

Chap. 15. AN ACT INCREASING THE AMOUNT OF PROPERTY THAT MAY BE HELD BY THE AUGUSTINIAN COLLEGE OF THE MERRIMACK VALLEY.

Be it enacted, etc., as follows:

The Augustinian College of the Merrimack Valley, a corporation organized under chapter one hundred and eighty of the General Laws, is hereby authorized to hold real and personal property to an amount not exceeding twenty-five million dollars to be used for the purposes of said corporation as set forth in its charter or certificate of incorporation or in any amendment thereof.

Approved February 5, 1959.

Chap. 16. AN ACT RELATIVE TO THE GRANTING OF VACATIONS FOR MEMBERS OF THE REGULAR POLICE AND FIRE FORCES OF THE TOWN OF WEST SPRINGFIELD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, there shall be placed upon the official ballot to be used for the election of town officers at the next annual town meeting in the town of West Springfield the following question:—"Shall the town of West Springfield accept the provisions of section 111D of chapter 41 of the General Laws which, if accepted, will provide that vacations without loss of pay may be granted to all members of its regular police or fire force, said vacations to be computed in the following manner: For five years' service, but less than ten years' service, a vacation of three weeks. For ten years' service or more, a vacation of four weeks?" If a majority of the votes in answer to said question is in the affirmative, then said provisions shall take effect in said town, but not otherwise.

Approved February 5, 1959.

Chap. 17. AN ACT PROVIDING FOR WITHHOLDING OF TAXES ON WAGES AND DECLARATION OF ESTIMATED INCOME TAX.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is in part to provide forthwith for the withholding of taxes upon wages on and after February fifteenth in the current year as provided herein, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 62A the following chapter:—

CHAPTER 62B.

WITHHOLDING OF TAXES ON WAGES AND
DECLARATION OF ESTIMATED INCOME TAX.

Section 1. The following words as used in this chapter shall, unless

the context otherwise requires, have the following meanings:—

“Commission”, the state tax commission.

“Commissioner”, the commissioner of corporations and taxation.

“Internal Revenue Code”, the Internal Revenue Code of the United States as amended and in effect January first, nineteen hundred and fifty-nine;

“Employer”, employer as defined in section thirty-four hundred and one (d) of the Internal Revenue Code;

“Employee”, employee as defined in section thirty-four hundred and one (c) of the Internal Revenue Code, except full-time students engaged in seasonal or temporary employment whose estimated annual income would not exceed two thousand dollars;

“Wages”, wages as defined in section thirty-four hundred and one (a) of the Internal Revenue Code.

WITHHOLDING OF TAXES ON WAGES.

Section 2. Every employer making payment to employees on or after February fifteenth, nineteen hundred and fifty-nine, of wages subject to tax under chapter sixty-two shall deduct and withhold a tax upon such wages in accordance with tables prepared by the commissioner, with the approval of the commission, which tax so withheld shall be substantially equivalent to the tax imposed by said chapter sixty-two and any taxes in addition thereto. The commissioner may permit the use of accounting machines to calculate the proper amount to be deducted and withheld from such wages; provided, that such calculation produces substantially the tax required by said tables.

If wages are paid with respect to a period which is not a pay-roll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous pay-roll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid. In any case in which wages are paid by an employer without regard to any pay-roll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous pay-roll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January first of such year, whichever is the later.

In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

The commission may, by regulation, authorize employers to estimate the wages which will be paid to any employee in any quarter of the calendar year, to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount that

would be required to be deducted and withheld during such quarter if the pay-roll period of the employee was quarterly.

The commission may provide by regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under this section in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered a tax required to be deducted and withheld under this chapter.

