from July 1, 1935, to June 30, 1938, or for a period of three years under Chapter 268, Laws of 1935. This was repealed by Chapter of a special session the same year and became ineffective October 25, 1935. Thus, the experiment with this tax lasted less than four months. It was a tax upon the gross receipts from retail sale of tangible personal property and was paid by the consumer at a rate of 2%. The schedule was from 1 cent to 12 cents no tax; from 13 cents to 62 cents there was a 1 cent tax, and from 63 cents to \$1.13 it was 2 cents. The exemptions were upon commercial feed, gas, electricity, motor fuel, water, alcohol, magazines, and newspapers. A license fee of \$1.00 was required to be paid by all merchants, and the revenue collected from the sales tax was to be paid monthly by the businessman to the State Tax Commission. To this Tax Commission the State Legislature appropriated \$150,000 for the year of 1935 for collection costs and equipment for its administration but part of this sum was refunded. The purpose of the tax was to reduce the general property tax and for unemployment relief.

NEW MEXICO

This state enacted in 1934 its first general sales tax law under Chapter 7 of the Special Session Acts and was called the New Mexico Emergency School Tax Act, which became effective May 1, 1934. The new law of 1937 makes the act permanent by section 102. It was applicable to merchants, dealers, professions, trades, theaters, hotels, restaurants, and all lines of business having sales and income. It is a tax upon the gross receipts from business upon retail sales, utility services, amusements, communications, advertising, mining, coal, gas, oil, minerals, timber, transportation, professional services, and punch boards. The exemptions are upon royalties payable to the United States or the State, non-profit organizations, farm produce, salaries, insurance premiums, sale of school books, interest, dividends, gasoline, financial institutions, water, and farm produce.

The rate ranges from $1/8$ of one per cent to 2 per cent. Timber and mineral products have a $1/4$ % rate. Trucks and tractors have a $1/2$ % rate. Contractor's teams and carbon dioxide gas come under the 2% rate. Oil, potash, automobiles, agricultural implements are under the $1/2$ % rate. Electricity that is used for manufacturing or for irrigation purposes has a rate of $1/4$ of one per cent. The tax is on the entire production in the state regardless of place of sale or delivery. The tax must be paid by the consumer and the proceeds are paid into the Emergency School Fund and are also distributed from this fund. Payments under protest

that are paid, however, go into the Emergency School Suspense Fund. The collection costs are under the Bureau of Revenue and they cannot exceed 3% for administrative purposes and expenses. The average amount collected annually from this sales tax is about \$2,500,000.

Under the first law of 1934 the merchant could not pass the tax onto the consumer. The new law of 1937 is substantially the same as the first 1934 Act, except that it makes provision for the use of tokens and it permits the merchant to absorb or pass the tax onto the consumer, in which latter case tokens were made available for making tax change.

"Article 1. General Provisions and Definitions

"Section 1. The purpose of this act is to meet the emergency existing in regard to the public schools of the State, and to provide funds for the proper maintenance and support of the public schools.¹

"Section 11. If the Tax Commission is not satisfied with the return and payment of tax made by any taxpayer, it shall make an additional assessment of the tax due from such taxpayer, based upon the facts contained in any return or upon any information within its possession, or that shall come into its possession, and the board shall give to the taxpayer written notice, in person or by mail, of the amount of such additional tax, and shall add thereto a penalty equal to 50% of such additional tax, together with interest thereon at the rate of 1% per month on the additional tax and penalty from the date the tax was due."²

1. New Mexico Emergency School Tax Act. Chapter 7, Laws 1934, P. 3.

2. Ibid, pp. 16 & 17.

"Section 319. It shall be the duty of every person engaging or continuing, in New Mexico, in any business for which a tax is imposed by this act to keep and preserve suitable records of the gross receipts of such taxpayer, and such other books and accounts as may be necessary to determine the amount of the tax for which he is liable, under the provisions of this act; and it shall be the duty of every such person to keep and preserve, for a period of two years all production and sale records, all records of business and other charges for services rendered, and all invoices of goods and merchandise purchased for resale; and all such books, invoices and other records shall be open for examination at any time by the Tax Commission or its duly authorized agent."^{3.}

"Section 202. None of the taxes levied by this act shall be construed to apply to transactions in interstate or foreign commerce, or commerce with the Indian tribes, which, under the constitution of the United States, the State of New Mexico is prohibited from taxing; nor shall such taxes apply to sales made to the Government of the United States or any of its departments or agencies, nor to sales to the State of New Mexico or any of its departments, agencies, or political sub-divisions; nor to any businesses or transactions exempted from taxation under the constitution of the United States or the constitution of the State of New Mexico; provided that if the Congress of the United States shall hereafter permit the taxation of transactions in interstate commerce, the taxes levied by this act shall apply to such transactions to the extent permitted by any Act of Congress."^{4.}

3. New Mexico Emergency School Tax Act. Chapter 7, Laws 1934, p. 19.

4. New Mexico Emergency School Tax Act. Chapter 73, Session Laws of 1935, p. 10.

"Section 102. Effective Date.--This act shall be effective from and after the thirtieth day of June, 1935."^{5.}

"Section 103. (K) "Location business" shall mean game machines or devices of any character whether or not any element of skill is required in their operation, and shall include marble games, pin games, reel games and any other game or device involving skill or chance."^{6.}

"Section 201. (H) Engaging In Professions: rate of tax, At an amount equal to two per cent of the gross receipts of any person engaging or continuing in the practice of any profession, or of an any business in which the service rendered is of a professional, technical or scientific nature and is paid for on a fee basis, or by a consideration in the nature of a retainer."^{7.}

"Section 201. (J) Selling Realty: rate of tax. -- At an amount equal to two per cent of the gross receipts of the business of every person engaging or continuing in the business of selling real estate, but the gross receipts of such a person shall include only the total amounts of the commissions for such business."^{8.}

"Section 315. Tax Is Personal Debt. - Every tax imposed by this act, and all increases, interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt due from the taxpayer to the State of New Mexico, and may be collected by action in any District Court, instituted in the name of the

5. New Mexico Emergency School Tax Laws, Chapter 73, Session Laws of 1936 - As Amended by Chapter 192, Session Laws of 1937, p. 5.

6. Ibid, p. 5.

8. Ibid, p. 11.

7. Ibid, p. 11.

state by the Attorney General or any District Attorney, at the request of the Tax Commission (Bureau of Revenue). This remedy shall be in addition to all other existing remedies." ^{9.}

"Section 319. Examination Of Records. - The Tax Commission (Bureau of Revenue), or its authorized agents, may examine any books, papers, records or other memoranda or data of the taxpayer bearing upon the correctness of any return, or for the purpose of making a return where none has been made, and the Tax Commission or any member thereof may require the production of books, papers and records, and the attendance of any person, and take his testimony with respect to any such matter, with power to administer oaths to such person or persons." ^{10.}

9. New Mexico Emergency School Tax Law, Chapter 73, p. 22.

10. Ibid, p. 24.

NEW YORK

Bills pertaining to a general sales tax law were first introduced in this state in 1932, and in 1933 a law was enacted under Chapter 281 on the 19th day of April and became effective upon May 1st of the same year. In 1934 the Constitutionality of the sales tax was questioned in the case of Park and Tilford versus Graves, and D. A. Schulte, Inc. versus Graves, 226 N. Y. 592, 665. The tax was held constitutional. The tax was absolutely an emergency measure and was not reenacted after 1934, and it was in effect from May 1, 1933, to June 30, 1934.

"Exemptions - Schedule A. No tax is to be imposed upon cereals and cereal products, milk and milk products, meat and meat products, vegetables and vegetable products, fruits, spices, salt, sugar and sugar products, other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products, other than candy and confectionery.

"The foregoing shall not include spirituous or malt liquors; soft drinks; and sodas and beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, other than coffee, tea, and cocoa." ^{1.}

"Section 1 - 400. Declaration Of Public Emergency; imposition of tax on gross sales of goods, wares and merchandises sold at retail. It is hereby declared that by reason of the lack of opportunity for employment now existing, an emergency directly

1. Laws of New York - Chapter 281 Laws of 1933, p. 2.

affecting the public health and welfare of the people exists requiring governmental cooperation with established municipal agencies in order to ameliorate the economic conditions of the people and insure their health and welfare. With that end in view, a tax is hereby imposed upon the gross amount of sales of all goods, wares and merchandise of every nature and description sold at retail in this state. The provisions of this article shall remain in force and effect until the proclamation of the governor the emergency requiring its enactment is declared no longer to exist, and all moneys remaining in the special fund provided for by section four hundred and five at the time of the issuance of such proclamation, not then obligated, shall be transferred by the comptroller into the general fund." ^{2a.}

"Section 1 - 393. Records.

