

#13 No. 337

Introduced by:

Don Lockhart

A BILL

for

AN ACT imposing taxes upon the incomes of individuals, trusts and estates, and corporations and imposing a franchise tax measured by net income upon financial institutions; providing for the administration and enforcement of such taxes; providing penalties for violations and providing an effective date.

JAN 27 1971	Introduced
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Approved by House Attorney
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Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
 DP—do pass, DNP—do not pass, WR—without recommendation, IP—killed

SENATE ACTION	HOUSE ACTION
Date _____	Date <u>1/27/71</u>
_____ Introduced, to Comm. No. _____	_____ Introduced, to Comm. No. <u>3</u>
_____ Comm. Report: DP _____ DNP _____	_____ Comm. Report: DP _____ DNP _____
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_____ IP _____ Amend _____	_____ IP _____ Amend _____
_____ 2nd reading _____ Amend _____	_____ 2nd reading _____ Amend _____
_____ 3rd reading: Ayes _____ Nays _____	_____ 3rd reading: Ayes _____ Nays _____
_____ Amend _____	_____ Amend _____

H. B. No. 337

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1 AN ACT imposing taxes upon the incomes of individuals, trusts
 2 and estates, and corporations and imposing a franchise
 3 tax measured by net income upon financial institutions;
 4 providing for the administration and enforcement of such
 5 taxes; providing penalties for violations and providing
 6 an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WYOMING:

8 Section I. This act shall be known and may be cited as
 9 the Wyoming State Income Tax Act.

10 Section 2. The object and purpose of this Act is to
 11 provide a new source of revenue for the support of the public
 12 schools and thereby to provide relief from real property taxation.
 13 Net revenues from the taxes imposed by this Act shall be credited
 14 to the public school foundation program fund.

15 Section 3. When used in this Act the terms herein defined
 16 shall have the meanings respectively ascribed to them:

17 (1) "Internal Revenue Code" means the Internal Revenue
 18 Code of 1954 of the United States, as amended and in effect

1 on December 31, 1970. Provided, however, that a taxpayer,
2 for any taxable year, may elect to compute adjusted gross
3 income or federal taxable income, as case may be, in ac-
4 cordance with the provisions of the Internal Revenue Code
5 in effect for such year.

6 (2) "Gross income" means gross income as determined
7 under the Internal Revenue Code.

8 (3) "Adjusted gross income" means adjusted gross
9 income as determined under the Internal Revenue Code.

10 (4) "Federal taxable income" means taxable income as
11 determined under the Internal Revenue Code.

12 (5) "Resident individual" means a natural person who,
13 during the taxable year, has been domiciled in the State
14 of Wyoming or has resided within the state for more than
15 one-half the taxable year.

16 (6) "Nonresident individual" means a natural person
17 who is not a resident individual.

18 (7) "Resident estate or trust" means: (a) the estate
19 of a decedent who at his death was domiciled in this state;
20 (b) a trust created by the will of a decedent who at his
21 death was domiciled in this state; or (c) a trust created
22 by, or consisting of property of, a person domiciled in
23 this state.

24 (8) "Nonresident estate or trust" means an estate or
25 trust that is not a resident estate or trust.

26 (9) "Corporation" means any corporation formed under
27 the laws of any government and includes associations, joint
28 stock companies and insurance companies taxable as corpor-
29 ations under the Internal Revenue Code.

I (10) "Financial institution" means any bank, trust
2 company, building and loan or savings and loan association
3 or industrial bank.

4 (11) "Taxable year" means the taxable year on the
5 basis of which a taxpayer reports income under the Internal
6 Revenue Code.

7 (12) "Taxpayer" means any natural person, estate, trust,
8 corporation or financial institution liable for tax under
9 this Act.

10 (13) "Director" means the state director of revenue.

11 Section 4. A tax is hereby imposed for each taxable year
12 on the entire taxable income of every resident individual, estate
13 or trust, and on the taxable income of every non-resident individ-
14 ual, estate or trust which is derived from sources within this
15 state. Such tax shall be at the rate of three percent (3%) on
16 taxable income not exceeding \$5,000 and at the rate of five
17 percent (5%) on taxable income in excess of \$5,000.

18 Section 5. The taxable income of a resident individual for
19 a taxable year shall be his adjusted gross income for such year
20 with the following modifications and deductions:

21 (a) Add interest and dividends received during the
22 taxable year on obligations or securities of any state or
23 of a political subdivision or authority thereof (other than
24 this state and its political subdivisions and authorities)
25 exempt from federal income tax under the Internal Revenue
26 Code.

27 (b) Subtract interest and dividends on obligations of
28 the United States and its territories and possessions and
29 of any authority, commission or instrumentality of the
30 United States to the extent includable in gross income for

I federal income tax purposes but exempt from state income
2 taxes under the laws of the United States. The amount
3 subtracted under this sub-section shall be reduced by any
4 interest on indebtedness incurred to carry the obligations
5 or securities described in this subsection, and by any
6 expenses incurred in the production of interest or dividend
7 income described in this subsection to the extent that such
8 expenses, including amortizable bond premiums, are deductible
9 in determining federal taxable income.

10 (c) Exclude any amount included in income under Section
11 668 of the Internal Revenue Code because of any accumulation
12 distribution by a trust during the taxable year.

13 (d) Subtract or add, as the case may be, the taxpayer's
14 share of the fiduciary adjustment determined under Section 9
15 of this act.

16 (e) Subtract, in the case of a husband, alimony, separate
17 maintenance and similar payments to the extent deductible
18 under Section 215 of the Internal Revenue Code.

19 (f) Subtract the standard deduction of \$1000 (\$500 in
20 the case of a married individual filing a separate return).

21 (g) Subtract the deduction for personal exemptions in
22 the amount of \$750 multiplied by the number of exemptions
23 to which the taxpayer is entitled under Section 151 of the
24 Internal Revenue Code.

25 Section 6. The taxable income of a resident estate or trust
26 for a taxable year shall be its federal taxable income for such
27 year, increased by the amount, if any, deducted for state and
28 local income taxes, and modified by the addition or subtraction,
29 as the case may be, of its share of the fiduciary adjustment deter-
30 mined under Section 9 of this act.

1 Section 7. The taxable income of a non-resident individual
2 from sources within this state for a taxable year shall be the
3 adjusted gross income of such individual from such sources as
4 determined under Section 22 of this act, modified as provided
5 by sub-sections (a), (b), (c), and (d) of Section 5 of this act,
6 and reduced by proportionate parts of the deductions provided
7 by sub-sections (e), (f), and (g) of Section 5. Such propor-
8 tionate parts shall be determined by multiplying the deductions
9 by a fraction the numerator of which is the adjusted gross
10 income from sources within this state, modified as provided by
11 sub-sections (a), (b), (c), and (d) of Section 5, and the denomin-
12 ator of which is the non-resident individual's total adjusted
13 gross income from all sources, modified as provided by sub-
14 sections (a), (b), (c), and (d) of Section 5.

