A Survey of the Maryland Income Tax Law

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Under the Maryland Income Tax Law of 1937, which became effective on May 18, 1937, the taxes imposed are to be levied and collected only for each of the two calendar years 1937 and 1938, or for such parts of the taxpayer's fiscal years as fall therein. The first return and tax payment for those whose accounting period is the calendar year will be due on or before March 15, 1938. For them the tax at the rate of one-half of one per cent. will be payable at that time on their net income for the whole of the calendar year 1937. Those whose fiscal years end prior to December
31, 1937, are required to make a return for that portion of their fiscal years from January 1, 1937, to the date of closing prior to December 31, 1937. Thus, taxpayers on a fiscal year basis will be required to make three returns over the two year period—one for the portion of the fiscal year from January 1, 1937, to the end of the fiscal year, one for the whole fiscal year ending in 1938, and one for the portion of the fiscal year ending December 31, 1938. If a taxpayer makes a Federal return his income must be computed for the purpose of the Maryland tax on the same calendar or fiscal year therein shown.

The tax rate is the same for individuals, fiduciaries, and corporations. Partnerships as such are not required to pay a tax but they must make returns. All individuals who are either single or married but separated are required to file returns where their net income amounts to one thousand dollars or the gross income is fifteen hundred dollars and those who are married and living with husband or wife must file returns if the net income is twenty-five hundred dollars or the gross income is three thousand dollars. Personal exemptions of one thousand dollars for single persons and twenty-five hundred dollars for the head of a family or married persons living with husband or wife, and also the exemption of four hundred dollars for each other dependent are allowed to individuals making returns, as under the Federal Law. To non-residents who are "natural persons", a proportion of these exemptions is allowed which is represented by the ratio of the taxpayer's net income from labor performed, business done, occupation carried on, and property owned or having a business situs in Maryland to his total net income from all sources. Exclusions and exemptions allowed from gross income are in most instances similar to, though not identical with, those allowed under the

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* Sec. 231; and see Sec. 222 (3) (a) and (b).
* Sec. 222 (2).
* Sec. 228 (1) and (2).
* Sec. 244 (1) and (2).
* Sec. 228 (3).
* Sec. 246.
* Sec. 235.
* Sec. 232.
* Sec. 227.
* Sec. 228 (2).
Federal law. This is true of the proceeds of life, accident or health insurance and annuity contracts; sums received under the Workmen's Compensation Act; damages resulting from suit or agreement on account of injuries; property acquired by gift, bequest, devise, or inheritance; tax exempt income which the State of Maryland is prohibited from taxing under the Constitution of the United States or by any Act of Congress properly passed pursuant thereto, and interest upon the obligations of the State of Maryland or any of its political subdivisions and municipalities.¹⁴

Deductions allowed from gross income are likewise similar to, though not in all cases identical with, those allowed by Federal law. Ordinary business expenses, interest, taxes, uncompensated losses in trade or business, uninsured losses in transactions for profit; other uncompensated losses from fire, storm, shipwreck or other casualty, or from theft; worthless debts; repairs and maintenance of machinery and buildings other than dwellings occupied by owners; insurance premiums on property held for investment or business; depreciation and depletion on business property; dividends from National banks and Maryland chartered banks and trust companies; gifts to the various classes of institutions such as charitable and religious organizations; losses from lawful wagering transactions to the extent of gains therefrom; net additions to legal reserves required by law in the case of life insurance companies; and in general, ordinary and necessary expenses paid for the acquisition of income or care of income producing property.¹⁵ The above mentioned deduction with respect to dividends from banks is not allowed by the Federal Act. The deduction for certain charitable and similar gifts is different, in the Maryland Act, from the analogous provision in the Federal Act. The deduction for all ordinary and necessary expenses (not connected with trade or business) is not specifically allowed in the Federal Act.

The treatment of capital gains and losses is much simpler in the Maryland Statute than under the Federal law. Under

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¹⁴ Sec. 216, pars. (a) to (e) incl.
¹⁵ Sec. 217, pars. (a) to (o), incl., relating to Deductions from Gross Income; and see Sec. 218, relating to Deductions Not Allowed.
the Maryland Statute all gains from sales of capital assets are included as income and treated like all other income if the asset sold has been held for less than two years, and all losses on such transactions are allowed; but if the asset sold has been held for two years or more no capital gain or loss is recognized except in the case of property items customarily included in an inventory.\footnote{Secs. 216, 220.}

The Maryland Act expressly exempts all income received from intangible personal property by a Maryland corporate trustee (whether acting alone or with an individual co-trustee) where, at the time of the creation of the trust, both the settlor and the beneficiary were non-residents of Maryland.\footnote{Sec. 244 (5).} This follows the similar exemption from intangible personal property taxes, allowed Maryland Corporate trustees of trusts created by non-residents for the benefit of non-residents.

The Comptroller of the State of Maryland is charged with the administration of the law and he must issue forms identical with the Federal Income Tax Forms except to the extent required by differences between the Maryland Act and its application and the Federal Act and its application. He must follow, in applying and construing the Maryland Statute, the administrative and judicial interpretations of the Federal law in so far as practicable, to the end that computations of income for the purposes of the two Acts may be as nearly as practicable identical.\footnote{Sec. 238.} At the present time\footnote{December 1, 1937.} the Comptroller’s office, in consultation with the Attorney General’s office has prepared and is preparing forms to be used by taxpayers which will, like the former Federal forms, bear certain printed instructions;\footnote{The following forms had been released prior to November 22, 1937: Form 506—Return of Tax Withheld at Source For The Calendar Year 1937 (to be accompanied by Individual Reports on Form 507). Form 507—Report of Tax Withheld at Source for the Calendar Year 1937. Form 508—Annual Information Return—Summary of Reports of Dividend Payments of $300 Or More, Salaries of $1,000 Or More To A Single Person, or $2,500 Or More To A Married Person, And Other Income Payments of $1,000 Or More, For The Calendar Year 1937 (to be accompanied by reports on Form 509). The following forms have been tentatively prepared for release on or about December 15, 1937: Form 500—Corporation Income Tax Return For
troller will probably not at this time issue general pamphlet regulations such as those issued by the Commissioner of Internal Revenue in connection with the Federal Income Tax law. Rather, he expects to issue individual regulations touching particular matters, from time to time, supplementing the instructions appearing on the forms for returns. Up to December 1, 1937, there had been five regulations issued, all dated September 1, 1937. Others are in the course of preparation.

