September 29, 1965

R.S. 54:48-1 to 54:49-18

LEGISLATIVE HISTORY OF R.S. 54:48-1 to 54:49-18
(State Tax Uniform Procedure Law)

All sections originated in Law of 1936. Amendments to separate sections follow.

L. 1936, Chapter 263 - A447
Introduced March 11 by Mr. Zink.
Amended during passage.
Statement on bill. (photostat enclosed)

R.S. 54:49-1 (Tax a debt and a lien)

L. 1936, Chapter 263 (above)

L. 1952, Chapter 169 - A472
Introduced March 10 by Mr. Shershin.
Not amended.
No statement.

R.S. 54:49-12 (Certificate of debt)

L. 1936, Chapter 263 (above)

L. 1939, Chapter 175 - A369
Introduced February 27 by Mr. Palese.
Amended.
Statement:

The purpose of this act is to provide more detailed information in those cases where certificates of indebtedness are filed by the State Tax Commissioner.

L. 1953, Chapter 51 - S47
Introduced January 13 by Mr. Clapp.
Amended.
No statement.

R.S. 54:49-13 (Release of lien)

L. 1936, Chapter 263 (above)

L. 1945, Chapter 306 - A276
Introduced April 2 by Mr. Lasher.
Amended.
No statement.

R.S. 54:49-13.1 (Taxpaying corporations)

L. 1936, Chapter 263 (above)

L. 1943, Chapter 10 - S22
Introduced January 25 by Mr. Eastwood.
Amended.
Statement:

In applying section 54:11-5 R.S., whereby the Governor, by and with the advice of the Attorney-General, has power to reinstate the charter of a corporation for "such sum in lieu of taxes and penalties as to them may seem reasonable," it happens, from time to time, that a corporation is reinstated against whom a judgement has been entered for a larger sum than the sum received by the State as a reinstatement fee in lieu of the taxes assessed and the interest thereon.

The object of this bill is to provide a method of marking any such judgement record to show that the claim of the State, evidenced by such a judgement has been satisfied by the application of the provisions of section 54:11-5 of the Revised Statutes.

L. 1953, Chapter 51 - S47
Introduced January 13 by Mr. Clapp.
Not Amended.
No statement.

R.S. 54:49-17 (Return of deposits)

L. 1936, Chapter 263 (above)

L. 1938, Chapter 137 - A526
Introduced March 7 by Mr. Platts.
Amended.
Statement:

The purpose of this bill is to authorize the State tax commissioner to deduct from refunds of taxes and repayments of deposits due from the State to a taxpayer, and other taxes, penalties and interest due to the State from the same taxpayer.

Origin of Act of 1936

Traced bills from 1931-1936.
Uniform Laws 1932-1936.
Reports.
} Negative

C/PC

ASSEMBLY, No. 447

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1936

By Mr. ZINK

Referred to Committee on Taxation

An Act concerning State taxes payable to the State Tax Commissioner.

Be it enacted *by the Senate and General Assembly of the State of New Jersey:*

Article I

SHORT TITLE AND PURPOSE

101. Short title.

This act may be cited as the "State Tax Uniform Procedure Act".

102. Purpose.

The purpose of this act is to provide as far as feasible a uniform procedure to be followed by taxpayers in relation to any State taxes and to afford uniform remedies and procedures which may be resorted to by the State in the collection of any of its taxes.

Article II

DEFINITIONS

201. The words defined in this article shall be construed in this act as having the definitions herein set forth.

202. "Commissioner" shall mean the State Tax Commissioner.

203. "Department" shall mean the State Tax Department.

204. "State tax" shall mean any tax which is payable to or collectible by the State Tax Commissioner, and "State tax law" shall mean any law which levies or imposes a State tax as herein defined.

205. "Taxpayer" shall mean any person owing or liable to pay any State tax or any person deemed by the commissioner to be so owing or liable.