15 Section 8. The taxable income of a non-resident estate or
16 trust from sources within this state shall be its gross income
17 from such sources, as determined under Section 22 of this act,
18 minus the deductions (not including any deduction for state or
19 local income taxes) which are allowable under the Internal Revenue
20 Code and which are directly attributable to the production or
21 realization of such gross income, reduced by proportionate parts
22 of the deductions allowable under Sections 642, 651 and 661 of
23 the Internal Revenue Code, and modified by the addition or sub-
24 traction, as the case may be, of the appropriate share of the
25 fiduciary adjustment determined under Section 9. The proportionate
26 part of the deductions referred to above shall be determined by
27 multiplying the amount of such deductions by a fraction the numer-
28 ator of which is the gross income from sources within this state
29 minus the allowable deductions directly attributable to such
30 income and the denominator of which is the total gross income of

1 the estate or trust minus the total allowable deductions attributable
2 to the production or realization of such total income.

3 Section 9. (a) For the purpose of determining the taxable
4 income of a resident individual or a resident estate or trust,
5 the total fiduciary adjustment for an estate or trust shall be
6 the net amount of the modifications described in sub-sections
7 (a) and (b) of Section 5 and also sub-sections (c) and (d) if
8 the estate or trust is the beneficiary or another estate or
9 trust. For determining the taxable income of a non-resident
10 individual or a non-resident estate or trust the total fiduciary
11 adjustment for an estate or trust shall be the net amount of such
12 modifications with respect to income from sources within this state.

13 (b) The respective shares of an estate or trust and its
14 beneficiaries (including solely for the purpose of this allocation,
15 nonresident beneficiaries) in the total fiduciary adjustment shall
16 be in proportion to their respective shares of the federal distri-
17 butable net income of the estate or trust. If the estate or trust
18 has no federal distributable net income for the taxable year,
19 the share of each beneficiary in the fiduciary adjustment shall
20 be in proportion to his share of the estate or trust income for
21 such year, under local law or the terms of the instrument, which
22 is required to be distributed currently and any other amounts of
23 such income distributed in such year. Any balance of the fiduciary
24 adjustment shall be allocated to the estate or trust.

25 Section 10. A non-resident partner shall be taxable in
26 accordance with Section 7 on his distributive share of partnership
27 income from sources within this state. The director shall adopt
28 such regulations as are necessary and proper with respect to
29 determining such partner's distributive shares of various items
30 of income and deduction and for making the modifications set forth

I in subsections (a) and (b) of Section 5.

2 Section 11. A non-resident shareholder of an electing
3 small business corporation under Sub-Chapter S of the Internal
4 Revenue Code shall be taxable in accordance with Section 7 upon
5 dividends received from such corporation and amounts included in
6 his gross income under Section 1373 of the Internal Revenue Code,
7 to the extent that such dividends and such amounts are attributable
8 to income of the corporation derived from sources within this
9 state. The director shall adopt such regulations as are necessary
10 and proper in carrying out the purposes of this section.

11 Section 12. Non-resident individuals and non-resident estates
12 and trusts shall be allowed deductions for net operating loss
13 carry-backs and carry-overs and capital loss carry-overs only to
14 the extent that such losses are based upon income, gain, losses
15 and deductions derived from or connected with sources within this
16 state, but otherwise such deductions and carry-overs shall be
17 determined and allowed in accordance with provisions of the Internal
18 Revenue Code except as provided in Section 21.

19 Section 13. A resident individual or a resident estate or
20 trust shall be allowed a credit against the tax otherwise due
21 under this act for the amount of any income tax imposed for the
22 taxable year by another state of the United States, or a political
23 subdivision thereof, or the District of Columbia on income derived
24 from sources therein and which is also subject to tax under this
25 act. The credit provided under this section shall not exceed
26 the proportion of the tax otherwise due under this act that the
27 amount of the taxpayer's adjusted gross income derived from sources
28 in the other taxing jurisdiction bears to his entire adjusted gross
29 income as modified by subsections (a), (b), (c), and (d) of Section
30 5.

I Section 14. Married persons filing joint returns for pur-
2 poses of the federal income tax may file joint returns under this
3 act. In the case of a joint return by husband and wife the tax
4 under Section 4 shall be twice the tax which would be imposed
5 if the taxable income were cut in half. A return of a surviving
6 spouse, as defined in Section 2(a) of the Internal Revenue Code,
7 shall be treated as a joint return.

8 Section 15. A tax of four percent (4%) is hereby imposed
9 for each taxable year on the taxable income of every corporation,
10 except a financial institution, derived from sources within this
11 state.

12 Section 16. The taxable income of a corporation, other
13 than a financial institution, derived from sources within this
14 state shall be its federal taxable income from such sources, as
15 determined under Section 22 of this act, with the following
16 modifications:

17 (a) Add interest and dividends received during the
18 taxable year on obligations or securities of any state or
19 of a political subdivision or authority thereof (other
20 than this state and its political subdivisions and authori-
21 ties) exempt from federal income tax under the Internal
22 Revenue Code.

23 (b) Subtract interest and dividends on obligations of
24 the United States and its territories and possessions and
25 of any authority, commission or instrumentality of the
26 United States to the extent includable in gross income
27 for federal income tax purposes but exempt from state in-
28 come taxes under the laws of the United States. The amount
29 subtracted under this sub-section shall be reduced by any
30 interest on indebtedness incurred to carry the obligations

I or securities described in this subsection, and by any
2 expenses incurred in the production of interest or dividend
3 income described in this subsection to the extent that such
4 expenses, including amortizable bond premiums, are deductible
5 in determining federal taxable income.

6 (c) Add the amount of taxes imposed by this act and
7 deducted in computing federal taxable income.

8 Section 17. Corporations, associations, trusts, and other
9 organizations which are exempt from tax under Section 501 of the
10 Internal Revenue Code are also exempt from tax under this act.

11 Section 18. An annual tax is hereby imposed upon every
12 financial institution for the privilege of doing business in
13 the State of Wyoming. Such tax for each taxable year shall be
14 in the amount of four percent (4%) of the financial institution's
15 net income derived from all sources within this state.

16 Section 19. The net income derived from all sources within
17 this state of a financial institution shall be its federal taxable
18 income from such sources, as determined under Section 22 of this
19 act, increased by interest and dividends on obligations or
20 securities issued by any state or a political subdivision or
21 authority thereof (including this state and its political sub-
22 divisions and authorities) to the extent that such interest and
23 dividends are exempt from tax under the Internal Revenue Code
24 and are allocable to this state under Section 22 hereof, and
25 further increased by the amount of taxes imposed by this act
26 and deducted in computing federal taxable income.

27 Section 20. Corporations and financial institutions shall
28 be allowed deductions for net operating loss carrybacks and carry-
29 overs and capital loss carrybacks and carryovers only to the
30 extent that such losses are based upon income, gains, losses and

1 deductions derived from or connected with sources within this
2 state, but otherwise such deductions, carrybacks and carryovers
3 shall be determined and allowed in accordance with the Internal
4 Revenue Code except as provided in Section 21.

5 Section 21. Net operating losses and capital losses incurred
6 by any taxpayer during a year for which this act is effective
7 shall not be carried back to a year for which this act was not
8 in effect, but shall be carried back or carried forward only to
9 years for which this act is effective. Net operating losses and
10 capital losses incurred by any taxpayer during a year for which
11 this act was not in effect shall not be carried forward to years
12 for which this act is effective. The director shall provide by
13 regulation for the modifications to adjusted gross income or
14 federal taxable income to carry out the provisions of this section.

