Public Law 493 CHAPTER 649

AN ACT

To amend certain tax laws applicable to the District of Columbia.

July 10, 1952
[S. 2605]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of title I of the District of Columbia Revenue Act of 1937, as amended, is amended to read as follows:

D.C., tax laws.
50 Stat. 675.
D.C. Code 47-1408.

"SEC. 8. (a) Except as provided in subsection (b) of this section the taxes imposed upon personal property shall be assessed or reassessed within three years after the return was filed. For the purposes of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Personal property.

"(b) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the taxes may be assessed at any time.

"(c) Where the assessment of personal property taxes has been made within the period properly applicable thereto, such taxes may be collected by distraint or by a proceeding in court, but only if begun within three years after the date of the assessment of such taxes.".

SEC. 2. (a) Section 4 of Article III of title V of the Act of August 17, 1937 (50 Stat. 683, ch. 690), as amended, is hereby amended to read as follows:

53 Stat. 1116.
D.C. Code 47-1619.

"If the taxes imposed by this title are not paid when due, one-half of 1 per centum interest for each month or portion of a month from the date when the same were due until paid shall be added to the amount of said taxes and collected as a part of the same, and said taxes shall be collected by the collector of taxes in the manner provided by the law for the collection of taxes due the District on personal property in force at the time of such collection."

Interest and penalties.

(b) Subsection (c) of section 4 of the Act of August 28, 1935 (49 Stat. 948, ch. 794), as amended, is amended to read as follows:

D.C. Code 46-304.

"(c) If the contributions are not paid when due, there shall be added, as part of the contributions, interest at the rate of one-half of 1 per centum per month from the date the contributions become due until paid."

(c) Subsection (a) of section 147 of title I of the District of Columbia Revenue Act of 1949 (Public Law 76, Eighty-first Congress) is amended to read as follows:

63 Stat. 123.
D.C. Code 47-2624.

"(a) Any person failing to file a return or who files a false or incorrect return or who fails to pay any tax to the Collector within the time required by this title shall be subject to a penalty of 5 per centum of the amount of tax due, plus interest at the rate of one-half of 1 per centum of such tax for each month of delay after such return was required to be filed or such tax became due; but the Assessor, if satisfied that the delay was excusable may waive the penalty of 5 per centum. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this title. The interest provided for in this section shall be applicable to any tax determined by the Assessor as a deficiency."

(d) Sections 38, 40, and 41 of title II of the Act of July 26, 1939 (53 Stat. 1104, ch. 367), as amended, are hereby further amended by deleting therefrom wherever they appear the words "1 per centum" and by substituting in each place in lieu thereof the words "one-half of 1 per centum".

D.C. Code 47-1538, 47-1540, 47-1541.

SEC. 3. (a) Section 3 of title IX of the District of Columbia Revenue Act of 1937, as added by the Act of May 16, 1938, and as amended by

52 Stat. 371.

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53 Stat. 1108. D.C. Code 47-2403. D.C. Code 47-2404.

the Act of July 26, 1939, is amended by striking out from such section the words "under protest in writing".

(b) Subsection (a) of section 4 of title IX of such Act is amended to read as follows:

Petition for review.

"(a) The decision of the Board may be reviewed by the court as hereinafter provided if a petition for such review is filed by either the District or the taxpayer within thirty days after the decision is rendered. Such petition for review shall be filed with the Board, and shall be in such form as the Board by regulation shall provide. Upon such review the court shall have the power to affirm, modify, or reverse the decision of the Board with or without remanding the case for hearing as justice may require. The court shall have the exclusive jurisdiction to review the decisions of the Board in the same manner and to the same extent as decisions of the United States District Court for the District of Columbia in civil actions tried without a jury; and the judgment of the court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari in the manner provided in title 28, United States Code, section 1254, as amended. The court is authorized to adopt rules for the filing of the record on review, the preparation of the record for review, and the conduct of the proceedings upon such review."

Jurisdiction.

62 Stat. 928.

D.C. Code 47-708 to 47-711, 47-2405.

(c) Subsections (a), (b), and (c) of section 5 of title IX of such Act are amended to read as follows:

Board of Equalization and Review.

