

issued warrants therefor in excess of their budget appropriations and anticipated revenues during the fiscal year 1936-1937, and, as a result thereof, an overdraft will occur in the general funds of such cities to the extent of thirty thousand dollars (\$30,000.00); and

WHEREAS, in order to place such cities on a cash basis and permit them to operate within their budgets and anticipated revenues, it is necessary that they be authorized to incur such indebtedness, make the expenditures and issue warrants therefor in the fiscal year 1936-1937 and be further permitted to make a levy for the general fund not exceeding thirty thousand dollars (\$30,000.00), said levy to be in addition to other levies for said general fund, as provided by law, on all taxable property within such cities, said levy being payable in the year 1938; now, therefore,

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Cities in this state operating under the manager plan
2 and having a population of more than thirty thousand (30,000) are
3 hereby authorized to increase their budgets for the year beginning
4 April 1, 1936, and ending March 31, 1937, by increasing their general
5 fund, and making a levy in the sum of thirty thousand dollars (\$30,-
6 000.00) in addition to the amounts otherwise provided by law, said
7 levy being payable in 1938, and said cities are hereby empowered to is-
8 sue warrants in anticipation of the collection of said levy.

1 SEC. 2. This act, being deemed of immediate importance, shall be
2 in full force and effect from and after its publication in the Telegraph-
3 Herald, a newspaper published at Dubuque, Iowa, and in the Dyers-
4 ville Commercial, a newspaper published at Dyersville, Iowa.

Senate File 192. Approved March 25, 1937.

I hereby certify that the foregoing act was published in the Dubuque Telegraph Herald, March 29, 1937, and the Dyersville Commercial, April 1, 1937.

ROBERT E. O'BRIAN, *Secretary of State.*

CHAPTER 184

INCOME TAX—NONRESIDENTS

H. F. 389

AN ACT to amend chapter three hundred twenty-nine-F one (329-F1), code, 1935, and sections sixty-nine hundred forty-three-f four (6943-f4), sixty-nine hundred forty-three-f five (6943-f5), sixty-nine hundred forty-three-f eight (6943-f8), sixty-nine hundred forty-three-f nine (6943-f9), sixty-nine hundred forty-three-f fifteen (6943-f15) and sixty-nine hundred forty-three-f twenty-five (6943-f25), sixty-nine hundred forty-three-f sixty-three (6943-f63) and sixty-nine hundred forty-three-f sixty-five (6943-f65), code, 1935, all relating to the taxation of the income of individuals, fiduciaries, trusts and estates, and to the administration and collection of such tax; and to impose a tax upon certain income of any non-resident derived from sources within this state, and providing for the collection and administration of such tax, and for withholding agents, as defined herein, to withhold and pay to the board certain amounts due by them to certain nonresidents as an aid to the collection of said tax, and to appropriate certain funds.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section sixty-nine hundred forty-three-f four (6943-
2 f4), code, 1935, is hereby amended by inserting at the end thereof
3 two new subsections which shall read as follows:

4 13. The word "*nonresident*" applies only to individuals, and includes
5 all individuals who are not "residents" within the meaning of sub-
6 section eight hereof.

7 14. The term "*withholding agent*" means any individual, fiduciary,
8 corporation, association or partnership in whatever capacity acting,
9 including all officers and employees of the state or of any municipal
10 corporation or political subdivision of the state, that is obligated to
11 pay or has control of paying to any nonresident any "gross income",
12 within the meaning of section sixty-nine hundred forty-three-f eight
13 (6943-f8), in excess of fifteen hundred (1500) dollars in any calendar
14 year.

1 SEC. 2. Section sixty-nine hundred forty-three-f five, (6943-f5),
2 code, 1935, is hereby amended by inserting after the comma follow-
3 ing the word "state" in line three thereof the following: "and be-
4 ginning on the first day of January, 1937, upon that part of the in-
5 come of any nonresident which is derived from any property, trust,
6 or other source within this state, including any business, trade, pro-
7 fession or occupation carried on within this state,".