15 Section 22. Income from sources within this state shall be
16 determined in accordance with the rules for allocation and ap-
17 portionment set forth in Section 23 through 36 of this act.
18 Adjusted gross income from sources within this state and federal
19 taxable income from sources within this state shall be determined
20 by deducting from gross income allocated or apportioned to this
21 state the deductions (but not including any deduction for state
22 or local income taxes) which are allowable under the Internal
23 Revenue Code and which are directly attributable to the production
24 or realization of such gross income. This provision shall not
25 be construed to permit more than a single deduction for any item
26 of expense or other deduction.

27 Section 23. As used in Sections 24 through 36 the terms
28 herein defined shall have the meanings respectively ascribed to
29 them:

30 (1) "Business income" means income arising from

1 transactions and activity in the regular course of the
2 taxpayer's trade or business and includes income from
3 tangible and intangible property if the acquisition, manage-
4 ment, and disposition of the property constitute integral
5 parts of the taxpayer's regular trade or business operations.

6 (2) "Commercial domicile" means the principal place
7 from which the trade or business of the taxpayer is
8 directed or managed.

9 (3) "Compensation" means wages, salaries, commissions
10 and any other form of remuneration paid to employees for
11 personal services.

12 (4) "Non-business income" means all income other than
13 business income.

14 (5) "Sales" means all gross receipts of the taxpayer
15 not allocated under Sections 26 through 30 of this act.

16 Section 24. The entire income of a taxpayer whose income-
17 producing activities are confined solely to this state shall
18 be allocated to this state.

19 Section 25. Compensation for personal services shall be
20 allocated to this state if:

21 (a) the taxpayer's service is performed within this
22 state; or

23 (b) the taxpayer's service is performed both within
24 and without this state, but the service performed without
25 the state is incidental to the taxpayer's service within
26 the state; or

27 (c) some of the service is performed in the state and
28 (1) the base of operations or, if there is no base of
29 operations, the place from which the service is directed
30 or controlled is in this state, or (2) the base of operations

1 or the place from which the service is directed or con-
2 trolled is not in any state in which some part of the
3 service is performed, but the individual's residence is
4 in this state.

5 Section 26. Rents and royalties from real or tangible
6 personal property, capital gains, interest, dividends, or
7 patent or copyright royalties, to the extent that they consti-
8 tute non-business income, shall be allocated as provided in
9 Sections 27 through 30 of this act.

10 Section 27. (a) Net rents and royalties from real property
11 located in this state are allocable to this state.

12 (b) Net rents and royalties from tangible personal property
13 are allocable to this state:

14 (1) if and to the extent that the property is utilized
15 in this state, or

16 (2) in their entirety if the taxpayer's commercial
17 domicile is in this state and the taxpayer is not organized
18 under the laws of or taxable in the state in which the
19 property is utilized.

20 (c) The extent of utilization of tangible personal property
21 in a state is determined by multiplying the rents and royalties
22 by a fraction, the numerator of which is the number of days of
23 physical location of the property in the state during the rental
24 or royalty period in the taxable year and the denominator of which
25 is the number of days of physical location of the property every-
26 where during all rental or royalty periods in the taxable year.
27 If the physical location of the property during the rental or
28 royalty period is unknown or unascertainable by the taxpayer,
29 tangible personal property is utilized in the state in which the
30 property was located at the time the rental or royalty payer

1 obtained possession.

2 Section 28. (a) Capital gains and losses from sales of
3 real property located in this state are allocable to this state.

4 (b) Capital gains and losses from sales of tangible personal
5 property are allocable to this state if

6 (1) the property had a situs in this state at the time
7 of the sale, or

8 (2) the taxpayer's commercial domicile is in this state
9 and the taxpayer is not taxable in the state in which the
10 property had a situs.

11 (c) Capital gains and losses from sales of intangible per-
12 sonal property are allocable to this state if the taxpayer's
13 commercial domicile is in this state.

14 Section 29. Interest and dividends are allocable to this
15 state if the taxpayer's commercial domicile is in this state.

16 Section 30. (a) Patent and copyright royalties are allocable
17 to this state:

18 (1) if and to the extent that the patent or copyright
19 is utilized by the payer in this state, or

20 (2) if and to the extent that the patent or copyright
21 is utilized by the payer in a state in which the taxpayer is
22 not taxable and the taxpayer's commercial domicile is in
23 this state.

24 (b) A patent is utilized in a state to the extent that it is
25 employed in production, fabrication, manufacturing, or other pro-
26 cessing in the state or to the extent that a patented product is
27 produced in the state. If the basis of receipts from patent royal-
28 ties does not permit allocation to states or if the accounting pro-
29 cedures do not reflect states of utilization, the patent is util-
30 ized in the state in which the taxpayer's commercial domicile is
31 located.

1 (c) A copyright is utilized in a state to the extent that
2 printing or other publication originates in the state. If the
3 basis of receipts from copyright royalties does not permit allo-
4 cation to states or if the accounting procedures do not reflect
5 states of utilization, the copyright is utilized in the state
6 in which the taxpayer's commercial domicile is located.

7 Section 31. All business income shall be apportioned to
8 this state by multiplying the income by a fraction, the numerator
9 of which is the property factor plus the payroll factor plus
10 the sales factor, and the denominator of which is three.

11 Section 32. (a) The property factor is a fraction, the
12 numerator of which is the average value of the taxpayer's real
13 and tangible personal property owned or rented and used in this
14 state during the tax period and the denominator of which is the
15 average value of all the taxpayer's real and tangible personal
16 property owned or rented and used during the tax period.

17 (b) Property owned by the taxpayer is valued at its original
18 cost. Property rented by the taxpayer is valued at eight times
19 the net annual rental rate. Net annual rental rate is the
20 annual rental rate paid by the taxpayer less any annual rental
21 rate received by the taxpayer from sub-rentals.

22 (c) The average value of property shall be determined by
23 averaging the values at the beginning and ending of the tax
24 period but the director may require the averaging of monthly
25 values during the tax period if reasonably required to reflect
26 properly the average value of the taxpayer's property.

27 Section 33. (a) The payroll factor is a fraction, the
28 numerator of which is the total amount paid in this state during
29 the tax period by the taxpayer for compensation, and the denomin-
30 ator of which is the total compensation paid everywhere during

I the tax period.

2 (b) Compensation is paid in this state if:

3 (1) the individual's service is performed entirely
4 within the state; or

5 (2) the individual's service is performed both within
6 and without the state, but the service performed without
7 the state is incidental to the individual's service within
8 the state; or

9 (3) some of the service is performed in the state
10 and (1) the base of operations, or, if there is no base of
11 operations, the place from which the service is directed
12 or controlled is in the state, or (2) the base of operations
13 or the place from which the service is directed or controlled
14 is not in any state in which some part of the service is
15 performed, but the individual's residence is in this state.

16 Section 34. (a) The sales factor is a fraction, the numer-
17 ator of which is the total sales of the taxpayer in this state
18 during the tax period, and the denominator of which is the
19 total sales of the taxpayer everywhere during the tax period.