"(a) The Assessor and Deputy Assessor of the District and the board of all of the assistant assessors, with the Assessor as chairman, shall compose a Board of Equalization and Review, and as such Board of Equalization and Review they shall convene in a room to be provided for them by the Commissioners, on the first Monday of January of each year, and shall remain in session until the first Monday in April of each year, after which date no complaint as to valuation as herein provided shall be received or considered by such Board of Equalization and Review. Public notice of the time and place of such session shall be given by publication for two successive days in two daily newspapers in the District not more than two weeks or less than ten days before the beginning of said session. It shall be the duty of said Board of Equalization and Review to fairly and impartially equalize the value of real property made by the board of assistant assessors as the basis for assessment. Any five of said Board of Equalization and Review shall constitute a quorum for business, and, in the absence of the Assessor, a temporary chairman may be selected. They shall immediately proceed to equalize the valuations made by the board of assistant assessors so that each lot and tract and improvements thereon shall be entered upon the tax list at their value in money; and for this purpose they shall hear such complaints as may be made in respect of said assessments, and in determining them they may raise the valuation of such tracts or lots and improvements as in their opinion may have been returned below their value and reduce the valuation of such as they may believe to have been returned above their value to such sum as in their opinion may be the value thereof. The valuation of the real property made and equalized as aforesaid shall be completed not later than the first Monday of May annually. The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year and until another valuation is made according to law, except as hereinafter provided. Any person aggrieved by any assessment, equalization, or valuation made may within ninety days after October 1 of the year in which such

assessment, equalization, or valuation is made, appeal from such assessment, equalization, or valuation in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however*, That such person shall have first made his complaint to the Board of Equalization and Review respecting such assessment as herein provided, except that, in case of increase of valuation of real property over that for the immediately preceding year, where no notice in writing of such increase of valuation is given the taxpayer prior to March 1 of the particular year, no such complaint shall be required for appeal.

Real estate. Annual assessment.

"(b) Annually, on or prior to July 1 of each year, the Board of Assistant Assessors shall make a list of all real estate which shall have become subject to taxation and which is not then on the tax list, and affix a value thereon, according to the rules prescribed by law for assessing real estate; shall make return of all new structures erected or roofed, and additions to or improvements of old structures which shall not have theretofore been assessed, specifying the tract or lot of land on which each of such structures has been erected, and the value of such structure, and they shall add such valuation to the assessment made on such tract or lot. When the improvements on any lot or tract of land shall become damaged or be destroyed from any cause, the said board of assistant assessors shall reduce the assessment on said property to the extent of such damage: *Provided*, That the Board of Equalization and Review shall hear such complaints as may be made in respect of said assessments between September 1 and September 30 and determine the same not later than October 15 of the same year. Any person aggrieved by any assessment or valuation made in pursuance of this paragraph may, within ninety days after October 15 of the year in which said valuation or assessment is made, appeal from such assessment or valuation in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however*, That if the taxpayer shall be notified in writing not later than September 1 of a particular year of the valuation of the real estate valued in accordance with this subsection, such taxpayer shall first make a complaint to the Board of Equalization and Review respecting such assessment as herein provided.

New buildings.

"(c) In addition to the annual assessment of all real estate made on or prior to July 1 of each year there shall be added a list of all new buildings erected or under roof prior to January 1 of each year, in the same manner as provided by law for all annual additions; and the amounts thereof shall be added as assessment for the second half of the then current year payable in the month of March. When the improvements on any lot or tract of land shall become damaged or be destroyed from any cause prior to January 1 of each year the said board of assistant assessors shall reduce the assessment on said property to the extent of said damage for the second half of the then current year payable in the month of March. The Board of Equalization and Review shall hear such complaints as may be made in respect of said assessments for the second half of said year between March 1 and March 31 and determine said complaints not later than April 15 of the same year. Any person aggrieved by any assessment made in pursuance of this paragraph may, within ninety days after April 15 of the year in which such assessment is made, appeal from such assessment in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however*, That if the taxpayer shall be notified in writing not later than March 1 of a particular year of the valuation of the real estate valued in accordance with this subsection, such taxpayer shall first make a complaint to the Board of Equalization and Review respecting such assessment as herein provided."

52 Stat. 371. 53 Stat. 1108. D.C. Code 47-2401 et seq., 47-708 et seq.

SEC. 4. Title IX of the District of Columbia Revenue Act of 1937, as added by the Act of May 16, 1938, and as amended by the Act of July 26, 1939, is amended by adding thereto a new section 14, as follows:

Overpayments.