Records to be kept by persons selling tangible personal property at retail. Every person selling tangible personal property at retail in this state shall keep such records of receipts and in such form as the tax commission may by regulation require. Such records shall be offered for inspection and examination at any time upon demand by the tax commission or its duly authorized agent or employee and shall be preserved for a period of three years, except that the tax commission may consent to their destruction within that period or may require that they be kept longer." ^{3.}

2. State Of New York, Laws 1932, S. B. No. 517, p. 2.

3. New York - State of New York Bill No. 1410 - Int. 1311 In Assembly February 15, 1933, p. 6.

"Section 1 - Article 17. (c) The work "sale" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration;

(d) The term "tangible Personal Property" means coporeal personal property;

(e) A retail sale or sale at retail means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property."^{4.}

"Section 1 - 403 (3) - There shall be attached to each and every article, offered for sale at a retail price of fifty cents or more, a tag, sticker or marker upon which shall be printed the amount of state tax on such article."^{5.}

"Article 2. Rate Of Tax. --The tax is at a rate of one per centum upon receipts from the sale of tangible personal property at retail."^{6.}

"Article 7. Trade And Cash Discounts. - The "total amount of the sale price" does not include trade and cash discounts."^{7.}

"Article 12. Even though one sells tangible personal property at retail, he is not required to file a return unless his receipts from taxable sales for a quarter exceed \$1250, except that returns for the months of May and June, 1933, must be filed if receipts from taxable sales exceed \$833.34"^{8.}

4. New York State of New York, Bills Nos. 2269, 2459, 2811-Int. 2030 In Assembly March 9, 1933, p. 3.

5. New York State of New York, Bill No. 2613-Int. 2260 In Assembly March 24, 1933, p. 16.

6. New York Sales Tax Regulations, Chapter 281, Laws 1933, p. 9.

7. Ibid, p. 11.

8. Ibid, p. 15.

Article 23.**Taxable**

Animal, bird and dog food
 Beverages, such as beer and other spirituous and malt liquors
 Bleaches
 Bluing
 Bottles and bottle caps
 Brooms
 Brushes
 Candles
 Candy and confections
 Cigarettes
 Cigars
 Clothes pins
 Disinfectants and exterminators
 Fruit jars, rubbers and caps
 Fruit juices adulterated
 Malt extracts
 Matches
 Nuts - chocolate, glazed or candied
 Paper napkins and towels
 Polishes
 Soap
 Soft drinks

Tobacco

Water - carbonated and bottled^{9.}**Nontaxable**

Bread and baked goods
 Coconut
 Crackers
 Extracts - flavoring
 Extracts of meat
 Flour
 Fruits - fresh, canned and dried
 Fruit juices in pure and unadulterated state
 Gelatine
 Jelly powders
 Malt - Bakers
 Malted milk
 Nuts - plain and salted
 Peanut butter
 Pies, pie crust and fillings
 Sauces
 Soaps
 Spaghetti

It is necessary to have a state license but there is no fee required. There is no license actually or physically issued but the first sale of tangible personal property at retail on and after May 1, 1933, brought the seller under the provisions of the act. The yield during the time that the act was in force was \$30,874,305.

NORTH CAROLINA

North Carolina first adopted the general sales tax in 1933 and this was to extend for a period of two years. In 1935 amendments were made to the original act, and again this newer measure was to become effective for two years. Again in 1937 under House Bill 35, Laws of 1937, General Revenue Act of 1937, Schedule E., the tax was to be effective from July 1, 1937, to June 30, 1939. In this latest act the State has a Use Tax and in this the measure was extended to building material with a rate of 3%. Under the last act provisions were made for an adequate audit department.

The exemptions are upon gasoline, commercial fertilizer, products of the farms, basic foods, water on the first sale, forests, school books, and milk. There is also exempted after the tax is \$10 upon any single purchase. In other words this is the maximum tax upon any single purchase. For example, we could take the purchaser of an automobile. If the retail selling price of the automobile is \$1000, at a rate of 3% the tax would be \$30. Now, the person purchasing this automobile would not pay a \$30 tax; he would be paying only the \$10 because the law states that the exemption applies, with a \$10 maximum tax on any single purchase.

The rate is 3% upon retail gross sales but she also has a rate of 1/20 of 1% upon the wholesale merchants.

The reason for the inauguration of the sales tax was so that the State could cooperate with the Social Security program of Federal -

State coordination, and to have revenues to meet the obligations of the people within the state to have an effective program.

A license fee of \$1.00 must be purchased by all merchants or persons selling tangible personal property. The dues upon the gross sales are payable monthly and must be sent to the Commissioner of Revenue. This department allows the retailer for collection costs and this is deductible from their monthly returns that are made. The proceeds go into the fund of the Public Schools and are distributed from there. The tax is to be passed onto the consumer for retail sales only and during the past fiscal year the yield was \$10,184,000.

"Section 405. (a) Wholesale merchants. Upon every wholesale merchant as defined in this article, an annual license tax of ten dollars (\$10.00). Such annual license shall be paid in advance within the first fifteen days of July in each year or, in the case of a new business, within fifteen days after business is commenced. There is also levied on each wholesale merchant an additional tax of one-twentieth of one per cent ($1/20$ of 1%) of the total gross sales of the business.

"The sale of any article of merchandise by any "wholesale merchant" to any one other than a merchant for resale shall be taxable at the rate provided in this article upon the retail sale of merchandise. In the interpretation of this article the sale of any articles of commerce by any "wholesale merchant" to any one not taxable under this article as a "retail merchant" except as otherwise provided in this article, shall be taxable by the wholesale merchant at the rate of tax provided in this article upon the

retail sale of merchandise. The Commissioner of Revenue is authorized to make appropriate regulations, consistent with this article to prevent abuse with respect to existing regulations defining transactions entitled to the rate of tax levied on sales at wholesale."¹

"(b) Retail merchants. Upon every retail merchant, as defined in this article, a tax of three per cent (3%) of the total gross sales of the business of every such retail merchant: Provided, however, the maximum tax that shall be imposed upon the sale of any single article of merchandise shall be fifteen dollars (\$15.00)."²

"(c) Motor vehicles. In addition to the taxes levied in this article or in any other law, there is hereby levied and imposed upon every person, for the privilege of using the streets and highways of this State, a tax of three per cent (3%) of the sales or purchase price of any new or used motor vehicle purchased or acquired for use on the streets and highways of this State requiring registration thereof under the Motor Vehicle Laws of this State, which said amount shall not exceed fifteen dollars (\$15.00), and shall be paid to the Commissioner of Revenue at the time of applying for certificate of title or registration of such motor vehicle. No certificate of title or registration plate shall be issued for same unless and until said tax has been paid: Provided, however, if such person so applying for certificate of title or registration and license plate for such motor vehicle shall furnish to the Commissioner of Revenue a certificate from a motor vehicle

1. North Carolina Emergency Revenue Act, H.B.35, Laws 1937, pp. 5&6.

2. Ibid, p. 5.

dealer licensed to do business in this State, upon a form furnished by the commissioner, certifying that such person has paid the tax thereon levied in this article, the tax herein levied shall be remitted to such person to avoid in effect double taxation on said motor vehicle under this article. The term "motor vehicle" as used in this section shall include trailers." ^{3.}

"111. Automotive Group

"2. Filling And Service Stations

"Sales of tangible personal property by filling and service stations with the exception of gasoline sales are subject to the sales tax wither at the retail rate or the wholesale rate, depending on whether the sale is for consumption or resale. Gasoline is taxed under a particular Gasoline Tax Statute and is not subject to the general sales tax. In order to claim an exemption, however, separate and complete records for such sales must be kept.

"The retail sale of lubricating oil and all other oils and greases sold by oil companies in their business of producing, manufacturing, blending, etc., from retail filling stations, bulk stations or from any other place at which retail sales are made, is subject to the retail sales tax and such manufacturers, producers, etc., are required to collect the three per cent (3%) tax and make returns thereof under the statute. The same liability extends to manufacturers and producers who sell their products throught merchants acting as agents and to those selling through peddlers.

"The sales tax shall be computed upon the sales price of lubricating oil, and in making returns the merchant shall compute and pay the tax upon the Gross sales without any deduction or allowance for the Federal Tax."^{4.}

"IV. Food Group

"5. Lunchrooms, Roadside Inns, Etc.

The sales at retail by lunch rooms, roadside inns, etc., will be taxable at the three per cent (3%) rate of tax upon the retail sale of merchandise. The tax will apply on the sale of all prepared meals prepared and subsequently sold to the consumer."^{5.}

"VI. General Merchandise Group

"1. Second-Hand Stores

"Retail dealers in second-hand merchandise of every kind and description are, under the meaning of the article, retail merchants, and subject to all of the provisions of the article relative to procuring privilege licenses, making reports and paying the amount of tax due on gross taxable sales.

"Purchases of second-hand merchandise, by dealers in such merchandise, in the interpretation of the article, are purchasers of new merchandise, and when sold at retail, unless otherwise exempt is subject to be three per cent (3%) retail rate of tax."^{6.}

"VIII. Unclassified Group

"2. Bookstores, Stationery, School Supplies, Etc.

Sales at retail by book, stationery and school supplies stores,

4. North Carolina Sales Tax - Revised Rules And Regulations - July 1, 1937,
p. 11.

5. Ibid, p. 14.

6. Ibid, p. 18.

with the exception of sales of public school books on the adopted list, and the selling price of which is fixed by the State contract, are taxable sales and, therefore, subject to the three per cent (3%) sales tax, unless otherwise exempted under the rules and regulations heretofore mentioned as applicable to all types of businesses." ^{7.}

U. North Carolina Sales Tax - Revised Rules and Regulations
July 1, 1937, R. 27.

NORTH DAKOTA

North Dakota first tried to pass a general sales tax in 1934 but the first law was rejected. The next year she was successful and enacted legislation that became effective in 1935 and this was known as the Retail Sales Tax. It is a tax upon the Gross receipts from retail sales of tangible personal property, certain public utilities and admissions above 10 cents. Subject to the tax are also municipalities selling utility services. The exemptions are upon transportation, fairs, credit to relief agencies, non-profit organizations, any article already taxed by the state, and school books. The tax must be listed by the merchant and is passed onto the consumer. The rate is 2% and the yield for the past fiscal year from the retail sales tax was \$2,035,000. The returns must be made by the merchant quarterly and penalties are attached for failure of prompt returns. A license fee of 50 cents is charged for each permit and an applicant having more than one place of business must have a permit for each place of business. The collection costs are under the administration of the Tax Commissioner and he cannot exceed 3% for expenses.

By House Bill 248, Laws of 1937, she also passed the Use Tax which is an excise tax on motor vehicles. This became effective March 10, 1937, and the measure is intended for motor vehicles upon which the retail sales tax has not been paid. Motor vehicles upon which the retail sales tax has been paid are exempt. The rate is the same as for the Retail Sales Tax Law and the collection Costs are in the hands of the Motor Vehicle Registrar and the funds are

paid into the Motor Vehicle Retistration Fund. This use tax only applies to motor vehicles purchased after March, 10, 1937.

The Retail Sales Tax law was extended for two years more and is to be effective from May 1, 1937, to June 30, 1939.

