

(T. D. 3054.)

Regulations No. 57 (revised July, 1920), relating to the tax on telegraph, telephone, radio, and cable facilities under the provisions of the revenue act of 1918.

Title V.—Tax on Transportation and Other Facilities, and on Insurance.

IMPOSITION OF TAX.

SECTIONS 500 (f), (g), AND (h), 501 (a) AND (c), REVENUE ACT OF 1918.

SEC. 500. That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the revenue act of 1917—

* * * * *

(f) In the case of each telegraph, telephone, cable, or radio, dispatch, message, or conversation, which originates on or after such date within the United States, and for the transmission of which the charge is more than 14 cents and not more than 50 cents, a tax of 5 cents; and if the charge is more than 50 cents, a tax of 10 cents: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

(g) A tax equivalent to 10 per centum of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such;

(h) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

SEC. 501. (a) That the taxes imposed by section 500 shall be paid by the person paying for the services or facilities rendered.

* * * * *

(c) The taxes imposed by section 500 shall apply to all services or facilities specified in such section when rendered for hire, whether or not the agency rendering them is a common carrier.

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COLLECTION AND RETURN OF TAX.

SECTIONS 502 AND 1309 OF REVENUE ACT OF 1918.

SEC. 502. That each person receiving any payments referred to in section 500 shall collect the amount of the tax, if any, imposed by such section from the person making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected * * * to the collector of the district in which the principal office or place of business is located.

* * * * *

Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

The returns required under this section shall contain such information, and be made at such times and in such manner, as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return * * *.

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

The Commissioner with such approval may by regulation provide that any return required by Titles * * * V [which includes sections 500, 501, and 502] * * * to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

CREDITS AND REFUNDS.

SECTION 1310 (a) OF REVENUE ACT OF 1918.

SEC. 1310. (a) That in the case of any overpayment or overcollection of any tax imposed by * * * Title V [which includes sections 500, 501, and 502] * * * the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SECTION 3220 OF UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1316 (a) OF REVENUE ACT OF 1918.

SEC. 3220. The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally

assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected * * *.

PENALTIES.

SECTION 3176 OF UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1317 OF REVENUE ACT OF 1918.

SEC. 3176. * * * In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner of Internal Revenue shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SECTIONS 502 AND 1308 OF REVENUE ACT OF 1918.

SEC. 502. * * * If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

SEC. 1308. (a) That any person required under Titles * * * [which includes sections 500, 501, and 502] * * * to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment, or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisonment for not more than one year, or both, together with the costs of prosecution

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended * * *.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

AUTHORITY FOR REGULATIONS.

SECTION 1309 OF REVENUE ACT OF 1918.

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act * * *.

PART I.

TRANSMISSION OF DISPATCHES, MESSAGES, AND CONVERSATIONS.

SECTION 500 (f) AND (h) OF REVENUE ACT OF 1918.

SEC. 500. That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the revenue act of 1917—

* * * * *
(f) In the case of each telegraph, telephone, cable, or radio, dispatch, message, or conversation, which originates on or after such date within the United States, and for the transmission of which the charge is more than 14 cents and not more than 50 cents, a tax of 5 cents; and if the charge is more than 50 cents, a tax of 10 cents: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation;

* * * * *
(h) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

IMPOSITION OF TAX.

ARTICLE 1. *Imposition of the tax—Transmission.*—The tax is imposed upon the transmission of a message or conversation, by telephone, telegraph, radio, or cable. Transmission includes services rendered and facilities provided by the carrier necessary or incidental to the actual movement of the message; for example, messenger service utilized in the movement of a toll message.

Transmission begins when the message is delivered by the sender to the carrier or its agent, and continues until its receipt by the addressee or his agent. Where, therefore, a message passes by the combined facilities of several lines, there is one message and one transmission. But where a sender uses a telephone toll message to reach a telegraph office to secure the transmission of a telegraph message, the place of delivery of the telegraph message by the sender to the carrier is the telegraph office, and the transmission of the telegraph message begins there. The telephone message is a separate message and as such subject to the provisions of the act.