The law as applied to fiduciaries has some substantial differences from the law applicable to individuals. Some of these differences may have been intended; others may well have had their source in the original drafting of the Kentucky Income Tax Law, from which all of these sections appear to have been transcribed without change. The rate of tax on fiduciaries is the same as the rate on individuals. In substance the prescribed method of determining net income is the same in both cases, but there is an express difference, for instance, in the allowance of deductions for payments to charitable and similar organizations, both as to the amount allowed and as to the classifications of such payments as respects the recipients. There is also a distinct difference as between fiduciaries and other individuals as to the allowance of personal exemptions. In a number of classes of fiduciary estates these exemptions are not allowed at all and in others, while allowed, there is considerable doubt as to whether, nevertheless, the fiduciary must file a return where the individual would not have to. The Comptroller, however, under the powers expressly


Regulation No. 1—Withholding of Payments to Non-Residents.
Regulation No. 2—Depreciation and Depletion Allowances.
Regulation No. 3—Information Returns.
Regulation No. 4—Deductions—Paid or Accrued.
Regulation No. 5—Head of Family.

Supra, note 1.

Sec. 244 (2).

Secs. 244 (3) and (4), 245.
granted him in the Statute is seeking, in connection with the preparation of Forms, Instructions, and Regulations, to minimize these differences.

Moreover, as compared with the Federal Act, the law affecting fiduciaries differs substantially, since the Federal Act expressly recognizes a distinction between revocable and irrevocable trusts, and treats them differently as to the person or fiduciary required to pay the tax, while the Maryland Act is silent on the subject and makes no distinction between revocable and irrevocable trusts. Under the Federal Act the settlor of a revocable trust pays the tax on the income from the estate, whether or not it is, under the terms of the trust document, payable to him; but in the case of an irrevocable trust, the income-beneficiary pays the tax on the income other than income from net capital gains, and the trustee pays the tax (and is allowed the one thousand dollars ($1,000) exemption) on net income from capital gains. Again, the Maryland Act treats more harshly and inflexibly accumulation or discretionary trusts—that is, trusts where income is to be accumulated for future disbursements; or is accumulated for unascertained beneficiaries; or is to be distributed upon the happening of a contingency; or is to be paid periodically, whether or not it is in fact distributed, if the trustee under the trust instrument has discretionary authority either as to the amounts to be distributed, from time to time, or as to the persons who are to receive the payments. In such instances under the Maryland Act the fiduciary may be required to pay the tax without allowance of credit for amounts actually distributed to beneficiaries; and there is some ambiguity in the Statute as to whether any one thousand dollars exemption may be allowed. The 1937 Federal Loophole Law permits the one thousand dollars exemption in such discretionary trusts if the income is in fact wholly distributed to the beneficiaries. The provisions of the Maryland Act may have been influenced by the discussions going on in Congress and in the press while the 1937 Federal Loophole Law was under consideration and before it was adopted in its final form.\(^\text{25}\)

\(^{25}\) 1937 Revenue Act, approved Aug. 26, 1937, Title IV, Sec. 401, amending U. S. C. A., Title 26, Sec. 163a, of the Revenue Act of 1936.
Non-residents are subject to the Maryland tax on such of their income as comes from labor performed, business done, occupation carried on, and property owned or having a business situs in Maryland, but they can obtain a credit to apply in reduction of the Maryland tax if they can show that they have been required to pay an income tax to the State of their domicile, providing that State has a reciprocal Statute giving the same privilege to Maryland residents.\textsuperscript{26} To assure the payment of the Maryland tax by non-residents, the Comptroller must require all persons in Maryland making payments of taxable income to non-resident individuals to withhold not in excess of one per cent. of the amount so paid, to satisfy Maryland's income tax claim.\textsuperscript{27} The non-resident must file his return and state certain facts relating to his income. Thereafter, when his tax is finally determined by the Comptroller's office, any amount held by the Comptroller in excess of the tax payable will be returned with interest payable at four per cent.

The provisions above touched upon, give a birdseye view of the Maryland Income Tax Law. The subject may now be treated somewhat more in detail. The law, in the following discussions, will be examined from the standpoint of: I. The individual, including A. Residents, and B. Non-residents; II. Corporations; III. Partnerships; IV. Fiduciaries and the estates they administer. The discussion from each of these standpoints will be divided as follows: (1) The persons required to make returns; (2) The amount of the tax payable; and (3) The persons required to pay the tax. In connection with the second of these sub-divisions—The amount of the tax—it need not be repeated that the rate of the tax is the same irrespective of who pays it, namely, one-half of one per cent.

I. The Maryland Income Tax Law and the Individual Taxpayer

Much that will be said of the application of the Maryland law both to resident and non-resident individuals will also be pertinent to its application to corporations and to fiduci-
aries, although special provisions of the Statute deal expressly with corporations, and others expressly affect fiduciaries as such.

The Maryland Act defines "person" as "an individual, a fiduciary, a trust or estate, a partnership or corporation". It defines "taxpayer" as "any person required by this sub-title to pay a tax or file a report". It defines "partnership" as including "all co-partners, whether general or special, and whether limited or unlimited; it includes also joint enterprises". But the word "individual" is given a limited meaning to designate "all natural persons, whether married or unmarried; and also trusts, estates and fiduciaries acting for other persons; but does not include corporations or partnerships acting for or in their own behalf".

(A) INDIVIDUALS WHO ARE RESIDENTS OF MARYLAND

Under the Statute "resident" applies to natural persons and includes both any person domiciled within the State on the last day of the taxable year and any person maintaining a place of abode within the State for more than six months, whether or not domiciled in the State. Any person who changes his place of abode to a place without the State, before the end of the taxable year, with intent to make the change permanent, is regarded as a non-resident.

(1) What Resident Individuals Are Required to Make Returns

Every individual having a net income for the taxable year of one thousand dollars or over, or a gross income of fifteen hundred dollars, if single or if married and not living with husband or wife; and every individual having a net income for the taxable year of twenty-five hundred dollars, or a gross income of three thousand dollars, if married and living with husband or wife must make a return to the

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28 Sec. 215 (b).
29 Sec. 215 (c).
30 Sec. 215 (d).
31 Sec. 215 (e).
32 Sec. 215 (f).
33 Ibid.
Comptroller. It is the duty of the Comptroller to supply blank forms for returns, and he has been engaged in preparing them for release about December 15, 1937. The taxpayer is under obligation to file a return without being called upon to do so by the Comptroller.