Article III

COLLECTION OF STATE TAXES

301. Application of act.

Whenever any law of this State heretofore or hereafter enacted levies or imposes any State tax as herein defined, then unless expressly or impliedly prohibited by the law imposing or levying such tax the provisions of this act shall be applicable to such tax, and the collection thereof may be enforced by the commissioner in the manner herein provided.

302. Tax a debt and lien; proceedings to recover; preference.

The taxes, fees, interest and penalties imposed by any such State tax law, or by this act, from the time the same shall be due, shall be a personal debt of the taxpayer to the State of New Jersey, recoverable in any court of competent jurisdiction in an action at law in the name of the State of New Jersey. Such debt, whether sued upon or not, shall be a lien on all the property of the debtor except as against an innocent purchaser for value in the usual course of business and without notice thereof, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment or order obtained hereunder shall be paid to the commissioner.

303. Security for payment of tax.

The commissioner may require a bond or other security satisfactory to him, for the payment of any taxes, interest, and penalties imposed pursuant to any State tax law or pursuant to this act, when he shall find that the collection thereof may be prejudiced without such security.

304. Interest.

Any taxpayer who shall fail to pay any State tax on or before the day when the same shall be required by law to be paid shall pay in addition to the tax, unless otherwise provided in the law imposing such tax, interest on said tax at the rate of one per centum (1%) for each month or fraction thereof that the same remains unpaid, to be calculated from the date the tax was originally due until the date of actual payment.

305. Statutory penalties.

In addition thereto such taxpayer shall pay any special penalty or penalties provided by the law imposing such tax.

306. Arbitrary assessment.

If any taxpayer shall fail to make any report as required by any state tax law, the commissioner may make an estimate of the taxable liability of such taxpayer, from any information he may obtain, and according to such estimate so made by him, assess the taxes, fees, penalties and interest due the State from such taxpayer, give notice of such assessment to the taxpayer, and make demand upon him for payment.

307. Deficiency assessment.

After a report is filed under the provisions of any State tax law, the commissioner shall cause the same to be examined and may make such further audit or investigation as he may deem necessary, and if therefrom he shall determine that there is a deficiency with respect to the payment of any tax due under such law, he shall assess the additional taxes, penalties and interest due the State from such taxpayer, give notice of such assessment to the taxpayer, and make demand upon him for payment.

308. Jeopardy assessment.

If the commissioner finds that a taxpayer designs quickly to depart from this State or to remove therefrom his property, or any property subject to any State tax, or to conceal himself or his property, or such other property, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual proceedings to collect such tax, whereby it becomes important that such proceedings be brought without delay, the commissioner may immediately make an arbitrary assessment as hereinbefore provided in section three hundred and six, whether or not any report is then due by law, and may proceed under such arbitrary assessment to collect the tax, or security for the same, and thereafter shall cause notice of such finding to be given to such taxpayer, together with a demand for an immediate report and immediate payment of such tax.

309. When special assessments payable.

All taxes, penalties and interest assessed pursuant to the provisions of the preceding three sections, unless earlier payment is provided by law, shall be paid within fifteen days after notice and demand shall have been mailed to the taxpayer by the commissioner.

310. Special penalty.

If such taxes, penalties and interest so assessed pursuant to sections three hundred and six, three hundred and seven and three hundred and eight shall not be paid within the said fifteen days, there shall be added to the amount of assessment, in addition to interest as already provided and any other penalties provided by law, a sum equivalent to five per centum (5%) of the tax.

311. Recoverable as tax.

All penalties and interest when imposed by this or by any State tax law shall be payable to and recoverable by the commissioner in the same manner as if they were a part of the tax imposed.

312. If the failure to pay any such tax when due is explained to the satisfaction of the commissioner, he may remit or waive the payment of the whole or any part of any penalty, and may remit or waive the payment of any interest charge in excess of the rate of one-half of one per centum (½%) per month.