Section 3. If the remuneration paid by an employer to an employee for services performed during one half or more of any pay-roll period of not more than thirty-one consecutive days constitute wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one half of any such pay-roll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

Section 4. (a) Every employee, on or before February fourteenth, nineteen hundred and fifty-nine, or before the date of commencement of employment, whichever is later, shall furnish his employer with a signed withholding exemption and deduction certificate setting out the number of dependency deductions which he claims, which shall in no event exceed the number to which he is entitled under clause (h) of section six of chapter sixty-two plus one for his own personal exemption under clause (b) of section five of chapter sixty-two. The term "dependency deductions" as used in this chapter, shall include a deduction for a spouse meeting the requirements of said clause (h). If any employee fails to furnish such signed certificate, the number of his withholding exemptions and deductions shall be considered to be zero.

(b) Withholding exemption and deduction certificates shall take effect as of the beginning of the first pay-roll period ending, or as of the time of the first payment of wages made without regard to pay-roll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before February fourteenth, nineteen hundred and fifty-nine, shall be considered as furnished on that date. Each such certificate shall continue in effect with respect to the employer to whom it was submitted until another such certificate shall take effect under this paragraph. If a withholding exemption and deduction certificate is furnished to take the place of an existing certificate, the employer may, at his option, continue the old certificate in force with respect to all wages paid on or before the first status determination date which occurs at least thirty days after the date on which such new certificate is furnished. For the purpose of this paragraph, the term "status determination date" means January first and July first of each year.

(c) If, on any day during any calendar year, the number of dependency deductions to which the employee is entitled is less than the number of dependency deductions claimed by the employee on the withholding exemption and deduction certificate then in effect with respect to him, the employee shall, within ten days thereafter, furnish the employer with a new withholding exemption and deduction certificate relating the number of dependency deductions which the em-

ployee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during any calendar year, the number of dependency deductions to which the employee is entitled is greater than the number of dependency deductions claimed, the employee may furnish the employer with a new withholding exemption and deduction certificate relating to the number of dependency deductions which the employee then claims which shall in no event exceed the number to which he is entitled on such day.

(d) If, on any day during any calendar year, the number of dependency deductions to which the employee may reasonably be expected to be entitled at the beginning of the next calendar year is different from the number of dependency deductions to which the employee is entitled on such day, the employee shall in such cases and at such times as the commission may by regulation prescribe, furnish the employer with a withholding exemption and deduction certificate relating to the number of dependency deductions which he claims with respect to such next calendar year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Withholding exemption and deduction certificates issued pursuant to this paragraph shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(c) Withholding exemption and deduction certificates shall be in such form and contain such information as the commissioner shall, with the approval of the commission, prescribe.

Section 5. Every employer required to deduct and withhold taxes under section two shall, for the quarterly period beginning January first, nineteen hundred and fifty-nine, and for each quarterly period thereafter, on or before the last day of the month following the close of each such quarterly period, pay over the tax so withheld to the commissioner, and shall file a return with each such payment. Such return shall be in such form as the commissioner shall, with the approval of the commission, prescribe.

The commission shall authorize every employer who has complied with all the requirements of this chapter and all pertinent regulations promulgated by it thereunder to retain from each payment required to be made by him under the foregoing provisions of this section as compensation for services rendered in compliance with this chapter, such amount not less than one half of one per cent nor more than three per cent of such payment as the commission shall by regulation prescribe.

Every employer required to deduct and withhold from an employee a tax under section two or who would have been required under said section to deduct and withhold a tax if the employee had not claimed any personal exemption or dependency deductions shall furnish to each such employee in respect of the wages paid by such employer to such employee during the calendar year, on or before January thirty-first of the succeeding year, or, if his employment is terminated before the close of such calendar year, within thirty days from the day on which the last payment of wages is made, a written statement in duplicate showing the name of the employer, the name of the employee and his social security account number, if any, the total amount of wages subject to taxation under chapter sixty-two, and the total amount deducted and withheld as tax. Said statement may contain such other

information as the commissioner, with the approval of the commission, may prescribe. The commission may by regulation prescribe that one of the copies of such statement may constitute the return required to be made in respect of such wages under section four of chapter sixty-two A.

The commissioner may grant reasonable extensions of time, not exceeding sixty days, for the filing of returns and statements required under this section.

If the commissioner, in any case, has reason to believe that the collection of the tax provided for in section two is in jeopardy, he may require the employer to file a return and pay the tax at any time.