"Section 11. Permits - It shall be unlawful for any person to engage in or transact business as a retailer within this state, unless a permit or permits shall have been issued to him as herein-after prescribed. Every person desiring to engage in or conduct business as a retailer within this state shall file with the Commissioner an application for a permit or permits. Every application for such permit shall be made upon a form prescribed by the Commissioner and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the Commissioner may require. The application shall be signed by the owner if a national person; in the case of an association or partnership, by a member or partner thereof; in the case of a corporation; by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written cevidence of his authority."^{1.}

"Section 11. - 2. At the time of making such application, the applicant shall pay to the commissioner a permit fee of fifty cents (50¢) for each permit, and the applicant must have a permit for each place of business.

"6. The Commissioner shall charge a fee of one dollar for the issuance of a permit to a retailer whose permit has been previously revoked."^{2.}

1. North Dakota 1937 Sales Tax Act - Rules & Regulations, p. 11.

2. North Dakota op. cit., p. 12.

"Section 21. Correction Of Errors -- If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of this Act, then such amount shall be credited against any tax due, or to become due, under this act from the person who made the erroneous payment, or such amount shall be refunded to such person by the Commissioner." ^{3.}

"Section 25. - Allocation Of Revenues.

All monies collected and received under this act shall be credited by the State Treasurer into a special fund to be known as "The Retail Sales Tax Fund." Out of this fund the State Treasurer shall first pay the expenses of administering this act, not to exceed, however, an amount not to exceed three per cent (3%) of the gross collections, and the payment of refunds allowed under this act. The net amount of monies remaining in said "Retail Sales Tax Fund." shall be allocated and distributed as follows:

"(a) The State Board Of Equalization is authorized, directed, empowered and required, at any regular or special meeting, from time to time, between the effective date of this act and June 30, 1939, to transfer into "The State Public Welfare Fund" the sum of not to exceed \$2,500,000 to be expended by the State Public Welfare Board for any and all of the objects and purposes prescribed, authorized, permitted and required by law, including those authorized and required by Section 6 of Chapter 221 Laws of 1935, in co-ordination with and supplementary to any funds made available for expenditure for like purposes and objects in North Dakota from funds appropriated by Congress and allocated by any Federal Board, administration or agency or made available from any other source.

"(b) The State Board Of Equalization is further authorized, directed, empowered and required, at any regular or special meeting, from time to time, between the effective date of this act and June 30, 1939, to transfer from said "Retail Sales Tax Fund" to the "State Equalization Fund" the sum of not to exceed \$5,500,000 to be expended for any and all of the objects and purposes prescribed, authorized, permitted and required by law.

"(c) The State Board of Equalization is further authorized, directed, empowered and required, at any regular or special meeting, from time to time, to authorize and direct the State Treasurer to make distribution out of said "Retail Sales Tax Fund," such amounts of money as, in the opinion of said Board, are not required for carrying out the provisions of subdivisions (a) and (b) of this section, as follows:

"Said State Treasurer shall transfer and pay over such monies to the County Treasurers of the several counties of the state on a pro rata basis based upon the total amount of money paid into said "Retail Sales Tax Fund" from such counties during the two quarterly periods next preceding the date of such distribution and such County Treasurer shall credit such monies so received into the "County Poor Relief Fund" created by Chapter 98 Laws of 1933 and such monies shall be used and usable only for the relief and welfare activities of the county as are prescribed, authorized, permitted and required by law and it shall be the mandatory duty of the Board of County Commissioners of each county to so use and expend such monies and to reduce and replace the appropriations made or to be made in their county for such relief and welfare activities by the amount of such monies

so received." ^{4.}

"Section 26. All monies now in the Retail Sales Tax Fund created by Chapter 276, Laws of 1935, or collected under said Chapter, are hereby appropriated and transferred into the Retail Sales Tax Fund created by this act and shall be allocated and used as herein provided." ^{5.}

"Section 27. Emergency -- This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval." ^{6.}

4. North Dakota op. cit., pp. 18 & 19.

5. Ibid, p. 19.

6. Ibid, p. 19.

NEVADA

Governor Kirman states that, "he is very happy to inform me that up to the present time, Nevada has not yet found it necessary to impose upon its people a Sales Tax. The only Tax of that type that we do have is a tax on liquor."

OHIO

In 1931 this state had its first introduction to sales tax legislation and this was a proposal for a 1% general sales tax and was introduced early in that year. From then on bills were introduced with regularity, and were of all types, gross income, selective, general, and retail sales. The problem of providing aid for local governments, due in the main to relief requirements, reached such magnitude that a selective tax, with a rate of 10%, was levied on cosmetics, soft drinks and similar beverages, admissions to amusements, entertainments, and other related activities. This tax became effective in May, 1933, and continued until the passage by the 90th General Assembly of Amended House Bill No. 134 which was approved on December 15, 1934, and became operative on January 27, 1935. During the existence of that and succeeding sales tax measures the rate of tax on the above enumerated items has been dropped to 3%. After January 1, 1937, the sales tax was made permanent in this state.

The measures are upon general sales tax and a use tax, which latter is listed as a storage, use, or consumption tax. The Use Tax was passed by House Bill 590, Laws of 1935, and became effective that same year. The Use Tax was an act to provide for the levy and collection of any excise tax on the storage, use or other consumption in that state of tangible personal property for the purpose of providing revenue for the use of the state public school fund

of the state, and for the purpose of reimbursing the state for the expense of administering the act.

"The Use Tax was enacted to supplement the Ohio Retail Sales Tax, by imposing a like tax for the privilege of using within this state tangible personal property purchased at retail subsequent to January 1, 1936, and in respect to which property neither a sales tax nor a use tax has been imposed by this state.

"The primary purpose of the Use Tax is to protect the merchants of Ohio from discrimination arising by reason of our inability, under federal law, to impose a tax upon sales made to our residents by competitive merchants in other states.

"In general, the Use Tax applies upon the use of any property, the sale of which would have been subject to our Sales Tax had it been purchased within this state. Conversely, it does not apply upon the use of any property, the sale of which has been subjected to our Sales Tax. Thus, these two methods of taxation stand as complements to each other in our state revenue plan, and taken together, provide a uniform tax upon either the sale or use of all tangible personal property, irrespective of where it may have been purchased." ¹

Let me explain this act more specifically. As an illustration we could use lumber. A firm could ship lumber into the state and have it in storage for less than one year before moving it. Under the general property tax law this lumber would have been exempt from

1. Ohio Use Tax Law and Regulation H. B. No. 590, Laws 1935, p. 2.

taxation but under this new law it would be taxed for storage within the state or the same could be said of lubricating oils, gasoline, or materials to be used in manufacturing.

This state does not issue metal or card disks but uses tax receipt stamps. A person can purchase a stamp book and whatever the sales tax is upon his purchase, the merchant can remove the amount from the consumers stamp book and paste it upon his purchase. The merchant can also buy and do buy these prepaid tax receipts stamps and whenever his supply gets low he can reorder them. They also have receipt cards that are sold to the merchants and consumers and these have ten one-cent punches, ten two-cent punches, six, five-cent punches, and four ten-cent punches upon them bringing the total amount to one dollar. Thus, a consumer can purchase a card for three cents and carry it with him and have the amount punched out for whatever it would be for each specific purchase. Any person leaving the state can turn in his full or partially used card to any retail merchant or sell it to any consumer and get his money reimbursed to whatever amount is left upon the tax. California also has a plan similar to this in which stamps may be used. There is no tax for less than one cent and the schedule in Ohio is any purchase less than 9 cents, no tax; 9 cents to 40 cents or less the tax is 1 cent; 41 cents to 70 cents or less it is 2 cents; 71 cents to \$1.00 or less it is 3 cents; 3 cents on each full dollar; and for fractions over a dollar it is the same as up to one dollar. The rate is 3% upon one dollar, therefore, if a consumer purchased taxable merchandise to the amount of \$4.69 his tax would be 14 cents.

The Ohio sales tax is collected from consumers by licensed vendors in the state on all sales and rentals at retail of tangible personal property excepting certain items and types of transactions specifically exempt. Among the exempted items are gasoline, cigarettes, beer and wine, which are taxable under separate excise taxes, bread, milk, relief order, sales to the Federal government, to the State and other political subdivisions, farm products, feed, fertilizer, salt, artificial gas, articles already taxed, non-profit organizations, and good for human consumption sold off premises.

Every vendor is required to maintain a sufficient inventory of tax receipts to cover reasonable business needs. As the vendor purchases these receipts from the County Treasurer in advance of the actual retail transaction, the tax is collected by the state in advance.

Everyone engaged in retail activity is licensed, and a fee of \$1.00 is charged but it is not necessary to renew it annually; the only time necessary is when there is a change in the firm doing business under different vendors.

"Section 43. Whoever, being required by this act to make a return to the commission, fails or refuses to make such return within the time hereby or hereunder required, or making false or fraudulent return, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars for each offense."^{2.}

"Article 2. Rentals - Rental of items of tangible personal property and retail sales of such items are synonymous within the meaning of the act, as basis for the collection of the tax. Where, for a consideration, the title or possession, or the use of tangible personal property is obtained, it is immaterial for the purposes of this act, whether such consideration is referred to as "price," "rent," "rental," or "rental price." In any event, the tax is to be computed on the aggregate money value of the consideration (however, this regulation shall not be applied to items now covered by the Admissions Tax Law). Businesses engaged in the renting of books, clothing, furniture, typewriter, office supplies, radios, cameras and the like are "making sales," within the meaning of the Act and must collect the tax on the "rental price" of all items "rented or sold" by them." ^{3.}

"Article 1V. (A) Exchange and Barter. Where the vendor does not establish a money selling price, but completes the transaction by exchange for other items of tangible personal property, the tax shall be computed on the basis of the fair retail price of the article sold." ^{4.}

"Article 1V. (N) Nitroglycerine or Explosives. Sales of nitroglycerine or explosives which are used in the shooting or explosion of an oil or gas well, or coal mine, are not subject to the tax." ^{5.}

3. Ohio Retail Sales Tax Law H. B. No. 134, Laws 1935, p. 7.

4. Ohio Sales Tax Law Regulations No. 1. H. B. No. 572 Laws 1935, p.27.

5. Ibid, p. 42.

"Article XV. (B) Exchanged Merchandise. When merchandise upon the sale of which the sales tax has been collected, is exchanged for a taxable article upon the sale of which the same amount of tax should be collected, it is not necessary for the vendor to refund the amount of tax to the consumer and cancel other prepaid tax receipts. If such merchandise is exchanged for a taxable commodity of higher value, the tax may be collected upon the difference in selling price of the two articles. When such merchandise is exchanged for an article of lesser value, the tax may be refunded to the consumer, based on the difference in the selling price of the two articles, provided, however, sufficient tax is retained by the vendor to cover the selling price of the new article. In such case, the vendor is entitled to make application for reimbursement for the amount of tax which he actually refunded to the consumer."^{6.}

The yield for the fiscal year during 1935 was \$47,848,000. The collections are due monthly and are under the administration of the Tax Commission. The distribution of the proceeds were for County poor relief excise fund for 1937, \$4,000,000 and for 1938 it is set for \$2,750,000. Poor relief in 1937 was allotted \$6,000,000 and the same is allowed for the year of 1938. The balance of the proceeds are that 60% go into the State Public School Fund, and the 40% for local government fund. Note, that none of this money goes into any fund for state governmental purposes.