The returns must be filed on or before the 15th day of March of each year for the preceding taxable year, if for the calendar year. If made on the basis of a fiscal year they must be filed on or before the 15th day of the third month following the close of the fiscal year.

Information returns are contemplated by the statute, from every person in whatever capacity acting who makes payments to another person domiciled in Maryland, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income of six hundred dollars or more in any taxable year. Such returns are to be made under such regulations and in such form and manner and to such extent as may be prescribed by him. And the statute authorizes the requirement of such returns with reference to payments to non-residents, as the Comptroller may require irrespective of total amounts paid.

By regulation, the Comptroller has required that such information returns respecting (a) payments to residents of salaries or other compensation for personal services must be made only where the payments total one thousand dollars or more to a single individual, or twenty-five hundred dollars to a married person; or (b) as interest (except interest on unregistered bonds), rent, premiums, annuities or other fixed or determinable income totaling one thousand dollars or more paid to an individual, fiduciary or partnership.

No separate "information returns" as such are required by the Comptroller to be filed by individuals making payments to non-residents, but by regulation, returns in connection with the withholding and reporting and payment of

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84 Sec. 232.
85 Secs. 237, 232.
86 Sec. 239.
87 Sec. 223.
88 Regulations 3 (B) and (C)—Information Returns.
amounts (other than payments of the nature of (1) interest or (2) dividends or (3) payments to a corporation or (4) to a partnership) to non-residents are required; and even though the total payments to a non-resident payee are not sufficient to require any withholding, it may be necessary for a resident employer who makes such payments to make detailed records of all payments if, upon inquiry which he must make, the non-resident's income from all sources is one thousand dollars or more if single, or twenty-five hundred dollars or more if married. But as to payments other than those to an employee or non-resident contractor, no return or report or withholding is required by the Comptroller unless and until such payments to the same non-resident (other than payments in the nature of (1) interest, (2) dividends, (3) payments to a corporation or (4) payments to a partnership) exceed one thousand dollars within the calendar year. All payments to non-resident contractors of one thousand dollars or more in any calendar year are required by the Comptroller to be reported, and one-half of one per cent. of such payments in excess of that amount must be withheld unless the contractor obtains a waiver from the Comptroller.

(2) The Amount of Tax Payable by Resident Individuals

The tax is payable upon the individual's entire net income as defined by the Act, with certain exemptions and credits allowed. In calculating his taxable net income he first determines his gross income, in the determination of which certain amounts need not be included, as above mentioned; then subtracts the deductions and exemptions al-

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59 Regulation 1 (A)—Withholding of Payments to Non-residents.
40 Regulation 1 (C)—Withholding of Payments to Non-residents. This regulation refers in each of its sections to payments made “during the calendar year”. There is a practical accounting reason for this since virtually all individual returns are on a calendar year basis. The Comptroller ruled on October 22, 1937, and since the publication of Regulation I, that “withholding of tax at the source as required under Section 228 of the Act and Regulation No. 1 issued thereon is not required where payments of the following type are made—(a) Payments of Dividends, (b) Payments of Interest, (c) Payments Made to a Corporation, (d) Payments Made to a Partnership.”
41 Regulations 1 (B)—Withholding of Payments to Non-residents.
ollowed from the gross income to arrive at net income. He then subtracts from his net income so determined the personal exemptions allowed by reason of his status as a married or single person and by reason of his dependents, to arrive finally at the net taxable income; and then he may have additional credits against his Maryland tax for income taxes paid to other States having reciprocal non-resident income tax credit laws, to an amount not more than sufficient to reduce the Maryland tax to the amount which the Maryland tax would have been if the income from sources outside of Maryland had been ignored in calculating the Maryland tax. The full amount of the tax is payable at the time fixed for the filing of the return. No provision is made for payments in instalments. If the return is not made as required the Comptroller is authorized to make an estimate of the income of a person and of the amount of the tax due, from any information in his possession, and assess the tax at not more than twice the amount estimated to be due, and require payment of the taxes, penalties and interest.

The Comptroller has authority to compel the taxpayer to produce for inspection a copy of his Federal return but secrecy of the returns is provided for, and it is made a misdemeanor punishable by fine or imprisonment for an officer or employee of the State to violate this provision of the Act. However, the law provides for reciprocal exchange of information between the taxing officials of this State and such officials of the Federal government and the other States. And it is expressly permissible for the State taxing officials to publish lists of delinquent taxpayers showing their names together with any relevant information which, in the opinion of the Comptroller, may assist in the collection of such delinquent taxes.

Returns are to be retained for ten years and thereafter until the Comptroller orders them destroyed. Wilful re-

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42 Sec. 227.
43 Secs. 229, 230.
44 Sec. 243.
45 Sec. 240.
46 Sec. 224.
47 Sec. 226.
48 Sec. 225.
fusal to make a return is subject to a maximum fine of five hundred dollars or imprisonment for six months, or both.49 The maximum penalty for making fraudulent returns is ten per cent. of the amount of the tax found to be due and punishment as in the case of perjury.50 Mere failure to file a return on time may require a penalty of ten per cent. of the tax found to be due.51 And for failure to pay the tax when due five per cent. of the amount of the tax must be imposed as a penalty, and one per cent. per month for the time the tax remains unpaid; but the exaction of this latter penalty may be modified by the Comptroller upon the submission of satisfactory evidence that the failure was not wilful or evasive.52 No extension of time for filing the returns can be permitted, it would seem, beyond a period of six months, except in the case of a taxpayer who is abroad55 who may have a maximum of one year, and in any event interest at six per cent. per annum is imposed from the date the return was due until the return is filed.

(3) What Resident Individuals Are Required to Pay the Tax

Every resident individual of Maryland is required to pay the tax if he has net taxable income. Employees of the State of Maryland are not excepted. Employees of the Federal government, of course, could not be taxed as to their income from that source because of the well known constitutional limitations upon the right of the State to tax the Federal government or its agencies. The immunity of Federal employees from State tax, however, may be limited to those activities in which the government is exercising a strictly governmental, as distinguished from a proprietary or commercial function.

49 Sec. 251.
50 Sec. 236.
51 Ibid.
52 Sec. 249.
55 Sec. 240.
(B) Individuals Who Are Non-Residents of Maryland

While the term "non-resident" is not defined by the Statute yet it may be inferred that it includes all persons who are not residents as defined by the law.  

