

meaning of this section: *Provided further*, That this section shall not defeat any valid right which has already attached under any pending entry or location. The word 'person' in this section shall be deemed to include corporations, partnerships, and associations."

Prior rights not impaired.

"Person" defined.

SEC. 15. The Secretary of the Interior is further authorized in his discretion, where vacant, unappropriated, and unreserved lands of the public domain are situated in such isolated or disconnected tracts of six hundred and forty acres or more as not to justify their inclusion in any grazing district to be established pursuant to this Act, to lease any such lands to owners of lands contiguous thereto for grazing purposes, upon application therefor by any such owner, and upon such terms and conditions as the Secretary may prescribe.

Disconnected or isolated tract may be leased to owners of contiguous lands.

SEC. 16. Nothing in this Act shall be construed as restricting the respective States from enforcing any and all statutes enacted for police regulation, nor shall the police power of the respective States be, by this Act, impaired or restricted, and all laws heretofore enacted by the respective States or any thereof, or that may hereafter be enacted as regards public health or public welfare, shall at all times be in full force and effect: *Provided, however*, That nothing in this section shall be construed as limiting or restricting the power and authority of the United States.

State laws, etc., not restricted.

Proviso.
No limitation on Federal authority.

Approved, June 28, 1934.

517: num -
June 26, 1936 (4942, 1932)

[CHAPTER 866.]

AN ACT

To place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes.

June 28, 1934.
[H. R. 9690.]
[Public, No. 483.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tobacco Control Act.

DEFINITIONS

Definitions.

SECTION 1. As used in this Act—

(a) The term "person" includes an individual, a partnership, association, joint-stock company, corporation, or a firm, and imports the plural as well as the singular, as the case demands.

"Person."

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

"Commissioner."

(c) The term "collector" means the collector of internal revenue.

"Collector."

(d) The term "tobacco" means any type or types of tobacco specified in any agreement between the Secretary of Agriculture and a contracting producer.

"Tobacco."

(e) The term "sale" means the first bona fide sale of each pound of tobacco harvested subsequent to the enactment of this Act.

"Sale."

(f) The term "tax" means the tax imposed by this Act upon the sale of tobacco.

"Tax."

(g) The term "contracting producer" means any person who (pursuant to the provisions of the Agricultural Adjustment Act) agrees in writing with the Secretary of Agriculture to plant not more than the number of acres of tobacco, and/or to market not more than the number of pounds of tobacco, permitted in such agreement.

"Contracting producer."

(h) The term "crop year" means the period May 1 to April 30.

"Crop year."

(i) The term "Maryland tobacco" means the kind of air-cured tobacco classified as type 32 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

"Maryland tobacco."

"Cigar leaf tobacco." (j) The term "cigar leaf tobacco" means all leaf tobacco classified in classes 4, 5, and 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

"Virginia sun-cured tobacco." (k) The term "Virginia sun-cured tobacco" means all sun-cured tobacco classified as type 37 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

Declared policy.

DECLARED POLICY

Orderly marketing.

Stabilizing markets.

SEC. 2. It is hereby declared to be the policy of Congress to promote the orderly marketing of tobacco in interstate and foreign commerce, to enable producers of tobacco to stabilize their markets against undue and excessive fluctuations, to prevent unfair competition and practices in putting tobacco into the channels of interstate and foreign commerce, and to more effectively balance production and consumption of tobacco, and to relieve the present emergency with respect to tobacco.

Imposition.

IMPOSITION

Sales tax.

SEC. 3. (a) There is hereby levied and assessed on the sale of tobacco with respect to which the tax is applicable a tax at the rate of $33\frac{1}{3}$ per centum of the price for which such tobacco is sold: *Provided, however,* That if the Secretary of Agriculture determines and proclaims that the declared policy of this Act is best effectuated thereby, the rate of tax shall, for such period as the Secretary of Agriculture designates, be at such lower rate (not less than 25 per centum of the price for which such tobacco is sold) as he may prescribe.

Proviso.
Lower rate permitted.

Tax to apply to tobacco harvested in crop year 1934-35; exception.

Inoperative thereafter unless it be determined special type requires imposition.

Secretary's proclamation to issue before crop year.

Duration of provision.

Territory embraced.