Every employer who fails to withhold or pay to the commissioner any sums required by this chapter to be withheld or paid shall be personally and individually liable therefor to the commonwealth. The term "employer", as used in this paragraph and in section eleven, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee or member is under a duty to withhold and pay over taxes in accordance with this section and section two. Any sum or sums withheld in accordance with the provisions of section two shall be deemed to be held in trust for the commonwealth.

If an employer in violation of the provisions of this chapter fails to withhold the tax in accordance with section two, and thereafter the tax against which such tax may be credited, pursuant to section nine, is paid, the tax so required to be withheld shall not be collected from the employer; but this paragraph shall in no case relieve the employer from liability for any penalties or addition to the tax otherwise applicable in respect of such failure to withhold.

Section 6. In the event an employer fails to withhold and pay over to the commissioner any amount required to be withheld under section two, such amount may be assessed against such employer in the same manner as is prescribed for the assessment of income tax under the provisions of sections thirty-five to thirty-seven, inclusive, of chapter sixty-two. The commissioner shall collect the amounts so required to be withheld and paid over and also the penalties prescribed in section eleven of this chapter in the manner provided in section thirty-nine of said chapter sixty-two for the collection of income taxes. He shall have the same remedies for the collection of said amounts and penalties as are provided in section forty-one of said chapter sixty-two for the collection of income taxes, and in addition shall have a lien upon all of the property of any employer who fails to withhold or pay over sums required to be withheld under section two of this chapter. Assessments remaining unpaid after the date upon which the same are required to be paid shall bear interest at the rate of six per cent per annum which shall be added to and become a part of the tax assessed.

Section 7. (a) Whenever any employer fails to deduct and withhold taxes, file returns relating thereto, or pay over such taxes to the commissioner at the time and in the manner prescribed by this chapter or by any regulation issued hereunder, and is notified, by notice delivered in hand to such employer, of any such failure, then all the requirements of paragraph (b) shall be complied with. In the case of

a corporation, partnership or trust, notice delivered in hand to an officer, partner or trustee, shall, for the purposes of this section, be deemed to be notice delivered in hand to such corporation, partnership or trust and to all officers, partners, trustees and employees thereof.

(b) Any employer who is required by this chapter to deduct and withhold taxes, file returns relating thereto and pay over such taxes to the commissioner, if notice has been delivered to such employer in accordance with paragraph (a), shall withhold the taxes required by section two to be withheld after the delivery of such notice, and, not later than the end of the second banking day after any amount of such taxes is withheld, deposit the same in a separate account in a national bank doing business in the commonwealth or in a trust company chartered by the commonwealth, and shall keep the amount of such taxes so withheld in such account until payment over to the commissioner. Any such account shall be designated as a special fund in trust for the commonwealth, payable to the commonwealth by such employer as trustee.

(c) Whenever the commissioner is satisfied, with respect to any notification made under paragraph (a), that all the requirements of this chapter and the regulations thereunder will thereafter be complied with, he may cancel such notification. Such cancellation shall take effect at such time as is specified in the notice of such cancellation.

(d) Any employer who fails to comply with any provisions of paragraph (b) shall, in addition to any other penalties provided by law, be punished by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment for not more than one year, or both.

(e) This section shall not apply to any employer who shows that there was reasonable doubt as to whether the law required the withholding of tax, or as to who was required by law to withhold the tax, and shall not apply to any employer who shows that his failure to comply with the provisions of paragraph (b) was due to circumstances beyond his control. For the purposes of the preceding sentence, a lack of funds existing immediately after the payment of wages, whether or not created by the payment of such wages, shall not be considered to be circumstances beyond the control of an employer.