(1) What Non-Resident Individuals Are Required to Make Returns

Since the law requires "every individual" to make a return if his income is large enough, this would seem to require every non-resident as well as every resident to make returns under the same circumstances. As read in connection with the requirements relating to non-residents, however, there is some ambiguity. It would appear that "income" in that connection must refer to income from sources in Maryland, taxable in Maryland. Not all income from sources in Maryland is necessarily taxable. With reference to property, it is only income from property owned by natural persons who are not residents that is taxable. Moreover, in assuming that the appropriate figures relate to non-resident returns as well as to those of residents, it must be remembered that a non-resident might have taxable income of less than one thousand dollars, not all of which would be exempt since he may not have a right to a full one thousand dollars or twenty-five hundred dollars personal exemption, as the case may be, but only an exemption amounting to a fraction of those figures respectively if his income is derived from sources both within and outside the State of Maryland. If would seem, however, that a non-resident individual who receives from sources both within and without the State of Maryland net taxable income in excess of his proportionate personal exemptions and credits would have to file a return in self-defense if his income from sources within Maryland came from regular employment within this State, even though his net income is less than one thousand dollars if single, or twenty-five hundred dollars if married, inasmuch

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*See Sec. 215 (h) for the definition of "resident".

**Secs. 228 (2), 232.
as any employer who has to pay him sums actually in excess of his personal exemptions and credits would or might be required by the Comptroller to withhold and make payment to the Comptroller of a portion thereof.\textsuperscript{56}

(2) The Amount of Tax Payable by a Non-Resident Individual

Every non-resident individual must pay the tax upon the entire net income from all his local tangible property, real or personal, and such intangible property, owned by him, as has acquired a business situs in this State, and from business, trade, profession or occupation carried on in this State. But as to the remainder of his income from labor performed, business done or property located outside this State, he is deemed non-taxable by Maryland.\textsuperscript{57}

A non-resident is allowed that portion of the personal exemption allowed other individuals represented by the ratio of his net income in Maryland to his total net income from all sources.\textsuperscript{58}

The Comptroller must require "not to exceed 1%" of the income of a non-resident who receives "income taxable under" the Maryland Act to be withheld by the employer or other person making payments to him, for the purpose of satisfying the State's income tax claim.\textsuperscript{59} The Statute here uses the words "not to exceed 1%", and merely uses the word "income". The amounts to be retained are referred to as "the income of such non-resident". The Statute does not say to retain only net taxable income, although

\textsuperscript{56} Sec. 228 (2).
\textsuperscript{57} Ibid.
\textsuperscript{58} Sec. 228 (2). A possible error in punctuation of the last section of the first paragraph of sub-section (2) of Sec. 228 appears in the Statute as printed: "The remainder of the income received by him shall be deemed non-taxable by this State in the case of non-residents and residents who receive credit on account of income taxes paid in other States; the personal exemptions allowable under this sub-title shall be that proportion of those permitted under Section 227 which is represented by the ratio of the taxpayer's net income in Maryland to his total net income from all sources." It is suggested by Huntington Cairns, Esq., in his Tax Laws of Maryland, Annotated, Second Edition, 1937, at page 394, that the section should read as it would if the underscored portions above were changed so that the first read: State, In, and the underscored semi-colon were a comma. The Comptroller's Office is construing the provision in the latter manner. See instructions on Returns Nos. 502, 503, and 507.

\textsuperscript{59} Sec. 228 (2).
that perhaps is inferred, and it would seem to be inevitable that in most instances amounts greater than the net taxable income will be withheld if any be withheld. It would appear that the Comptroller must require the withholding of some portion of the amounts paid to non-residents by persons within this State, if such person receives taxable income derived from sources in Maryland. By Regulation No. 1, he has stipulated that only one-half of one per cent. of such payments in excess of personal exemptions be withheld. The Statute further provides that after the non-resident shall have submitted his annual return, and it shall have been audited, the Comptroller shall refund any overpayment with interest at four per cent. per annum from the date received until certified for refund. This rather severe statutory provision goes beyond any provision of the Federal machinery for collection of domestic taxes, although, according to current press reports, some Federal administration officials are now giving thought to the possibility of applying this means of tax collections to all Federal income taxes, and there is even mention of the possibility of mutual agreements with foreign countries for withholding taxes at the source on foreign owned securities. The Statute nowhere expressly states that those withholding sums from payments to non-residents must pay them over to the Comptroller, but perhaps that necessarily follows by proper inference. At any rate the Comptroller by Regulation No. 1 has so stipulated.

It would appear that the Comptroller has decided to adopt a practical rule requiring the withholding of less than the maximum permissible by law,—and at least eliminate all requirements for withholding when the sums paid to non-residents are not likely to be sufficient to result in any tax liability.\footnote{\textsuperscript{60} See Regulation No. 1—Withholding of Payments to Non-residents.} Regulation No. 1,\footnote{\textsuperscript{61} Ibid.} issued September 1, 1937, makes it clear that the Comptroller will not require any report or return or withholding by any employer of sums paid during the calendar year to a non-resident, if his total income from all sources comes from sources in Maryland and is less than one thousand dollars, even though under the
law\textsuperscript{62} he could do so, if he thought it reasonable or practicable, no matter how small the amount paid a non-resident might be. And when a non-resident’s total income comes from employment partly within and partly without the State of Maryland, and the non-resident spends less than one-fourth of his working time in Maryland, the employer is required to withhold sums from the compensation paid, only when the total earnings of such non-resident amount to fifteen hundred dollars if single or married but separated, or twenty-five hundred dollars if married and living with husband or wife, or the head of a family. In no event, in this latter situation shall the employer withhold any sums until after payments to the employee have reached his exemption and credit allowances.\textsuperscript{63}

But when the non-resident employee’s total income from all sources is more than one thousand dollars, the employer is required to make inquiry into the employee’s total income from all sources, determine his adjusted personal exemption, add to sums paid by the employer, all the employee’s other income from sources in Maryland and when this total reaches the exemption limit withhold one-half of one percent of subsequent payments. This rule is practical insofar as the half per cent. rate is concerned, but it would appear likely to be unnecessarily burdensome in other respects. It is probable, however, that the Comptroller will give further consideration to simplification of procedure where practical considerations warrant it. The forms which have been issued by the Comptroller, would require every employer before paying compensation for personal services to any non-resident employee to make inquiry as to his total annual income from all sources and in the event that such total annual income of the non-resident is one thousand dollars or more the employer would have to require such employee to fill out a certificate on a form to be furnished by the Comptroller setting forth:

(a) The exemption status whether (1) single or married and not living with husband or wife, or (2) married and living with husband or wife, (3) the head of a family and (4) the number of dependents;

\textsuperscript{62} See. 223 (2).
\textsuperscript{63} Regulation 1 (A) 3.
(b) The estimated income for the calendar year from other sources, separately from sources in Maryland, and elsewhere;

(c) An agreement by the employee that he will immediately notify his employer of any change of exemption status, of residence, or in the estimate of other income, and, in event of such change, that he will execute a new certificate; and that he will make a return of income in accordance with the Maryland Income Tax Law and Regulations.