6. Ohio op. cit., pp 51 & 62.

OKLAHOMA

The first sales tax law that was enacted by the Oklahoma Legislature was as an emergency measure and became effective July 10, 1933. The rate of this first tax was one per cent and it was upon the gross proceeds of sales at retail. By its own terms it was due to expire on June 30, 1935, but the 1935 session of the Oklahoma Legislature extended the life of it another two years. At a special election held on July 7, 1936, the people voted to increase the tax from one per cent to two per cent, and it provided that the additional amount raised should all be appropriated to the State Assistance Fund to be paid out to those persons qualifying for assistance, most of whom are those persons receiving Old Age Pensions.

In 1937, by House Bill No. 206, the Oklahoma Legislature extended the life of the law another two years and provided that 97 per cent of the total amount collected shall be appropriated to the State Assistance Fund, to be paid out to those persons qualifying for assistance thereunder. The remaining 3 per cent was appropriated to the Oklahoma Tax Commission to pay for the expense of administering the Act.

There were not so many bills introduced in this state, but there were a large number of amendments offered, some of which were made a part of the bill as finally passed by the Legislature. The present law is for a general sales tax upon the gross proceeds from retail sales of tangible personal property, hotel rooms, meals, advertising, printing, radio broadcasting, public utilities, admissions, storage or parking, and theatre prizes.

The exemptions are, ^{upon} motor vehicles, non-intoxicating beverages, cigarettes, petroleum, gasoline, farm products, fraternal societies, churches, charitable organizations, school children transportation, transportation in cities of persons when the fare is 15 cents or less, school cafeterias, newspapers, municipalities, advertising, and wholesalers.

A license is issued to every vendor of personal tangible property at retail but no fee is charged for the certificate. The dues are to be sent into the Tax Commission monthly, but when the amounts are less than \$5 a month they can send them in quarterly. Goods brought into this state are taxable after they have been within the state for 24 hours if the original package is broken. This is a license tax.

In 1937, the Legislature also passed the Use Tax by House Bill 589, and this is upon the purchase price of tangible personal property that is used such as materials, containers, such as cans, bags, barrels, bottles, sacks, boxes, etc, when purchased outside of the state, and raw materials which are manufactured into tangible personal property.

During the fiscal year of 1936, the yield from the sales tax was \$5,835,000 but since the exactment of the Use Tax it is estimated to produce over \$11,000,000 annually or approximately about \$1,000,000 a month.

The state uses one mill and five mill tokens to enable the merchants to collect the accurate amount of the tax due. The Acts of 1935 and 1937, make the collection of such a tax mandatory upon the seller.

"Section 5. Sales of Farm and Dairy Products. The gross receipts or gross proceeds derived from the sale of raw products from the farm, orchard or garden, and the gross receipts or gross proceeds derived from the sale of livestock, poultry, poultry products, and dairy products, where such articles are sold on the farm directly by the producer thereof, are not subject to the tax imposed under the Consumers and Users Tax Act, 1937. This exemption does not apply to the sale of farm and dairy products which are produced in another state.

"The gross receipts or gross proceeds derived from the sale of such products as those mentioned above, whether the sale is made by the producer thereof or by another person, are taxable if such articles are sold at an established place of business not located on the farm where such articles are grown or produced.

"This means that a farmer, a livestock raiser, or a dairyman, may sell his farm products, his livestock, or dairy products, to consumers or users without paying the Consumers Tax only in the event he makes such sales at the farm where such products are produced.

"If he conducts a place of business away from the farm, where such products are sold, then the sale thereof is subject to the tax. If he produces milk or dairy products by either an established milk route or an unestablished milk route, such sales are subject to the tax."^{1.}

"Section 7. Motor Vehicle Parts and Accessories. The sale of a new motor vehicle which is subject to a special motor vehicle excise tax, is exempt from the tax levied by the Consumers and Users

Tax Act, 1937. This exemption, however, applies only to the standard equipment of such automobiles or other motor vehicles as determined by the factory list or base price thereon.

"Likewise, a used motor vehicle is subject to a special excise tax upon the first change of ownership during any calendar year subsequent to the year of purchase and registration, and is exempt from the tax imposed under the Consumers and Users Tax Act, 1937. This exemption applies only to the standard equipment of such automobiles or other motor vehicles as defined and limited by the factory list or base price at the time of manufacture.

"Sales of parts, tools, and accessories for new or used motor vehicles to consumers and users, are taxable under the law." ²

Section 10. Rentals and Leases. The gross receipts or gross proceeds derived from the rental or lease, within Oklahoma, of all forms and types of tangible personal property are taxable under the provisions of the Act. The gross receipts or gross proceeds derived from such rentals or leases are taxable on the whole consideration without any deduction for expenses incident to the conduct of business.

"For example: The gross receipts derived from the rental or lease of typewriters, automobiles, tires, accessories, oil field machinery and equipment of all kinds (including drill bits, rock bits, etc), rental libraries, accounting, bookkeeping or statistical machines of all kinds and character, are within the Act.

"The terms of the contract of such leases or rentals shall determine the basis for computing the tax. The tax is to be collected

on a billing basis, either on the lump sum at the time of execution or on a monthly or periodical basis as provided in the contract."^{3.}

"Section 1. Definition of the Term "Use". The term "Use" as it appears in the Use Tax Act is hereby defined to be and mean:

"The employment of an article of tangible personal property for the accomplishment of a purpose; to make use of; to treat; to convert to one's service; to avail oneself of; to employ for the attainment of some purpose or end."^{4.}

"Section 7. Containers, Wrapping and Packing Materials, and Related Products.--Persons in Oklahoma who purchase from points outside the State, containers, such as cans, bags, barrels, bottles, sacks, boxes, cartons, kegs, wrapping paper, twine, and the like, to be used in completing sales of tangible personal property and in the transportation or delivery of same, are deemed to be users of such containers and are required to report and remit the tax imposed by this Act."^{5.}

4. Oklahoma Use Tax Act, 1937 - H.B. No. 589, p. 52.

5. Ibid, p. 55.

OREGON

The 1935 Special Session of the Oregon Legislature enacted a sales tax law to be referred to the people of the State for approval or rejection at the Special Election held January 31, 1936. At this election the act was rejected by a vote of 187,319 to 32,106.

The Act was House Bill No. 85 and was, "To provide state funds for old-age assistance, aid to the blind, aid to dependent children and aid for the unemployed by imposing a privilege tax measured by gross income from retail sales of tangible personal property and, also, a privilege tax measured by gross income from wholesale sales of such property; providing for the levying, assessing, collecting and paying of such taxes; providing for the enforcement of the act and for the disposition of the revenues derived therefrom; making an appropriation for the administration of the act; and providing that this act shall be referred to the people for their approval or rejection." ^{1.}

The rate of the tax was to be 2 per cent and there was no duration time set for the Act. Cities and towns having a population between 9,000 and 10,500 may levy a sales tax if approved by the voters of said towns. The sales tax, however, was first rejected by the people through the referendum in 1933, 1934, and also in 1935.

1. Oregon Sales Tax - Special Session, Legislative Assembly, 1935.

H. B. No. 85., p. 1

PENNSYLVANIA

This state had an Emergency Relief Sales Tax in effect for a period of six months, from September 1, 1932, to February 28, 1933, at a rate of 1%. It was a sales tax upon the gross income derived from the sales of tangible personal property. This tax as the title implies was levied for emergency relief purposes and the yield for this short period and extremely low rate amounted to \$9,118,187.

RHODE ISLAND

"State Of Rhode Island & Providence Plantations
Executive Chamber
Providence

November 2, 1937

We have no sales tax in Rhode Island, and no tax of this kind has ever been proposed.

Very truly yours,

Robert E. Quinn
Governor"(a)

SOUTH CAROLINA

This state has no general sales tax law but does have a tax upon gasoline. A sales tax has been talked about but has as yet never gotten further than the committees.

SOUTH DAKOTA

This state enacted a general sales tax law that became effective in 1933, and is called a Retail Occupational Sales Tax. This first law carried a rate of 2 per cent and was in effect for two years. In 1935, under Chapter 205, (S.B. 36) it was made permanent and amendments were added to the first law. In 1937, the 1935 law was amended by House Bills 186, 188, & 196, and this time the rate was increased from two to three per cent and the Director of Taxation was given the power to use any kind of a set-up or system of payment in that they could use tokens, stamps, punch cards, or other devices in the collection of the sales tax. The director after making a survey of other states using stamps, etc, decided that the expense of such a system was too costly and did not warrant the amount of the expenditure.

The measure is upon the gross receipts from retail sale of tangible personal property, gas, electricity, admissions, communications, athletic contests, and water when sold by individuals. Under the new law there is no expiration date set, therefore, the measure is permanent. The only exemptions are non-profit organizations and articles already taxed such as beer and gasoline. Municipal utility corporations are also liable for the tax. A license fee of 50 cents is charged and the vendor must remit his payments monthly to the Director of Taxation.