313. Certification of debt; judgment; procedure thereon.

As an additional or alternative remedy, the commissioner may issue a certificate to the clerk of the Supreme Court or to the clerk of the court of common pleas of any county, that any person is indebted under such State tax law in such an amount as shall be named in such certificate, and thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon his record of docketed judgments the name of such person, and of the State, the amount of the debt so certified, a short name of the tax, and the date of making such entries; and the making of the entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the commissioner shall have all of the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action at law upon contract, but without prejudice to the taxpayer's right of appeal.

314. Release of lien.

The commissioner, upon application made to him and upon the payment of a fee of one dollar ($1.00), may release any property from the lien of any certificate, judgment or levy procured by him; *provided,* payment be made to the commissioner of such sum as he shall deem adequate consideration for such release or provided a deposit shall be made with the commissioner of such security as he shall deem adequate to secure the payment of any debt evidenced by any such certificate, judgment or levy, the lien of which is sought to be released. Such release shall be given under the seal of the commissioner, and may be recorded in any office in which conveyances of real estate may be recorded.

315. Refund claim.

Any taxpayer, at any time within two years after the payment of any original or additional tax assessed against him, may file with the commissioner a claim under oath for refund, in such form as the commissioner may prescribe, stating the grounds therefor; *provided, however,* that no claim for refund shall be required or permitted to be filed with respect to a tax paid, after protest has been filed with the commissioner or after proceedings on appeal have been commenced as provided in this act, until such protest or appeal has been finally determined.

316. Refunds.

If upon examination of such claim for refund, it shall be determined by the commissioner that there has been an overpayment of tax, the amount of such overpayment shall be credited against any liability of the taxpayer under any State tax law and if there be no such liability the taxpayer shall be entitled to a refund of the tax so overpaid. If the commissioner shall reject the claim for refund in whole or in part, he shall make an order accordingly and serve a notice upon the taxpayer.

317. Erroneous payments.

Where no questions of fact or law are involved and it appears from the records of the commissioner that any moneys have been erroneously or illegally collected from any taxpayer or other person or have been paid by any taxpayer or other person under a mistake of fact or law, the commissioner may at any time, within two years of payment, upon making a record in writing of his reasons therefor, certify to the Comptroller that the taxpayer is entitled to such refund and thereupon the Comptroller shall authorize the payment thereof from the appropriation for such purpose.

318. Protests.

If any taxpayer shall be aggrieved by any finding or assessment of the commissioner, he may, within thirty days of receipt of the notice of assessment or finding, file a protest in writing signed by himself or his duly authorized agent, which shall be under oath, and shall set forth the reason therefor, and may request a hearing. Thereafter the commissioner shall grant a hearing to the taxpayer, if the same shall be requested. He may make an order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate penalties for nonpayment, nor shall it stay the right of the commissioner to collect the tax in any manner herein provided, unless the taxpayer shall furnish security of the kind and in the amount satisfactory to the commissioner.

Article IV

ADMINISTRATION

401. Power of commissioner to administer act.

The commissioner is hereby authorized and empowered to carry into effect the provisions of this act and in pursuance thereof to make and enforce such rules and regulations as he may deem necessary.

402. Power to examine records and premises.

For the purpose of administering this act, or any State tax law, the commissioner, whenever he deems it expedient, may make or cause to be made by any employee of the State Tax Department engaged in the administration of this act, or any such tax law, an examination or investigation of the place of business, if any, the tangible personal property and the books, records, papers, vouchers, accounts and documents of any taxpayer. It shall be the duty of every taxpayer and of every director, officer, agent or employee of every taxpayer to exhibit to the commissioner or to any such employee of the State Tax Department, the place of business, the tangible personal property and all of the books, records, papers, vouchers, accounts and documents of the said taxpayer and to facilitate any such examination or investigation so far as it may be in his or their power so to do. It shall be lawful for the commissioner or for any employee of the State Tax Department by him thereunto designated, to take the oath of any person signing any application, deposition, statement or report required by the commissioner in the administration of this act, or of any such tax law.