ART. 2. *Imposition of tax—Carrier.*—The tax applies to transmission services when rendered for hire, whether or not the agency rendering them is a common carrier (sec. 501 (c)). Accordingly, a carrier of dispatches, messages, or conversations by telegraph, telephone, cable, or radio is held to be any person, corporation, partnership, or association who or which, for hire, furnishes the services

or facilities described or referred to in section 500, subdivisions (f) and (g), of the act.

Therefore, where the lessee of a leased wire or talking circuit special service transmits messages for hire, he is a carrier of such messages and liable to the provisions of the act relative to the collection, report, and payment of the taxes thereon.

ORIGIN OF MESSAGE DETERMINES TAXABILITY.

ART. 3. *Originating within the United States.*—The tax is upon the transmission by telephone, telegraph, radio, or cable of dispatches, messages, and conversations *originating within the United States.*

Messages transmitted from a point within the United States to a point without the United States are subject to the provisions of the act unless sent with charges "reversed" or "collect." Messages transmitted from a point without the United States to a point within the United States are not subject to the tax, unless sent with charges "reversed" or "collect."

The term "United States" includes the States, the Territories of Alaska and Hawaii, and the District of Columbia; it also includes all inland waters (such as rivers, lakes, bays, etc.) lying wholly within the United States, and, where an international boundary line divides inland waters, the parts of such inland waters as lie within the boundary of the United States; and also the waters known as a marine league from low tide on the coast line. Radio messages sent from ships within the above limits are therefore subject to the provisions of the act.

ART. 4. *Reversed or collect messages.*—The point of origin of messages transmitted with charges "reversed" or "collect" is the point at which the charge is collectible; that is, the point of receipt of the message by the addressee.

ART. 5. *Originating on or after April 1, 1919.*—The tax is imposed upon the transmission by telephone, telegraph, radio, or cable of dispatches, messages, and conversations *originating on or after April 1, 1919.* The time of the payment of the charge is immaterial.

BASIS, RATE, AND COMPUTATION OF TAX.

ART. 6. *Basis, rate, and computation of tax.*—The basis for the computation of the tax is the *amount of the charge* for the transmission of the message. (As to the meaning of transmission, see art. 1.) The term "the charge" means the amount charged by the carrier for the transmission of the particular message. Such charge may be due in money, services or in any other valuable consideration.

Only two amounts of tax are provided, 5 cents and 10 cents, imposed as follows:

(1) 5 cents on messages the charge for the transmission of which is more than 14 cents and not more than 30 cents;

(2) 10 cents on messages the charge for the transmission of which is more than 50 cents.

ART. 7. *Franks.*—The fact that a message is transmitted under frank is immaterial to the determination of the taxability of the message. If the message is in fact transmitted free, no tax applies; but if the carrier in fact makes a charge, in money, services or any other consideration, for the transmission of the message, the tax applies and is to be computed upon the amount of the charge imposed.

ART. 8. *Overtime telephone messages.*—The tax on overtime telephone messages is to be computed upon the total charge for the transmission of the message. The amount of the initial rate for such messages is immaterial.

ART. 9. *Messages transmitted under contract.*—Where, by contract, a telegraph, telephone, radio, or cable company agrees, in consideration of the payment of a lump sum or of the performance of services, to transmit messages on frank, such messages are subject to the tax imposed by this section (500 (f)) of the act. The tax on each such message is to be computed upon the amount of the regular established charge for the transmission of similar messages for ordinary customers, calculated at the regular fixed rate provided in the tariffs of the transmitting carrier. The questions as to whether such messages relate to the operation of the business of a common carrier and whether they are "on line" or "off line" are immaterial. Thus, a telegraph company agrees to transmit over its lines on a railroad line all messages relating to railroad business "free" and all such messages over its lines off the railroad lines "free" to an amount not exceeding \$10,000 per year calculated at its regular rates, and all messages over that amount at half rates, in consideration of services to be performed by the railroad in the transportation of men and materials of the telegraph company. All such messages, whether "on line" or "off line," and whether "free" or at half rates, are subject to the tax provided by this section (500 (f)) of the act. The tax must be computed, collected, and paid upon each such message. (Where common carrier is a railroad under Federal control, see art. 14.)