Every employer, until notified differently by the Comptroller, would then be obligated:

(a) To determine upon the basis of the employee’s certificate the proportionate exemption to which the employee is entitled upon the basis of an allowance of one thousand dollars for single persons or those married and separate, and twenty-five hundred dollars for the head of a family or married persons living with husband or wife; and four hundred dollars for each dependent;—that portion of these personal exemptions and credits for dependents being allowable to non-residents in the proportion that the non-resident’s income from sources in Maryland bear to his total income from all sources. 64

(b) The employer would be required to add to the compensation paid the non-resident by him, other income of the employee from sources within Maryland.

(c) When the total reaches the exemption limit determined, as in the foregoing paragraph set forth, the employer must withhold one-half of one per cent from the amount of subsequent payments to the employee during the current year.

(d) The employer would be required to pay the amount withheld during the current calendar year to the Comptroller, on or before February 15th following the calendar year for which the report is made, at which time the employer also must file a summary return of the amounts withheld and individual reports on forms to be furnished by the Comptroller.

As to credits allowed non-residents who become liable for income taxes payable to the State where they reside,

64 Sec. 228 (2).
upon net income derived from sources in Maryland, and
subject to the Maryland Income Tax, such a non-resident
is allowed a credit against his Maryland tax, of such pro-
portion of his tax which is payable to the State where he
resides, as his net income subject to taxation in Maryland
bears to his entire income upon which the State of his resi-
dence imposes a tax; provided, however, that such credit
shall be allowed only if the State of his residence has a re-
ciprocal law (a) granting a substantially similar credit to
residents of Maryland subject to tax in that other jurisdi-
cion, or (b) imposing a tax upon the personal income of its
residents derived from sources in Maryland and exempting
from taxation the personal income of residents of Mary-
land. But no credit is allowed against the amount of the
tax of a non-resident of Maryland on any income taxable
under the Maryland law which is exempt from taxation
under the laws of the other State.65

It is the avowed intention of the Comptroller so to ad-
minister the Law as to reduce, insofar as practicable, the
burden of its administration both from the standpoint of
the State, and that of the employer, and it may be that the
requirements of this regulation will be, from time to time,
modified or supplemented. This has already been done by
the ruling of the Comptroller dated on or about October 22,
1937.66

(3) The Person Who Pays the Tax
of a Non-Resident

The non-resident himself must pay his tax at the time he
files his return, or at least such part as has not already been
paid for him through the amounts withheld by those from
whom he has received payments in Maryland. If amounts
have been withheld during the year by persons paying sums
to him, as outlined in the preceding section hereof, the
Comptroller audits the non-resident’s return when filed and
if he finds that any overpayment has been made, the Com-
troller must refund it with interest at four per cent. from
the date received until certified for refund.67 As the section

65 Sec. 230.
66 Supra, note 40.
67 Sec. 228 (2).
of the Statute relating generally to "Refunds", provides for six per cent. interest on refunds where the overpayment results from an error not due to the fault of the taxpayer, a question may arise as to which rate of interest is payable on refunds and overpayments made by or for the account of a non-resident.

II. CORPORATIONS

(1) Corporations Required to Make Returns

Every corporation doing business in this State, whether a domestic or foreign corporation, or deriving income, not exempt from taxation hereunder, from business done, property located, or sources in this State, except those exempt from taxation under section 228 of the law, must make a return. Corporations which are affiliated must each make separate returns. The corporations exempt from taxation are national banks and State banks and trust companies; and also savings banks, under a prior ruling of the Maryland Attorney General to the effect that "State banks" includes savings banks; and religious, educational, charitable and other corporations not organized or conducted for pecuniary profit, no part of the net earnings of which inure to the benefit of any private shareholders or individual. Affidavits are not required on corporation returns nor on those of individuals, but making a false statement is made a criminal offense.

If any corporation dissolves or withdraws from the State of Maryland, during the taxable year, or surrenders or loses its charter, the assessment and tax is not defeated and the Comptroller may require a return to be filed for such period of the taxable year as the corporation may have had an income in this State, within sixty days after the expiration of that period.

In the case of a corporation doing business in this State, which carries on transactions with stockholders or other

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68 Sec. 242.
69 Sec. 233.
70 Sec. 228 (3).
71 Secs. 233, 236.
72 Sec. 250.
corporations related by stock ownership, or interlocking directorates, or any other method, the Comptroller must require information necessary to render possible the accurate assessment of the income derived by the corporation doing business in this State from sources within this State. To make possible such assessment, the Comptroller may require such corporation doing business in this State to file supplementary returns showing information respecting the business of any or all individuals and/or corporations related to the corporation doing business in this State. The Comptroller may require such a report to show in detail the record of transactions between the corporation doing business in this State and any or all related corporations or individuals.\footnote{Sec. 234.} A number of special sections of the law deal with the method of determining the amount of income to be allocated to business done within the State of Maryland in connection with the determination of the amount of the net taxable income as relates to various specified classes of corporations.\footnote{Sec. 247.} Information Returns must be filed with the Comptroller on or before February 15th following the calendar year for which the return is made showing payments of dividends of three hundred dollars or more during any dividend year to a resident of Maryland.\footnote{Sec. 223 (1) ; Regulation No. 3—Information Returns.} Returns showing payments during any taxable year to any person domiciled in this State as to salaries or other compensation for personal services as above stated, or as interest (except interest on any registered bonds) rents, premiums, annuities or other fixed or determinable income, must also be filed.\footnote{Sec. 223 (1) ; Regulation No. 3—Information Returns.} The same provisions as to returns, reports and withholding of payments to non-residents which are applicable to individuals are also applicable to corporations. By recent regulation no withholding from payments to non-residents, of dividends, interest, payments to corporations, or payments to partnerships is required.
SURVEY OF INCOME TAX

(2) The Amount of Tax Payable by Corporations

The tax payable by a corporation is to be computed by the Comptroller at the usual rate upon its entire net income derived from business done, property located or sources in Maryland, exclusive, however, in the case of a domestic corporation which does no part of its business within the State, of income from its intangible property. No personal exemption is allowed.