The proceeds of this tax are paid into the State General Fund and are allocated in the following manner:

Old Age Assistance 33 $1/3\%$; Schools 21 $6/10\%$; State General Fund 40 $1/10\%$; Administration 5%; although they have been keeping their administrative costs down to 2 $85/100$ per cent. The balance for administrative purposes goes into the State General Fund.

"Article 3. Sale At Retail.

"The act imposes a tax on the gross receipts from sales at retail. A "retail sale" is defined as any sale to a person who uses or consumes the property, or a sale for any purpose other than for resale. It is therefore, plain that the sole test of whether or not a sale is taxable lies in the purpose for which the property was purchased; i. e., if for resale, it is exempt; if for consumption or use, it is taxable. The quantity purchased, or the price at which it was sold, has no bearing upon the taxability of the sale. Property purchased for resale, but actually consumed, must be included in the taxable sales.

"A sale by a person ordinarily in the wholesale business which is not for resale is a taxable sale, and all wholesalers, who make any sales of this character, must obtain a license and pay the tax on such sales. Such sales would include sales to employees, sales to hospitals, or other large consumers, and withdrawals from stock for personal or private use. Naturally, the same rule would apply to manufacturers or retailers.

"Except for sales of electric energy, gas, water, communication service, and amusement, the act applies only to sales of tangible personal property. It does not affect sales of real estate or that class of personal property known as intangible, which consists generally of notes, bonds, corporate stocks, or other choses in action.

A "consumer" is a person, firm, or corporation, who purchases property for private or business use or consumption and does not purchase the property for resale in the original or altered forms.^{1.}

"S 1. Advertising, Printing And Printed Matter. The sale of advertising space by publishers of newspapers, periodicals, or billboard owners is not taxable. Newspapers are tangible personal property, but, are purchased primarily for the news service contained therein and are not taxable when sold at retail. All purchases of paper, equipment, ink, and supplies by newspapers are purchased for consumption and use and are subject to the tax.

"Sales of letterheads, cards, printed booklets, and other printed articles are taxable sales if made to a consumer or user. Purchases of paper and supplies, except permanent equipment, by printers are not subject to tax.

"Books, magazines, and periodicals are tangible personal property and all retail sales thereof are taxable.

"Purchases of lumber, paper, and other materials, supplies or equipment by billboard owners are within the Act."^{2.}

"S 3. Amusements And Athletic Contests. The act provides that the two percent (2%) tax shall apply to sales of tickets or admissions to places of amusement or athletic contests. Places of amusement include dance halls, concerts, moving picture houses, theatrical performances, circuses, carnivals, side shows, exhibitions of curiosities or freaks, swimming pools, race tracks, and all other places or establishments where a ticket or admission fee is required

1. South Dakota Retail Sales Tax, Chapter 205, Laws 1935, p. 4.

2. Ibid, p. 7.

for admission to the enclosure or a part thereof. Billiard parlors, bowling alleys, and shooting galleries are not within the Act.

"Athletic contests include boxing, wrestling, football, baseball, basketball, golf matches, and all other games or sports for which an admission is charged.

"Admissions to state, county, district, and local fairs are exempt from tax and racing meets conducted under the pari-mutual law are likewise exempt. Admission charges to athletic contests held under the auspices of any educational institution in this state are not taxable, and occasional amusements or athletic contests conducted by religious, benevolent, fraternal, or charitable organizations are exempt."^{3.}

"S 8. Cleaners, Dyers, And Laundries. When the industries listed in the title to this rule render only a service they are not taxable. Persons engaging in these businesses who also sell clothing or other tangible personal property at retail are taxable on such sales.

"Sales of cleaning fluids, equipment, and other supplies, to these industries are sales to consumers and subject to tax."^{4.}

"S 9. Coal, Wood and Fuel.

All coal, wood, coke, oil, or other fuel is tangible personal property and sales thereof are subject to the tax. Delivery charges are not included in the amount upon which the tax is computed provided that a separate charge for delivery is made and such charge

3. South Dakota Op. cit., p. 8.

4. Ibid, p. 9.

is in a reasonable amount." ^{5.}

"S 15. Electric Energy And Natural Or Artificial Gas.--

"The sale of electric energy and natural or artificial gas is taxable by specific provisions of the act when sold to consumers or users. Sales to other distributing companies or municipalities who are resellers are not within this Act. Sales by municipalities are taxable. Sales of materials, supplies, and equipment to privately owned utility companies are subject to tax. The general rules providing for licensing, measure of the tax, adding the tax, and the manner of reporting and paying the same are applicable to municipalities and private companies selling the class of property or service embraced in this rule. Charges for connection or reconnection of the service are not within the Act." ^{6.}

"Section 2. Purpose or Object. This act shall be known as the "Property Relief Act," and shall have for its purpose the direct replacement of taxes otherwise to be levied on property to the extent of the net revenue obtained from the taxes imposed herein. Collections of general property taxes being insufficient to produce the revenue necessary for the support of the State and its existing institutions, this act is calculated to more certainly produce such revenue by a wider and more equitable distribution of the burden of taxation." ^{7.}

"Section 34. (a) Tax Imposed. There is hereby imposed as a tax upon the privilege of engaging in business as a retailer, a tax of two per cent (2%) upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, ex-
6. South Dakota Op. cit., p. 10.

7. South Dakota - The Property Relief Act - Senate Bill No. 36, 1935
Legislative Session, p. 2.

cept as otherwise provided in this Division, sold at retail in the State of South Dakota to consumers or users. There is hereby imposed a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity and communication service to the public in its proprietary capacity, except as otherwise provided in this Division, when sold at retail in the State of South Dakota to consumers or users; and a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events, except as otherwise provided in this Division." ^{8.}

This state gets 29 4/10% of its revenue from the sales and the yield from this tax for the fiscal year of 1936 was \$3,211,000. Now, this was under the old rate of 2%. She anticipates a revenue of over \$5,000,000 for their fiscal year of 1938. The revenue from this tax per capita was \$4.63 and per family it amounted to \$19.32.

TENNESSEE

I have traced the history of the legislation for sales taxes in this state and can find only one attempt made to enact such. This attempt was made during the Legislative Session of 1929, when Henry H. Horton was governor of this state, but the bill failed to pass and no more attempts have been made up to January 1, 1938.

TEXAS

According to a letter received from Texas no attempts have been made for the enactment of general sales tax legislation.

"There is no sales tax in Texas. Governor Allred is opposed to it and has campaigned against it as a "tax on poverty."^{b.}

b. Letter from Secretary to the Governor

UTAH

Prior to the passage of a sales tax in this state in 1933 there were bills introduced at two legislative sessions providing for a gross income or gross receipts tax but failed to pass. The present law was introduced in the 1933 session as a retail sales tax on gross sales and was passed at that session, the rate being three-fourths of 1 per cent. At a special session in the same year this act was amended, increasing the rate to 2%. The rate of three-fourths of 1 per cent was in effect only from June 1, 1933 to August 3, 1933. The 1933 law came under Chapter 63 and the measure was upon the gross sales of tangible personal property at retail, amusements, utility services, and meals. The exemptions are upon goods paying state excise tax, non-profit organizations, seed, dairy, poultry feeds, and newspapers.

The dues are to be sent in monthly to the State Tax Commission and each vendor of retail sale goods must have a license for which a fee of \$2 is charged annually.

Their entire sales tax act is listed under Sales Tax Act Emergency Revenue Act of 1933, Chapter 63, Laws of Utah, 1933.

as amended by

Chapter 20, Laws of Utah, 1933 - Second Special Session,

By Chapters 91 and 92, Laws of Utah, 1935

And by Chapters 110, 111, 112, and 113, Laws of Utah, 1937.

Under House Bill 185, Laws of 1937, she passed the Use Tax Act and this became effective July 1, 1937. It is a measure upon the sales price of tangible personal property purchased for storage,

use, or consumption. The rate is 2%, and the exemptions are the same as for sales tax plus all sales upon which tax has been paid. The proceeds from this use tax go into the Emergency Relief Fund.

The main purpose for the passage of a sales tax in this state was for social security participation, relief, and also used to supplant losses from homestead exemptions.

The yield for the fiscal year ending June 30, 1936, from the sales tax was \$2,975,029.80. Tokens maybe used but are not as yet issued. The distribution of their proceeds are made in that \$3,200,000 is for emergency relief purposes, biennium; \$330,000 for state needed buildings; annually \$500,000 to the state district school fund to supplant losses incurred from the application of homestead and personal property tax exemption for the calendar year 1938; \$100,000 to the state school equalization fund to supplant losses incurred from the application of homestead and personal property tax exemption for the calendar year 1938; \$150,000 to the general fund to supplant losses incurred from the application of homestead and personal property exemptions for the year 1938.

The State Tax Commission is allowed \$30,000 annually for administrative collection costs.

"Section 12. Objection to Assessments - Petition - Hearing.

"If any person, having made a return and paid the tax provided by this act, feels aggrieved by the assessment made upon him by the tax commission, he may apply to the tax commission by petition in writing within ten days after the notice is mailed to him for a

hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The tax commission shall notify the petitioner of the time and place fixed by it for such hearing. After such hearing, the tax commission may make such order in the matter as may appear to it just and lawful and shall furnish a copy of such order to the petitioner." ^{1.}

"Section 13. Decision of Commission, When Final.

"Every decision of the tax commission shall be in writing and notice thereof shall be mailed to the vendor within ten days, and all such decisions shall become final upon the expiration of thirty days after notice of such decision shall have been mailed to the vendor, unless proceedings are taken within said time for review by the supreme court upon writ of certiorari as herein provided, in which case it shall become final, (1) when affirmed or modified by the judgment of the supreme court; (2) if the supreme court remands the case to the tax commission for rehearing, when it is thereafter determined as herein above provided with respect to the initial proceeding." ^{2.}

"Section 14. Review by Supreme Court.