20 (b) Sales of tangible personal property are in this state if:

21 (1) the property is delivered or shipped to a pur-
22 chaser, other than the United States government, within
23 this state regardless of the f.o.b. point or other con-
24 ditions of the sale; or

25 (2) the property is shipped from an office, store,
26 warehouse, factory, or other place of storage in this state
27 and (a) the purchaser is the United States government or
28 (b) the taxpayer is not taxable in the state of the pur-
29 chaser.

30 (c) Sales, other than sales of tangible personal property,

I are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

Section 35. If the allocation and apportionment provisions of the act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the director may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Section 36. A corporation subject to tax under this act which is a member of an affiliated group of corporations may be required to determine its taxable income from sources within this state by reference to the combined income and apportionment factors of all corporations of the affiliated group if the director determines that such combined reporting is necessary to correctly reflect income. For purposes of this section the term "affiliated group of corporations" has the same meaning as the term "controlled group of corporations" as defined in Section 1563 of the Internal Revenue Code.

1 Section 37. (a) This act shall be administered and enforced
2 by the state director of revenue. The state tax commission
3 may appoint a deputy director of revenue for income tax and such
4 other employees as may be necessary and such deputy director
5 and employees may be authorized to act in the name of the director.

6 (b) The director is authorized to prescribe rules and regu-
7 lations in the manner provided by law, as he determines necessary
8 or desirable for the administration of this act.

9 Section 38. (a) Every employer maintaining an office or
10 transacting business within this state and making payment of
11 any wages taxable under this act to a resident or nonresident
12 individual shall deduct and withhold from such wages for each
13 payroll period a tax computed in such manner as to result, so
14 far as practicable, in withholding from the employee's wages
15 during each calendar year an amount substantially equivalent
16 to the tax reasonably estimated to be due from the employee
17 under this act with respect to the amount of such wages included
18 in his adjusted gross income during the calendar year. The
19 method of determining the amount to be withheld shall be pre-
20 scribed by regulations of the director. This section shall not
21 apply to payments by the United States for service in the armed
22 forces of the United States.

23 (b) For purposes of this section an employee shall be
24 entitled to the same number of withholding exemptions as the
25 number of withholding exemptions to which he is entitled for
26 federal income tax withholding purposes. An employer may rely
27 upon the number of federal withholding exemptions claimed by
28 the employee, except where the employee claims a different number
29 of withholding exemptions in this state.

30 (c) Every employer required to deduct and withhold tax

1 under this act from the wages of an employee, or who would have
2 been required so to deduct and withhold tax if the employee had
3 claimed no more than one withholding exemption, shall furnish
4 to each such employee in respect to the wages paid by such employer
5 to such employee during the calendar year, on or before February 15
6 of the succeeding year, or, if his employment is terminated before
7 the close of such calendar year, within thirty days from the date
8 on which the last payment of wages is made, a written statement
9 as prescribed by the director showing the amount of wages paid
10 by the employer to the employee, the amount deducted and withheld
11 as tax, and such other information as the director shall prescribe.

12 (d) Wages upon which tax is required to be withheld shall
13 be taxable under this act as if no withholding were required,
14 but any amount of tax actually deducted and withheld under this
15 section in any calendar year shall be deemed to have been paid
16 to the director on behalf of the person from whom withheld,
17 and such person shall be credited with having paid that amount
18 of tax for the taxable year beginning in such calendar year.
19 For a taxable year of less than 12 months, the credit shall be
20 made under regulations of the director.

21 (e) Every employer required to deduct and withhold tax
22 under this act shall, for each calendar quarter, on or before
23 the fifteenth day of the month following the close of such
24 calendar quarter, file a withholding return as prescribed by
25 the director and pay over to the state tax commission the taxes
26 so required to be deducted and withheld, except that for the
27 fourth quarter of the calendar year, the return shall be filed
28 and the taxes paid on or before January 31 of the succeeding
29 year. Where the aggregate amount required to be deducted and
30 withheld by any employer for a calendar month exceeds \$1000,

1 the employer shall, by the fifteenth day of the succeeding month,
2 pay over such aggregate amount to the state tax commission. The
3 amount so paid shall be allowed as a credit against the liability
4 shown on the employer's quarterly withholding return required
5 by this section. Where the aggregate amount required to be
6 deducted and withheld by any employer is less than \$100 in a
7 calendar quarter, the director may by regulation permit an
8 employer to file a withholding return on or before July 31 for
9 the semi-annual period ending on June 30 and on or before
10 January 31 of the succeeding year for the semi-annual period
11 ending on December 31. The director may, if he believes such
12 action necessary for the protection of the revenue, require any
13 employer to make such return and pay him the tax deducted and
14 withheld at any time, or from time to time. Where the amount
15 of wages paid by an employer is not sufficient under this chapter
16 to require the withholding of tax from the wages of any of his
17 employees, the director may by regulation permit such employer
18 to file an annual return on or before January 31 of the succeeding
19 calendar year.

20 (f) Whenever any employer fails to collect, truthfully
21 account for, pay over the tax, or make returns of the tax as
22 required by this section, the director may serve a notice requiring
23 such employer to collect the taxes which became collectible after
24 service of such notice, to deposit such taxes in a bank approved
25 by the director, in a separate account, in trust for and payable
26 to the state tax commission, and to keep the amount of such tax
27 in such account until paid over to the commission. Such notice shall
28 remain in effect until a notice of cancellation is served by the
29 director.

30 Section 39. (a) Every employer required to deduct and with-

1 hold tax under this act is hereby made liable for such tax. For
2 purposes of assessment and collection, any amount required to
3 be withheld and paid over to the state tax commission, and any
4 addition to tax, penalties and interest with respect thereto,
5 shall be considered the tax of the employer. Any amount of tax
6 actually deducted and withheld under this act shall be held
7 to be a special fund in trust for the state tax commission.
8 No employee shall have any right of action against his employer
9 in respect to any money deducted and withheld from his wages
10 and paid over to the state tax commission in compliance or in
11 intended compliance with this act.

12 (b) If an employer fails to deduct and withhold tax as
13 required, and thereafter the tax against which such tax may be
14 credited is paid, the tax so required to be deducted and with-
15 held shall not be collected from the employer, but the employer
16 shall not be relieved from liability for any additions to tax,
17 penalties or interest otherwise applicable in respect to such
18 failure to deduct and withhold.

19 Section 40. (a) Every taxpayer liable for tax under this
20 act for a taxable year shall file a return with respect to such
21 tax, which return shall be filed in the office of the director
22 on or before the date on which such taxpayer's federal return
23 is to be filed under the Internal Revenue Code. Fiduciaries
24 and receivers shall file returns as provided in Section 6012(b)
25 of the Internal Revenue Code for the taxpayer which they repre-
26 sent or administer.

27 (b) Partnerships, small business corporations under Sub-
28 Chapter S of the Internal Revenue Code, and estates and trusts
29 having income from sources within this state shall file infor-
30 mation returns for each taxable year with respect to distributive

1 shares of income, dividends, both actual and constructive,
2 and distributions of income. Such returns shall be filed in
3 the office of the director on or before the date similar returns
4 are required to be filed under the Internal Revenue Code.

5 (c) The director may by regulation require such further
6 returns and reports as he deems necessary or desirable in the
7 administration of this act.

8 (d) The director shall prescribe the necessary forms for
9 returns required by this section and shall arrange for the
10 distribution of such forms to taxpayers and others required to
11 file such returns.