(3) The Person Required to Pay the Tax for a Corporation

The corporation itself must pay the tax although the amount of the tax is to be computed by the Comptroller.

III. PARTNERSHIPS

Income from partnerships must be reported by the partners as individuals upon their respective individual returns. The law does not, as with corporations, expressly require partnership returns to be filed. They do not pay a tax, but it would seem that they must file returns. The rate of the tax payable by the individual partner as a part of his individual tax is the same as the rate payable on the remainder of his income not received from partnership income. There must be included in computing the individual partner’s tax the amount of his net income from the partnership representing his distributive share, whether distributed or not; and if an individual partner’s net income for the taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner’s net income is computed, must be included in the individual net income.

7 Sec. 228 (3).
8 Ibid. The return must be filed over the signature of the President, Vice-President, Secretary, Treasurer, Assistant Secretary, or Assistant Treasurer. Sec. 234.
9 Secs. 234, 235, 246.
10 Sec. 248.
IV. FIDUCIARIES AND THE ESTATES THEY ADMINISTER

In many respects the sections of the Maryland law relating to fiduciaries are substantially different from the provisions of the law affecting individuals in general, and also from the treatment of estates and fiduciaries under the Federal law. For instance, in relatively few classes of estates and trusts are fiduciaries or the estates which they represent expressly granted the one thousand dollars personal exemption uniformly granted to other individuals under the Maryland law, and granted to most trustees and estates under the Federal law. The requirements for filing returns by fiduciaries contain fewer express exceptions based on the amount of the net income than in the case of other individuals under the Maryland law. Tax payments may be required of fiduciaries in many instances where the estates have little or no income, and under circumstances in which other individuals would not be required to pay a tax. Moreover, the tax is laid upon income from estates in course of administration and settlement although Maryland has already laid an inheritance tax on that income. On the other hand, the amount of the deductions from gross income for gifts to charitable and other like specific purposes, appears to be allowed to fiduciaries at their full value, while similar, though not identical provisions of the Maryland Statute permit to other taxpayers only a deduction on this account of an amount which does not exceed fifteen per cent. to the taxpayer's net income as computed without the benefit of any such deduction. Again, the law seems to accord corporate fiduciaries a benefit not given other fiduciaries or other individuals by exempting domestic corporate trustees from payment of any tax on income from intangible personal property held by any such domestic trust company or national bank situated in Maryland (with or without an individual trustee, resident or non-resident) in a trust to pay the income for the time being, or to accumulate or apply

\[81\text{ Sec. 244 (3) and (4).}\]
\[81a\text{ Sec. 227 (1).}\]
\[82\text{ Sec. 245.}\]
\[83\text{ See Infra, note 118.}\]
\[84\text{ Sec. 244 (2).}\]
\[85\text{ Sec. 217 (L).}\]
such income for the benefit of any non-resident of this State if (a) such beneficial owner or cestui que trust was at the time of the creation of the trust a non-resident of this State, and (b) the testator, settlor or grantor was also at the time of the creation of the trust a non-resident of Maryland.86

As to persons who pay the tax on income received by fiduciaries, the Maryland law is radically different from the Federal Act. The Maryland law contains no provision making a distinction between revocable and irrevocable trusts. Under the Federal law the settlor or creator of all revocable trusts, whether he is the actual recipient of the income or not pays the tax, whether it be a tax on net capital gains or other net taxable income, and the income paid in any tax year is treated as a gift from the settlor to the beneficiary recipient. Under the Maryland Act it is believed that the beneficiary, the actual recipient of the income, pays the tax. Under the Federal law the tax on that portion of net income represented by capital gains under an irrevocable trust is paid by the trustee who, in most cases, is allowed the one thousand dollars exemption. Those cases in which, under the Federal law, the trustee of an irrevocable trust is not allowed that exemption relate to trusts which provide for accumulation of income, either compulsory or, if discretionary with the trustee, where all of the income is not in fact distributed to the beneficiary during the taxable year. But under the Maryland Statute the mere presence in the trust instrument of a discretion in the Trustee to determine either the amounts of tax to be distributed, or the beneficiary to whom it is to be paid, may be thought to require payment of the tax by the trustee without deduction from the taxable income of any amounts paid to beneficiaries and, possibly, without the allowance of any personal exemption.87 Here again the Comptroller will doubtless by regulation and instruction continue to lessen the differences between the State and Federal Acts in practical application. He has already done so to a certain extent by Instruction 20 on Fiduciary Income Tax Return Form 504.

86 Sec. 244 (5).
87 Secs. 244 (4), 245 (b).
The Maryland Statute states, with reference to fiduciary returns, that "fiduciaries . . . shall be subject to all the provisions of . . ." the law "which apply to other taxpayers". Whether some of these provisions in the Maryland Statute expressly relating to fiduciaries can be harmonized with similar provisions in the same Statute relating to individuals and their returns, amounts of taxes payable, and payment requirements, on the one hand, and on the other, with the Federal law relating to "accumulation" trusts and allowances of personal exemptions in certain of those cases, remains to be seen. The Maryland law is, whether by intention or inadvertence, unnecessarily harsh and ambiguous in certain respects relating to the filing of fiduciary returns, and amounts of taxes and payments of taxes by fiduciaries. Suffice it to say that the Comptroller has, in the Fiduciary Income Tax Return Form 504, effectively made an effort to clarify and ameliorate the possible effect of certain provisions relating to returns, exemptions and payments of taxes, consistent with the mandatory instruction laid upon him by section 238 of the Maryland Act which enjoins him "to apply as far as practicable the administrative and judicial interpretations of the Federal income tax law so that computations of income . . . shall be as nearly as practicable identical with the calculations required for Federal income tax purposes."