"Within thirty days after notice of any decision of the tax commission, any party affected thereby may apply to the supreme court of this state for a writ of certiorari or review for the purpose of having the unlawfulness of such decision inquired into and determined. Such writ shall be made returnable not later than

1. Utah Sales And Use Tax Acts, Chapter 63, Laws 1933, pp. 12 & 13.

2. Ibid, p. 13.

thirty days after the date of the issuance thereof, and shall direct the tax commission to certify its record, which shall include all the proceedings and the evidence taken in the case to the court. Upon the hearing, no new or additional evidence may be introduced, but the case shall be heard on the record before the tax commission as certified to by it. The decision of the tax commission as certified to by it. The decision of the tax commission may be reviewed both upon the law and facts and the provisions of the code of civil procedure of this state relating to appeals so far as applicable and not in conflict with this act apply to the proceedings in the supreme court under the provisions of this section." ^{3.}

"Section 15. Exclusive Jurisdiction of Supreme Court.

"No court of this state, except the supreme court, shall have jurisdiction to review, reverse, or annul any decision of the tax commission or to suspend or delay the operation or execution thereof; provided, that a writ of mandamus shall lie from the supreme court in all proper cases." ^{4.}

"Section 16. Conditions. Precedent to Review.

Before making application to the supreme court for a writ, the full amount of the taxes, interest and other charges audited and stated in the determination or decision of the tax commission must be deposited with the tax commission and an undertaking filed with the tax commission in such amount and with such surety as the tax commission shall prove to the effect that if such writ is dismissed or the

3. Utah op. cit., p. 13.

4. Ibid, p. 14.

decision of the tax commission affirmed, the applicant for the writ will pay all costs and charges which may accrue against him in the prosecution of said case; or at the option of the applicant, such undertaking may be in a sum sufficient to cover the taxes, interest and other charges audited and stated in such decision, plus the costs and charges which may accrue against him in the prosecution of such case, in which event, the applicant shall not be required to pay such taxes, interest and other charges as a condition precedent to his application for the writ." ^{5.}

"Section 17. Notice - When Sufficient.

All notices required to be mailed to the vendor under the provisions of this act, if mailed to him at his last known address as shown on the records of the commission shall be sufficient for the purposes of this act." ^{6.}

"Section 18. License and Tax on Addition to Other Taxes.

The license and tax imposed by this act shall be in addition to all other licenses and taxes provided by law." ^{7.}

"Section 3. Use Tax.

There is levied and imposed an excise tax on the storage, use or other consumption in this state of tangible personal property purchased on or after July 1, 1937, for storage, use or other consumption in this state at the rate of two per cent of the sales price of such property.

"Every person storing, using or otherwise consuming in this state tangible personal property purchased shall be liable for the tax

5. Utah op. cit., p. 14.

6. Ibid, p. 14.

7. Ibid, p. 14.

imposed by this act, and the liability shall not be extinguished until the tax has been paid to this state." ^{8.}

8. Utah op. cit., pp. 20 & 21.

VERMONT

Vermont adopted a gross retail sales tax, No. 24 of the Acts of 1933, and repealed it by No. 36 of the Acts of 1935. The exact effective dates are from March 25, 1933, to March 29, 1935. It was declared unconstitutional by the Supreme Court in the Great Atlantic & Pacific Tea Company vs. Harvey et al., upon March 14, 1935. It was repealed by Senate Bill 18, Laws of 1935, March 29, 1935.

The yield from the tax was fairly small because the tax was only ^{on} gross sales over \$50,000. The rate varied from 1/8 of 1% to 4% and the lower rate was upon items more necessary than upon those classed as higher.

This state has no general sales taxes but she does have today a sales tax on liquor, malt beverages, cigarettes, and gasoline, all of which are still in force.

VIRGINIACopy of letter from Governor George C. Perry

"In reply, I beg to advise that we do not have a general sales tax in Virginia. The only thing approaching it is the tax on gasoline which is devoted to roads.

Yours very truly,

Geo. C. Perry
Governor"

WASHINGTON

Before 1935 the State of Washington had no retail sales tax but had a classified privilege tax upon businesses operating in the state. The legislature in 1935 passed the Revenue Act of 1935, which imposed a 2% Retail Sales Tax upon every retail sale in the State of Washington and also other excise taxes, namely: Business and Occupation Tax, Public Utility, Compensating, Admissions, Cigarettes, Fuel Oil, Liquor, and Realty Conveyance.

It was the aim of the legislature that the burden of taxation in that state should be more equitably distributed. It was also necessary to increase the revenue of the state because of the assumption of a greater share of expense necessary to provide education, old age pensions, and unemployment relief. The Revenue Act of 1935 was immediately necessitated because of the passage by the electorate through initiative of legislation restricting the state to a levy of two mills on the dollar of assessed valuation to be used exclusively for purposes of higher education.

In 1933, the legislature passed the Showalter Equalization Act, providing for increased state support of common schools, and turned to new excise taxes as the only available source of revenue therefor. It enacted Chapter 191, imposing a classified turnover tax, at low rates, on gross income from business activities for the two-year period of August 1, 1933, to July 31, 1935, and directed the Tax Commission to administer the act. Originally, this business tax

did not apply to persons or corporations engaged in agriculture or horticulture, in the professions, or in private service businesses. However, at the 1933 Extrordinary Session the legislature enacted Chapter 57, broadening the scope of the tax to include persons engaged in professions and in private service businesses.

The broadening of the tax base through the imposition of new business and consumer excise taxes by the legislature in 1933 and 1935, following the limitation of property tax levies by initiative vote of the people in 1932 and 1934, represents the most important changes in the taxation and revenue system since Washington became a state.

Prior to 1933, the major tax sources were the general property tax and excise taxes on the following: Motor vehicle fuel, motor vehicle licenses, corporate filings and licenses, insurance premiums, and inheritances. The general property tax was levied by all taxing units, although it was a more important source of revenue to the local governments than to the state. The excise taxes were levied by the state.

However, at the general election in 1933, the people clearly expressed their desire for tax reform and overwhelmingly adopted Initiative Measures No. 64 and No. 69, providing for the limitation of general property taxes and for the enactment of a graduated net income tax, respectively. Measure No. 64, was known as the "40-mill limit law," imposed the following limitations upon levies for current purposes, beginning with the 1933 levy collectible in 1934: State, 5 mills; counties, 10 mills. The graduated net income tax

was declared invalid by a decision of the state supreme court holding it to be a property tax and, therefore, in violation of the uniformity clause of the state constitution.

At the general election in 1934, a second property tax levy limitation measure, Initiative No. 94, was adopted. This measure further reduced their state levy from 5 mills to 2 mills - exclusively for the institutions of higher learning; placed a limit of 3 mills on road district levies, which were not limited under the 1933 law; and further restricted local levies for debt service.

The legislature, meeting in 1935, therefore faced the problem of replacing the revenue previously received from property taxes levied for the state general fund. Furthermore, additional revenue had to be raised to defray new expenditures for the following: Payment of moderate old age pensions - with the help of federal matching funds - which the counties had been unable to finance by reason of the levy limitations; payment in full of the state's obligations, under the Showalter Act, to apportion 25 cents per pupil attendance day to local school districts; and payment, from current income, for relief and welfare work, which previously had been financed by the counties and a state bond issue.

To raise the required revenue the legislature enacted the Revenue Act of 1935, Chapter 180, an omnibus tax measure taking effect May 1, 1935, for an indefinite period. This act supplemented Chapter 191, Laws of 1935, but continued in general effect the business taxes imposed by it and added the following new consumer excises: 2% consumer retail sales tax, with a complementary compensating tax on

the use of articles purchased at retail outside the state; and selective sales taxes on admissions, liquor, fuel oil, cigarettes, and realty conveyances.

The Tax Commission administers all of the above mentioned taxes except those on liquor and fuel oil. The latter are administered by the Liquor Control Board and the Department of Licenses, respectively. The revenues from these taxes is allocated in the following manner: 58 51/100 per cent to common schools; 17 91/100 per cent to unemployment relief and welfare work; 4 52/100 per cent to the university, college, and normal schools; and 19 6/100 per cent to general government, which includes approximately 5 per cent for old age pensions.

These changes in their tax laws have caused a marked shift from property to excise taxes since 1933. Their aggregate annual property tax levies dropped some \$14,000,000 from 1931 to 1933. However, the enactment of the levy limitation measures was instrumental in effecting an additional reduction of approximately \$24,000,000 from 1934 to 1936. The latter reduction is largely offset by the new revenues from the business and consumer excise taxes imposed by the Revenue Act of 1935.

Her property tax levies for state purposes dropped from \$12,176,000 in 1933 to \$3,650,000 in 1936 as a result of the levy limitations. However, the new excise taxes imposed under the Revenue Act of 1935 have enabled this state to pay, from current income, for increased support of common schools, old age pensions, and social welfare work, despite the heavy loss in property tax revenues and despite many additional duties of the state departments.

Furthermore, the financial position of this state has been materially strengthened during this biennium. Her cash balance in the general fund on November 30, 1936, was \$5,355,070.06, as against a deficit of \$110,865.48 on March 31, 1935.

This retail sales measure has no expiration date set and the measure is based upon the selling price of retail sales. The exemptions are upon public utilities, insurance companies, farmers, horticulturists, for resale, boxing, wrestling, horse racing, hospitals, non-profit organizations, rental or sale of real estate, newspapers, gasoline made on relief vouchers, bread, and milk. A license fee of \$1 is charged annually. The collections are under the administration of the Tax Commission and for the fiscal year from May 1, 1935 to April 30, 1936, the collection costs were 2 35/100 per cent. However, very noticeable is that for the fiscal year of 1936 to 1937, using the same month dates, her collection costs were only 1 87/100 per cent.

This state also has a Compensating Tax and this is a 2% tax. The purpose of this compensating tax is for the privilege of using an article within the state to prevent avoidance of sales tax by buying outside of the state.

Tokens are used and these are issued in 2 mills so that a merchant can give the consumer his exact change.