1 SEC. 3. Section sixty-nine hundred forty-three-f eight (6943-f8),
2 code, 1935, is hereby amended by adding at the end thereof a new
3 subsection four, which shall read as follows:

4 4. In the case of a nonresident, the term "*gross income*" shall only
5 refer to such gross income, as herein defined, as is derived from any
6 property, trust or other source within this state, including any busi-
7 ness, trade, profession or occupation carried on within this state, but
8 shall not include income received by a nonresident in the form of an-
9 nuities, interest on bank deposits, interest on bonds, notes or other
10 interest bearing obligations, or dividends from corporations, whether
11 received by the nonresident directly or as beneficiary of a trust, except
12 to the extent to which the same shall be a part of income from any
13 business, trade, profession or occupation carried on in this state sub-
14 ject to taxation under this division.

15 If any income is received from a business, trade, profession or oc-
16 cupation carried on partly within and partly without the state, only
17 such portion of such income as is fairly and equitably attributable to
18 that part of the business, trade, profession or occupation carried on
19 within the state of Iowa shall be included within such gross income,
20 and such allocation shall be made under rules and regulations pre-
21 scribed by the board, which shall, in any event, require the entire
22 amount of such income and the allocation made, to be shown in the re-
23 turn which said nonresident shall, and must, file pursuant to sections
24 sixty-nine hundred forty-three-f thirteen, (6943-f13) to sixty-nine
25 hundred forty-three-f nineteen (6943-f19) inclusive, code, 1935.

1 SEC. 4. Section sixty-nine hundred forty-three-f nine (6943-f9),
2 code, 1935, is hereby amended by adding at the end thereof a new
3 subsection eight which shall read as follows:

4 8. A nonresident shall be allowed the deductions provided herein,
5 excepting that the deductions provided in subsections one to five in-
6 clusive shall be allowed to a nonresident only if, and to the extent
7 that, they are connected with income arising from sources within the
8 state and taxable under this division; and the proper apportionment

9 and allocation of the deductions with respect to income received from
10 a business, trade, profession or occupation carried on partly within
11 and partly without the state shall be determined under rules and
12 regulations to be prescribed by the board.

1 SEC. 5. Chapter three hundred twenty-nine-F one, (329-F1), code,
2 1935, is hereby amended by inserting after section sixty-nine hundred
3 forty-three-f fifteen (6943-f15) the following new sections:

4 6943-f15a. Withholding Agents and Nonresidents.

5 1. Excepting as provided herein and in section 6943-f15b hereof,
6 every withholding agent shall deduct and withhold in each calendar
7 year five percent of all gross income, in excess of fifteen hundred
8 (1500) dollars, which such withholding agent pays, including the
9 five percent so withheld, to any nonresident during such calendar
10 year. In case the nonresident files with the state board a verified
11 statement, in such form and containing such information as the board
12 shall prescribe, showing that any income described therein is derived
13 from a source upon which the net income will be less than twenty
14 percent of the gross income, the board, if satisfied that such state-
15 ment is correct, shall give to such nonresident a certificate directing
16 the withholding agent to withhold only one percent of the described
17 income. Upon receipt of such certificate, the withholding agent shall
18 withhold only one percent of the income described in such certificate
19 in excess of seventy-five hundred (7500) dollars; and no part of the
20 first seventy-five hundred (7500) dollars shall be withheld.

21 2. Withholding agents shall make returns upon the basis of each
22 calendar year on such forms and at such times throughout the year
23 as the board shall from time to time prescribe, and shall include
24 therein such information as the board shall require. The board shall
25 fix such times for the making of returns and the payment of the
26 amounts withheld as in its judgment are necessary to insure payment
27 of such amounts. Such returns may, in the discretion of the board,
28 be consolidated with the returns required by section sixty-nine hun-
29 dred forty-three-f fifteen (6943-f15); and in the discretion of the
30 board, a withholding agent may be required to make a separate with-
31 holding agent's return for every nonresident a portion of whose in-
32 come is required to be withheld under section one hereof.