Section 8. When an employer believes that he has made an overpayment of the tax required to be paid under section five, he may file an application with the commission on a form approved by it either to have the amount of such overpayment refunded to him, or to have the same credited against the payment which he is required to make for a subsequent quarterly period, but such refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not withheld under section two by the employer. Application for such refund or credit must be filed with the commission within two years from the date on which such overpayment was made. The commission shall notify the applicant by certified mail of its decision upon any such application. Any employer aggrieved by the refusal of the commission to refund in accordance with an application duly filed by him may appeal in the manner provided in section forty-five of chapter sixty-two. Any refund whether made as a result of the decision of the commission or of the appellate tax board shall be repaid

to the employer by the state treasurer with interest thereon at three per cent per annum from the time when it was paid. The commission shall by regulation prescribe the procedure to be followed by an employer electing to have such an overpayment credited.

Section 9. The amount deducted and withheld as tax under section two during any calendar year upon the wages of any employee shall be allowed as a credit to the recipient of the income against the tax imposed thereon. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the tax for the last year so beginning.

Section 10. An employer shall be liable for the payment of the tax required to be withheld under section two, and shall not be liable, except as provided in section five, to any person for the amount of any such payment.

Section 11. (a) If an employer fails to pay over a tax within the time prescribed by this chapter, unless it is shown to the satisfaction of the commissioner that such failure is due to reasonable cause and not due to wilful neglect, there shall be imposed on such employer a penalty of one per cent of the amount of the underpayment if the failure is for not more than one month, with an additional one per cent for each additional month or fraction thereof during which such failure continues, not exceeding six per cent in the aggregate. Such penalty shall be added to and become a part of the tax assessed. For purposes of this paragraph, the term "underpayment" shall mean the excess of the amount of the tax required to be paid over the amount thereof actually paid on or before the date prescribed therefor.

(b) If an employer fails to file a return within the time prescribed by this chapter, including reasonable extensions of time therefor, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, there shall be imposed on him a penalty equal to five per cent of the amount of the tax which should have been shown on such return if such failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five per cent in the aggregate. Such penalty shall be added to and become a part of the tax assessed. The amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed in the return.

(c) An employer who is required under the provisions of section five to furnish a statement to an employee, and who wilfully fails to furnish the statement required by said section, shall, for each such offence be subject to a penalty of fifty dollars payable to the commissioner as hereinafter provided, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or both.

(d) An employee who wilfully furnishes his employer with a false or fraudulent withholding exemption and deduction certificate or who wilfully fails to supply a new certificate to his employer which would increase the tax to be withheld from him shall be subject to a penalty

of fifty dollars payable to the commissioner as hereinafter provided, and shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

(c) Any penalties imposed by this section shall be collected by the commissioner in the manner provided in section thirty-nine of chapter sixty-two for the collection of income taxes, and he shall have the same remedies for the collection of said penalties as are provided in section forty-one of said chapter sixty-two for the collection of income taxes. Any person who believes that a penalty has been improperly imposed upon him shall have the remedies provided in sections forty-three and forty-five of said chapter sixty-two for the abatement of income taxes.

Section 12. All taxes deducted and withheld by an employer and paid over to the commissioner pursuant to section five shall be deemed and credited as payments on account of the tax imposed on income for the taxable year under chapter sixty-two, or chapter sixty-two A, whichever is applicable, and any taxes in addition thereto.

DECLARATION OF ESTIMATED INCOME TAX.

Section 13. Every taxpayer who in any taxable year commencing after December thirty-first, nineteen hundred and fifty-eight can reasonably expect to receive income in excess of one hundred dollars taxable under chapter sixty-two or sixty-two A from sources other than wages upon which a tax is required to be withheld under section two shall file a declaration of his estimated tax for such year.

In said declaration the taxpayer shall state—

(a) The amount which he estimates as the tax due under chapter sixty-two and any taxes in addition thereto, with respect to the taxable year;

(b) The amount which he estimates as the credits to which he will be entitled under section nine for taxes withheld during the taxable year;

(c) The excess of (a) over (b), which for the purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Such other information as the commissioner may, with the approval of the commission, prescribe.

Said declaration shall be filed on or before April fifteenth of the taxable year, except that if the requirements of the first paragraph of this section are first met—

(i) After April first and before June second, the declaration shall be filed on or before June fifteenth; or

(ii) After June first and before September second, the declaration shall be filed on or before September fifteenth; or

(iii) After September first, the declaration shall be filed on or before January fifteenth of the succeeding year.