"SEC. 14. (a) Where there has been an overpayment of any tax, the amount of such overpayment shall be refunded to the taxpayer. No such refund shall be allowed after two years from the date the tax is paid unless before the expiration of such period a claim therefor is filed by the taxpayer. The amount of refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim, or if no claim is filed, then during the two years immediately preceding the allowance of the refund. Every claim for refund must be in writing, under oath, must state the specific grounds upon which the claim is founded and must be filed with the Assessor. If the Assessor disallows all or any part of the claim for refund, he shall send to the taxpayer by registered mail a notice of such disallowance. Within ninety days after the mailing of the notice of disallowance, if the claim is acted upon within six months after the filing thereof, or within ninety days after the termination of such six months' period, if the claim is not acted upon within such period, the taxpayer may appeal to the Board, in the same manner and to the same extent as set forth in sections 3 and 4 of this title: *Provided*, That this subsection shall not apply to the taxes imposed by title II, District of Columbia Revenue Act of 1939, as amended; by the District of Columbia Income and Franchise Tax Act of 1947, as amended; or by titles I and II, District of Columbia Revenue Act of 1949, refunds of which are otherwise provided for by law; and that it shall not apply to the real-estate tax.

53 Stat. 1085. 61 Stat. 328. D.C. Code 47-ch. 15. 63 Stat. 112.

Board of Tax Appeals.

"(b) In any proceeding under this title the Board of Tax Appeals for the District of Columbia shall have jurisdiction to determine whether there has been any overpayment of tax and to order that such overpayment be credited or refunded to the taxpayer: *Provided*, That a timely refund claim has been filed. Where a notice of assessment is mailed to the taxpayer on or before the last day on which a timely claim for refund could be filed, an appeal filed within ninety days after the mailing of such notice asserting an overpayment shall, for the purposes of this subsection, be deemed to be a timely claim for refund.

"(c) The remedies provided to the taxpayer under this title shall not be deemed to take away from the taxpayer any remedy which he might have under any other provision of law, but no suit for the recovery of an overpayment of any tax shall be instituted in any court if the taxpayer has elected to file an appeal with respect to such overpayment with the Board of Tax Appeals for the District of Columbia under this title.

"(d) Any other provision of law to the contrary notwithstanding, if it shall be determined by the Assessor, the Board of Tax Appeals for the District of Columbia, or any court having jurisdiction over the subject matter that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid upon such overpayment of tax at the rate of 4 per centum per annum from the date such overpayment was paid until the date of refund: *Provided*, That with respect to that part of any overpayment which was not assessed and paid as a deficiency or as additional tax such interest shall be allowed and paid only from the date of filing a claim for refund, a petition to the Board, or a complaint with a court of competent jurisdiction, as the case may be.

"(e) For the purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of such overpayment of tax.

SEC. 5. Section 2 of title IX of the District of Columbia Revenue Act of 1937, as added by the Act of May 16, 1938, and as amended, is amended by striking out in the second paragraph thereof the numerals and words "$8,000 per annum" and inserting in lieu thereof the numerals and words "$13,000 per annum"; and is further amended by adding thereto the following new paragraphs:

52 Stat. 371. D. C. Code 47-2402.

"The Board of Tax Appeals for the District of Columbia shall hereafter be known as the District of Columbia Tax Court and the member thereof shall be known as the judge of the District of Columbia Tax Court. The said District of Columbia Tax Court shall not be deemed or held to be a constituent member of the assessing or taxing authority of the District of Columbia but shall be deemed to be an independent agency, separate and apart from such assessing and taxing authority. All references in any statute (except this paragraph) to the Board of Tax Appeals or to the Board when used in the sense of the Board of Tax Appeals for the District of Columbia, or to the member thereof shall be considered to be made to the District of Columbia Tax Court and to the judge thereof, respectively.

D.C. Tax Court.