Value of Products - Determination

"Section 7. The value of products extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof, except:

(a) Where such products are shipped, transported or transferred out of the state, or to another person, without prior sale or are

sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such values."^{1.}

Public Works Contracts & Final Payment

Section 15 (a) Any state, county or municipal officer charged with the duty of disbursing or authorizing the payment of public funds shall, before making final payment to any person performing any public works contract, require such person to secure from the tax commission a certificate that all taxes due with respect to such contract have been paid in full."^{2.}

Section 18. "Auctioneer, Consignee - A seller

Every consignee, bailee, factor, or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such property and, so selling, shall be deemed the seller of such tangible personal property within the meaning of this title."^{3.}

Section 26. "Sales from Vehicles

In the case of a person who has no fixed place of business and sells from one or more vehicles, each such vehicle shall constitute a "place of business" within the meaning of section 187 of this Act."^{4.}

1. Washington Revenue Act Of 1935, Chapter 180, Laws 1935, p. 9.

2. Ibid, p. 13.

4. Ibid, p. 14.

3. Ibid, p. 12.

This state has its State Tax Commission investigating certain sections of their tax laws and then offering "findings and recommendations for the improvement of the tax laws." An example used to illustrate this is: "Admissions Tax-Exempting 10-Cent Admissions. Ten-cent admissions are now subject to a tax of one cent, exemption being limited to admissions of nine cents or less. These ten-cent admissions are paid mainly by children, at theatres and at rides and amusements, such as merry-go-rounds, ferris wheels, etc., and should be exempted. It is recommended, therefore, that section 44 (a) be amended to exempt admissions of ten cents or less. The loss in annual revenue will be relatively small."

This state for the fiscal year of May 1, 1935 to April 30, 1936, collected from the retail sales tax alone \$9,386,217.33.

WEST VIRGINIA

This state was the first of all the states in the Union to adopt a general sales tax. The date of the original adoption was in 1921 and the sales tax is still in effect there today. This gives this state first honors and the tax must have its merits to be in effect for practically 17 successive years. The tax has no expiration date and has been a permanent measure since 1937. Since the passage of the original measure it has been amended at numerous times and some of these were by Senate Bill 1, Laws of 1933; First Special Session, House Bill 365, Laws 1933, and Second Special Session, Senate Bill 211, Laws 1935; amended by House Bill 60, Laws 1937. It is impossible to give the complete history of the entire tax over a period of seventeen years and today this state has in effect both, a gross sales and a consumers sales tax.

Her first measure was called a Gross Income Tax and became effective in 1921, and permanent since 1937. It is a tax upon the gross income accruing from the sale of tangible property, either real or personal, and includes food in hotels, restaurants, etc., services, and investments. Exempt from this tax are insurance companies, non-profit organizations, national banks, farm produce, and mutual savings banks. The rates vary and are as follows: 1% upon coal; 3% upon oil; 6% upon natural gas production; 3% upon slag; sand, electric consumption, and toll bridges; 1½% upon limestone and timber; 1% upon electric railroads; 3/20% upon wholesalers and jobbers; 4% upon water consumption, electric consumption for domestic

uses; 2% upon public utilities and contractors; $\frac{1}{2}$ % upon amusements; $\frac{1}{4}$ % upon other business, and income from real and personal property; 3% upon natural gas service; and a surtax of 30% of normal tax levied on all except contractors, banks, water consumption, sale of property at retail, and other business.

No license fee is charged although cancelled tax check or voucher is evidence of license, but brewery industries are exempt from this license. This tax is to be sent in quarterly by the retailer and the money is paid into the State General Fund and is allocated from there into the State School Fund. The collection costs are under the administration of the Tax Commission.

In 1935 their retail sales tax (General Consumers Sales Tax) became effective and it became permanent under House Bill 60, Laws 1937, (Article 15 of Chapter 11 of the Code).

This is a tax upon the gross proceeds of retail sales of tangible personal property and services, except professional and personal, and those services furnished by corporations subject to control of Public Service Commission, and State Road Commission. The exemptions are upon gasoline, public service, school books, motor vehicles (special 2% tax for issuance of certificate of title), and professional services.

The rate is 2% but no tax is charged upon any article that is five cents or less. From six cents to fifty cents the tax is one cent; from fifty-one cents to \$1.00 the tax is two cents; from there up the tax is one cent on each fifty cents of monetary consideration or fraction thereof in excess of one dollar.

The taxes are due from the merchant every month and are paid to the Tax Commission and the proceeds go into the State School Fund.

"Article 15. Consumers Sales Tax.

"Section 2. (3) "Gross Proceeds" shall mean the amount received in money, credits, property or other consideration from sales at retail within this state, without deduction on account of the cost of the property sold, amounts paid for interest or discounts, or other expenses whatsoever. Losses shall not be deducted, but deductions may be made to the amount of credits or refunds for returned goods and of the sale price of any article sold, if the full sale price of the new article is included in "gross proceeds."¹

"Section 3. For the privilege of engaging in the business of selling tangible personal property at retail, and of dispensing certain selected services defined in section seven of this article, a retail dealer shall collect from a purchaser a tax of two per cent of the gross proceeds of each separate transaction, and shall pay the amount collected to the tax commissioner in accordance with the provisions of this article.

"There shall be no tax on sales where the monetary consideration is five cents or less. The amount of the tax payable by the purchaser shall be computed as follows:

"(1) On each sale, where the monetary consideration is from six cents to fifty cents, both inclusive, one cent.

"(2) On each sale where the monetary consideration is from fifty-one cents to one dollar, both inclusive, two cents.

1. West Virginia Act of the Legislature, House Bill No. 60:
Regular Session, 1937, p. 2.

"(3) On each fifty cents of monetary consideration or fraction thereof in excess of one dollar, one cent."^{2.}

"Section 4. A purchaser shall pay the amount of the tax levied by this article to the retail dealer. The retail dealer shall keep the tax paid by the purchaser separate and apart from the proceeds of sale, unless the tax commissioner authorized the retail dealer to record the amount of the tax in a different manner. Where such authorization is given, the state's claim shall be enforceable against and shall take precedence over all other claims against the moneys commingled. The retail dealer shall account to the state for all the tax paid by the purchaser."^{3.}

"Section 8. The provisions of this article shall apply not only to selling tangible personal property, but also to the furnishing of all services, except professional and personal services, and except those services furnished by corporations subject to the control of the public service commission and the state road commission."^{4.}

"Section 13. A tax payer doing business wholly or partly on a credit basis shall require the purchaser to pay the full amount of tax due upon a credit sale, at the time such sale is made, or within thirty days thereafter."^{5.}

"Section 23. A person liable for the tax imposed hereunder shall keep the records, render under oath the statements, make returns, and comply with the rules and regulations that the tax com-

2. West Virginia op. cit., pp. 3 & 4. 5. Ibid, p. 6.

3. Ibid, p. 4.

4. Ibid, p. 4.

missioner may, from time to time, prescribe. The tax commissioner may require such records, statements, or returns, upon notice, from any person in order to determine whether he is liable to the tax hereunder. The tax commissioner may require preservation of records for not to exceed five years, and may, at any time through his authorized agents, inspect all books and accounts of the taxpayer, including banking accounts, which in any way enter into the record of the business out of which the tax imposed herein arises." ^{6.}

"Section 26. The tax commissioner shall keep full and accurate records of all moneys received by him. He shall preserve all returns filed with him hereunder for five years." ^{7.}

6. West Virginia op. cit., p. 8.

7. Ibid., p. 9.

WISCONSIN

Wisconsin has no sales tax law. In each session of the legislature beginning with the 1933 session sales tax bills have been introduced and they have been killed in the house of origin.

The greater number of the members of the Wisconsin Legislature, including in particular members of the Progressive party and liberals of other parties, have been strongly opposed to a general sales tax in this state. These members look upon a sales tax as an income tax upside down which is contrary to the accepted theory of taxation on the ability to pay.

"Bills Introduced in the Wisconsin Legislature Providing for a General Tax on Retail Sales Prepared by

Wisconsin Legislative Reference Library, November, 1937.

<u>YEAR</u>	<u>HOUSE</u>	<u>ACTION</u>	<u>INTRODUCED BY</u>
1933	Assembly 903	Indefinitely postponed in Assembly	Harper (Progressive)
1933	Senate 374	Indefinitely postponed in Senate	Bolens (Democrat)
1935	Assembly 315	Indefinitely postponed in Assembly	Kryszak (Democrat)
1935	Senate 170	Refused passage in Senate	Bolens (Democrat)
1935	Assembly 321	In Assembly Committee when legislature adjourned	Beggs (Progressive) ^{1.}

WYOMING

This state enacted an Emergency Sales Tax in 1935 under Chapter 74 of the Wyoming Session Laws of 1935, and this was in effect from April 1, 1935 to March 31, 1937. In 1937, under Chapter 104, this state passed the Selective Sales Tax Act and carries no expiration date, therefore it is a permanent measure. Under Chapter 118, Laws 1937, this state also passed the Use Tax Act on June 1, 1937 and this is also a permanent measure.

Her sales tax measure is upon the gross proceeds from retail sale of tangible personal property, including rentals from leased goods, utilities, meals and admissions. The exemptions are upon goods or services used in producing other taxed goods, sales of non-profit organizations, goods subject to excise taxes in excess of 5%, livestock, feeds, seeds, fares less than 11 cents.

The rate is 2% and no use of tokens is made, therefore, the rate comes to about 2.068% as figured upon the bracket system because a consumer pays more in the lower bracket purchases but, nevertheless, it is fairly well equalized.

A license fee of \$2.00 is charged for the certificate, and the license must be posted in a conspicuous place at the place of business. The tax is to be sent in monthly by the merchants and the collection costs are under the administration of the State Board of Equalization. This board is allowed 5% for administrative costs but it has been able to keep the costs down to 3 38/100%.

The proceeds are distributed in the following manner: Relief purposes \$500,000; School Equalization Fund \$287,000; Homestead Property Exemption Fund \$300,000; and the balance to the State

General Fund. Her yield for the fiscal year of April 1, 1935 to April 30, 1936, was \$1,456,320.28.