33 3. At the time of making such returns, the withholding agent shall
34 pay to the board the entire amount required to be withheld under
35 subsection one hereof. Such amounts shall be paid to the board in the
36 form of remittances payable to the treasurer of state and which shall
37 be transmitted to the state treasurer to be deposited in the state
38 treasury to the credit of a special nonresident income tax fund, which
39 is hereby created for such a purpose. That portion of such fund ap-
40 plicable to the payment of taxes pursuant to subsection five hereof
41 shall from time to time be transferred by the state treasurer, upon
42 order of the board, to the credit of the special tax fund created by
43 section sixty-nine hundred forty-three-f fifty-six (6943-f56). Any
44 amounts in such nonresident income tax fund required by subsection
45 five hereof to be paid to a nonresident shall be so paid by the state
46 treasurer by means of a warrant drawn by the comptroller at the di-
47 rection of an authorized employee of the state board upon such fund

48 to the order of such nonresident, without requiring the nonresident
49 to file a claim for refund.

50 4. Each nonresident shall make his returns and pay his taxes upon
51 the basis of the calendar year, unless permission is obtained from
52 the board to report on a different taxable year in cases when he car-
53 ries on a business of such a nature as to make it impractical to report
54 on the basis of the calendar year. That amount withheld from and
55 paid for each nonresident by the withholding agent for any calendar
56 year shall be credited pursuant to subsection five hereof upon the tax
57 due from such nonresident for the same calendar year. In case a
58 taxable year other than the calendar year is authorized the amount
59 so withheld and paid for the calendar year shall be so credited upon
60 the income tax due for the nonresident's first taxable year ending
61 after the end of such calendar year.

62 5. In addition to all other income subject to the tax herein imposed,
63 each nonresident shall report in his return all income a portion of
64 which is required to be withheld pursuant to this section, including
65 the portion so withheld. Any amount of the income withheld and
66 paid to the board by any and all withholding agents shall be credited
67 against the total amount of income tax required to be paid by such
68 nonresident for such year as is provided in subsection four hereof.
69 If the amount so withheld and paid to the board is in excess of the
70 amount of income tax due by such nonresident for such year, the
71 excess shall be paid to the nonresident taxpayer. If the nonresident
72 taxpayer fails to file a return within the time required by law, the
73 board may consider as the net income of such nonresident the entire
74 gross income of such nonresident, as shown by the returns of all
75 withholding agents, and may assess the tax accordingly pursuant to
76 subsection two of section sixty-nine hundred forty-three-f twenty-
77 one (6943-f21).

78 6. All of the provisions of section sixty-nine hundred forty-three-f
79 seventeen (6943-f17), section sixty-nine hundred forty-three-f
80 eighteen (6943-f18), section sixty-nine hundred forty-three-f nine-
81 teen (6943-f19) and sections sixty-nine hundred forty-three-f twenty-
82 one (6943-f21) to sixty-nine hundred forty-three-f twenty-seven
83 (6943-f27) inclusive, code, 1935, shall apply to returns and payments
84 by withholding agents and to determination and collection of amounts
85 required to be withheld by withholding agents, and to penalties there-
86 for, as well as to the "taxes" to which such sections expressly relate.

87 6943-f15b. Bonds and Securities.

88 1. Any nonresident whose income is subject to the provisions of
89 the preceding section may file with the board a bond issued by a
90 surety company authorized to transact business in this state and
91 approved by the insurance commissioner as to solvency and responsi-
92 bility, in the amount hereinafter provided, conditioned upon the pay-
93 ment of any tax, interest, and/or penalties which may become due
94 for a named taxable year from such nonresident under the provisions
95 of this division. Such bond shall be made payable to the state of
96 Iowa, and shall be for a term expiring four years after the termina-
97 tion of the taxable year for which it is given. In any action on said
98 bond a certificate signed by the chairman of the board certifying that
99 a certain amount of taxes, interest, and/or penalties are due and owing
100 by the principal for the taxable year fixed in the bond shall be prima

101 facie evidence that such amount is due, and the burden of proof shall
102 be upon the principal and/or surety to prove that such amount is
103 not due. The attorney general shall, upon direction of the board,
104 bring and prosecute actions on said bond in the name of the state of
105 Iowa. The venue for all such actions shall be in Polk county, Iowa.

