

# Tax Legislation in New York in 1905

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*With a Description of the Special  
Taxes imposed for State  
Purposes*

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THE New York tax legislation of 1905 is only comprehensible in the light of the great changes that have been made in the tax law during the last ten years. Those changes have related chiefly to methods of raising revenue for state purposes.

In 1894 the state relied mainly for revenue upon the general property tax; that is, upon the tax laid upon real and personal property as assessed by local officials, the tax being levied by local officials and collected by them, and the proportion required by the state being turned over to the state by the county treasurers. In this manner the state raised about \$9,000,000 in that year and its revenue from special taxes levied for its own benefit only amounted to about \$4,000,000.

The total appropriations for state purposes have increased in the ten years

about \$10,000,000, and in the year 1906 no part of the state's revenue will probably be derived from the general property tax. It will obtain over \$27,000,000 from various special taxes.

In 1894 the taxes for state purposes levied upon various corporations amounted to \$2,000,000; now they amount to over \$7,000,000. Since 1894 a liquor license law has been enacted which has increased the revenue from this source and half of it goes to the state. The state's half amounts to about \$9,000,000. On account of some changes in the law taxing inheritances and on account of the increase in wealth and population, this tax has increased from \$2,000,000 to from \$4,500,000 to \$5,000,000. Last year it was \$5,500,000 on account of taxes on several unusually large estates.

#### NEW TAXES.

In 1905 a law was passed imposing a tax on all sales of stock. An annual tax was imposed on mortgages recorded after July 1st, and the law taxing insurance premiums was changed so as to impose the tax on all premiums,

whether paid on account of contracts heretofore or hereafter made.

The stock tax is yielding a revenue which will amount to about \$6,000,000 a year. The change in the law taxing insurance premiums will yield additional revenue amounting to \$750,000 a year.

#### CAUSES FOR THE CHANGE IN THE METHODS OF RAISING STATE REVENUE.

A joint committee of the Senate and Assembly was appointed in 1892 to investigate methods of taxation. This committee said that the method of raising the revenue of the state by local taxation was an excuse for the reduction of assessments upon real property by local assessors and for ignoring the existence of personal property which should be taxed. The committee said that the necessity for an equalization of taxes between the several counties exists wholly by reason of their collection of their share of the taxes raised to meet the expenses of the state. It is an arbitrary exercise of power, which should be tolerated only until well directed effort

can abrogate the necessity. If taxes raised by each county were distributed solely for the expenses of its own administration, responsibility would ensue and economy would result. The elementary step indispensable to secure these advantages is to devise means whereby the revenue of the state should be raised independently of local taxation. The committee recommended additional taxes upon inheritances and an annual tax upon mortgages.

In 1899 another legislative committee was appointed and reported to the legislature in 1900. This committee said that the sentiment of the people is such that

"Unless a system of taxation is adopted which will compel the payment of a larger proportion of the public burden by personal property the State of New York, although a commercial state, will be forced to adopt a statute similar to those of Ohio and Illinois which compel every citizen to list his entire personal property for the purpose of taxation. . . . The most deep-seated and ancient grievance in our system of taxation is the result of the so-called equalization of the assessed valuations of real property between the several counties of the state. . . . This feature

of our system has been most aptly described by one of the great economists of the state as productive of 'mutual suspicion of rural and urban communities,' and intolerable friction between counties."

The committee, therefore, sought for subjects of taxation which, together with the present revenue of the state from special taxes, would be sufficient. The committee finally decided to recommend an annual tax upon all mortgages theretofore and thereafter recorded. They estimated that this tax would yield more than \$10,000,000 annually. Among the advantages the committee said would follow were that there would be no necessity for the equalization of assessments between counties, the tax upon mortgages would be uniform, it would be collected without inquisitorial processes, counties and local governments would raise no taxes except for their own purposes, the responsibility would be centered upon local officials. Also that the way would be open for a grant of local option to counties, cities, towns or other local subdivisions to determine their own tax systems.

