

HOUSE No. 1705

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 2, 1931.

The committee on Taxation, to whom was recommitted so much of the recommendations of the Department of Corporations and Taxation (House, No. 115) as relates to income taxation of estates and fiduciaries (accompanied by bill, House, No. 126), report the accompanying bill (House, No. 1705).

For the committee,

ARTHUR I. BURGESS.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-One.

An Act relative to Income Taxation of Estates and Fiduciaries.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section ten of chapter sixty-two of the
2 General Laws as most recently amended by section
3 sixty-six of chapter two hundred and fifty-seven of the
4 acts of nineteen hundred and eighteen, is hereby
5 further amended by striking out said section ten and
6 inserting in place thereof the following: —

7 *Section 10.* The income received by estates held in
8 trust by trustees or other fiduciaries under the will of
9 a person who died an inhabitant of the commonwealth
10 or under a trust created by a person who was either at
11 the time of the creation of the trust or at any time
12 during the year for which the income is computed an
13 inhabitant of the commonwealth, any one of which
14 trustees or other fiduciaries is an inhabitant of the
15 commonwealth or has derived his appointment from
16 a court of the commonwealth, shall be subject to the
17 taxes imposed by this chapter to the extent that the
18 persons to whom the income from the trust is payable
19 or for whose benefit it is accumulated are inhabitants
20 of the commonwealth. Income so received and accu-
21 mulated for unborn or unascertained persons or persons

22 with uncertain interests shall be taxed as if accumu-
23 lated for the benefit of a known inhabitant of the com-
24 monwealth to the following extent:

25 (1) Where all or any one of the trustees or other
26 fiduciaries have derived their appointment from a
27 court of the commonwealth or are required to account
28 to a court of the commonwealth, the whole amount of
29 income thus accumulated shall be taxed.

30 (2) Where all of the trustees or other fiduciaries are
31 inhabitants of the commonwealth, the whole amount
32 of income thus accumulated shall be taxed.

33 (3) Where any one or more of the trustees is an in-
34 habitant of the commonwealth the proportion of the
35 income accumulated for unborn or unascertained per-
36 sons or persons with uncertain interests shall be taxed
37 which is represented by the ratio of trustees who are
38 inhabitants of the commonwealth to the total number
39 of trustees. For the purposes of this section and of
40 section nine income shall be deemed to be accumulated
41 for unborn or unascertained persons or persons with
42 uncertain interests when thus accumulated by estates,
43 by trustees or other fiduciaries, who are subject to the
44 provisions of this section or of section nine, for the
45 benefit of any future interest other than a remainder
46 presently vested in a person or persons in being not
47 subject to be divested by the happening of any con-
48 tingency expressly mentioned in the instrument creat-
49 ing the trust.

50 No person shall be taxed under this chapter for in-
51 come received from any trustee or other fiduciary
52 which income has itself been taxed under this section.

53 The trustees may deduct from the income taxable
54 under section one a proper amount for the amortiza-
55 tion, according to any approved method, of premiums

56 paid upon bonds owned by the estate, the income of
57 which is taxable under said section one.

58 In the computation of the tax, the trustees, in
59 addition to the deduction on account of interest paid,
60 allowed under section two, shall be entitled to the
61 following deductions from income taxable under sec-
62 tion one, and under paragraphs (a) and (c) of section
63 five, before the taxable income of the beneficiaries shall
64 finally be determined:

65 (a) Such proportion of the following items as the
66 amounts of income taxable under section one and sub-
67 sections (a) and (c) of section five each bear to the
68 total income received by the trustee from all sources,
69 exclusive of income taxable under subsection (b) of
70 section five; (1) amounts paid within the year for
71 rental of safe deposit boxes; and (2) amounts paid
72 within the year for premiums on surety bonds of the
73 trustee.

74 (b) The compensation actually paid during the year
75 to the trustees upon such income taxable under section
76 one as is payable to or accumulated for inhabitants
77 of the commonwealth, or for unborn or unascertained
78 persons or persons with uncertain interests, to an
79 amount not exceeding six per cent of such taxable
80 income.

1 SECTION 2. Section eleven of chapter sixty-two as
2 most recently amended by chapter two hundred and
3 seven of the acts of nineteen hundred and eighteen, is
4 hereby further amended by striking out said section
5 and inserting in place thereof the following: —

6 *Section 11.* Any inhabitant of the commonwealth
7 who receives income from one or more trustees or other
8 fiduciaries who are not subject to taxation under this

9 chapter, shall be subject to the taxes imposed by this
10 chapter upon such income according to the nature of
11 the income received by such trustees or other fiduci-
12 aries, and shall include such income in a return as re-
13 quired by section twenty-two.

1 SECTION 3. Section thirteen of chapter sixty-two
2 of the General Laws is hereby amended by striking out
3 said section thirteen and inserting in place thereof the
4 following: —

5 *Section 13.* Sections ten to twelve, inclusive, shall,
6 so far as apt, apply to executors, administrators,
7 guardians, conservators, trustees in bankruptcy, re-
8 ceivers and assignees for the benefit of creditors, to the
9 income received by them and to their beneficiaries,
10 except that clauses (a) and (b) of section ten author-
11 izing certain deductions shall apply to trustees only.
12 All such fiduciaries and their successors in office shall
13 be personally liable for all taxes due under this chapter
14 from them or from their predecessors in office to the
15 value of all property in their hands as such fiduciaries
16 at the time of distribution as provided in section
17 twenty-five.

1 SECTION 4. This act shall apply to income re-
2 ceived during the calendar year nineteen hundred and
3 thirty and thereafter.