403. Power to conduct hearings.

The commissioner or any employee of the State Tax Department by him thereunto designated, may conduct hearings, administer oaths to, and examine under oath, any taxpayer and the directors, officers, agents and employees of any taxpayer and as well all other witnesses, relative to the business of such taxpayer in respect to any matter incident to the administration of this act, or any State tax law.

404. Power to subpœna witnesses; fees.

The commissioner or his deputies shall have power by subpœna to compel the attendance of witnesses and the production of any books, records, papers, vouchers, accounts or documents of any taxpayer or of any person who, the commissioner has reason to believe, has information pertinent to any matter under investigation by the commissioner at any hearing held pursuant to the provisions of this act, or any State tax law. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the Supreme Court. Such fees shall be paid in the manner provided for the payment of other expenses incident to the administration of this act, or any State tax law.

405. Procedure to compel witnesses to attend and to testify.

If a person subpœnaed to attend any hearing under this act refuses to appear, be examined or answer any question, or produce any books, records, papers, vouchers, accounts or documents when subpœnaed so to do by the commissioner or any deputy, the commissioner or such deputy may apply to the Supreme Court or to any justice thereof, who shall have the power of the court for that purpose, upon proof by affidavit of such refusal, to make an order returnable in not less than two nor more than ten days, directing such person to show cause before the court or a justice thereof, why he should not obey the demand of such subpœna. Upon the return of such order, the court or justice before whom the matter shall come, shall examine the person under oath, and the person shall be given an opportunity to be heard, and if the court or justice shall determine that he refused without legal excuse to obey the command of such subpœna, or to be examined, or to answer any question, or to produce any books, papers, vouchers, records, accounts or documents which he was by subpœna commanded to answer or produce, said court or justice may order said person to comply forthwith with such subpœna or order, and any failure to obey such order of the court or of such justice may be punished by said court or by said justice as a contempt of the Supreme Court.

406. Notices; how given.

Any notice required to be given by the commissioner pursuant to this act, may be served personally or by mailing the same to the person for whom it is intended, addressed to such person at the address given in the last report filed by him pursuant to the provisions of this act or of any State tax law, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom it was addressed.

407. Commissioner's records; authentication.

The commissioner shall keep a record of all his official acts and shall preserve copies of all rules, regulations, decisions and orders made by him. Copies of any rule, regulation, decision or order made by him and of any paper or papers filed in any office maintained by him in the administration of this act or of any State tax law may be authenticated under his official seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating any such copy he shall be paid a fee of one dollar ($1.00).

408. Confidential character of commissioner's records.

The records and files of the commissioner respecting the administration of this act or of any State tax law shall be considered confidential and privileged and neither the commissioner nor any employee engaged in the administration thereof or charged with the custody of any such records or files shall divulge or disclose any information obtained from the said records or files or from any examinations or inspection of the premises or property of any person. Neither the commissioner nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except in an action or proceeding under the provisions of this act or of the State tax act affected, when the records or files or the facts shown thereby are directly involved in such action or proceeding.

409. Exceptions.

Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to the provisions of this act or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The inspection by the Attorney-Generàl or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

d. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

e. The furnishing, at the discretion of the commissioner, of any information disclosed by the said records or files to any official person or body of any other State or of the United States who shall be concerned with the administration of any similar tax in that State or the United States.

410. Preservation of reports.

All reports filed with the commissioner pursuant to the provisions of this act shall be preserved for two years and thereafter may be destroyed by order of the commissioner.

411. Dissolution of corporation prohibited until tax is paid.

No corporation organized under any law of this State shall hereafter be dissolved by the action of the stockholders or by the decree of any court until all taxes, fees, penalties and interest imposed upon said corporation in accordance with the provisions of this act or of any State tax law shall have been fully paid. No certificate of dissolution shall be issued by the Secretary of State and no decree of dissolution shall be signed by any court until there shall have been filed with the Secretary of State or with the court, as the case may be, the certificate of the commissioner evidencing the payment by the corporation to be dissolved of all such taxes.