(b) The tax provided for by subsection (a) of this section shall be applicable to all tobacco harvested in the crop year 1934-1935, except Maryland tobacco, Virginia sun-cured tobacco, and cigar leaf tobacco. Thereafter whenever the Secretary of Agriculture determines that the persons who own, rent, share crop, or control three fourths of the land customarily engaged in the production of any particular type of tobacco favor the levy of the tax thereon and that the imposition of the tax thereon is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this Act, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to tobacco of such type harvested during the crop year next following the date of such proclamation. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1936.

(c) The provisions of this Act shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam.

Exemptions.

EXEMPTIONS

Public experiment station, etc.

Crop prior to 1934-35.

Identification.

SEC. 4. (a) No tax shall be imposed under this Act—

(1) Upon the tobacco harvested by any publicly owned experimental station or agricultural laboratory; or

(2) Upon tobacco harvested prior to the crop year 1934-1935.

(b) Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, every person who, at the time the tax becomes applicable with respect to

any type of tobacco, holds for sale (or use in the manufacture or production of an article intended for sale) any tobacco of such type harvested prior to the crop year 1934-1935 shall cause such tobacco to be tagged, stamped, or otherwise identified as tax-exempt tobacco.

SEC. 5. (a) In addition to rental or benefit payments which under any provision of existing law the Secretary of Agriculture is authorized to make in connection with agreements with producers providing for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, the Secretary of Agriculture is hereby authorized and directed to issue (in each crop year wherein any type of tobacco is harvested to which the tax is applicable) to each contracting producer nontransferable tax-payment warrants (each such warrant to be expressed in pounds of tobacco of a particular type). Upon surrender of any warrant by any contracting producer to the collector, it shall be accepted by the collector and the Secretary of the Treasury in payment of the tax on any sale by such contracting producer of the type of tobacco specified in the warrant not exceeding in amount the amount of tobacco covered by such warrant. Any contracting producer shall be entitled to receive such warrants covering amounts of any type of tobacco produced by him equal (1) to the number of pounds of tobacco of such type which such contracting producer is permitted to market under any agreement between him and the Secretary of Agriculture, or (2) to the number of pounds of tobacco of such type which the Secretary of Agriculture estimates may be produced on a percentage of a base acreage, which percentage and base acreage shall be determined as provided in any agreement between the Secretary of Agriculture and such contracting producer.

(b) The Secretary of Agriculture may issue in any county further warrants, covering an amount of tobacco of any type not in excess of 6 per centum of the amount of tobacco of such type covered by the warrants issued to all contracting producers in such county, to persons engaged in the production of tobacco of such type in such county as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under tobacco-reduction contracts offered pursuant to the Agricultural Adjustment Act: *Provided*, That warrants covering two-thirds of the amount of tobacco allotted under this subsection in any county shall be issued to growers whose allotments are 1,500 pounds or less. Warrants issued under this subsection shall be accepted by the collector and the Secretary of the Treasury, upon surrender thereof by the person to whom issued, in payment of the tax on any sale by such person of the type of tobacco specified in the warrant not exceeding in amount the amount of tobacco covered by such warrant.

(c) Upon application therefor, the warrants provided for by subsections (a) and (b) of this section may be issued by the Secretary of Agriculture, or his duly authorized agent, in such manner, at such time or times, at such place or places, and in such form as the Secretary of Agriculture may prescribe.

(d) Any tax-payment warrant erroneously issued shall be void upon demand in writing for its return made by the Secretary of Agriculture to the person to whom such warrant was issued.

(e) The right to a tax-payment warrant under this section shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe.

(f) The Secretary of Agriculture may make regulations protecting the interests of share-croppers and tenants in the issuance of tax-payment warrants under this Act.

Nontransferable tax-payment warrants.
Issue of, to contracting producer, authorized.

Surrender of, to be accepted in payment of sales tax.

Limitation.

Terms of warrant.
Pounds permitted.

Percentage basis.

County warrants.

Ante, p. 34.

Proviso.
Issue of, to limited growers.

Acceptance, upon surrender in payment of sales tax.

Manner, etc., of issuing warrants.

Erroneous issue.

Evidence of right.

Protection of share-croppers, etc.

Collection of taxes.

COLLECTION OF TAXES

Payment by seller.