The purpose of this Use Tax measure is upon the storage or use of tangible personal property purchased from a retailer. The exemptions are the same as for sales tax plus articles on which tax has already been paid. The rate is the same as upon the sales tax, which is 2%, and the collection costs are also allowed at 5% and are under the administration of the State Board of Equalization.

The sales tax in this state was an emergency measure and is used to supplant the loss from homestead exemptions.

Governor Miller a few years ago voiced his opposition to a sales tax in Wyoming. He finally discussed with the legislature the apparent necessity for a sales tax and thought it would be only a temporary or emergency measure that would be scrapped immediately after the emergency has passed. He has changed his mind and now believes that the sales tax should be retained as a part of her tax system for an indefinite period.

Assessed valuations in Wyoming had decreased to such an extent that the counties could no longer give adequate care to the poor and pauper, the lists of which had, of course, been largely increased by reason of the long drawn out period of depression. The steadily decreasing assessed valuations, and the shrinkage in her oil royalties and land rentals, had caused great difficulties in a number of her school districts and the four mill levy on property for state purposes could not provide for any surplus funds, therefore, an emergency existed and this was met with the inauguration of a sales tax. Since this state has had its sales tax in operation, the state tax

levy upon property has been reduced from four mills to two mills, and if it wasn't for her relief problem she would not have a levy for state purposes at all.

"Article 8. Meals.

"Gross receipts from meals furnished by restaurants, hotels, boarding houses, drug stores, clubs, resorts, dining cars, or other places at which meals are regularly served to the public are taxable. In the case of American plan hotels and boarding houses, a segregation must be made between the charges for room and the charges for meals.

"Where meals are furnished by employers to employees and a separate charge is made therefor, the employer collects the tax on the price of the meals; if he does not collect he must pay the tax on the total of the charges for all the meals. Where no separate charge is made, the tax applies to the total of the fair price of the meals served and the employer must pay the tax on the gross amount of all the meals served."^{1.}

"Rule 16.- Dentists - Must charge clients or customers the 2% tax on the amount of the fair selling price of all materials used by dentists in filling teeth, in bridge work and in constructing plates, false teeth, inlays, etc. "The dentist must collect and make return of such tax.

"The charge for the service work of the dentist is not taxable."^{2.}

"Rule 39. - Admission Charges - Upon the amount paid by the purchaser for admission to any place of amusement, entertainment or recreation; and for seats, or for table reservation or cover charge, or other similar accommodation charge therefor in any public place

where meals, refreshments and/or beverages are sold; said tax is exclusive of any admission tax imposed by the Federal Government or by said Act and is in addition to the tax on the price paid for the meals, refreshments and beverages. Illustration: If the price of admission is 50 cents, and there is a Government and/or State tax on such admission equaling 5 cents the State sales tax would apply on the 45 cents only." ^{3.}

"Article 7. (2) Railroads - Every person - as the term "person" is herein defined - engaged and continuing in the transportation of persons and/or property shall charge and collect a tax equivalent to two per cent (2%) upon the amount of twenty-five cents or more paid by any one for the intrastate transportation of a person, or persons, and/or property, or the rental or leasing of all equipment or service pertaining or incidental thereto, over or upon his or its line or lines, or branches thereof, or any connecting line of railroad," ^{4.}

"(4) Airplane Transportation - Every person engaged or continuing in the business of transporting persons and/or property by means of airplanes shall charge and collect a tax equivalent to two per cent on the amount of twenty-five cents or more charged to or paid by any person or persons for the transportation of persons and/or property, or the rental or leasing of all equipment or service pertaining or incidental thereto, intrastate." ^{5.}

"(5) Telephone Companies - Every person engaged or continuing

3. Wyoming op cit., p. 14.

4. Wyoming Selective Sales Tax Act of 1937, Chapter 102, p. 9.

5. Wyoming op. cit., p. 9.

in the business of telephonic service intrastate, whether for toll calls or in connection with telegraphic service, or in local telephone service, or in the rental of circuits and facilities or of personal property, either operating or non-operating or in furnishing of messenger service, shall charge and collect for each and all of such services a tax equivalent to two per cent upon the amount of twenty-five cents or more charged to or paid by any person for each and every of said services.

"When collection of said tax is made during the month

following the month in which the service was rendered, the return of and remittance for said taxes so collected shall be made not later than the 15th day of the month following the month in which such taxes were collected." ^{6.}

"(6) Telegraph Companies - Every person engaged or continuing in the business of telegraphic service intrastate, or in connection with telephonic service, for the transmission to or for the public of messages or intelligence by electricity, or in the rental of circuits and facilities or personal property for the conduct of such business, or in furnishing of messenger service shall charge and collect for each and all of such services a tax equivalent to two per cent upon the amount of twenty-five cents or more charged to or paid by any person for each and every of said services.

"When collection of said tax is made during the month following the month in which the service was rendered, the return of and remittance for said taxes so collected shall be made not later than

the 15th day of the month following the month in which such taxes were collected." ^{6.}

"(6) Telegraph Companies- Every person engaged or continuing in the business of telegraphic service intrastate, or in connection with telephonic service, for the transmission to or for the public of messages or intelligence by electricity, or in the rental of circuits and facilities or personal property for the conduct of such business, or in furnishing of messenger service shall charge and collect for each and all of such services a tax equivalent to two per cent upon the amount of twenty-five cents or more charged to or paid by any person for each and every of said services.

"When collection of said tax is made during the month in which the service was rendered, the return of and remittance for said taxes so collected shall be made not later than the 15th day of the month succeeding the month in which such taxes were collected." ^{7.}

"(7) Electric Light & Power Companies- Every person or municipality engaged or continuing in the business of distributing and selling electrical energy for light, heat or power purposes in domestic, commercial or industrial consumption shall charge and collect a tax equivalent to two per cent upon the amount of twenty-five cents or more paid or charged therefor.

" Meter-reading periods shall embrace, as nearly as is possible, thirty day periods, and the tax return and remittances of the tax shall be made as soon as possible after the meter is read, but in no case later than the 15th day of the month succeeding the month in which the meter is read.

6. Wyoming op. cit., p. 9.

7. Ibid, p. 10.

"When the persons engaged in said business use the electrical energy in the operation of their business (as, for instance, in store or office) they are deemed to be users or consumers thereof and are subject to the tax for such use and they must make return and payment therefor." ^{8.}

"(10) Express Companies- Every person engaged or continuing in the transportation intrastate of freight, merchandise or property for hire on the railroad line, of any common carrier operating in this State or in connection with any highway transportation line, or on any motor vehicle common carrier line, or on any airplane common carrier line, shall charge to and collect a tax equivalent to two per cent upon the amount of twenty-five cents or more paid by any one for such said services." 9.

"Rule 1.- Interstate Sales- The Wyoming Selective Sales Tax does not apply to receipts from sales made in interstate commerce.

"If tangible personal property is purchased from a retailer in another state and shipped by the retailer directly to the customer in this state, the receipts from the sale of such property are not taxable under the Sales Tax Act but are subject to the new Wyoming "Use Tax Act of 1937" (Effective June 1, 1937.)

"If the purchase of tangible personal property is made from a retailer or his representative in this state, and the

8, Wyoming Op. cit., p. 10.

9. Ibid., p. 11.

contract of sale calls for the shipment of the property from the home office or factory located outside this state directly to the purchaser in this state, the receipts from the sale of the property are not taxable under the Sales Tax Act, but are subject to the new Wyoming Use Tax Act of 1937.

"Where tangible personal property is shipped from another state to the seller or his representative in this state, or at any time comes to rest within this state before delivery to the purchaser, or if anything remains to be done to the property by the seller in this state, pursuant to the contract of sale, the receipts from the sale of the property are taxable, even though sold in the original packages. For example: Where orders are taken for clothing and the clothing is shipped from outside the state, whether to the purchaser or to the seller or his representative in this state; and the clothing is to be fitted by the seller or his representative, or any other services are to be performed by the seller or his representative in this state, pursuant to the contract of sale with respect to the clothing, --the receipts from such sales are taxable.

"If tangible personal property, pursuant to a contract of sale entered into through interstate commerce, is delivered by the retailer to a carrier or consigned to a bona fide consignee at a point outside the state, and the property is transported and delivered outside the state, the transaction is one in interstate commerce and the receipts from the sale of such property are not taxable.

"If tangible personal property is sold by Wyoming retailer and

delivered to the purchaser or his representative in this state, the receipts from the sale of the property are taxable, even though the disclosed or undisclosed intention of the purchaser is to transport the property outside the state and the property is subsequently transported outside the state.

"If tangible personal property is shipped from a point in this state to another point in this state, the receipts from such sales are taxable. Thus, if goods are shipped by rail from Laramie to Buffalo, the shipping route being from Laramie through Sidney, Nebraska, then to Buffalo, the receipts from such sales are taxable.

"Bills of lading or other documentary evidence of the delivery of the property to a carrier for shipment outside the state must be retained by the retailer to establish the character of the transaction. If, upon investigation, it is disclosed that the property was diverted in transit, or for other reasons was not transported and delivered outside the state, the retailer selling the property must pay the tax upon the receipts from the sale thereof, even though he has obtained bills of lading or other documentary evidence of the delivery of the property to a carrier for shipment outside this state."^{10.}

Rule 25. - Repair Services - In all cases of services for repairing or altering personal property the amount of the sale price of personal property entering into the repairing or alterations, if furnished by the Vendor of such services, is subject to the tax. Illustration: In case of motor vehicle repair work which includes the installation of parts, the tax shall be computed only

only on the sale price of the parts furnished and installed." ^{11.}

"Rule 27 - Laundries and Cleaners - Laundries and cleaners operations are services not taxable. However, if they sell any commodities, such sales are taxable." ^{12.}

"Rule 41. - Property Incidentally Consumed By Wholesaler or Retailer - Any wholesaler or retailer using merchandise out of his stock of goods for his or his family's use or consumption or for gifts, shall enter upon his books as retail sales the regular retail sale price thereof and shall pay the tax due thereon to the Board." ^{13.}

11. Wyoming op. cit., p. 25.

12. Ibid, p. 25.

13. Ibid, p. 28.

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