12 Section 41. Taxes imposed by this act shall, without
13 assessment, demand or notice, be paid to the state tax com-
14 mission on or before the last day for filing a return with
15 respect to such taxes except as otherwise provided in Section
16 38.

17 Section 42. The director may grant a reasonable extension
18 of time for filing any return, declaration, statement or other
19 document or for any payment required by this act, but no such
20 extension shall be for a period in excess of six months.

21 Section 43. If the amount of a taxpayer's federal taxable
22 income reported on his federal income tax return for any taxable
23 year is changed or corrected by the United States Internal Revenue
24 Service or other competent authority, the taxpayer shall report
25 such change or correction in Federal taxable income within
26 ninety days after the final determination of such change, or
27 correction, and shall concede the accuracy of such determination
28 or state wherein it is erroneous. Any taxpayer filing an amended
29 federal income tax return shall also file within ninety days
30 thereafter an amended return under this act, and shall give such

1 information as the director may require. The director may by
2 regulation prescribe such exceptions to the requirements of
3 this section as he deems appropriate.

4 Section 44. (a) As soon as practical after the return is
5 filed, the tax director shall examine it to determine the correct
6 amount of tax. If the director finds that the amount of tax
7 shown on the return is less than the correct amount, he shall
8 notify the taxpayer of the amount of the deficiency proposed
9 to be assessed. If the director finds that the tax paid is
10 more than the correct amount, he shall credit the overpayment
11 against any taxes due from the taxpayer under this act and re-
12 fund the difference.

13 (b) If the taxpayer fails to file an income tax return,
14 the director shall estimate the taxpayer's taxable income and
15 the tax thereon from any available information and notify the
16 taxpayer of the amount proposed to be assessed as in the case
17 of a deficiency.

18 (c) A notice of deficiency shall set forth the reason for
19 the proposed assessment. The notice may be mailed by certified
20 or registered mail to the taxpayer at his last known address.
21 In the case of a joint return, the notice of deficiency may be
22 a single joint notice except that if the director is notified
23 by either spouse that separate residences have been established
24 he shall mail joint notices to each spouse. If the taxpayer
25 is deceased or under a legal disability, a notice of deficiency
26 may be mailed to his last known address unless the director
27 has received notice of the existence of a fiduciary relationship
28 with respect to such taxpayer.

29 Section 45. Ninety days after the date on which it was
30 mailed (150 days if the taxpayer is outside the United States),

1 a notice of proposed assessment of a deficiency shall constitute a
2 final assessment of the amount of tax specified together with in-
3 terest, additions to tax and penalties except only for such amounts
4 as to which the taxpayer has filed a protest with the director.

5 Section 46. Within 90 days (150 days if the taxpayer is out-
6 side the United States) after the mailing of a deficiency notice,
7 the taxpayer may file with the director a written protest against
8 the proposed assessment in which he shall set forth the grounds
9 on which the protest is based. If a protest is filed, the director
10 shall reconsider the assessment of the deficiency and, if the
11 taxpayer has so requested, shall grant the taxpayer or his author-
12 ized representatives an oral hearing.

13 Section 47. Notice of the director's determination shall
14 be mailed to the taxpayer by certified or registered mail and
15 such notice shall set forth briefly the director's findings of
16 fact and the basis of decision in each case decided in whole or
17 in part adversely to the taxpayer.

18 Section 48. The action of the director on the taxpayer's
19 protest is final upon the expiration of 90 days from the date
20 when he mails notice of his action to the taxpayer unless within
21 such period the taxpayer appeals from the director's determination
22 to the district court in the manner provided by Section 39-38,
23 Wyoming Statutes 1957, as amended by Section 13, Chapter 91,
24 Session Laws of Wyoming 1967.

25 Section 49. (a) The amount of tax which is shown to be due
26 on the return shall be deemed to be assessed on the date of
27 filing of the return including any amended returns showing an
28 increase of tax. If a notice of deficiency has been mailed, the
29 amount of the deficiency shall be deemed to be assessed on the
30 date provided in section 45 if no protest is filed; or, if a
31 protest is filed then upon the date when the determination of

1 the director becomes final. If an amended return or report filed
2 pursuant to section 43 concedes the accuracy of a federal change
3 or correction, any deficiency in tax under this act resulting
4 therefrom shall be deemed to be assessed on the date of filing
5 such report or amended return and such assessment shall be timely
6 notwithstanding any other provisions of this act. Any amount
7 paid as a tax or in respect of a tax, other than amounts with-
8 held at the source, shall be deemed to be assessed upon the
9 date of receipt of payment, notwithstanding any other provision
10 of this act.

11 (b) If the mode or time for the assessment of any tax under
12 this act, including interest, additions to tax and penalties is
13 not otherwise provided for, the director may establish the
14 same by regulation.

15 (c) The director may, at any time within the period prescribed
16 for assessment, make a supplemental assessment, subject to the
17 provisions of section 44 where applicable, whenever it is found
18 that any assessment is imperfect or incomplete in any material aspect.

19 Section 50. (a) Except as otherwise provided in this act, a
20 notice of a proposed deficiency assessment shall be mailed to the
21 taxpayer within three years after the return was filed. No de-
22 ficiency shall be assessed or collected with respect to the
23 year for which the return was filed unless the notice is mailed
24 within the three year period or the period otherwise fixed.

25 (b) If the taxpayer omits from gross income an amount properly
26 includable therein which is in excess of 25 percent of the amount
27 of gross income stated in the return, a notice of a proposed
28 deficiency assessment may be mailed to the taxpayer within six
29 years after the return was filed. For purposes of this sub-
30 section, there shall not be taken into account any amount which
31 is omitted in the return if such amount is disclosed in the
32 return, or in a statement attached to the return, in a manner

1 adequate to apprise the director of the nature and amount of
2 such item.

3 (c) If no return is filed or a false and fraudulent return
4 is filed with intent to evade the tax imposed by this act, a
5 notice of deficiency may be mailed to the taxpayer at any time.

6 (d) Where, before the expiration of the time prescribed
7 in this section for the assessment of a deficiency, both the
8 director and the taxpayer shall have consented in writing to
9 its assessment after such time, the deficiency may be assessed
10 at any time prior to the expiration of the period agreed upon.

11 (e) For purposes of this section an income tax return filed
12 before the last day prescribed by law, or by regulation promul-
13 gated pursuant to law, for the filing thereof, shall be deemed
14 to be filed on such last day.

15 Section 51. An erroneous refund shall be considered an
16 underpayment of tax on the date made, and an assessment of a
17 deficiency arising out of an erroneous refund may be made at
18 any time within two years from the making of the refund, except
19 that the assessment may be made within five years from the making
20 of the refund if it appears that any part of the refund was
21 induced by fraud or the misrepresentation of a material fact.

22 Section 52. (a) If any amount of tax imposed by this act,
23 including tax withheld by an employer, is not paid on or before
24 the last date prescribed for payment, interest on such amount
25 at the rate of 6 percent per annum shall be paid for the period
26 from such last date to the date paid.

27 (b) For purposes of this section, the last date prescribed
28 for the payment of tax shall be determined without regard to
29 any extension of time.