SEC. 6. (a) The taxes provided for in this Act shall be paid by the seller and collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

Depository.

Returns, penalties,
etc.
Excise provisions ex-
cepted.
Vol. 44, p. 121.
Vol. 44, p. 93; Vol. 47,
p. 269.

(b) All provisions of law, including penalties (except section 1121 of the Revenue Act of 1926), applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this Act, be applicable in regard to all taxes imposed by this Act.

Rules and regula-
tions.

RULES AND REGULATIONS

Needful, to be pre-
scribed.

SEC. 7. (a) The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe such rules and regulations as he may deem needful for the collection of the tax.

Execution of vested
powers.

(b) The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this Act.

Information returns.

INFORMATION RETURNS

Producers, etc., re-
quired to disclose rele-
vant information.

SEC. 8. (a) All producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury shall by regulations prescribe as necessary for the collection of the tax. Any person required to make such return shall render a true and accurate return to the Commissioner of Internal Revenue.

Regulations to be
prescribed.

Penalty provisions.

(b) Any person willfully failing or refusing to file such a return, or filing a willfully false return, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.

General and penal
provisions.

GENERAL AND PENAL PROVISIONS

Transfer of tax-pay-
ment warrants.

SEC. 9. (a) No tax-payment warrant issued in accordance with this Act may be transferred or assigned either in whole or in part, except by the executor or other legal representative of a deceased producer to whom a tax-payment warrant has been issued under this Act. Any person who acquires a tax-payment warrant from another person or who transfers a tax-payment warrant to another person in violation of the provisions of this Act, or who violates any provision of this Act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than six months' imprisonment, or both.

Unlawful acquisi-
tion.

Counterfeiting, etc.

(b) Any person who, with intent to defraud, forges, makes, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification made or used under this Act, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant, stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the

False entry.

material used in the manufacture of such warrants, stamps, tags, or other means of identification, or who makes any false statement in any application with respect to the levying and collection of the tax, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

Penalty.

APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

SEC. 10. (a) The proceeds derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for administrative expenses and refunds of taxes and other payments under this Act. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of the tax which will be collected during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

Appropriations and administrative expenses.
Proceeds from tax available.

Tax estimates.

(b) Out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, such sums as may be necessary for administrative expenses, refunds of taxes, and other payments under this Act are hereby made available.

Advances.

Expenses.
Ante, p. 37.

(c) The Secretary of Agriculture is authorized in order to carry out the provisions of this Act to appoint, without regard to the provisions of the civil-service laws, such officers, agents, and employees, and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

Officers, employees, etc.
Selection, salaries, etc.

(d) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law.

Services and rent in the District of Columbia.

Reference books, etc.

(e) The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this Act, such sums as are required to pay administrative expenses incurred and refunds made by such Department or agencies in the administration of this Act.

Transfer of funds.

REFUNDS

Refunds.

SEC. 11. (a) No refund of any tax, penalty, or interest paid under this Act shall be allowed unless claim therefor is presented within six months after the date of payment of such tax, penalty, or interest.

Claim for, must be presented within 6 months.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this Act alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, under this Act;

Suit to recover.

Payment under protest or duress. Commencement of suit. but such suit or proceeding may be maintained whether or not such tax, penalty, or interest has been paid under protest or duress. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim, unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of the payment of such tax, penalty, or interest, unless such suit or proceeding is begun within two years after the disallowance of the claim or of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after any such disallowance, notify the taxpayer thereof by mail.

SEPARABILITY OF PROVISIONS

Separability of provisions. SEC. 12. If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid the remainder of this Act and the applicability thereof and of such provision to other persons or circumstances shall not be affected thereby.

Termination.

TERMINATION

Tax on any type may be discontinued, etc.

SEC. 13. The tax shall terminate with respect to any type of tobacco at the end of the crop year current at the time the Secretary of Agriculture proclaims that rental and/or benefit payments under the Agricultural Adjustment Act are to be discontinued with respect to such type of tobacco or whenever the President finds and proclaims that the national economic emergency with respect to such type of tobacco has ended, whichever is the earlier.

Proclamation to issue.

Tobacco producer becoming a contracting producer.

SEC. 14. The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the enactment of this Act.

Cigar leaf tobacco.