106 2. In lieu of such bond, the nonresident may deposit with the board
107 securities approved by the board, in the amount hereinafter provided,
108 under a deposit agreement in such form as the board may prescribe,
109 which agreement shall make such securities collateral security for
110 the payment of any tax, interest and/or penalties which may become
111 due from such nonresident under the provisions of this division and
112 shall authorize the sale of such securities by the board at public or
113 private sale without notice to the depositor thereof, if it becomes
114 necessary to do so in order to recover any tax and/or penalties due.

115 3. The amount of such bond or the value of such securities shall
116 not be less than the total amount which would be required by subsection
117 one of section 6943-f15a to be withheld from the income for which
118 certificates are sought pursuant to subsection four hereof.

119 4. Any nonresident who has so filed with the board such bond or
120 securities may, upon making application in such form and containing
121 such information as the board shall prescribe, obtain a certificate from
122 the board directed to a named withholding agent authorizing such
123 withholding agent during a specified period to pay to such nonresident
124 without withholding any percentage thereof, any sums which may
125 be due such nonresident not in excess of the amount fixed in such
126 certificate. The board shall not issue any such certificate unless the
127 amount of the bond and/or the value of the securities deposited with
128 the board is not less than the total amount which would be required
129 by subsection one of section 6943-f15a to be withheld from the aggregate
130 income fixed in such certificate and all certificates theretofore
131 issued.

132 6943-f15c. Credit for tax payable in state of residence. When-
133 ever a nonresident taxable under the provisions of this division has
134 become liable to pay an income tax to the state where he resides upon
135 his net income for the taxable year derived from sources within this
136 state and subject to taxation under this division, the board shall credit
137 the amount of income tax payable by him under this division with
138 such proportion of the tax so payable by him to the state wherein he
139 resides (before deducting any credit therefrom for the income tax
140 payable to this state) as his income subject to taxation under this
141 division bears to his entire income upon which the tax so payable to
142 such other state was imposed; provided that such credit shall be
143 allowed only if the laws of said state (1) grant a substantially similar
144 credit to residents of this state subject to income tax under such laws
145 or (2) impose a tax upon the personal income of its residents derived
146 from sources in this state and exempt from taxation the personal incomes
147 of residents of this state. No credit shall be allowed against
148 the amount of the tax on any income taxable under this division which
149 is exempt from taxation under the laws of such other state.

1 SEC. 6. Section sixty-nine hundred forty-three-f fifteen (6943-
2 f15), code, 1935, is hereby amended by striking from lines fourteen
3 and fifteen thereof the words "resident of this state" and by inserting

4 in lieu thereof the following: "individual, whether a resident of this
5 state or not,".

1 SEC. 7. Section sixty-nine hundred forty-three-f twenty-five
2 (6943-f25), code, 1935, is hereby amended by inserting after the
3 comma following the word "located" in line four of subdivision one
4 thereof the following "or in the case of a nonresident not maintaining
5 a place of business in this state either in any county in which the in-
6 come involved was earned or derived or in Polk county,".

1 SEC. 8. The tax herein imposed upon certain income of nonresi-
2 dents shall apply to all such income actually received by such nonresi-
3 dent on or after January 1, 1937, regardless of when such income was
4 earned. If the nonresident is reporting on the accrual basis it shall
5 apply to all such income which first became available to the nonresi-
6 dent so that he might demand payment thereof on or after January
7 1, 1937, regardless of when such income was earned. The duty to
8 withhold herein imposed upon withholding agents shall apply only
9 to amounts paid after June 30, 1937, but all amounts paid between
10 January 1, 1937, and the expiration of thirty days from the effective
11 date of this act shall be included in calculating the fifteen hundred
12 (1500) dollars or seventy-five hundred (7500) dollars, as the case may
13 be, which must be paid before the duty to withhold arises.