EXEMPTIONS.

ART. 10.—*Exemption—Business of transmitting carrier.*—The transmission of messages involved in the operation of the business of the transmitting carrier, as such, is not subject to the tax.

ART. 11. *Exemption—Charges of 14 cents or less.*—Dispatches, messages, or conversations, for the transmission of which by telegraph, telephone, radio, or cable the charge is 14 cents or less, are not

subject to tax. (As to the meaning of transmission, see Art. 1; as to the computation of the tax, see Arts. 6-9.)

ART. 12. *Exemption—Services rendered to the United States or to any State or Territory or to the District of Columbia.*—Telephone, telegraph, cable, and radio dispatches, messages, and conversations relating to Government business, which originate in the United States and which are a charge against the Treasurer of the United States, the District of Columbia, a State, or Territory, and are paid from the funds thereof, are exempt from the tax. Messages, conversations, and dispatches which are not paid from such funds are not exempt from tax, even though they relate to Government business.

ART. 13. The words "State" and "Territory" as used in section 500 (h) of the act and in Article 12 (above), include political subdivisions thereof, such as counties, cities, towns, and other municipalities.

ART. 14. *Government agencies.*—Services rendered to agencies of the United States are, subject to the conditions prescribed in article 12, exempt from tax. Such agencies include the American National Red Cross, United States Shipping Board, Emergency Fleet Corporation, United States Food Administration, United States Housing Corporation, Commission on Training Camp Activities, War Savings Committee, Liberty Loan Committee, War Industries Board, Federal Farm Appraisers, Federal Land Banks, Federal Reserve Banks, Panama Railroad Co., and similar agencies supported by Government funds.

ART. 15. *Railroads under Federal control.*—Telegraph, telephone, cable, and radio dispatches, messages, and conversations transmitted for railroads under Federal control, charges for which are paid from funds of the United States, are exempt from tax, such transmission being a service rendered the United States.

ART. 16. *Evidence of right of exemption.*—Where a message is accepted and transmitted by a carrier as a Government message and entitled as such to exemption under section 500 from the tax on charges for transmission thereof, the right to such exemption shall be evidenced in one of the following ways:

(a) Payment of such charge directly to the carrier by the Government to which the services are rendered.

(b) A standard form of exemption certificate for use of the Federal Government, substantially in form following:

TREASURY DEPARTMENT
FORM _____

EXEMPTION CERTIFICATE.

TAX ON TRANSMISSIONS BY TELEGRAPH, TELEPHONE, RADIO, AND CABLE.

STATE, TERRITORIAL, AND POLITICAL SUBDIVISIONS THEREOF WILL USE A SIMILAR FORM.

.....
(Date.)

Sender Place of receipt

Addressee Place of delivery

Place of payment of charges

Name of carrier collecting charges

Other identification of message, conversation, or dispatch

I certify that the transmission charges on the message or messages to which this exemption certificate is attached have been or will be paid by the United States, and such charges thereon amounting to \$..... are exempt under section 500 of the revenue act of 1918 from the tax imposed by said act.

.....
(Signature of Government officer or employee.)

.....
(Federal department or establishment.)

.....
(Title.)

Penalty for fraudulent use, \$1,000 and imprisonment.

NOTE.—Agents of telegraph, telephone, radio, and cable companies should not accept this certificate unless satisfied, through the production of proper credentials or otherwise, that the person who signed it is an officer or employee of the Federal Government.

A separate exemption certificate will be required for each message when paid for as a separate item, but where periodical payments are made for services rendered to Government officers or departments, a blanket certificate may be accepted as evidence of right to exemption.

