

*Chap. 303* AN ACT CHANGING THE LAWS RELATING TO TAXATION OF CERTAIN CLASSES OF CORPORATIONS, ESPECIALLY AS THEY RELATE TO SUBSIDIARY OR CONTROLLED CORPORATIONS.

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 63, § 33, amended.

Minimum tax of domestic subsidiary corporations.

SECTION 1. Chapter sixty-three of the General Laws is hereby amended by striking out section thirty-three, as appearing in the Tercentenary Edition thereof, and inserting in place thereof the following:—*Section 33.* The net income of a domestic business corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporations in excess of fair value, and by including fair compensation to such domestic business corporation for all commodities sold to or services performed for the parent corporation or affiliated corporations. For the purposes of determining such net income, the commissioner may, in the absence of satisfactory evidence to the contrary, presume that an apportionment by reasonable rules of the consolidated net income of corporations participating in the filing of a consolidated return of net income to the federal government fairly reflects the net income taxable under this chapter, or may otherwise equitably determine such net income by reasonable rules of apportionment of the combined income of the subsidiary, its parent and affiliates or any thereof.

If in the opinion of the commissioner the capital of a domestic business corporation, which is a subsidiary of another corporation or closely affiliated therewith by stock ownership, is inadequate for its business needs apart from credit extended or indebtedness guaranteed by the parent or an affiliated corporation, the commissioner shall, in determining the corporate excess, determine the value of the capital truly employed by such domestic business corporation and consider such value the value of its capital stock disregarding its indebtedness owed to or guaranteed by the parent or an affiliated corporation, and the corporate excess thus determined shall in such case constitute the corporate excess taxable under the provisions of this chapter.

Such a domestic business corporation shall incorporate in the tax returns required under section thirty-five such information as the commissioner may reasonably require for determination of the excise pursuant to the provisions of this section, and failure to so incorporate such information shall subject the corporation and its officers to the penalties provided by sections forty-six, forty-nine and fifty.

G. L. (Ter. Ed.), 63, § 39A, amended.

SECTION 2. Said chapter sixty-three is hereby further amended by striking out section thirty-nine A, as so appearing, and inserting in place thereof the following:—

*Section 39A.* The net income of a foreign corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporations in excess of fair value, and by including fair compensation to such parent corporation for all commodities sold to or services performed for the parent corporation or affiliated corporations. For the purposes of determining such net income, the commissioner may, in the absence of satisfactory evidence to the contrary, presume that an apportionment by reasonable rules of the consolidated net income of corporations participating in the filing of a consolidated return of net income to the federal government fairly reflects the net income taxable under this chapter, or may otherwise equitably determine such net income by reasonable rules of apportionment of the combined income of the subsidiary, its parent and affiliates or any thereof.

Minimum tax of foreign subsidiary corporations.

If in the opinion of the commissioner the capital of a foreign corporation, which is a subsidiary of another corporation or closely affiliated therewith by stock ownership, is inadequate for its business needs apart from credit extended or indebtedness guaranteed by the parent or an affiliated corporation, the commissioner shall, in determining the corporate excess employed within the commonwealth, determine the value of the capital truly employed by such foreign corporation and consider such value the value of its capital stock disregarding its indebtedness owed to or guaranteed by the parent or an affiliated corporation, and the corporate excess employed within the commonwealth as thus determined shall in such case constitute the corporate excess taxable under the provisions of this chapter.

Such a corporation shall incorporate in its tax return required under section forty such information as the commissioner may reasonably require for determination of the excise pursuant to the provisions of this section, and failure to so incorporate such information shall subject the corporation and its officers to the penalties provided by sections forty-six, forty-nine and fifty.

SECTION 3. This act shall take effect as of January first, nineteen hundred and thirty-three and shall apply to taxes assessed and payable in the year nineteen hundred and thirty-three and thereafter.

Effective date, etc.

*Approved June 28, 1933.*

AN ACT REGULATING THE SALE, DISTRIBUTION, STORAGE AND USE OF BENZOL AND ITS COMPOUNDS.

*Chap. 304*

*Be it enacted, etc., as follows:*

Chapter one hundred and forty-nine of the General Laws is hereby amended by inserting after section one hundred and forty-two, as appearing in the Tercentenary Edition

G. L. (Ter. Ed.), 149, six new sections after § 142.