Article V

APPEALS

501. Appeals from decisions of commissioner.

Any person who shall be aggrieved by any decision, order, finding or assessment of the commissioner made pursuant to the provisions of this act or by his refusal to act, or by any certification of debt to the clerk of a court, may appeal therefrom to the State Board of Tax Appeals, by filing a petition of appeal with said board in the manner and form and within the time and subject to such terms and conditions as said board shall by rules prescribe. The provisions of this section shall not apply to transfer inheritance or estate taxes.

No such appeal shall stay the collection of any tax or the enforcement of the same by entry as a judgment, unless by order of such board, and then only after security approved by the commissioner or said board has been furnished to the commissioner. The judgment or order of the State Board of Tax Appeals respecting any matter arising under the provisions of this act may be reviewed by certiorari in the same manner as other judgments of said board.

502. Refunds upon appeal.

If by a decision or order of the State Board of Tax Appeals, or of any court of competent jurisdiction, the taxpayer shall be adjudged to be entitled to a refund, payment thereof shall be authorized by the Comptroller from the proper appropriation for refunds upon presentation to him of a certified copy of such decision or order.

503. Saving provision.

Nothing in this act shall be construed as depriving any taxpayer of any remedy in the review of any tax or any proceedings to collect the same given such taxpayer by any other law.

Article VI

CRIMINAL PENALTIES

601. Failure to file report; filing of false or fraudulent report.

Any person who shall fail to file any report required to be filed pursuant to the provisions of any State tax law, or shall file or cause to be filed with the commissioner any false or fraudulent report or statement, or shall aid or abet another in the filing with the commissioner of any false or fraudulent report or statement, with the intent to defraud the State or evade the payment of any tax, fee, penalty or interest or any part thereof, which shall be due pursuant to the provisions of this act, or to any State tax law, shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000.00) or be imprisoned not to exceed one year, or both, at the discretion of the court.

602. False swearing.

Any person who shall knowingly swear to, affirm, or verify any false or fraudulent statement with intent to evade the payment of any State tax or who, being under oath, shall testify falsely at any hearing held pursuant to the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000.00) or be imprisoned not to exceed one year, or both, at the discretion of the court.

603. Certain offenses deemed to have occurred in part at the office of the commissioner.

The failure to do any act required to be done by, or under the provisions of, this act shall be deemed an act committed in part at the office of the commissioner in Trenton. The certificate of the commissioner to the effect that any act required to be done by, or under the provisions of, this act has not been done, shall be prima facie evidence that such act has not been done.

Article VII

MISCELLANEOUS

701. Nothing in this act shall be construed as depriving the State or the commissioner of any remedy for the enforcement of any State tax through any procedure or remedies expressly provided in the law imposing such tax or in any other law, nor shall this act be construed as repealing or altering any such law or laws.

702. Constitutionality.

The provisions of this act shall be severable and if any of the provisions shall be held to be unconstitutional, the decision of the court respecting such provision or provisions shall not affect the validity of any other provisions which can be given effect without such invalid provision or provisions.

703. Effective date.

This act shall take effect on the first day of the calendar month following its approval.

STATEMENT

The purpose of this act is expressed in section 102. It is intended primarily to simplify the procedure for the collection of State taxes by furnishing a method which may be employed with respect to any State tax, thus making possible greater uniformity of forms, reducing the expense of administering tax laws and making available for the collection of any tax any appropriate procedure which has been found useful.

It is also intended to benefit the taxpayer by making available to him, so far as possible, a uniform procedure no matter which tax he may be concerned in, and by assuring the taxpayer that he can rely in any case on a uniform method of appeal.

All the various provisions of this act are now found in one or more of the various State tax acts; therefore, this bill contains no new provisions, but simply makes existing provisions in some acts applicable to all State taxes, unless expressly excluded.

[OFFICIAL COPY REPRINT]

SENATE AMENDMENTS TO

ASSEMBLY, No. 447

STATE OF NEW JERSEY

ADOPTED JUNE 15, 1936

Page 5, section 315, line 3, insert after "him" the following: "(unless a shorter limit is fixed by the act imposing the tax),"

Page 6, section 317, line 6, insert after the word "payment," the following: "(unless a shorter limit is fixed by the act imposing the tax),"

Renumber section 318 as 319, and insert before section 319 a new section to be known as section 318, to read as follows:

"318. Return of deposits.