A form of exemption certificate substantially in accord with the above form should be provided by the States, the Territories of Alaska and Hawaii, and the District of Columbia, or the political subdivisions thereof, for the use of officials and employees.

ART. 17. *Exemptions—Foreign diplomats.*—(a) Ambassadors, ministers, and other properly accredited diplomatic representatives of foreign Governments to the United States are exempt from the payment of taxes upon the transmission of messages sent by or for them.

(b) The exemption does not apply to consuls or to any officials of foreign Governments other than those specified in paragraph (a).

(c) The exemption does not apply to messages the charge for the transmission of which is paid by a foreign Government, except in the cases provided for in paragraph (a).

ART. 18. *Evidence of right to exemption.*—The following form may be used to secure exemption when signed by an ambassador, minister, or any other properly accredited diplomatic representative of a foreign Government:

....., 19..
(Date.)

I certify that this message from to
over is transmitted by attached to
my and is exempt from tax.

.....
.....
.....
(Title.)

.....
(Address.)

PART II.

LEASED WIRE AND TALKING CIRCUIT SPECIAL SERVICE.

SECTION 500 (g) AND (h) OF THE REVENUE ACT OF 1918.

SEC. 500. That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the revenue act of 1917—

(g) A tax equivalent to 10 per centum of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such;

(h) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

IMPOSITION OF TAX.

ART. 19. *Imposition of the tax—Leased wire or talking circuit special service.*—The tax is imposed upon the amount paid for any leased wire or talking circuit special service.

Leased wire special service.—Leased wire special service includes exclusive leases of wires and also contracts by which the carrier agrees to furnish a circuit (that is, a wire or wires, instruments and electrical energy) for the transmission of messages in Morse characters or by spoken word between specified points or offices during specified hours. Operators may or may not be employees of the carrier.

For administrative purposes it is held that where the area covered by a leased wire special service is served by a local telephone exchange, tolls not being charged upon messages transmitted between points within such area, such special service does not come within the provisions of the act.

Talking circuit special service.—Talking circuit special service is a limited class of leased wire special service and refers to such service where the transmission is telephonic.

Such a talking circuit may by contract have one terminal at a switchboard of the carrier, allowing connection with any telephone within the local exchange area of the operating station. Such additional exchange and other incidental service is included in the term "talking circuit special service."

ART. 20. *Private branch exchange service.*—Amounts paid for private branch exchange service (called P. B. X. service) where the exchange equipment is located on the premises of the lessee and is used for

intercommunication between departments of the business or parts of the premises of the lessee, are not subject to tax. Any amount paid for special service at the central exchange in the handling of calls from such a private branch exchange is included in the term "private branch exchange service."

ART. 21. *Tie lines.*—The term "tie line" is used to denote a line connecting two private branch exchanges. The amount paid for rental of a tieline connecting two or more private branch exchanges located within an area served by a local telephone exchange without charging tolls, is to be considered part of the amount paid for private branch exchange service and is not subject to tax. But a tie line connecting two or more private branch exchanges not within the same local telephone exchange area, tolls being ordinarily imposed upon the transmission of messages between the points of location of the private branch exchanges, is a leased wire and the amount paid for the rental thereof is subject to the provisions of this section of the act.

ART. 22. *Private lines and extension lines* are subject to the same distinction and same rules as tie lines.

ART. 23. *Intercommunication and interior systems* are subject to the same provisions as private branch exchanges.

ART. 24. *Long-distance terminals.*—Amounts paid for a long-distance terminal, consisting of a special terminal loop from a local toll position or a long line switchboard to the subscriber's premises, and used only for long-distance calls at the regular toll, are not subject to the tax imposed by this section of the act. Messages transmitted over such wires are subject to the "message tax" provided for in section 500 (f).

BASIS, RATE, AND COMPUTATION OF TAX.

ART. 25. *Basis, rate, and computation of the tax.*—The tax imposed is to be computed at 10 per cent of the amount paid for the services specified.