The recommendations of the committee were accompanied by a bill with elaborate and ingenious provisions to secure the taxation of mortgages. The bill failed of passage, but every year since 1900 numerous bills have been introduced imposing an annual tax or a recording tax upon mortgages and exempting mortgages from their liability to taxation as part of the net personal estate of each person.

These two committees reflected enlightened public sentiment with regard to the evils of equalization and the conclusions upon that subject of very many students of political economy. But in their attempt to escape recognized evils they pushed too far a policy not without merit, and encountered evils they did not anticipate.

Although the bills recommended by these two committees were not enacted, other measures were adopted in pursuance of the policy of raising all state revenue from special taxes, and finally, in 1905, the taxes on stock sales, mortgages and insurance premiums were enacted.

#### THE STOCK TAX.

The tax on stock sales is a tax imposed on the sale of all shares of stock within the State of New York. As the law is interpreted by the Comptroller, the tax is 2 cents on each share if the share has a nominal value of \$100 or less. If the nominal value exceeds \$100 it is at the rate of 2 cents on each \$100 of nominal value. In practice the tax chiefly affects dealings upon stock exchanges and the greatest revenue comes from the dealings of the New York Stock Exchange, but the tax is imposed upon every sale of stock. It is a misdemeanor to sell or transfer a share of stock without paying the tax, and it is probable that many misdemeanors have been committed inadvertently, since the first day of June, when the law went into effect. The increase in the number of crimes is a matter for serious apprehension to the law-abiding citizen. It is said to be difficult now to spend a day without committing a misdemeanor.

Those who advocated the law contended that the burden would fall chiefly

upon gamblers, and they classed as gambling all dealings upon the Stock Exchange. In the discussion it was perfectly obvious that many thousands of people who are really interested in the preservation of stock exchanges as an agency for the determination of values entirely failed to appreciate their importance and necessity. They talked of what they were pleased to term "legitimate trading," by which they meant buying for investment and selling for reinvestment in other forms of wealth; and illegitimate or speculative trading, by which they meant buying in order to sell again, as soon as the price rises, or selling to buy again, as soon as the price falls. In their minds there seemed to be a great distinction between the two kinds of trading; but the distinction will hardly bear analysis, because it depends solely upon a state of mind which is always subject to change. A man may buy stock intending to keep it until he dies, and three days later may find it to his interest to sell it. On the other hand, a man may buy stock intending to sell it as soon as the price is higher, and

may wait five years for that happy result. Now, of these cases, which is legitimate and which is illegitimate trading?

As a matter of fact, so far as the country at large is concerned, there is no such thing as illegitimate trading. Without the operation of the forces put in motion by those who buy and sell speculatively we would be entirely deprived of the steady market for stocks. There are many thousands of business men who find it to their advantage to invest part of their capital in stocks which can be turned into money at a moment's notice without sacrifice. Under normal conditions they can telephone their broker to sell the stock at the market, that is, to sell it at once at the best price obtainable, and in the case of all active stocks they can rely upon obtaining the full value of the stock. This is made possible by trading for their own account by members of the exchanges. If it should become unprofitable for the members of the exchanges to trade on their own account, the ready market would be destroyed and one who wished to sell would be obliged to fix the price he

would take and wait till some one wanted that particular stock for investment. If any man is forced suddenly to sell, the chances are that he can only sell at a sacrifice. Any interference by taxes with Stock Exchange transactions will increase the fluctuations of price, and investment in corporate securities of all kinds will be discouraged. This will exert a tendency to check development and retard great enterprises which can be carried on only by men who cooperate and unite their capital by the formation of corporations.

The Stock Exchanges perform functions analogous to those of a clearing house, enabling people to exchange their possessions with the greatest ease, rapidity and security. The Stock Exchange is also a barometer which expresses from day to day the financial condition of every enterprise whose shares are listed. It is as foolish to interfere with the normal workings of the Stock Exchange on the ground that some people are injured by speculation as to break our barometers because we do not like foggy weather or object to storms.