30 (c) Interest prescribed under this section on any tax

1 including tax withheld by an employer shall be paid on notice
2 and demand and shall be assessed, collected and paid in the
3 same manner as taxes. Any reference in this act to the tax
4 imposed by this act shall be deemed also to refer to interest
5 imposed by this section on such tax.

6 (d) Interest shall be imposed under this section in respect
7 to any penalty, or addition to tax only if such penalty or addition
8 to tax is not paid within 10 days of the notice and demand therefor,
9 and in such case interest shall be imposed only for the period
10 from the date of the notice and demand to the date of payment.

11 (e) If notice and demand is made for the payment of any
12 amount due under this act and if such amount is paid within 10
13 days after the date of such notice and demand, interest under
14 this section on the amount so paid shall not be imposed for the
15 period after the date of such notice and demand.

16 (f) If any portion of a tax is satisfied by credit of an
17 overpayment, then no interest shall be imposed under this section
18 on the portion of the tax so satisfied for any period during
19 which if the credit had not been made, interest would have been
20 allowable with respect to such overpayment.

21 (g) Any portion of the tax imposed by this act or any interest,
22 penalty, or addition to tax which has been erroneously refunded
23 and which is recoverable by the director shall bear interest at
24 the rate of 6 percent per annum from the date of payment of the
25 refund.

26 (h) Interest prescribed under this section may be assessed
27 and collected at any time during the period within which the
28 tax, penalty, or addition to tax to which such interest relates
29 may be assessed and collected respectively.

30 Section 53. (a) In case of failure to file any return

1 required under this act on the date prescribed therefor (deter-
2 mined with regard to any extension of time for filing), unless
3 it is shown that such failure is due to reasonable cause and
4 not due to willful neglect, there shall be added to the amount
5 required to be shown as tax on such return 5 percent of the
6 amount of such tax if the failure is not for more than one month,
7 with an additional 5 percent for each additional month or fraction
8 thereof during which such failure continues, not exceeding 25
9 percent in the aggregate. For purposes of this section, the
10 amount of tax required to be shown on the return shall be re-
11 duced by the amount of any part of the tax which is paid on or
12 before the date prescribed for payment of the tax and by the
13 amount of any credit against the tax which may be claimed
14 upon the return.

15 (b) In case of each failure to file a statement of payment
16 to another person required under the authority of this act in-
17 cluding the duplicate statement of tax withheld on wages on
18 the date prescribed therefor (determined with regard to any
19 extension of time for filing), unless it is shown that such
20 failure is due to a reasonable cause and not to willful neglect,
21 there shall be paid upon notice and demand by the director a
22 penalty of \$2.00 for each statement not so filed, but the total
23 amount imposed on the delinquent person for all such failures
24 during any calendar year shall not exceed \$2,000.

25 Section 54. (a) If any part of a deficiency is due to
26 negligence or intentional disregard of rules and regulations
27 (but without intent to defraud) there shall be added to the
28 tax an amount equal to 5 percent of the deficiency.

29 (b) If any part of a deficiency is due to fraud, there
30 shall be added to the tax an amount equal to 50 percent of the

1 deficiency. This amount shall be in lieu of any amount deter-
2 mined under subsection (a).

3 (c) If any employer, without intent to evade or defeat
4 any tax imposed by this act or the payment thereof, shall fail
5 to make a return and pay a tax withheld by him at the time re-
6 quired by or under the provisions of this act, such employer
7 shall be liable for such taxes and shall pay the same together
8 with interest thereon and the addition to tax provided in sub-
9 section (a), and such interest and addition to tax shall not
10 be charged to or collected from the employee by the employer.

11 (d) Any person who with fraudulent intent shall fail to
12 pay, or to deduct or withhold and pay, any tax, or to make,
13 render, sign, or certify any return or to supply any information
14 within the time required by or under this act, shall be liable
15 to a penalty of not more than \$1,000, in addition to any other
16 amounts required under this act, to be imposed, assessed and
17 collected by the director.

18 Section 55. (a) The director within the applicable period
19 of limitations may credit an overpayment of income tax and interest
20 on such overpayment against any liability in respect of any tax
21 imposed by the tax laws of this state on the person who made
22 the overpayment, and the balance shall be refunded by the state
23 tax commission out of the proceeds of the tax retained by it
24 for such general purposes.

25 (b) If the amount allowable as a credit for tax withheld
26 from the taxpayer exceeds his tax to which the credit relates,
27 the excess shall be considered an overpayment.

28 (c) If there has been an overpayment of tax required to
29 be deducted and withheld under section 38, refund shall be
30 made to the employer only to the extent that the amount of the

1 overpayment was not deducted and withheld by the employer.

2 Section 56. (a) A claim for credit or refund of an over-
3 payment of any tax imposed by this act shall be filed by the
4 taxpayer within three years from the time the return was filed
5 or two years from the time the tax was paid whichever of such
6 periods expires the later; or if no return was filed by the
7 taxpayer, within two years from the time the tax was paid. No
8 credit or refund shall be allowed or made after the expiration
9 of the period of limitation prescribed in this subsection
10 unless a claim for credit or refund is filed by the taxpayer
11 within such period.

12 (b) If the claim for credit or refund relates to an over-
13 payment of tax on account of the deductibility by the taxpayer
14 of a debt as a debt which became worthless or a loss from worth-
15 lessness of a security or the effect that the deductibility of
16 a debt or of a loss has on the application to the taxpayer of
17 a carry-over, the claim may be made, under regulations pre-
18 scribed by the director within seven years from the date pre-
19 scribed by law for filing the return for the year with respect
20 to which the claim is made.

21 (c) If the claim for credit or refund relates to an over-
22 payment attributable to a net operating loss carry-back, the
23 claim may be made, under regulations prescribed by the director
24 within the period which ends with the expiration of the 15th
25 day of the 40th month following the end of the taxable year of
26 the net operating loss which resulted in such carry-back.

27 Section 57. (a) Under regulations prescribed by the director
28 interest shall be allowed and paid at the rate of 6 percent per
29 annum upon any overpayment in respect of the tax imposed by
30 this act. No interest shall be allowed or paid if the amount

I thereof is less than \$1.00.

2 (b) For purposes of this section:

3 (1) Any return filed before the last day prescribed
4 for the filing thereof shall be considered as filed on
5 such last day determined without regard to any extension
6 of time granted the taxpayer;

7 (2) Any tax paid by the taxpayer before the last day
8 prescribed for its payment, and any income tax withheld
9 from the taxpayer during any calendar year shall be deemed
10 to have been paid by him on the fifteenth day of the fourth
11 month following the close of his taxable year to which
12 such amount constitutes a credit or payment.

13 (c) If any overpayment of tax imposed by this act is re-
14 funded within three months after the last date prescribed (or
15 permitted by extension of time), for filing the return of such
16 tax or within three months after the return was filed, whichever
17 is later, no interest shall be allowed under this section on
18 overpayment.

19 Section 58. Every claim for refund shall be filed with
20 the director in writing and shall state the specific grounds
21 upon which it is founded. The director may grant the taxpayer
22 or his authorized representatives an opportunity for an oral
23 hearing if the taxpayer so requests.