The amount paid includes the contract consideration and all additional charges therein provided, including salaries of operators if in the employ of the carrier, charges for equipment, instruments, and other apparatus, drops intermediate to the terminals, branch or "leg" lines, exchange service, and overtime service. It also includes charges for incidental additional service, including charges for "service connection," "termination," and "moves" when such are involved in the special service contracted for; such charges not involved in such special service are not subject to the tax.

In the payment of any tax under this section a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. (Sec. 1313 of the act.)

ART 26. *Computation of tax—Effective date.*—The tax provided in section 500 (g) applies where (a) the amount paid for such service is paid after April 1, 1919, and (b) the service is furnished after April 1, 1919. Therefore, where leased-wire special service was furnished on or after April 1, 1919, but the consideration therefor had been paid prior to that date, the tax does not apply. Likewise, where such service was furnished prior to or on April 1, 1919, the tax does not apply, regardless of the date of the payment for the charges therefor.

ART. 27. *Computation of tax—Service performed between a point within and a point without the United States.*—When leased wire or talking circuit special service is furnished between a point or points within the United States and a point or points without the United States and there is in the contract no reasonable established division of charges as domestic and foreign, the tax shall be paid and collected upon the amounts paid for incidental services or facilities furnished within the United States plus that proportion of the general contract consideration as the wire mileage within the United States bears to the total wire mileage contracted for. Where there is a reasonable division of charges as domestic and foreign provided in the contract, the tax shall be paid and collected upon the amounts specified as payments for services or facilities rendered within the United States.

EXEMPTIONS.

ART. 28. *Exemptions.—Services to United States, the States, the District of Columbia, and to Foreign Diplomats.*—The exemptions of services rendered the United States, a State or Territory and the District of Columbia, and foreign diplomats described in Articles 12 to 18 above, apply also to this section of the act.

ART. 29. *Exemptions—Public press.*—The tax does not apply to the amount paid for so much of such special service as is utilized in the collection and dissemination of news through the public press. "Public press" is not restricted to newspapers or to any particular portion of the product of printing presses. Magazines, periodicals, trade and scientific publications, published for the information of the public, are included. Organizations such as the Associated Press and the United Press are also included.

"News" is a word to be liberally construed. Accounts of current events, public announcements, information relating to finance, science, commerce, religion, civic, or other public organizations are held to be news.

The exemption does not apply to the publisher or to the publication as such. The exemption applies only to the amount paid for *so much of such service as is utilized in the collection and dissemination of news* in the public press. If, however, a contract between a person or company engaged in the collection and dissemination of news through

the public press and a carrier provides for leased wire or talking circuit special service to be utilized exclusively in the business mentioned, the carrier is not required to collect the tax upon the amounts paid under such contract in the absence of actual knowledge on the part of the carrier that the service is being used for other purposes.

The exemption has no application to the transmission of messages.

ART. 30. *Exemption—Services utilized in the conduct of business of common carrier or telegraph or telephone company.*—The tax does not apply to the amount paid for so much of such special service as is utilized in the conduct, by a common carrier or telegraph or telephone company, of its business as such.

A common carrier is one who undertakes, for hire or reward, to transport the goods or person of such as choose to employ him from place to place.

The exemption does not apply to common carriers, telegraph and telephone companies, as such. It applies only to the amount paid for so much of such service (leased wire or talking circuit) as is utilized in the conduct by a common carrier, telegraph or telephone company, of its business as such.

Where, however, a contract between a common carrier (or telegraph or telephone company) and a telegraph, telephone, radio, or cable company provides for leased wire or talking circuit special service to be utilized exclusively in the conduct of the business of the common carrier (or telegraph or telephone company) as such, the telegraph, telephone, cable, or radio company is not required to collect the tax upon the amounts paid under such contract in the absence of actual knowledge on the part of the company that the service is being used for other purposes.