When, to secure compliance with any of the provisions of this act, any moneys shall have been deposited with the commissioner by any taxpayer and shall have been paid over to the treasurer, and the commissioner shall be satisfied that such taxpayer has fully complied with all such provisions, the commissioner shall so certify to the Comptroller who shall thereupon issue his warrant to the Treasurer for the repayment to such taxpayer of such moneys or such part thereof as the commissioner shall certify has not been applied by him to the satisfaction of any indebtedness arising under this act."

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 447

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1936

By Mr. ZINK

Referred to Committee on Taxation

AN ACT concerning State taxes payable to the State Tax Commissioner.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

ARTICLE I

SHORT TITLE AND PURPOSE

101. Short title.

This act may be cited as the "State Tax Uniform Procedure Act".

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As an additional or alternative remedy, the commissioner may issue a certificate to the clerk of the Supreme Court or to the clerk of the court of common pleas of any county, that any person is indebted under such State tax law in such an amount as shall be named in such certificate, and thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon his record of docketed judgments the name of such person, and of the State, the amount of the debt so certified, a short name of the tax, and the date of making such entries; and the making of the entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the commissioner shall have all of the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action at law upon contract, but without prejudice to the taxpayer's right of appeal.

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If upon examination of such claim for refund, it shall be determined by the commissioner that there has been an overpayment of tax, the amount of such overpayment shall be credited against any liability of the taxpayer under any State tax law and if there be no such liability the taxpayer shall be entitled to a refund of the tax so overpaid. If the commissioner shall reject the claim for refund in whole or in part, he shall make an order accordingly and serve a notice upon the taxpayer.

317. Erroneous payments.

Where no questions of fact or law are involved and it appears from the records of the commissioner that any moneys have been erroneously or illegally collected from any taxpayer or other person or have been paid by any taxpayer or other person under a mistake of fact or law, the commissioner may at any time, within two years of payment, unless a shorter limit is fixed by the act imposing the tax, upon making a record in writing of his reasons therefor, certify to the Comptroller that the taxpayer is entitled to such refund and thereupon the Comptroller shall authorize the payment thereof from the appropriation for such purpose.

318. Return of deposits.

When, to secure compliance with any of the provisions of this act, any moneys shall have been deposited with the commissioner by any taxpayer and shall have been paid over to the treasurer, and the commissioner shall be satisfied that such taxpayer has fully complied with all such provisions, the commissioner shall so certify to the Comptroller who shall thereupon issue his warrant to the Treasurer for the repayment to such taxpayer of such moneys or such part thereof as the commissioner shall certify has not been applied by him to the satisfaction of any indebtedness arising under this act.

319. Protests.

If any taxpayer shall be aggrieved by any finding or assessment of the commissioner, he may, within thirty days of the giving of the notice of assessment or finding, file a protest in writing signed by himself or his duly authorized agent, which shall be under oath, and shall set forth the reason therefor, and may reqnest a hearing. Thereafter the commissioner shall grant a hearing to the taxpayer, if the same shall be requested. He may make an order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate penalties for nonpayment, nor shall it stay the right of the commissioner to collect the tax in any manner herein provided, unless the taxpayer shall furnish security of the kind and in the amount satisfactory to the commissioner. The time for appeal or review shall not be extended by the filing of any protest unless a hearing is requested, and the time to appeal shall then be extended only for the period between the filing of the protest and the final determination thereon by the commissioner.

Article IV

ADMINISTRATION

401. Power of commissioner to administer act.

The commissioner is hereby authorized and empowered to carry into effect the provisions of this act and in pursuance thereof to make and enforce such rules and regulations as he may deem necessary.