(1) What Fiduciaries Must Make Returns

The Statute provides that:

"(1) Every fiduciary shall make a return for the person or estate or trust for whom or for which he acts, as follows:

"(a) If he acts for a living person whose entire income from whatever source derived is in his charge and the net income of such individual is one thousand dollars ($1,000.) or over if single or if married and not living with husband or wife, and for every such living person having a net income of twenty-five hundred dollars ($2,500.) or over if married and living with husband or wife;"
"(b) If he acts for an estate of a deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to a legatee, heir or other beneficiary; for an estate or trust the income of which is accumulated in trust for the benefit of unborn or unascertained persons or person with contingent interest; or for an estate or trust the income of which is held for future distribution or is distributable at the discretion of the fiduciary under the terms of the will or trust;

"(c) If he acts for an estate or trust the income of which is to be distributed to the beneficiaries periodically; or as the guardian of an infant whose income is to be held or distributed as the court may direct. The return made by a fiduciary shall state specifically the items of the gross income and the deductions and exemptions allowed by this sub-title. Under such regulations as the Comptroller may prescribe, a return made by one of two or more joint fiduciaries shall be a sufficient compliance with the above requirements. The fiduciary shall make oath that he has sufficient knowledge of the affairs of the individual, estate or trust for whom or which he acts to enable him to make the return, and that the same is to the best of his knowledge and belief, true and correct.

"(2) Fiduciaries required to make returns under this sub-title shall be subject to all the provisions of this sub-title which apply to other taxpayers.

"(3) Fiduciary returns shall be filed within the time required by this sub-title for the filing of individual returns, and for failure to file returns in time, fiduciaries shall be subject to the same penalties as individuals.

"(4) The returns required by this section shall be handled in the same manner as returns are handled for individuals."

The matter is not as simple as the law appears. It is true that the definitions in the Statute state that the word "person" means, among others, a fiduciary, and the word "taxpayer" means any person required to pay a tax or file a return. Moreover, the word "individual" includes all

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89 Sec. 215 (b).
90 Sec. 215 (c).
trusts, estates and fiduciaries acting for other persons, but does not include corporations or partnerships. The word "resident" applies only to natural persons. But these definitions apply "except in cases in which the application thereof would be inconsistent with the express provisions of" the Statute or would be unreasonable. The term net income means the gross income of a "taxpayer" (which term includes a fiduciary) less the deductions allowed. It is provided that the tax imposed upon "individuals" (which term includes fiduciaries) "shall apply to estates and trusts and to every fiduciary of whatsoever character, which tax is levied annually upon and with respect to the income of estates or of any kind of property held in trust." Gains or losses from the sale or other disposition of property, real or personal, or mixed, are to be treated as all other income or losses if such property be disposed of within two years from the time acquired. Information returns may be required of every "person" subject to the jurisdiction of Maryland, "in whatever capacity acting, including ... fiduciaries", who makes payments to other persons domiciled in Maryland of "fixed or determinable gains, profits and income" of six hundred dollars or more. By regulation of the Comptroller the minimum amounts of such payments which require returns have been placed at one thousand dollars, and it is likely that no separate information returns as such will be required of fiduciaries by the Comptroller since the Fiduciary Returns themselves supply the desired information. The Comptroller may under the terms of the statute likewise require such Information Returns with respect to payments to non-residents irrespective of amounts of such payments; but here again the Comptroller has by Instruction on Fiduciary Income Tax Return Form 504 indicated that he will require no separate return by a

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91 Sec. 215 (e).
92 Sec. 215 (b).
93 Sec. 215 (k).
94 Sec. 219.
95 Sec. 244 (1).
96 Secs. 220, 216.
97 Sec. 228 (2).
98 Ibid.
99 Fiduciary Income Tax Return 504, Instruction 26. Regulation 1 (O) applies to payments, if any, other than distributions to beneficiaries.
fiduciary making payments of income as such, distributed to beneficiaries, nor will he require from fiduciaries any withholding at source, or any withholding returns as to payments to beneficiaries as such.

The law places upon the fiduciary the responsibility for making the return of income for the estate or trust for which the fiduciary acts whether such income be taxable to the estate or trust, or to the beneficiaries thereof.\textsuperscript{100}

It is provided that "the net income of an estate or trust shall be computed in the same manner and on the same basis as provided in the law for individual taxpayers," with certain express exceptions allowing greater deductions with reference to gifts for charitable and certain other similar purposes.\textsuperscript{101}

The law allows\textsuperscript{102} the usual specified personal exemptions and credits for dependents, to "individuals" (which term includes fiduciaries) but the Statute expressly disallows\textsuperscript{103} such exemptions to certain types of estates or trusts which may roughly be described as "accumulation trusts" and estates of deceased persons during the course of administration or settlement. But the effect of the disallowance of the exemption in estates of deceased persons during the course of settlement may be of little practical importance in many instances by reason of the fact that the law states that in determining the net income of such an estate there may be deducted the amount of any income properly paid or credited to any legatee, heir, or other beneficiary.\textsuperscript{104} Here again the law is ambiguous for it says in one section\textsuperscript{105} that in this latter class of cases the fiduciary shall include in his return a statement of each beneficiary's distributive share of income whether or not distributed before the close of the taxable year; and in another paragraph\textsuperscript{106} it is provided that the tax shall be imposed upon the estate with respect to the net income of the estate, and shall be paid by the fiduciary except that there "may be" (not "must be") de-

\textsuperscript{100}Sec. 244 (2).
\textsuperscript{101}Ibid. Italics added.
\textsuperscript{102}Sec. 227.
\textsuperscript{103}Sec. 244 (3).
\textsuperscript{104}Ibid.
\textsuperscript{105}Sec. 244 (2).
\textsuperscript{106}Sec. 244 (3).
ducted the amount of net income properly paid or credited to any legatee, heir or other beneficiary. In still another paragraph\textsuperscript{107} income from such an estate in course of settlement which is "permitted"\textsuperscript{108} to be deducted as paid or credited to a beneficiary, is subjected to a tax, and the tax is required\textsuperscript{109} to be paid by the beneficiary whether or not his distributive share is in fact distributed. It would seem, therefore, that while the word "may" or the words "is permitted" may make it permissive rather than mandatory on a fiduciary to take credit in the calculation of the estate's net taxable income for certain payments of income made or credited to beneficiaries of the estate of a deceased person in course of administration or settlement, there could be no possible advantage in his not doing so, because the amount of the distributive share payable to beneficiaries must be included in their respective returns, and they must pay the tax. It would seem, therefore, that if the fiduciary does not take the benefit of that credit in determining his net taxable income, a tax might erroneously be paid twice on the same income. The same thing in substance is true of that class of cases which deals with income which is to be distributed to the beneficiary of an estate or trust periodically, whether or not at regular intervals\textsuperscript{110} if there be no discretionary power in the fiduciary; and the income to be collected by a guardian of an infant to be held or distributed as the Court may direct.\textsuperscript{111}