The exemption does not apply to contracts which provide merely for the transmission of messages. Thus, where a telegraph or telephone company agrees by contract with a railroad to transmit, on frank or otherwise, the messages of such railroad, its officials, or employees, in a certain manner or upon certain terms, such a contract is a contract providing for the transmission of messages, and each such message is subject to the "message" tax. (See Art. 9 above.) No exemption exists by reason of such contract. The exemption applies only to leased wire special service utilized by a common carrier in the conduct of its business as such. Thus where a telegraph or telephone company agrees by contract to set apart a certain wire or wires for the use of a railroad in the conduct of its business as such, the amounts paid for such service are not subject to tax. A proviso in such a contract to the effect that when such wire or wires are not being used by the railroad they may be used by telegraph or telephone company for the transmission of commercial messages will not change the character of the contract.

PART III.

PAYMENT, COLLECTION, RETURN, AND REMITTANCE OF TAXES.

SECTIONS 501 (a), 502, AND 1309 OF REVENUE ACT OF 1918.

SEC. 501. (a) That the taxes imposed by section 500 shall be paid by the person paying for the services or facilities rendered.

* * * * *

SEC. 502. That each person receiving any payments referred to in section 500 shall collect the amount of the tax, if any, imposed by such section from the person making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected * * * to the collector of the district in which the principal office or place of business is located.

* * * * *

Any person making a refund of any payment upon which a tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

The returns required under this section shall contain such information, and be made at such times and in such manner, as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return * * *.

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

The Commissioner with such approval may by regulation provide that any return required by Titles * * * V [which includes sections 500, 501, and 502] * * * to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

ART. 31. *Payment of taxes.*—Taxes imposed by section 500 (f) and (g) shall be paid by the person from whom the carrier collects the charges for the services or facilities rendered.

ART. 32. *Collection of taxes.*—All such taxes shall be paid to and collected by the officers, agents, or other employees of the carrier to which the charges for the services or facilities are due.

ART. 33. *Credit.*—Where credit is extended by a carrier to a sender or addressee for the payment of charges for the transmission of a message, or to the lessee of special service for the payment of charges for such service, and such charges are not paid, the tax nevertheless applies and the carrier is liable for the collection thereof.

ART. 34. *Records*.—Records and accounts of telegraph, telephone, radio, and cable companies showing records of (1) all dispatches, messages, or conversations originating on the lines of such company, the charge for the transmission of which is over 14 cents, whether taxable or not, (2) of leased wire and talking circuit special service rendered by the company, and (3) evidences of the right of exemption of dispatches, messages, conversations, and special service upon which tax is not collected, such records to contain sufficient information to determine the taxability of the message or service and the amount of tax, if any, upon same, shall at all times be open to the inspection of officers of the Treasury Department.

ART. 35. *Returns—Contents*.—The returns of a telephone, telegraph, radio, or cable company shall be rendered on Form 727 (Revised) and shall include (a) all taxable dispatches, messages, or conversation originated by it or on its lines and (b) such leased wire or talking circuit special services as are recorded and accounted for by the reporting company and reflected in its billing records for the month, following its usual business routine.

Taxable messages which originate at the stations of rural or farmers' line associations and which are recorded and billed by the telephone company operating the exchange to which such stations are connected for service should be included in the return of said operating company. Taxable messages, if they originate at the station of such rural or farmers' line associations and are not recorded or billed by the operating company, should be reported by such association.

ART. 36. *Returns—When and where rendered*.—Returns must be made for each calendar month. Such returns must be made under oath, in duplicate, and must be filed with the collector of the district in which the principal office or place of business of the company is located on or before the last day of the calendar month following the month for which the return is made. Where a return covers a tax of \$10 or less it may be signed and acknowledged before two witnesses, instead of under oath.

ART. 37. *Extension of time*.—Where it is found impossible to make the proper return within the prescribed time, request may be filed with the collector for an extension of time, and upon a proper showing the collector is authorized to fix a definite time in each instance within which the return may be filed, such extension of time not to exceed 60 days.