The commission shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax; provided, however, that no such extension shall be for more than six months except in the case of taxpayers who are outside of the United States.

A taxpayer may make amendments to any declaration of estimated tax under regulations prescribed by the commission.

If on or before January thirty-first of the succeeding year, the taxpayer files a return for the year for which the declaration is required and pays in full the amount computed on the return as payable, then, under regulations prescribed by the commission, if the declaration is not required to be filed during the taxable year but is required to be filed on or before January fifteenth, such return shall, for the purposes of this section, be considered as such declaration. If the tax shown on the return, reduced by the credits permitted under section nine, is greater than the estimated tax shown in a declaration previously made or in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by this section to be filed on or before January fifteenth.

In the case of a husband and wife, a single declaration of estimated tax may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made unless the husband and wife are married at the time when the declaration is due and not separated by a decree of divorce or separate maintenance. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

Section 14. The estimated tax declared under section thirteen shall be paid as follows:—

(a) If the declaration is filed on or before April fifteenth of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, and thereafter, the second on June fifteenth and the third on September fifteenth of the taxable year, and the fourth on January fifteenth of the succeeding taxable year.

(b) If the declaration is filed after April fifteenth and not after June fifteenth of the taxable year and is not required by section thirteen to be filed on or before April fifteenth of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September fifteenth of the taxable year and the third on January fifteenth of the succeeding taxable year.

(c) If the declaration is filed after June fifteenth and not after September fifteenth of the taxable year and is not required by section thirteen to be filed on or before June fifteenth of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January fifteenth of the succeeding taxable year.

(d) If the declaration is filed after September fifteenth of the taxable year, and is not required by section thirteen to be filed on or before September fifteenth of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(e) If the declaration is filed after the time prescribed in section thirteen including extensions of time for such filing, paragraphs (b), (c) and (d) shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in section thirteen and the remaining installments shall be

paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(f) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment and if any amendment is made after September fifteenth of the taxable year any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(g) At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

The application of this section to deceased persons and to other taxpayers having taxable years of less than twelve months shall be in accordance with regulations prescribed by the commission.

Section 15. In the case of a taxpayer whose estimated gross income from farming for the taxable year is at least two thirds of his total gross income from all sources for the taxable year, in lieu of the time prescribed in section thirteen, the declaration for the taxable year may be made at any time on or before January fifteenth of the succeeding year. If such taxpayer makes a declaration of estimated tax after September fifteenth of the taxable year and on or before January fifteenth of the succeeding year, the estimated tax shall be paid in full at the time of the filing of the declaration.

Section 16. In the application of sections thirteen, fourteen and fifteen to taxpayers reporting on a fiscal year basis, there shall be substituted for the months specified therein, the months corresponding thereto in accordance with regulations prescribed by the commission.

Section 17. All payments of estimated tax made by any taxpayer pursuant to section fourteen shall be deemed and credited as payments on account of the tax imposed on income for the taxable year under chapter sixty-two or sixty-two A, as the case may be, and any taxes in addition thereto.

Section 18. (a) In the case of any under-payment of estimated tax, except as provided in paragraph (b), there shall be added to the tax due under chapter sixty-two, and any taxes in addition thereto for the taxable year, an amount determined at the rate of six per cent per annum upon the amount of the under-payment for the period of under-payment. For the purposes of this paragraph, "the amount of the under-payment" shall be the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to seventy per cent, or sixty-six and two thirds per cent in the case of a farmer referred to in section fifteen, of the tax shown on the return for the taxable year, or, if no return was filed, seventy per cent or sixty-six and two thirds per cent, as the case may be, of the tax for such year, over the amount, if any, of the instalment paid on or before the last date prescribed for such payment. For the purposes of this paragraph, "the period of under-payment" is the period from the date the installment was required to be paid to the fifteenth day of the fourth month following the close of the taxable year, or with respect to any portion of the under-payment, to the date on which such portion is paid, whichever is the earlier. A payment of estimated tax on any installment date shall be considered a payment of any previous install-

ment only to the extent that such payment exceeds the amount of the installment for such installment date.