1 SEC. 9. If any section, subsection, clause, sentence, or phrase of
2 this act or the application thereof to any person or set of circum-
3 stances is for any reason held to be unconstitutional or invalid, such
4 decision shall not affect the validity of the remaining portions of this
5 act, or its application to any other person or set of circumstances.
6 The legislature hereby declares that the provisions of this act are
7 severable, and that it would have passed this act and each section,
8 subsection, clause, sentence, or phrase hereof, irrespective of whether
9 any one or more of the sections, subsections, clauses, sentences, or
10 phrases be declared unconstitutional, and irrespective of whether
11 it be declared unconstitutional or invalid as applied to any person
12 or set of circumstances.

1 SEC. 10. Section sixty-nine hundred forty-three-f sixty-three,
2 (6943-f63), code, 1935, as amended, is hereby amended by striking
3 the period at the end of sub-section one and inserting in lieu thereof a
4 semicolon and by adding after said semicolon the following: "and in
5 addition thereto, after June 30, 1937, thirty thousand (30,000) dol-
6 lars shall be transferred to the general fund for each fiscal year, pro-
7 vided that after June 30, 1938, said thirty thousand (30,000) dollars
8 shall be so transferred only from funds derived from the income tax
9 imposed upon non-resident individuals."

1 SEC. 11. Section sixty-nine hundred forty-three-f sixty-five,
2 (6943-f65), code, 1935, as amended, is hereby amended by inserting
3 before the semicolon in line nine thereof the following: ", and in ad-
4 dition thereto thirty thousand (30,000) dollars for the year com-
5 mencing July 1, 1937, and thirty thousand (30,000) dollars annually
6 thereafter, provided that for the years commencing after June 30,
7 1938, only such part of said thirty thousand (30,000) dollars is ap-
8 propriated as is transferred to the general fund in addition to three

9 per cent (3%) as provided by section sixty-nine hundred forty-three-
10 f sixty-three (6943-f63), as amended”.

1 SEC. 12. This act, being deemed of immediate importance, shall
2 be in full force and effect from and after its passage and publication
3 in the Allerton News, a newspaper published at Allerton, Iowa, and
4 in the Marcus News, a newspaper published at Marcus, Iowa.

House File 389. Approved May 7, 1937.

I hereby certify that the foregoing act was published in the Allerton News, May 27,
1937, and the Marcus News, May 27, 1937.

ROBERT E. O'BRIAN, *Secretary of State.*

CHAPTER 185

INCOME TAX

S. F. 28

AN ACT to amend chapter three hundred twenty-nine-f one (329-f1), code 1935, relat-
ing to taxation.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. That section sixty-nine hundred forty-three-f twelve
2 (6943-f12) of chapter three hundred twenty-nine-f one (329-f1),
3 code 1935, is hereby repealed and the following is enacted in lieu
4 thereof:

5 There shall be deducted from the tax after the same shall have been
6 computed as set forth in this division, a personal exemption as follows:

7 a. For a single individual, ten dollars.

8 b. For husband and wife or head of a family, twenty dollars.

9 c. For each child under the age of twenty-one years who is actually
10 supported by and dependent upon the taxpayer for his support, an
11 additional five dollars.

12 d. For each actual dependent other than as specified in division (c)
13 of this section, an additional five dollars.

14 “3. Change of status. If the status of a taxpayer, in so far as it
15 affects the personal exemption or credit for dependents, changes dur-
16 ing the taxable year, the personal exemption and credit shall be ap-
17 portioned under rules and regulations prescribed by the board.”

1 SEC. 2. That section sixty-nine hundred forty-three-f thirteen
2 (6943-f13) of chapter three hundred twenty-nine-f one (329-f1),
3 code 1935, is hereby amended by striking from line 3 thereof the
4 words, “six hundred”, and inserting in lieu thereof the words, “one
5 thousand”; and by striking from lines five (5) and six (6) thereof
6 the words, “eleven hundred”, and inserting in lieu thereof the words,
7 “fifteen hundred”; and by further striking from line 12 of said section
8 sixty-nine hundred forty-three-f thirteen (6943-f13) the words,
9 “eleven hundred”, and inserting in lieu thereof the words, “fifteen
10 hundred.”

1 SEC. 3. That section sixty-nine hundred forty-three-f fourteen
2 (6943-f14) of chapter three hundred twenty-nine-f one (329-f1),
3 code 1935, is hereby amended by striking from lines five (5) and six