24 Section 59. If the director disallows a claim for refund
25 he shall notify the taxpayer accordingly. The action of the
26 director denying a claim for refund is final upon the expiration
27 of 90 days from the date when he mails notice of his action to
28 the taxpayer.

29 Section 60. If the director fails to mail a notice of
30 action on any refund claim within six months after the claim is

1 filed, the taxpayer may, prior to notice of action on the refund
2 claim, consider the claim disallowed.

3 Section 61. Any taxpayer who claims that the tax he has
4 paid under this act is void in whole or in part, may bring an
5 action, upon the grounds set forth in his claim for refund,
6 against the state tax commission for the recovery of the whole
7 or any part of the amount paid. Such suit may be instituted in
8 the district court for the county where the taxpayer resides.

9 Section 62. No suit shall be maintained for the recovery
10 of any tax imposed by this act alleged to have been erroneously
11 paid until a claim for refund has been filed with the director
12 as provided in section 58 and the director has denied the refund
13 or has failed to mail a notice of action on the claim within six
14 months after the claim was filed.

15 Section 63. The action authorized in section 61 shall be
16 filed within three years from the last date prescribed for filing
17 the return or within one year from the date the tax was paid,
18 or within 90 days after the denial of a claim for refund by the
19 director or within 90 days after the refund claim has been deemed
20 to be disallowed because of the failure of the director to mail
21 a notice of action within six months after the claim was filed
22 whichever period expires the later.

23 Section 64. The appeal from a determination of the director
24 as provided by section 48 shall be the exclusive remedy available
25 to any taxpayer for the judicial review of the action of the
26 director in respect to the assessment of a proposed deficiency.
27 No injunction or other legal or equitable process shall issue
28 in any suit, action or proceeding in any court against this
29 state or against any officer of this state to prevent or enjoin
30 the assessment or collection of any tax imposed under this act.

I Section 65. (a) If the amount of a deficiency determined
2 by the director is disallowed in whole or in part by the court
3 on appeal, the amount so disallowed shall be credited or refunded
4 to the taxpayer without the making of a claim therefor, or, if
5 payment has not been made, shall be abated.

6 (b) If the deficiency determined by the director is dis-
7 allowed, the taxpayer shall have his costs. If the deficiency
8 is disallowed in part, the court in its discretion may award
9 the taxpayer a proportion of his costs.

10 (c) An assessment of a proposed deficiency by the director
11 shall become final upon the expiration of the period specified
12 in section 45 for filing a written protest against the proposed
13 assessment if no such protest has been filed within the time
14 provided; or if the protest provided in section 46 has been
15 filed, upon the expiration of time provided for filing an
16 appeal, or upon the final judgment of the reviewing court or
17 upon the rendering by the director of a decision pursuant to the
18 mandate of the reviewing court. Notwithstanding the foregoing,
19 for the purpose of filing an appeal from a determination of the
20 director, the determination shall be deemed final on the date
21 the notice of decision is sent by certified mail or registered
22 mail to the taxpayer as provided in section 47.

23 Section 66. In any action for a refund, the court may
24 render judgment for the taxpayer for any part of the tax, in-
25 terest penalties or other amounts found to be erroneously paid,
26 together with interest on the amount of the overpayment. The
27 amount of any judgment against the state tax commission shall
28 first be credited against any taxes, interest, penalties or
29 other amounts due from the taxpayer under the tax laws of this
30 state and the remainder refunded from funds deposited to the

I credit of the state tax commission.

2 Section 67. (a) The tax imposed by this act shall be
3 collected by the director, and he may establish the mode or time
4 for the collection of any amount due under this act if not
5 otherwise specified. The director shall, on request, give a
6 receipt for any amount collected under this act.

7 (b) The director shall as soon as practicable give notice
8 to each person liable for any amount of tax, addition to tax,
9 additional amount, penalty or interest, which has been assessed
10 but remains unpaid, stating the amount and demanding within
11 10 days of the date of the notice and demand payment thereof.
12 Such notice shall be left at the dwelling place or usual place
13 of business of such person or shall be sent by mail to such
14 person's last known address. Except where the director deter-
15 mines that collection would be jeopardized by delay, if any
16 tax is assessed prior to the last date, including any date
17 fixed by extension, prescribed for payment of such tax, payment
18 of such tax shall not be demanded until after such date.

19 Section 68. If any person liable to pay any tax, addition
20 to tax, penalty, or interest imposed under this act neglects
21 or refuses to pay the same within ten days after notice and de-
22 mand, the director may issue a warrant directed to the sheriff
23 of any county of this state or to his own representative com-
24 manding him to levy upon and sell such person's real and personal
25 property for the payment of the amount assessed, with the cost
26 of executing the warrant, and to return such warrant to the
27 director and to pay him the money collected by virtue thereof
28 within 60 days after receipt of the warrant. If the director
29 finds that collection of the tax is in jeopardy, notice and de-
30 mand for immediate payment of such tax may be made by the director

1 and upon failure or refusal to pay such tax the director may
2 issue a warrant without regard to the ten-day waiting period
3 provided in this section.

4 Section 69. If any tax imposed by this act is not paid
5 when due, the director may file in the office of any county
6 clerk a certificate specifying the amount of the tax, addition
7 to tax, penalty and interest due, the name and last known address
8 of the taxpayer liable for the amount and the fact that the
9 director has complied with all the provisions of this act in
10 the assessment of the tax. From the time of the filing, the
11 amount set forth in the certificate constitutes a lien upon all
12 property of the taxpayer in the county then owned by him or
13 thereafter acquired by him in the period before the expiration
14 of the lien. The lien provided herein has the same force, effect
15 and priority as a judgment lien and continues for ten years from
16 the date of recording unless sooner released or otherwise dis-
17 charged.

18 Section 70. Within ten years from the date of the recording
19 or within ten years from the date of the last extension of the
20 lien in the manner provided herein, the lien may be extended
21 by recording in the office of the county clerk of any county,
22 a new certificate. The director may, at any time, release all
23 or any portion of the property subject to any lien provided for
24 in this act or subordinate the lien to other liens if he deter-
25 mines that the taxes are sufficiently secured by a lien on other
26 property of the taxpayer or that the release or subordination
27 of the lien will not endanger or jeopardize the collection of
28 the taxes.

29 Section 71. (a) When notice and demand for the payment
30 of a tax is given to a nonresident and it appears to the director

1 that it is not practicable to locate property of the taxpayer
2 sufficient in amount to cover the amount of tax due, he shall
3 send a copy of the certificate provided for in section 69 to
4 the taxpayer at his last known address together with a notice
5 that such certificate has been filed with the county clerk.
6 Thereafter, the director may authorize the institution of any
7 action or proceeding to collect or enforce such claim in any
8 place and by any procedure that a civil judgment of a court of
9 record of this state could be collected or enforced. The
10 director may also, in his discretion, designate agents or
11 retain counsel outside this state for the purpose of collecting
12 outside this state any taxes due under this act from taxpayers
13 who are not residents of this state; and he may fix the compen-
14 sation of such agents and counsel to be paid out of money ap-
15 propriated or otherwise lawfully available for payment thereof
16 and he may require of them bonds or other security for the faith-
17 ful performance of their duties.