(b) Notwithstanding the provisions of paragraph (a), the addition to the tax with respect to any under-payment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser—
(1) the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser—

(i) the tax shown on the return of the taxpayer for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of twelve months, or

(ii) an amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to his personal exemption under clause (b) of section five and deductions for spouse and dependents under clause (h) of section six of chapter sixty-two for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year, or

(2) an amount equal to ninety per cent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(c) For the purposes of applying this section the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section nine, and the amount of the credit allowed under said section nine for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date, determined under section fourteen for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(d) For the purposes of paragraphs (a) and (b), the term "tax" means the tax imposed by chapter sixty-two and any taxes in addition thereto, reduced by the credit against tax allowed by section six A of said chapter.

Section 19. Any addition of tax provided for under section eighteen shall be collected by the commissioner in the manner provided in section thirty-nine of chapter sixty-two for the collection of income taxes, and he shall have the same remedies for the collection of said amounts as are provided in section forty-one of said chapter sixty-two.

Section 20. Any person aggrieved by the action of the commissioner in collecting any addition to tax under section eighteen shall have the remedies provided in sections forty-three and forty-five of chapter sixty-two for the abatement of income taxes.

Section 21. The administration of this chapter is vested in the commissioner. All forms necessary and proper for the enforcement of this chapter shall be prescribed and furnished by the commissioner with the approval of the state tax commission. The state tax commis-

sion may prescribe regulations and rulings, not inconsistent with law, to carry into effect the provisions of this chapter, which regulations and rulings, when reasonably designed to carry out the intent and purposes of this chapter, shall be prima facie evidence of its proper interpretation.

SECTION 2. Chapter 62 of the General Laws is hereby amended by striking out section 43, as most recently amended by chapter 545 of the acts of 1955, and inserting in place thereof the following section:—
Section 43. Any person who believes that he has been over-assessed on or has over-paid any tax imposed by this chapter may apply in writing to the state tax commission, hereinafter called the commission, on a form prescribed by it, for an abatement of any such over-assessment or over-payment at any time within three years from the last day for filing the return required by this chapter or within one year after the date of such over-assessment or over-payment, whichever occurs later. If after hearing, or otherwise, the commission finds that the tax assessed or paid exceeds the tax due it shall abate such excess. If there has been an over-payment, the state treasurer shall refund the same with interest thereon at the rate of three per cent per annum from the time it was paid, except that to the extent that an over-payment arises from the fact that the total of the credit allowed under section nine of chapter sixty-two B and the aggregate payments on account of the declaration of estimated tax pursuant to said chapter sixty-two B exceeds the tax imposed by this chapter, interest shall be paid from a date six months after the date upon which the return for the taxable year was due to be filed and except that no interest shall be paid in the case of an over-payment arising from the fact that an employee has understated in the withholding exemption and deduction certificate filed by him pursuant to section four (a) of chapter sixty-two B the number of dependency deductions, as therein defined, to which he was entitled or has failed to claim a personal exemption. The commission shall notify the applicant by certified mail of its decision upon the application for abatement.

SECTION 3. Notwithstanding the provisions of section eighteen of chapter fifty-eight of the General Laws, or any other provision of law to the contrary, all payments on account of taxes on incomes under chapter sixty-two of the General Laws collected by the commonwealth during the fiscal year nineteen hundred and fifty-nine pursuant to chapter sixty-two B of the General Laws, inserted by section one of this act, shall be retained by the commonwealth.

Approved February 6, 1959.

Chap. 18. AN ACT TO PROVIDE FOR THE DETERMINING OF TIES IN THE ELECTION OF TOWN MEETING MEMBERS IN THE TOWN OF LEXINGTON.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 215 of the acts of 1929 is hereby amended by striking out the fourth sentence, inserted by section 1 of chapter 442 of the acts of 1956, and inserting in place thereof the following two sentences:—Such vacancy or vacancies shall be filled, in the