

and made a part of this chapter.<sup>6</sup> (Feb. 26, 1926, c. 27, § 1100, 44 Stat. 111.)

**Sec. 1132. Cross references.**—For general provisions relating to stamps, information and returns, assessment, collection, and refund, see sections 1430 to 1433 of chapter 17, and chapters 18 to 21, inclusive.

**NOTE.**—Sec. 603 of the Revenue Act of 1926, c. 27, 44 Stat. 94, provides as follows:

"Sec. 603. (a) If (1) any person has, prior to January 1, 1926, made a bona fide contract with any other person for the sale or lease, after the tax takes effect, of any article in respect of which a tax is imposed by section 600 of this Act, and in respect of which a corresponding but greater tax was imposed by section 600 of the Revenue Act of 1924, (2) the contract price includes the amount of the tax imposed by section 600 of the Revenue Act of 1924, and (3) such contract does not permit the deduction, from the amount to be paid thereunder, of the whole of the difference between the corresponding tax imposed by section 600 of the Revenue Act of 1924 and the tax imposed by section 600 of this Act, then the vendor or lessor shall refund to the vendee or lessee so much of the amount of such difference as is not so permitted to be deducted from the contract price.

"(b) If (1) any person has, prior to January 1, 1926, made a bona fide contract with any other person for the sale or lease, after the date of the enactment of this Act, of any article in respect of which a tax was imposed by section 600 of the Revenue Act of 1924, and in respect of which no corresponding tax is imposed by section 600 of this Act, (2) the contract price includes the amount of the tax imposed by section 600 of the Revenue Act of 1924, and (3) such contract does not permit deduction, from the amount to be paid thereunder, of the tax imposed by section 600 of the Revenue Act of 1924, then the vendor or lessor shall refund to the vendee or lessee so much of the amount of such tax as is not so permitted to be deducted from the contract price.

"(c) Any refund by the vendor or lessor under subdivision (a) or (b) shall be made at the time the sale or lease is consummated. Upon the failure of the vendor or lessor so to refund, he shall be liable to the vendee or lessee for damages in the amount of three times the amount of such refund, and the court shall include in any judgment in favor of the vendee or lessee in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court."

This section is inapplicable to pistols and revolvers for the reason that the tax thereon is the same under Title VI of the Revenue Act of 1926 as under Title VI of the Revenue Act of 1924. Since all other excise taxes imposed by Title VI of the Revenue Act of 1926 have been repealed, the section is temporary and is therefore omitted.

Section 1108(b) provides as follows:

"No tax shall be levied, assessed, or collected under the provisions of Title VI of this Act on any article sold or leased by the manufacturer, producer, or importer, if at the time of the sale or lease there was an existing ruling, regulation, or Treasury decision holding that the sale or lease of such article was not taxable, and the manufacturer, producer, or importer parted with possession or ownership of such article, relying upon the ruling, regulation, or Treasury decision."

This section first appeared in section 1008 of the Revenue Act of 1924 and was reenacted in the Revenue Act of 1926. Its purpose was to prevent hardship resulting from certain rulings of the Commissioner in connection with the excise tax on automobiles and accessories. Since the tax on automobiles and accessories has been repealed, this section is omitted as temporary.

#### Chapter 14.—CIRCULATION OTHER THAN OF NATIONAL BANKS

Sec.

1140. Rate of tax.

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**Sec. 1140. Rate of tax.—(a) Average circulation outstanding.**—There shall be levied, collected, and paid—

(1) **Entire circulation.**—A tax of one-twelfth of 1 per centum each month upon the average amount of circulation

issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and

(2) **Circulation exceeding 90% of capital.**—An additional tax of one-sixth of 1 per centum each month upon the average amount of such circulation, issued as aforesaid, beyond the amount of 90 per centum of the capital of any such bank, association, corporation, company, or person.

In the case of banks with branches, the tax herein provided shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it. (R. S. 3408.)<sup>1</sup>

(b) **Circulation paid out.—(1) Own circulation.**—Every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association, shall pay a tax of 10 per centum on the amount of their own notes used for circulation and paid out by them. (Feb. 8, 1875, c. 36, § 19, 18 Stat. 311.)

(2) **Other circulation.**—Every such person, firm, association, corporation, State bank, or State banking association, and also every national banking association, shall pay a like tax of 10 per centum on the amount of notes of any person, firm, association other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them. (Feb. 8, 1875, c. 36, § 20, 18 Stat. 311.)

**Sec. 1141. Exemption from tax.—(a) Circulation reduced to not over five per centum of capital.**—Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding 5 per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation; and

(b) **Circulation under redemption in whole.**—Whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary shall prescribe, it shall be exempt from any tax upon such circulation. (R. S. 3411.)

(c) **Circulation of insolvent banks.**—For exemption in case of insolvent banks, see section 1697 of chapter 22.