The tax on stock sales discriminates against the City of New York. Because of prosperous financial conditions this fact has not yet been so apparent as we may expect it to become in dull times. A comparison with the Boston and Philadelphia exchanges shows that the tax has checked the increase of transactions on the New York exchange. Since the law took effect, transactions here have increased 35%, while, according to the *New York Times*, they have increased in Boston over 80%, and in Philadelphia over 104%.

While the collection of the tax is doubtless facilitated by the fact that it is imposed upon nominal values, the practice works a serious discrimination against low-priced stocks. The tax on the transfer of a single share of the stock of the Chemical National Bank, worth \$4,000, is only 2 cents; while the tax upon \$4,000 worth of stock of the par value of \$1.00 per share would amount to \$80, and, if the stock were worth 10 cents a share, the transfer of \$4,000 worth of it would cost \$800. Either the fashion of issuing low-priced mining

stock must change or it can no longer be transferred in the State of New York.

#### MORTGAGE TAX.

Thirty-five years ago the New York Chamber of Commerce passed resolutions against the taxation of mortgages, and an agitation against such taxation has continued ever since. Two strong and valid arguments were urged against the liability of mortgages to taxation as personal property. In the first place, it was notorious that the tax was paid in the main by those who could least afford to pay it. It is the practice to put upon the tax rolls those who are named in wills, and again and again a tax was imposed upon the estates of decedents, which took a third or a half the income and deprived widows and orphans of needed support. The injustice and oppression of a law that can produce such results was denounced again and again.

On the other hand, it was contended and proven that the liability of mortgages to taxation in this state, although producing very little revenue, kept up

the rate of interest by an amount, estimated by the Stranahan Committee of 1900, to be equal, on the average, to  $\frac{1}{2}$  of 1%, thus imposing a charge upon borrowers of the State of New York amounting to many millions of dollars per annum. Some who opposed the imposition of an annual tax upon all mortgages of  $\frac{1}{2}$  of 1% contended that the liability of mortgages to taxation produced no effect in the City of New York, because in this city there is so very large an amount of money loaned upon bond and mortgage by savings banks and insurance companies, which was exempt from taxation, and because so very small an amount of the debts secured by mortgage was actually taxed.

It is undoubtedly true that the assertion that the average rate of interest was increased  $\frac{1}{2}$  of 1% is misleading, because the actual increase varied greatly in different parts of the state. The census of 1890 gives mortgage statistics that illustrate this statement, and indicate approximately the increase produced by the liability to taxation. In Pennsylvania mortgages were taxable



during the decade from 1880 to 1890 at the rate of four mills per annum during about five years, and at the rate of three mills per annum for the remainder of the time. In Massachusetts mortgages were exempt from taxation for nine years of the decade. In Boston the average rate of interest on mortgages for the ten-year period was 5.18, for Philadelphia 5.42, for New York 5.40. The average rate for the ten years in the County of Kings, New York, was 5.45, Erie 5.75, and Monroe 5.76. In the absence of any discriminating taxation the rate of interest in the City of New York should have been lower than in either Boston or Philadelphia. As a matter of fact, it was a little more than two mills higher in New York than in Boston, and between three and four mills higher in New York than in Philadelphia, if we deduct the tax from the Philadelphia rate. For the last six months of 1904 the average rate of interest was higher in New York County by two mills than in Berkshire County, Massachusetts, and more than two mills higher than in Boston if we omit from

consideration the 10% mortgages recorded in Boston. It happened that during that period there was a considerable amount of mortgages recorded at 10%; while as high rates were doubtless paid in New York, our antiquated usury law prevents the true rate being stated in the mortgage.

The law taxing mortgages which went into effect the first of July, 1905, imposed an annual tax of  $\frac{1}{2}$  of 1% on all mortgages recorded on and after that date. So far as it has been observed, the effect of the tax has been just what would be anticipated in view of the facts presented. In some counties the increase in the interest rate in the last six months of 1905 over the interest rate for the last six months of 1904 is considerably more than in other counties. There are probably very few counties in the state in which there is not some increase.