402. Power to examine records and premises.

For the purpose of administering this act, or any State tax law, the commissioner, whenever he deems it expedient, may make or cause to be made by any employee of the State Tax Department engaged in the administration of this act, or any such tax law, an examination or investigation of the place of business, if any, the tangible personal property and the books, records, papers, vouchers, accounts and documents of any taxpayer. It shall be the duty of every taxpayer and of every director, officer, agent or employee of every taxpayer to exhibit to the commissioner or to any such employee of the State Tax Department, the place of business, the tangible personal property and all of the books, records, papers, vouchers, accounts and documents of the said taxpayer and to facilitate any such examination or investigation so far as it may be in his or their power so to do. It shall be lawful for the commissioner or for any employee of the State Tax Department by him thereunto designated, to take the oath of any person signing any application, deposition, statement or report required by the commissioner in the administration of this act, or of any such tax law.

403. Power to conduct hearings.

The commissioner or any employee of the State Tax Department by him thereunto designated, may conduct hearings, administer oaths to, and examine under oath, any taxpayer and the directors, officers, agents and employees of any taxpayer and as well all other witnesses, relative to the business of such taxpayer in respect to any matter incident to the administration of this act, or any State tax law.

404. Power to subpœna witnesses; fees.

The commissioner or his deputies shall have power by subpœna to compel the attendance of witnesses and the production of any books, records, papers, vouchers, accounts or documents of any taxpayer or of any person who, the commissioner has reason to believe, has information pertinent to any matter under investigation by the commissioner at any hearing held pursuant to the provisions of this act, or any State tax law. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the Supreme Court. Such fees shall be paid in the manner provided for the payment of other expenses incident to the administration of this act, or any State tax law.

405. Procedure to compel witnesses to attend and to testify.

If a person subpœnaed to attend any hearing under this act refuses to appear, be examined or answer any question, or produce any books, records, papers, vouchers, accounts or documents when subpœnaed so to do by the commissioner or any deputy, the commissioner or such deputy may apply to the Supreme Court or to any justice thereof, who shall have the power of the court for that purpose, upon proof by affidavit of such refusal, to make an order returnable in not less than two nor more than ten days, directing such person to show cause before the court or a justice thereof, why he should not obey the demand of such subpœna. Upon the return of such order, the court or justice before whom the matter shall come, shall examine the person under oath, and the person shall be given an opportunity to be heard, and if the court or justice shall determine that he refused without legal excuse to obey the command of such subpœna, or to be examined, or to answer any question, or to produce any books, papers, vouchers, records, accounts or documents which he was by subpœna commanded to answer or produce, said court or justice may order said person to comply forthwith with such subpœna or order, and any failure to obey such order of the court or of such justice may be punished by said court or by said justice as a contempt of the Supreme Court.

406. Notices; how given.

Any notice required to be given by the commissioner pursuant to this act, may be served personally or by mailing the same to the person for whom it is intended, addressed to such person at the address given in the last report filed by him pursuant to the provisions of this act or of any State tax law, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom it was addressed.

407. Commissioner's records; authentication.

The commissioner shall keep a record of all his official acts and shall preserve copies of all rules, regulations, decisions and orders made by him. Copies of any rule, regulation, decision or order made by him and of any paper or papers filed in any office maintained by him in the administration of this act or of any State tax law may be authenticated under his official seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating any such copy he shall be paid a fee of one dollar ($1.00).

408. Confidential character of commissioner's records.

The records and files of the commissioner respecting the administration of this act or of any State tax law shall be considered confidential and privileged and neither the commissioner nor any employee engaged in the administration thereof or charged with the custody of any such records or files nor any person who may have secured information therefrom under subdivisions c, d, or e of section four hundred nine shall divulge or disclose any information obtained from the said records or files or from any examinations or inspection of the premises or property of any person. Neither the commissioner nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of this act or of the State tax act affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the State under some State tax act.

409. Exceptions.

Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or his duly authorized representative of a copy of any report or any other paper filed by him pursuant to the provisions of this act or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The inspection by the Attorney-General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

d. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

e. The furnishing, at the discretion of the commissioner, of any information disclosed by the said records or files to any official person or body of any other State or of the United States who shall be concerned with the administration of any similar tax in that State or the United States.

