

No. 456, S.]

[Published July 30, 1945.]

CHAPTER 512.

AN ACT to amend 76.01, 76.03 (4), 76.06, 76.07 (1) and (2), 76.08 (1) and (2), 76.13 (1) and (2), 76.19, and 76.27; and to create 76.02 (5a) and (11a), 76.13 (3) and 76.28 (6) of the statutes relating to taxation of air carriers and provisions pertaining to administration of taxation of public utilities and insurance companies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 76.01 of the statutes is amended to read:

76.01 The department of taxation shall make an annual assessment of the property of all railroad companies, of all street railway companies, of all light, heat and power companies, of all telegraph companies, of all conservation and regulation companies, of all sleeping car companies, of all air carriers, and of all express companies, within this state, for the purpose of levying and collecting taxes thereon, as provided in this chapter.

SECTION 2. 76.02 (5a) and (11a) of the statutes are created to read:

76.02 (5a) Any person, association, company or corporation engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights shall be deemed an air carrier company. The term "aircraft" shall mean a completely equipped operating unit, including spare flight equipment, used as a means of conveyance in air commerce.

(11a) Any air carrier as defined in subsection (5a) engaged solely in intrastate transportation using the facilities of only one airport within the state, shall be excepted from taxation under this chapter and shall be subject to local assessment and taxation.

SECTION 3. 76.03 (4) of the statutes is amended to read:

76.03 (4) Every person, company or companies, * * * as defined in section 76.02, shall be the representative of every title and interest in the property so operated or used either as owner, lessee or otherwise, and notice to the operating and using company or companies shall be notice to all interests in the property for the purposes of taxation. The assessment and taxation of the property of any company in the name of the operating or using company or companies shall be deemed and held an assessment

and taxation of all the title and interest in such property of any kind or nature. Nothing herein contained shall be deemed to authorize the assessment and taxation of the interests of the state or of any county, city, village or town in any property used for highways or elevated roads and leased to or used by another.

SECTION 4. 76.06 of the statutes is amended to read:

76.06 In any matter material to the valuation, assessment or taxation of property under this chapter, the department may, in its discretion, exercise any and all of the powers conferred upon it by sections 73.03 and 73.04 (1); and every state, county, city, village, town and other public officer shall make return to the department in such form as it shall prescribe, of all information it shall call for. Persons serving the process of the department shall receive the same compensation allowed by law to sheriffs for similar service; and persons appearing before the department in obedience to its summons shall, in the discretion of the department receive the same compensation as a witness in the circuit court; such fees and compensation to be audited by the secretary of state on the certificate of the department, and charged to the proper appropriation for the department of taxation. The records, books, accounts and papers * * * of any company defined in section 76.02 to be assessed under this chapter, except as otherwise provided, shall be subject to the visitation, inspection and examination by said department or by such person as it may designate for that purpose.

SECTION 5. 76.07 (1) and (2) of the statutes are amended to read:

76.07 (1) The department on or before * * * June 1 in each year in the case of railroad companies, telegraph companies, sleeping car companies and express companies; and on or before August 1 in the case of street railway companies, light, heat and power companies, *air carrier companies*, and conservation and regulation companies, shall, according to its best knowledge and judgment, ascertain and determine the full market value of the property of each company within the state.

(2) The value of the property of each of said companies for assessment shall be made on the same basis and for the same period of time, as near as may be, as the value of the general property of the state is ascertained and determined. The department shall prepare an assessment roll and place thereon after the name of each of said companies assessed, the following general

description of the property of such company, to-wit: "Real estate, right of way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real estate and personal property of said company," in the case of railroads and street railways, and "real estate, right of way, poles, wires, conduits, cables, devices, appliances, instruments, franchises and all other real and personal property of said company," in the case of telegraph, light, heat and power companies and conservation and regulation companies, and "Real estate, appurtenances, rolling stock, equipment, franchises, and all other real estate and personal property of said company," in the case of sleeping car, *air carrier* and express companies, which description shall be deemed and held to include the entire property and franchises of the company specified and all title and interest therein.

SECTION 6. 76.08 (1) and (2) of the statutes are amended to read:

76.08 (1) Notice of the assessments determined as provided in section 76.07 shall be given by registered mail to each company the property of which has been assessed, and such notice shall be mailed on or before the assessment date specified in section 76.07 (1). Any company aggrieved by the assessment of its property thus made may have a hearing before the board of tax appeals if a petition is filed with the board within 10 days after * * * notice of assessment * * * has been mailed to the company as provided in section 76.07 (3). No answer need be filed by the department of taxation, but upon the filing of the petition the board shall forthwith set the matter for hearing. All matters thus brought before the board shall be heard and decided by it within 40 days after the assessment date.