\textit{Who Then Must File the Fiduciary Return?}

In the interest of simplifying the administration of the law, and pursuant to the powers conferred upon him by Sec. 238 of the Act, the Comptroller has adopted substantially the following instruction which will appear as Instruction 20 in form 504—Federal Income Tax Return:

"A. Every fiduciary or any one of joint fiduciaries shall make a return for the person or estate or trust for whom or for which he acts, as follows:

\textsuperscript{107} See. 244 (1) (e).
\textsuperscript{108} Sec. 244 (3).
\textsuperscript{109} Sec. 244 (4).
\textsuperscript{110} See. 244 (1) (d).
\textsuperscript{111} Ibid.
(1) If he acts for a living person whose entire income from whatever source derived is in his charge and the net income of such individual is one thousand dollars ($1,000) or over if single, or if married and not living with husband or wife, and for every such living person having a net income of twenty-five hundred dollars ($2,500) or over if married and living with husband or wife;

(2) If he acts (a) for an estate of a deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to a legatee, heir or other beneficiary; (b) for an estate or trust the income of which is accumulated in trust for the benefit of unborn or unascertained persons or person with contingent interests; or (c) for an estate or trust the income of which is held for future distribution; or (d) for an estate or trust the income of which is distributable at the discretion of the fiduciary under the terms of the will or trust, and all of which (other than net capital gains) is not in fact paid or credited to a beneficiary. No personal exemption is allowed in returns under this paragraph. The fiduciary must pay the tax. The fiduciary may take credit for amounts paid or credited to beneficiaries in the cases described in (a) of this paragraph.

(3) If he acts for an estate or trust all of the income of which (other than net capital gains) is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the net income is one thousand dollars ($1,000.) or over, or the gross income is one thousand five hundred dollars ($1,500.) or over. The amounts paid or credited to beneficiaries must be included in the beneficiaries' returns, and for these amounts distributed the fiduciary takes credit. A personal exemption of one thousand dollars ($1,000.) is allowed the fiduciary. The fiduciary pays the tax on any undistributed net capital gains in excess of the personal exemption.

In the case of an estate or trust where the income (other than net capital gains) is to be distributed in part periodically, and in part held for future distribution, the fiduciary shall make the return as provided in paragraph (2) above, but may take credit for the income so distributed or distributable, and must pay
the tax on the part so held (including net capital gains) without any personal exemption.

(4) Guardians of infants and committees of incompetents are not required to file a fiduciary return but must comply with the requirements for filing individual returns, and must pay the tax on behalf of their wards. The same personal exemptions are allowed as in the case of other individuals.

B. No return need be filed by any fiduciary (except in the cases set forth in paragraph A. (2) above) where the net income of the estate or trust is less than one thousand dollars ($1,000.) and the gross income is less than one thousand five hundred dollars ($1,500.).

C. In calculating the net taxable income in any trust, the following income is exempt:

Income from intangible personal property held by any domestic trust company or by any national bank situated in Maryland (with or without an individual trustee, resident or non-resident) in trust to pay the income for the time being to, or to accumulate or apply such income for the benefit of, any non-resident of Maryland, if (a) such beneficial owner or cestui que trust was at the time of the creation of the trust a non-resident of Maryland, and (b) the testator, settlor or grantor was also at the time of the creation of the trust a non-resident of Maryland.

If the entire net income of the trust be from sources described in the preceding paragraph no return need be filed."

(2) The Amount of the Tax Payable by Fiduciaries

The amount of the tax payable by the fiduciary who files a Fiduciary Income Tax Return, depends upon the exemptions and credits allowed and the cumulative, discretionary, or periodic payment characteristics of each particular estate or trust. These characteristics and the resultant amounts of tax payable by fiduciaries in each instance, are described herein immediately above in the discussion concerning returns.

(3) What Fiduciaries Are Required to Pay a Tax.

The subject matter to which this sub-heading relates has also been treated above in the material dealing with Re-
turns, and will not be again separately discussed. It should be noted, however, that the provision requiring the fiduciary to pay the tax on that portion of the income received by estates of deceased persons during the period of administration or settlement of an estate after the fiduciary has taken the credits allowed for amounts paid or credited to beneficiaries, results in this income being subject both to a Maryland Inheritance Tax and an income Tax. The Comptroller might find it advisable to allow a credit against the income tax for the amount of the inheritance tax paid, at least to the extent of reducing the total income tax to the amount that would have been calculated as due, had that income which is subjected to an inheritance tax not been included in net income for income tax purposes.

The fiduciary is apparently required to pay a tax, when he files a return, on all that part of the net taxable income of every estate consisting of net capital gains, unless, under the terms of the will or trust instrument those portions of principal are distributed or credited to beneficiaries. This latter class of cases, however, would be exceptional.

Conclusion

Whether an income tax is the most advisable form of tax for the needs of the State of Maryland and its people is a matter not within the scope of this article. Nor is it within the field of its discussion to consider whether a tax at a flat rate as provided in the present Act, or one at graduated rates such as is also contemplated by the proposed Constitutional Amendment upon which the people will vote in November, 1938, is the more desirable, even assuming that some form of income tax is.

The Maryland Tax Revision Commission reported on December 1, 1928, that it did not favor an income tax in this State; and that it was “opposed to any such innovation” and “radical change in our tax system”; and that it believed a State income tax in Maryland would be “wasteful,
inefficient and unwise". The preceding Commission, however, had reported in favor of an income tax.

It may be said that a well drawn income tax law with moderate, not excessive exemptions will produce taxes for the State in larger amounts and more consistently than the present intangible property tax on securities at the rate of forty-five mills per dollar; and the increasing tax burden may fall more equitably upon the great mass of taxpayers. The present tax on intangibles is the equivalent of a ten per cent. flat income tax, and its enforcement is far from perfect. The report of the State Tax Commission for the year 1936 estimated that the intangible property tax produces annually approximately two million dollars. At the time the present Maryland Income Tax Act was passed it was estimated that it would produce approximately one million five hundred thousand dollars per year. If that estimate turns out to be correct, it would appear that an income tax at a flat rate of four per cent. would produce approximately twelve million dollars annually. In the not too distant future ten or twelve million dollars may be needed from this or other sources of taxation to take the place of certain taxes which may not be continued, and revenues which may not in the future be available for the purposes for which they have been used in the past. There apparently exists a violent opposition, on the part of business and political interests, to a general sales tax, substantial revenue provider though such a tax might be.

It is with these considerations in mind that this article was written in order to aid in making clear the actual requirements of the present Maryland Income Tax Act.

118 Appointed under Acts, 1922, Ch. 487.