**Sec. 1142. Returns and payment of tax.—(a) Circulation outstanding.—(1) Time for making return.**—A true and com-

<sup>1</sup> The following parts of R. S. 3408 are omitted due to the repeal of the tax on deposits and capital by section 1 of the act of Mar. 3, 1883, c. 121, 22 Stat. 488:

"First. A tax of one twenty-fourth of one per centum each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation, engaged in the business of banking.

"Second. A tax of one twenty-fourth of one per centum each month upon the capital of any bank, association, company, corporation, and on the capital employed by any person in the business of banking beyond the average amount invested in United States bonds: *Provided*, That the words 'capital employed' shall not include money borrowed or received from day to day, in the usual course of business, from any person not a partner of or interested in the said bank, association, or firm." \* \* \* The deposits in associations or companies known as provident institutions, savings-banks, savings-funds, or savings-institutions, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on all deposits not exceeding two thousand dollars made in the name of any one person."

<sup>6</sup> "Chapter" is substitute for "Act." See note 7 on page 86.

plete return of the monthly amount of circulation<sup>3</sup> as aforesaid<sup>4</sup> for the previous six months shall be made and rendered in duplicate on the 1st day of December, and the 1st day of June, by each of such banks, associations, corporations, companies, or persons, with a declaration annexed thereto, under the oath of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner, that the same contains a true and faithful statement of the amounts subject to tax, as aforesaid; and

(2) To whom return made.—One copy shall be transmitted to the collector of the district in which any such bank, association, corporation, or company is situated, or in which such person has his place of business, and one copy to the Commissioner. (R. S. 3414.)

(3) Calculation and time for payment of tax.—The taxes provided in section 1140 (a) shall be paid semi-annually, on the 1st day of January and the 1st day of July; but the same shall be calculated at the rate per month as prescribed by said section, so that the tax for six months shall not be less than the aggregate would be if such taxes were collected monthly. (R. S. 3409.)

(4) Return and payment when State bank converted into national bank.—Whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed 5 per centum of the capital before such conversion of such State bank or banking association. (R. S. 3416.)

(b) Circulation paid out.—The amount of circulating notes referred to in section 1140 (b), and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on<sup>5</sup> circulation imposed by subsection (a) of that section. (Feb. 8, 1875, c. 30, § 21, 18 Stat. 311; R. S. 3414.)

Sec. 1143. Estimation of outstanding circulation in default of return.—In default of the returns provided in section 1142, the amount of circulation<sup>6</sup> and notes of persons, town, city, and municipal corporations, State banks, and State banking associations paid out, as aforesaid, shall be estimated by the Commissioner, upon the best information he can obtain. (R. S. 3415.)

Sec. 1144. Penalty for refusal or neglect to make return or payment.—For any refusal or neglect to make return and payment, any bank, association, corporation, company, or person in default as described in the preceding section, shall pay a penalty of \$200, besides the additional penalty and forfeitures provided in other cases. (R. S. 3415; Feb. 8, 1875, c. 30, § 21, 18 Stat. 311.)

Sec. 1145. Definition of bank or banker.—Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft,

check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker. (R. S. 3407.)

Sec. 1146. Application of chapter to national banks.—The provisions of this chapter, relating to the tax on the<sup>7</sup> circulation of banks, and to their returns, except as contained in sections<sup>8</sup> 1140 (b) (2), 1141 (a) and (b), 1142 (a) (4), and such parts of sections 1142 (a) (1) and (2) and (b), 1143, and 1144 as relate to the tax of 10 per centum on certain notes, shall not apply to associations which are taxed as national banks.<sup>9</sup> (R. S. 3417.)

NOTE.—The following sections are omitted: R. S. 3410, superseded by sec. 1 of act of Mar. 3, 1883, c. 121, 22 Stat. 188, repealing tax on capital and deposits; R. S. 3412 and R. S. 3413, superseded by Feb. 8, 1875, c. 30, § 20, 18 Stat. 311.

## Chapter 15.—LIQUOR

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<sup>1</sup> "Of deposits and capital" following "circulation" in the original text is omitted for the reason given in note 1 on page 100.

<sup>2</sup> The phrase "and of the monthly amount of notes of persons, town, city, or municipal corporations, State banks, or State banking associations paid out as aforesaid" is omitted after aforesaid as superseded by section 21 of the act of Feb. 8, 1875, codified in section 1142 (b). R. S. 3414 is cited under 1142 (b).

<sup>3</sup> "Deposits, capital, and" is omitted before "circulation." See note 1 on page 100.

<sup>4</sup> "Deposit, capital" in the original text, is omitted for the reason given in note 1 on page 100.

<sup>5</sup> "Deposits, capital" following "the" in original text, is omitted for the reason given in note 1 on page 100.

<sup>6</sup> Reference to R. S. 3410 is omitted. See NOTE.

<sup>7</sup> "As national banks" is substituted for "under and by virtue of Title 'National Banks'".