"Whenever the judge of the District of Columbia Tax Court shall be unable to hear and determine any case, or if said judge shall disqualify himself from hearing and determining any case, or if that office should become vacant, the Commissioners are authorized in their discretion to appoint any member in good standing of the bar of the United States District Court for the District of Columbia to hear and determine such case or cases in the place and stead of the duly appointed judge, or of the duly appointed judge who has vacated that office: *Provided*, That, if the office of judge of the District of Columbia Tax Court shall become vacant, no such vacancy shall be deemed to exist for the purposes of this paragraph after the expiration of one hundred and twenty days, except that the person appointed to fill the temporary vacancy may and shall determine all cases the hearing of which commenced within such one hundred and twenty days. Any person appointed under this paragraph to act in the place and stead of the duly appointed judge of the District of Columbia Tax Court, or so to act while that office is vacant, shall take the oath of office and shall be paid on a per diem basis in an amount to be determined by the Commissioners and paid out of the annual appropriation for the District of Columbia Tax Court. No action taken under this paragraph shall operate to reduce the salary of the duly appointed judge of the District of Columbia Tax Court. No person employed by the United States or by the District of Columbia shall be appointed under this paragraph.

SEC. 6. The first sentence of subsection (h) of section 4 of the Act of August 28, 1935 (49 Stat. 948, ch. 794), as amended, is further amended to read as follows:

57 Stat. 108. D. C. Code 46-304.

"(h) COLLECTIONS.—If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by the Board or its designated agent in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection (including collection thereof by distraint), or by civil action in the name of the Board, and the employer adjudged in default shall pay the costs of such action."

SEC. 7. Notwithstanding the provisions of the Reorganization Act of 1949 and notwithstanding the provisions of Reorganization Plan Numbered 5 of 1952, relating to the District of Columbia, the Board of Tax Appeals for the District of Columbia shall not be abolished, and, if prior to the enactment of this Act it has been abolished, it is hereby reestablished. In either event, the functions of the said Board of Tax Appeals transferred to the Board of Commissioners of the

Board of Tax Appeals.

63 Stat. 203. 5 USC 133z note.

District of Columbia by said Reorganization Plan Numbered 5 of 1952 are hereby retransferred to said Board of Tax Appeals or to said Board of Tax Appeals as hereby reestablished, to be exercised in the same manner, to the same extent, and under the same provisions of law as if said Reorganization Plan Numbered 5 had never gone into effect, except only as such provisions of law may be modified by this Act.

All petitions, answers, or other pleadings, documents, or papers filed with, and all actions taken by, and all decisions rendered by, the person, persons, office, or agency to which said Board of Commissioners may have redelegated the functions of said Board of Tax Appeals, between the effective date of said Reorganization Plan Numbered 5 and the enactment of this Act, shall have the same force and effect for all purposes as if filed with, taken by, or rendered by, said Board of Tax Appeals or said Board of Tax Appeals as hereby reestablished.

If, prior to the enactment of this Act, the said Board of Tax Appeals shall have been abolished, the said Board of Commissioners shall appoint an individual to act as the member of the said Board of Tax Appeals as hereby reestablished, said appointment to be made in accordance with the provisions of section 2 of title IX of the District of Columbia Revenue Act of 1937, as added by the Act of May 16, 1938, and as amended, including any amendments made by this Act.

52 Stat. 371. D. C. Code 47-2402.

SEC. 8. The amendments made by section 2 of this Act shall be effective July 1, 1952.

Approved July 10, 1952.

Public Law 494 CHAPTER 650

AN ACT

July 10, 1952 [H. R. 6326]

To amend subsections (c) and (d) of section 3 of the Postal Salary Act of July 6, 1945, as amended.

Postal service. Overtime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (c) and (d) of section 3 of the Act entitled "An Act to reclassify the salaries of postmasters, officers, and employees of the Postal Service; to establish uniform procedures for computing compensation; and for other purposes", approved July 6, 1945, as amended, are amended to read as follows:

64 Stat. 1118. 39 USC 853.

"(c) The Postmaster General may, if the exigencies of the service require, authorize the payment of overtime to employees other than supervisory employees whose base salaries, exclusive of longevity salary, are more than $4,970 per annum, for services performed on Saturdays, Sundays, and Christmas Day during the month of December, in lieu of compensatory time.

"(d) Supervisory employees shall be allowed compensatory time for services performed in excess of eight hours per day, and those whose base salaries, exclusive of longevity salary, are more than $4,970 per annum shall be allowed compensatory time for services performed on Saturdays, Sundays, and on Christmas Day during the month of December, within one hundred and eighty days from the days such service was performed."

Approved July 10, 1952.