(2) No action to cancel or set aside, to enjoin the collection of, or to recover back any taxes levied or assessed under the provisions of sections 76.01 to 76.29 shall be brought unless the company shall first have been heard by the board of tax appeals under this section. *The right of review herein provided shall not be prejudiced by the payment of all or any part of the tax levied upon such assessment.*

SECTION 7. 76.13 (1) and (2) of the statutes are amended to read:

76.13 (1) The department shall compute and levy a tax upon the property of each company defined in section 76.02, as assessed in the manner specified in section 76.07 and 76.08, at the average

rate of taxation determined as aforesaid, and the amount of tax to be paid by each such company shall be extended upon a tax roll opposite the description of the property of the respective companies. The tax roll for railroad, telegraph, express and sleeping car companies shall be completed on or before June * * * 5 of each year, and for street railway companies, light, heat and power companies, *air carrier* and conservation and regulation companies on or before September 15 of each year; and the department shall thereupon attach to each such roll a certificate signed by the commissioner of taxation, which shall be as follows:

“I do hereby certify that the foregoing tax roll includes the property of all railroad, street railway, light, heat and power, telegraph companies, express and sleeping car companies, *air carrier* or conservation and regulation companies, as the case may be, defined in section 76.02, liable to taxation in this state; that the valuation of the property of each company as set down in said tax roll is the full market value thereof as assessed by the department of taxation, except as changed by order of the board of tax appeals, and that the taxes thereon charged in said tax roll have been assessed and levied at the average rate of taxation in this state, as required by law.”

(2) Every tax roll shall thereupon forthwith be delivered to the state treasurer, who shall immediately notify, by registered mail, the several companies taxed therein to pay the tax extended thereon to the state treasurer, as follows: In the case of railroad, telegraph, express and sleeping car companies, *not less than one-half* of the amount of such tax on or before June * * * 25 and * * * *the remainder* on or before October 15 of the same year; and in the case of all other companies on or before December 1 of the same year. The taxes extended against any company after the same becomes due, with interest, shall be a lien upon all the property of such company prior to all other liens, claims and demands whatsoever, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety.

SECTION 8. 76.13 (3) of the statutes is created to read:

76.13 (3) In the event the board of tax appeals, after such roll has been delivered to the state treasurer, shall increase or decrease the assessment of any company, the board shall forth-

with redetermine the tax of such company on the basis of such revised assessment, and shall certify and deliver the same to the state treasurer as a revision of the tax roll.

SECTION 9. 76.19 of the statutes is amended to read:

76.19 In any action, suit or proceeding brought by any company defined in section 76.02 in the state court to set aside, restrain or postpone the payment or collection of any tax levied upon the property of such company, no injunction, order or writ to enjoin or restrain the payment or collection of the tax shall issue, or be continued in force, unless said company shall pay to the state treasurer for the use of the state the amount of taxes which the court shall determine primarily to be justly and equitably due from such company. Such primary determination shall be made by the state court in which the action, suit or proceeding is pending, upon motion, summarily and without delay. In case the amount of tax justly and equitably due from * * * *any* company shall be finally determined *by the board of tax appeals or by the court* to be less than the amount so paid, the excess shall be refunded to such company by direction of the court *or of the board of tax appeals, as the case may be*, and for that purpose the secretary of state, upon the filing in his office of a certified copy of such final determination, shall draw a warrant upon the state treasurer for the amount to be so refunded.

SECTION 10. 76.27 of the statutes is amended to read:

76.27 * * * Within 30 days after certification of * * * *the* tax rolls referred to in section 76.13, distribution tax rolls shall be certified to the state treasurer showing the proper amount of tax payable to each town, city, village, and county, and the amount to be retained by the state pursuant to section 76.28.

SECTION 11. 76.28 (6) of the statutes is created to read:

76.28 (6) The state shall retain 15 per cent of the taxes paid into the state treasury by any air carrier defined in section 76.02 and the remainder of such taxes shall be distributed to towns, villages, cities or counties owning or maintaining the airport facilities used by such air carrier in proportion, as near as may be, to its business originating for the prior year and property located at each such airport. In case of joint ownership or joint maintenance, or of joint ownership and maintenance of any airport by 2 or more municipalities, the taxes apportioned to such airport shall be distributed to such municipalities in proportion

to the operating costs of such airport borne by each municipality. Taxes apportioned to privately owned airports shall be distributed in the same manner as provided in section 76.28 (1).

SECTION 12. This act shall take effect January 1, 1946.

Approved July 26, 1945.

No. 458, S.]

[Published July 30, 1945.

CHAPTER 513.

AN ACT to amend 14.71 (1) and to create 20.053 and 114.30 to 114.33 of the statutes, relating to aeronautics, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 14.71 (1) of the statutes is amended to read:

14.71 GENERAL DEPARTMENTAL POWERS. (1) APPOINTMENT OF SUBORDINATES. Except as expressly provided by law, the governor, secretary of state, state treasurer, attorney-general, state superintendent, commissioner of insurance, state fire marshal, director of purchases, public service commission, industrial commission, adjutant general, grain and warehouse commission, director of personnel, department of taxation, board of tax appeals, commissioners of public lands, state conservation commission, state supervisor of inspectors, banking commission, banking review board, free library commission, state chief engineer, director of agriculture, director of the budget, geological and natural history survey, state board of health, state highway commission, state planning board, state board of medical examiners, state board of dental examiners, state board of pharmacy, Wisconsin real estate brokers board, state board of vocational and adult education, Wisconsin employment relations board, commissioner of the motor vehicle department, director of public welfare, *state aeronautics commission*, and state athletic commission are each authorized to appoint such deputies, assistants, experts, clerks, stenographers or other employes as shall be necessary for the execution of their functions, and to designate the titles, prescribe the duties, and fix the compensation of such subordinates, but these powers shall be exercised subject to the state civil service law, unless the position filled by any such subordinate has been expressly exempted from the operation of