ART. 38. *Remittance of taxes collected*.—The tax is due and payable by the person collecting the tax to the collector of internal revenue at the time fixed for filing the return.

CREDITS AND REFUNDS.

SECTION 502 OF REVENUE ACT OF 1918.

SEC. 502. Any person making a refund of any payment upon which a tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

SECTION 1310 (a) OF REVENUE ACT OF 1918.

SEC. 1310. (a) That in the case of any overpayment or overcollection any tax imposed by * * * Title V [which includes secs. 500, 501, and 502] * * * the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SECTION 3220 OF UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1316 (a) OF REVENUE ACT OF 1918.

SEC. 3220. The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected * * *.

ART. 39. *Credit for overpayment.*—Any individual, corporation, partnership, or association that has paid to the collector of internal revenue, as a tax under section 500 of the act, any amount erroneously or illegally assessed or collected or any amount in excess of the amount of the tax actually imposed by that section for the month covered by that payment, may claim credit for such overpayment against the amount of the tax imposed by that section which is due upon any other monthly return thereafter made in the same behalf on Form 727 (Revised). Such credit will only be granted, however, if, in making the claim, the instructions printed on the back of that form are carefully followed.

ART. 40. *Refund of overpayment.*—Any individual, corporation, partnership, or association that has paid to the collector of internal revenue, as a tax under section 500 of the act, any amount erroneously or illegally assessed, or any amount in excess of the amount of the tax actually imposed by that section for the month covered by that payment, or any amount as a penalty for the collection of which there was no authority, may secure a refund of the amount so overpaid by filing with the collector to whom such payment was made a properly prepared claim on Form 46 (revised).

ART. 41. *Refund of overcollection.*—Every individual, corporation, partnership, or association that has collected from any person, as a tax under section 500 of the act, any amount in excess of the amount of the tax imposed by that section actually due from such person, shall upon proper application promptly refund such amount to the person entitled thereto, even though such amount has already been paid over to the collector of internal revenue and

no corresponding credit (see art. 39) or refund (see art. 40) has yet been secured. Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment.

PENALTIES.

ART. 42. *Penalties.*—The penalties provided for failure or refusal to perform any of the duties imposed by section 500 (f) and (g) are the same as those provided for failure or refusal to perform the duties imposed by section 500 (a), (b), (c), (d), and (e), as set forth in article 92, Regulations 49.

(1) Section 502 of the act specifically provides that the taxes under section 500 shall (without assessment by the Commissioner or notice from the collector) be due at the time fixed for filing this return, and if the tax is not paid at such time there shall be added as part of the tax a penalty of 5 per cent, together with interest at the rate of 1 per cent for each full month from the time when the tax becomes due.

(2) SEC. 1308. (a) That any person required under Titles V, * * * (which includes sections 500, 501, and 502) * * * to pay, or to collect, account for, and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment, or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return, or supply any such information at the time or times required by law or regulation shall, in addition to other penalties provided by law, be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return, or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax, shall be guilty of a misdemeanor, and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes as amended * * *.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership who, as such officer, employee, or member, is under a duty to perform the act in respect of which the violation occurs.

(3) Section 3176 of the Revised Statutes, as amended, provides that in case of any failure to make and file a return within the prescribed time there shall be added to the tax 25 per cent of its amount.

(4) Section 3176 of the Revised Statutes, as amended, further provides that in case a false or fraudulent return is willfully made there shall be added to the tax 50 per cent of its amount.

AUTHORITY FOR REGULATIONS.**SECTION 1309 OF REVENUE ACT OF 1918.**

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

* * * * *

ART. 43. *Promulgation of regulations.*—In pursuance of this provision of the act the foregoing regulations are hereby made and promulgated and all rulings inconsistent with them are hereby revoked.

WM. M. WILLIAMS,
Commissioner of Internal Revenue.

Approved July 24, 1920:

S. P. GILBERT, Jr.,
Acting Secretary of the Treasury.