410. Preservation of reports.

All reports filed with the commissioner pursuant to the provisions of this act shall be preserved for two years and thereafter may be destroyed by order of the commissioner.

411. Dissolution of corporation prohibited until tax is paid.

No corporation organized under any law of this State shall hereafter be dissolved by the action of the stockholders or by the decree of any court until all taxes, fees, penalties and interest imposed upon said corporation in accordance with the provisions of this act or of any State tax law shall have been fully paid. No certificate of dissolution shall be issued by the Secretary of State and no decree of dissolution shall be signed by any court until there shall have been filed with the Secretary of State or with the court, as the case may be, the certificate of the commissioner evidencing the payment by the corporation to be dissolved of all such taxes.

Article V

APPEALS

501. Appeals from decisions of commissioner.

Any person who shall be aggrieved by any decision, order, finding or assessment of the commissioner made pursuant to the provisions of this act or by his refusal to act, or by any certification of debt to the clerk of a court, may appeal therefrom to the State Board of Tax Appeals, by filing a petition of appeal with said board in the manner and form and within the time and subject to such terms and conditions as said board shall by rules prescribe. The provisions of this section shall not apply to transfer inheritance or estate taxes.

No such appeal shall stay the collection of any tax or the enforcement of the same by entry as a judgment, unless by order of such board, and then only after security approved by the commissioner or said board has been furnished to the commissioner. The judgment or order of the State Board of Tax Appeals respecting any matter arising under the provisions of this act may be reviewed by certiorari in the same manner as other judgments of said board.

502. Refunds upon appeal.

If by a decision or order of the State Board of Tax Appeals, or of any court of competent jurisdiction, the taxpayer shall be adjudged to be entitled to a refund, payment thereof shall be authorized by the Comptroller from the proper appropriation for refunds upon presentation to him of a certified copy of such decision or order.

503. Saving provision.

Nothing in this act shall be construed as depriving any taxpayer of any remedy in the review of any tax or any proceedings to collect the same given such taxpayer by any other law.

Article VI

CRIMINAL PENALTIES

601. Failure to file report; filing of false or fraudulent report.

Any person who shall fail to file any report required to be filed pursuant to the provisions of any State tax law, or shall file or cause to be filed with the commissioner any false or fraudulent report or statement, or shall aid or abet another in the filing with the commissioner of any false or fraudulent report or statement, with the intent to defraud the State or evade the payment of any tax, fee, penalty or interest or any part thereof, which shall be due pursuant to the provisions of this act, or to any State tax law, shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000.00) or be imprisoned not to exceed one year, or both, at the discretion of the court.

602. False swearing.

Any person who shall knowingly swear to, affirm, or verify any false or fraudulent statement with intent to evade the payment of any State tax or who, being under oath, shall testify falsely at any hearing held pursuant to the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000.00) or be imprisoned not to exceed one year, or both, at the discretion of the court.

603. Certain offenses deemed to have occurred in part at the office of the commissioner.

The failure to do any act required to be done by, or under the provisions of, this act shall be deemed an act committed in part at the office of the commissioner in Trenton. The certificate of the commissioner to the effect that any act required to be done by, or under the provisions of, this act has not been done, shall be prima facie evidence that such act has not been done.

Article VII

MISCELLANEOUS

701. Nothing in this act shall be construed as depriving the State or the commissioner of any remedy for the enforcement of any State tax through any procedure or remedies expressly provided in the law imposing such tax or in any other law, nor shall this act be construed as repealing or altering any such law or laws.

702. Constitutionality.

The provisions of this act shall be severable and if any of the provisions shall be held to be unconstitutional, the decision of the court respecting such provision or provisions shall not affect the validity of any other provisions which can be given effect without such invalid provision or provisions.

703. Effective date.

This act shall take effect on the first day of the calendar month following its approval.