Provisions for protecting, etc.

SEC. 15. Having due regard to the welfare of domestic producers of tobacco and to the protection of domestic consumers thereof and to a just relation between the price received by such domestic producers and the price paid by such domestic consumers and in other respects to effectuate the declared policy of this Act, the Secretary of Agriculture may from time to time, by orders or regulations:

Quotas for importations, into continental United States to be established.

(A) For each crop year in which any type of tobacco is harvested to which the tax is applicable, or for any part of such crop year, establish quotas for the importation into continental United States of cigar-leaf types of tobacco, and during such crop year readjust any such quotas. Such quotas shall be based on average quantities of such tobacco imported into continental United States during the crop years 1932-1933 and 1933-1934, except that in the case of tobacco imported from the Republic of Cuba, such quotas shall be based on average quantities of tobacco so imported during the crop years 1928-1933.

Basis.

Cuba.

Allocations to importers.

(B) Allot the quotas provided for by subsection (A) to the importers of such tobacco in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of tobacco imported during the crop years 1932-1933 and 1933-1934 by such persons.

Excess imports subject to import tax.

SEC. 16. After importation quotas therefor have been established, all cigar-leaf tobacco of any type imported into continental United States in excess of the quota for such type shall be subject to an import tax. The rate of the import tax, expressed in cents per

Rate.

pound, shall be determined by the Secretary of Agriculture as hereinafter provided. On May 1 of each crop year for which quotas are to be established pursuant to section 15, the Secretary of Agriculture shall determine (from available statistics of the Department of Agriculture) the average sales price per pound, during the preceding twelve months, of all domestic cigar-leaf tobacco the sale of which is to be taxed during the ensuing crop year under this Act. This average sales price, times the average per centum tax rate then current under this Act on the sale of such domestic cigar-leaf tobacco, shall be the rate per pound of the import tax and shall be proclaimed by the Secretary of Agriculture. The import tax shall be paid prior to the release of the tobacco subject thereto from customs custody or control.

Quotas, average sales price, etc., to be determined.

Payment of tax before customs release.

As used in this and the preceding section "cigar-leaf types of tobacco" shall include cigars, which for the purposes of the quotas, allotments, and import tax provided for by said sections shall be translated into terms of raw cigar-leaf tobacco of the respective types from which such cigars are produced, pursuant to conversion factors established and proclaimed by the Secretary of Agriculture.

Term construed.

Approved, June 28, 1934.

[CHAPTER 867.]

AN ACT

To compensate widows and children of persons who died while receiving monetary benefits for disabilities directly incurred in or aggravated by active military or naval service in the World War.

June 28, 1934.
[H. R. 9936.]
[Public, No. 484.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the surviving widow, child, or children of any deceased person who served in the World War before November 12, 1918, or if the person was serving with the United States military forces in Russia before April 2, 1920, who, while receiving or entitled to receive compensation, pension, or retirement pay for 30-per-centum disability or more directly incurred in or aggravated by service in the World War, dies or has died from a disease or disability not service connected and not the result of the person's own misconduct shall, upon filing application and such proofs in the Veterans' Administration as the Administrator of Veterans' Affairs may prescribe, be entitled to receive compensation: *Provided*, That the provisions of this Act shall not apply to any person during any year following a year for which such person was not entitled to exemption from the payment of a Federal income tax.

Compensation of widows, etc., of certain veterans.
Eligibility.

Proviso.
Persons not exempt from income tax.

SEC. 2. That the monthly rates of compensation shall be as follows: Widow but no child, \$22; widow and one child, \$30 (with \$4 for each additional child); no widow but one child, \$15; no widow but two children, \$22 (equally divided); no widow but three children, \$30 (equally divided) (with \$3 for each additional child, total amount to be equally divided).

Rates.

The total compensation payable under this paragraph shall not exceed \$56. Where such benefits would otherwise exceed \$56 the amount of \$56 may be apportioned as the Administrator of Veterans' Affairs may prescribe.

Maximum.
Apportionment, if exceeding \$56.

SEC. 3. That as used in this Act—

(a) The term "person who served" shall mean a person, whether male or female, and whether commissioned, enlisted, enrolled, or drafted, who was finally accepted for active service in the military

Definitions.

"Person who served."