

Certified copies to Secretary of the Treasury.  
Payments in ratable proportions.

or in part, together with the amount of each claim and the amount awarded thereon, and (d) a statement of the reasons for the allowance or disallowance in each case. Certified copies of (a) and (c) shall be transmitted by the Secretary of State to the Secretary of the Treasury, who shall, after making the deduction provided for above, distribute in ratable proportions, among the persons in whose favor awards shall have been made, or their assignees, heirs, executors or administrators of record, according to the proportions which their respective awards shall bear to the whole amount available from time to time for such distribution, such moneys as may have been received into the Treasury in virtue of the agreement of November 9-12, 1938.

Approved, April 10, 1939.

[CHAPTER 58]

AN ACT

To amend the Canal Zone Code.

April 12, 1939  
[H. R. 3577]  
[Public, No. 31]

Canal Zone Code, amendment.  
49 Stat. 1904.  
48 U. S. C., Supp. IV, § 1371c.

Disability retirement of employees; annuity.

Provisos.  
Proof of conduct.

Reinstatement of claims.

Limitation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first paragraph of subsection (b) of section 94 of title 2, Canal Zone Code, as amended by section 2 of the Act of June 24, 1936 (49 Stat. 1904), is amended to read as follows:

“(b) Any employee to whom this article applies who shall have served for a total period of not less than five years, and who, before becoming eligible for retirement under the conditions defined in section 92 of this title, shall have become totally disabled for useful and efficient service in the grade or class of position occupied by the employee, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the employee, shall upon his own application or upon request or order of the Governor of the Panama Canal, be retired on an annuity computed in accordance with the provisions of section 96 of this title: *Provided*, That proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than five years next prior to becoming so disabled for useful and efficient service, shall not be required in any case; and the claim of any employee which was or would have been disallowed under this section by reason of the requirement of such proof with respect to a longer period than five years, shall upon request of the applicant be reinstated, and shall thereupon be redetermined under the provisions of the section as herein amended: *Provided further*, That such claim is now on file with the Civil Service Commission or is executed within six months from the enactment of this Act.

Approved, April 12, 1939.

[CHAPTER 59]

AN ACT

Relating to the taxation of the compensation of public officers and employees.

April 12, 1939  
[H. R. 3790]  
[Public, No. 32]

Public Salary Tax Act of 1939.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Public Salary Tax Act of 1939”.

TITLE I

“Gross income”, definition amended.  
*Ante*, p. 9.  
I. R. C. § 22 (a).

SECTION 1. Section 22 (a) of the Internal Revenue Code (relating to the definition of “gross income”) is amended by inserting after the words “compensation for personal service” the following: (“including personal service as an officer or employee of a State, or any

political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing)".

SEC. 2. Section 116 (b) of the Internal Revenue Code (exempting compensation of teachers in Alaska and Hawaii from income tax) is repealed.

SEC. 3. Section 22 (a) of the Internal Revenue Code is amended by adding at the end thereof a new sentence to read as follows: "In the case of judges of courts of the United States who took office on or before June 6, 1932, the compensation received as such shall be included in gross income".

SEC. 4. The United States hereby consents to the taxation of compensation, received after December 31, 1938, for personal service as an officer or employee of the United States, any Territory or possession or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, by any duly constituted taxing authority having jurisdiction to tax such compensation, if such taxation does not discriminate against such officer or employee because of the source of such compensation.

## TITLE II

SEC. 201. Any amount of income tax (including interest, additions to tax, and additional amounts) for any taxable year beginning prior to January 1, 1938, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing—

(a) shall not be assessed, and no proceeding in court for the collection thereof shall be begun or prosecuted (unless pursuant to an assessment made prior to January 1, 1939);

(b) if assessed after December 31, 1938, the assessment shall be abated, and any amount collected in pursuance of such assessment shall be credited or refunded in the same manner as in the case of an income tax erroneously collected; and

(c) shall, if collected on or before the date of the enactment of this Act, be credited or refunded in the same manner as in the case of an income tax erroneously collected, in the following cases—

(1) Where a claim for refund of such amount was filed before January 19, 1939, and was not disallowed on or before the date of the enactment of this Act;

(2) Where such claim was so filed but has been disallowed and the time for beginning suit with respect thereto has not expired on the date of the enactment of this Act;

(3) Where a suit for the recovery of such amount is pending on the date of the enactment of this Act; and

(4) Where a petition to the Board of Tax Appeals has been filed with respect to such amount and the Board's decision has not become final before the date of the enactment of this Act.

SEC. 202. In the case of any taxable year beginning after December 31, 1937, and before January 1, 1939, compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, shall not be included in the gross income of any individual under Title I of the Revenue Act of 1938 and shall be exempt from taxation under such title, if such individual either—

(a) did not include in his return for a taxable year beginning after December 31, 1936, and before January 1, 1938, any amount as compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing; or

Teachers in Alaska and Hawaii, compensation.

*Ante*, p. 48.

I. R. C. § 116 (b).

Judges taking office on or before June 6, 1932, inclusion of compensation in gross income.

*Ante*, p. 9.

I. R. C. § 22 (a).

U. S. consent to taxation of pay of Federal, etc., officer or employee received after December 31, 1938.

Condition.

Income tax. Retroactive relief to State, etc., personnel in designated cases.

Tax exemption of certain State, etc., personnel during period specified.