If we were obliged to choose between an annual tax upon all mortgages or the old condition of extreme injustice to a few persons, together with an increase in the tax rate to all borrowers, we might choose the former; but no one has yet

succeeded in justifying the imposition of a special tax on borrowers of money which other persons, owning the same kind of property free and clear, are not obliged to pay. And the question can never be settled until it is settled in accordance with justice.

#### INSURANCE TAX.

The change in the law taxing insurance premiums, in practice, affects only the premiums paid for life insurance upon contracts made prior to the passage of the law. In 1901 the law imposing a tax of 1% on all premiums of insurance was enacted, but it was held by the Court of Appeals that the tax did not apply to contracts made prior to the time the law was passed. To obviate the effect of this decision, the amendment of 1905 was enacted. It is to be hoped that insurance companies will, in their bills and premium notices, show the amount of the charge which is due to this tax. Insurance is one of the last subjects which should be made to contribute to the expenses of the state; for, when property is insured, the insurance conserves the

wealth of the state, and, when lives are insured, the state is protected from the burden of supporting dependent families.

#### CONCLUSION.

The legislation of 1905 emphasizes the words of warning addressed to the the legislature by the Chamber of Commerce five years ago. The Committee on Taxation of that body pointed out that the tendency of the legislature to derive revenue from special taxes for state purposes, and to rely on this revenue exclusively, would take away from taxpayers that interest in state expenditures and state taxation which is present when taxation is direct; that it would tend to promote extravagance; that it would throw the burden of state expenditures almost exclusively upon the urban political divisions; that it would deprive political divisions of the state of subjects of taxation. It was also shown at that time that the various business interests of the state would always be in danger of being singled out as subjects of special taxation to furnish revenue for the increasing needs of the state.

Professor Edwin R. A. Seligman of Columbia University, who is regarded as the leading authority on taxation in the United States, and who for many years has advocated the divorce of state from local taxation and the raising of a large part of the revenue for state purposes by special taxes, has clearly pointed out the objections to relying exclusively for state revenue upon such taxes; and this review of the legislation of 1905 can best be closed by a quotation from an article by Professor Seligman in the July number of the *Review of Reviews*:

"The older system, vicious as it was, possessed this great advantage—it was elastic and self-regulative. If the state needed more revenue, it simply increased the rate on the general property. Under the new system, however, specific or percentage taxes were introduced in the place of the old apportioned tax—that is, a rate of so much per cent. was imposed on inheritances and corporations, and a specific rate on excises, etc., and this rate remained the same from year to year. There was hence a fundamental lack of elasticity. In England, this elasticity is provided by the income tax, the rate of which varies from year to

year. Under the old New York system, the elasticity was provided by the property tax. Under the new system there is no elasticity, and as the state expenditures increase it becomes more and more necessary to search out new sources of state revenue. Under actual political conditions, this means that the legislature, dominated by the rural representatives, will select taxes that fall primarily on the cities, and we may hence expect that the controversies of the past year or two in connection with the tax on trust companies, on stock sales, and on mortgages will grow in intensity and importance as new taxes are selected from year to year.

"This is an unfortunate state of affairs, and will, if persisted in, lead to ultimate disaster. Every modern system of taxation must possess the element of elasticity. There is one scheme that has been suggested by the New York Tax Reform Association in New York and Ohio, and which has been put into partial operation in the State of Oregon, which would bring about this result. This is a method of apportioning the state tax and granting local option in determining the subjects of local taxation. It rests upon the idea that the necessary revenues may be derived by making each locality contribute to the

state revenues in proportion to its own expenditures. The scheme possesses four advantages: First, it would provide elasticity, as did the old system; second, it would tend to keep down state expenditures, because each locality would be interested in the control of state finance—an interest which is now fast being lost; third, it would tend to keep down local expenditures; and, fourth, it would enable each locality to raise its revenues in any way that seemed best to it, and would put a stop to the conflicts between country and city. If the rural districts desired to maintain the personal property tax, they could do so; if the large cities desired to substitute something else, they would be equally free to follow their bent.”