18 (b) The director is authorized to enter into agreements
19 with the tax departments of other states and the District of
20 Columbia for the collection of taxes from persons found in this
21 state who are delinquent in the payment of income taxes imposed
22 by those states and the District of Columbia on condition that
23 the agreeing states and the District of Columbia afford similar
24 assistance in the collection of taxes from persons found in
25 those jurisdictions who are delinquent in the payment of taxes
26 imposed under this act.

27 Section 72. The state tax commission within six years
28 after the assessment of any tax may bring an action in any court
29 of competent jurisdiction within or without this state to recover
30 the amount of any taxes, additions to tax, penalties and interest

1 due and unpaid under this act. In such action, the certificate
2 of the director showing the amount of the delinquency shall be
3 prima facie evidence of the levy of the tax, of the delinquency,
4 and of the compliance by the director with all the provisions
5 of this act in relation to the assessment of the tax.

6 Section 73. The courts of this state shall recognize
7 and enforce liabilities for income taxes lawfully imposed by
8 any other state which extends a like comity to this state,
9 and the duly authorized officer of any such state may sue for
10 the collection of such a tax in the courts of this state. A
11 certificate by the secretary of state of such other state that
12 an officer suing for the collection of such a tax is duly author-
13 ized to collect the tax shall be conclusive proof of such authority.
14 For the purposes of this section, the word "taxes" shall include
15 additions to tax, interest and penalties.

16 Section 74. If any person wilfully refuses to file an in-
17 come tax return required by this act, the director may apply
18 to a judge of the district court for the county in which the
19 taxpayer (or other person required to file an income tax return)
20 resides, for an order directing such person to file the required
21 return. If a person fails or refuses to obey such order, he
22 shall be guilty of contempt of court.

23 Section 75. The liability, at law or in equity, of a
24 transferee of property of a taxpayer for any tax, addition to
25 tax, penalty or interest due the director under this act, shall
26 be assessed, paid and collected in the same manner and subject
27 to the same provisions and limitations as in the case of the tax
28 to which the liability relates. The term transferee includes
29 donee, heir, legatee, devisee, and distributee.

30 Section 76. (a) If the director finds that the assessment

1 or the collection of a tax or a deficiency for any year, current
2 or past, will be jeopardized in whole or in part by delay, he
3 may mail or issue notice of his finding to the taxpayer, together
4 with a demand for immediate payment of the tax or the deficiency
5 declared to be in jeopardy, including additions to tax, interest
6 and penalties.

7 (b) In the case of a tax for a current period, the director
8 shall declare the taxable period of the taxpayer immediately
9 terminated and his notice and demand for a return and immediate
10 payment of the tax shall relate to the period declared termin-
11 ated, including therein income accrued and deductions incurred
12 up to the date of termination if not otherwise properly in-
13 cludable or deductible in respect of the period.

14 (c) A jeopardy assessment is immediately due and payable,
15 and proceedings for collection may be commenced at once. The
16 taxpayer, however, may stay collection and prevent the jeopardy
17 assessment from becoming final by filing, within ten days
18 after the date of mailing or issuing the notice of jeopardy
19 assessment, a request for reassessment, accompanied by a bond
20 or other security in the amount of the assessment including
21 additions to tax, penalties, and interest as to which the stay
22 of collection is sought. If a request for reassessment, accom-
23 panied by a bond or other security in the appropriate amount,
24 is not filed within the ten-day period, the assessment becomes
25 final.

26 (d) If a request for reassessment accompanied by a bond
27 or other security, is filed within the ten-day period, the
28 director shall reconsider the assessment and, if the taxpayer
29 has so requested in his petition, the director shall grant him
30 or his authorized representatives an oral hearing. The director's

1 action on the request for reassessment becomes final upon the
2 expiration of thirty days from the date when he mails notice of
3 his action to the taxpayer, unless within that thirty-day period,
4 the taxpayer files an appeal to the district court in accordance
5 with the provisions of section 39-38, Wyoming Statutes 1957,
6 as amended by section 13, Chapter 91, Session Laws of Wyoming 1967.

7 (e) In any proceeding brought to enforce payment of taxes
8 made due and payable by this section, the finding of the director
9 under subsection (a) of this section is for all purposes pre-
10 sumptive evidence that the assessment or collection of the tax
11 or deficiency was in jeopardy.

12 (f) The director may abate the jeopardy assessment if he
13 finds that jeopardy does not exist.

14 Section 78. Any person who willfully attempts in any
15 manner to evade or defeat any tax imposed by this act or the
16 payment thereof shall, in addition to other penalties provided
17 by law, be guilty of a felony and, upon conviction thereof,
18 shall be fined not more than \$5,000, or imprisoned not more
19 than 5 years, or both, together with the costs of prosecution.

20 Section 79. (a) Except in accordance with proper judicial
21 order or as otherwise provided by law, it shall be unlawful for
22 the director or any officer or employee of the director, any
23 person engaged or retained by such department on an independent
24 contract basis, or any person who, pursuant to this section, is
25 permitted to inspect any report or return or to whom a copy, an
26 abstract or a portion of any report or return is furnished, to di-
27 vulge or make known in any manner the amount of income or any par-
28 ticulars set forth or disclosed in any report or return required
29 under this act. The officers charged with the custody of such re-
30 ports and returns shall not be required to produce any of them, or
31 evidence of anything contained in them, in any action or pro-
32 ceeding in any court, except on behalf of any party to any

1 action or proceeding under the provisions of the tax law to
2 which he is a party, or on behalf of any party to any action or
3 proceeding under the provisions of this act when the reports
4 or facts shown thereby are directly involved in such action or
5 proceeding, in either of which events the court may require the
6 production of, and may admit in evidence, so much of said reports
7 or of the facts shown thereby, as are pertinent to the action
8 or proceeding and no more. Nothing herein shall be construed
9 to prohibit the delivery to a taxpayer or his duly authorized
10 representative of a certified copy of any return or report
11 filed in connection with his tax or to prohibit the publication
12 of statistics so classified as to prevent the identification
13 of particular reports or returns and the items thereof, or the
14 inspection by the attorney general or other legal representatives
15 of the state of the report or return of any taxpayer who shall
16 bring an action to review the tax based thereon, or against
17 whom an action or proceeding for collection of tax has been
18 instituted.

19 (b) Notwithstanding the provisions of subsection (a), the
20 director may permit the secretary of the treasury of the United
21 States or his delegates, or the proper officer of any state im-
22 posing an income tax, or the authorized representative of such
23 officer, to inspect the income tax returns of any tax payers, or
24 may furnish to such officer or his authorized representative an
25 abstract of the return of income of any taxpayer or supply him
26 with information concerning an item of income contained in any
27 return, or disclosed by the report of any investigation of the
28 income or return of income of any individual, but such permission
29 shall be granted only if the statutes of the United States or
30 of such other state, as the case may be, grant substantially

I similar privileges to the director of this state as the officer
2 charged with the administration of the tax imposed by this act.

3 Section 80. All moneys received and collected under the
4 provisions of this act shall be deposited by the director in a
5 bank approved by the state board of deposits and, after col-
6 lections have cleared through said bank, the same, excepting
7 bond deposits and amounts necessary for refunds, shall be trans-
8 ferred to the state treasurer for credit to the public school
9 foundation program fund.

10 Section 81. This act shall take effect and be in force
11 on and after the first day of January 1972.