52 Stat. 447.  
26 U. S. C., Supp.  
IV, §§ 1-330b.

(b) did include any such amount in such return, but is entitled under section 201 of this Act to have the tax attributable thereto credited or refunded.

Credits and refunds.

SEC. 203. Any amount of income tax (including interest, additions to tax, and additional amounts) collected on, before, or after the date of the enactment of this Act for any taxable year beginning prior to January 1, 1939, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, shall be credited or refunded in the same manner as in the case of an income tax erroneously collected, if claim for refund with respect thereto is filed after January 18, 1939, and the Commissioner of Internal Revenue, under regulations prescribed by him with the approval of the Secretary of the Treasury, finds that disallowance of such claim would result in the application of the doctrines in the cases of *Helvering against Therrell* (303 U. S. 218), *Helvering against Gerhardt* (304 U. S. 405), and *Graves et al. against New York ex rel O'Keefe*, decided March 27, 1939, extending the classes of officers and employees subject to Federal taxation.

Time for filing claim.

Where claim barred by statute of limitations.

SEC. 204. Neither section 201 nor section 203 shall apply in any case where the claim for refund, or the institution of the suit, or the filing of the petition with the Board, was, at the time filed or begun, barred by the statute of limitations properly applicable thereto.

Compensation construed.

SEC. 205. Compensation shall not be considered as compensation within the meaning of sections 201, 202, and 203 to the extent that it is paid directly or indirectly by the United States or any agency or instrumentality thereof.

Meaning of terms. *Ante*, p. 4. I. R. C. ch. 1.

SEC. 206. The terms used in this Act shall have the same meaning as when used in Chapter I of the Internal Revenue Code.

Restriction on collection of taxes by State and local authorities, etc.

SEC. 207. No collection of any tax (including interest, additions to tax, and penalties) imposed by any State, Territory, possession, or local taxing authority on the compensation, received before January 1, 1939, for personal service as an officer or employee of the United States or any agency or instrumentality thereof which is exempt from Federal income taxation and, if a corporate agency or instrumentality, is one (a) a majority of the stock of which is owned by or on behalf of the United States, or (b) the power to appoint or select a majority of the board of directors of which is exercisable by or on behalf of the United States, shall be made after the date of the enactment of this Act.

Exempt agencies.

Title inapplicable where State, etc., taxes compensation received prior to Jan. 1, 1939.

SEC. 208. This title shall not apply with respect to any officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, after the Secretary of the Treasury has determined and proclaimed that it is the policy of such State to collect from any individual any tax, interest, additions to tax, or penalties, on account of compensation received by such individual prior to January 1, 1939, for personal service as an officer or employee of the United States or any agency or instrumentality thereof. In making such determination the Secretary of the Treasury shall disregard the taxation of officers and employees of any corporate agency or instrumentality which is not exempt from Federal income taxation, or which if so exempt is one (a) a majority of the stock of which is not owned by or on behalf of the United States and (b) the power to appoint or select a majority of the board of directors of which is not exercisable by or on behalf of the United States.

SEC. 209. In the case of the judges of the Supreme Court, and of the inferior courts of the United States created under article III of the Constitution, who took office on or before June 6, 1932, the compensation received as such shall not be subject to income tax under the Revenue Act of 1938 or any prior revenue Act.

SEC. 210. For the purposes of this Act, the term "officer or employee" includes a member of a legislative body and a judge or officer of a court.

SEC. 211. If either title of this Act, or the application thereof to any person or circumstances, is held invalid, the other title of the Act shall not be affected thereby.

Approved, April 12, 1939.

## [CHAPTER 60]

## AN ACT

To authorize and direct the Comptroller General of the United States to allow credit for all outstanding disallowances and suspensions in the accounts of the disbursing officers or agents of the Government for payments made to certain employees appointed by the United States Employees' Compensation Commission.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding the provisions of section 203 of the Act of June 30, 1932 (47 Stat. 403), as continued in effect during the fiscal years 1934 and 1935 by section 4 (a) of the Act of March 3, 1933 (47 Stat. 1513), and section 24 of the Act of March 28, 1934 (48 Stat. 522), the Comptroller General of the United States is hereby authorized and directed to allow credit for all otherwise proper payments made to employees appointed by the United States Employees' Compensation Commission, without approval by the President of the United States, to fill vacancies resulting from the advancement of employees of lower grades in connection with the filling of a vacancy which the President had authorized to be filled; and no amount so paid shall be charged against or recovered from the employees to whom such payments were made.

Approved, April 12, 1939.

## [CHAPTER 61]

## JOINT RESOLUTION

Amending the joint resolution entitled "Joint resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the last sentence of section 4 (a) of the joint resolution entitled "Joint resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937, is hereby amended to read as follows: "For these purposes, and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public, there are hereby authorized to be appropriated such sums as may be necessary."

Approved, April 13, 1939.

Exempt judges.

52 Stat. 447.  
26 U. S. C., Supp. IV, ch. 1.

Term construed.

Separability of provisions.

April 12, 1939

[S. 885]

[Public, No. 33]

U. S. Employees' Compensation Commission.  
47 Stat. 403, 1513.48 Stat. 522.  
Allowance of credit for payments to certain employees.

Accountability.

April 13, 1939

[H. J. Res. 225]

[Pub. Res., No. 9]

National Gallery of Art.  
Appropriation authorized for care of works of art, etc., prior to completion of.  
50 Stat. 52.  
Post, p. 984.