Denver Law Review

Volume 9 | Issue 9 Article 9

January 1932

New Provisions of the Revenue Act of 1932 Relative to Federal Income Taxes

Arthur J. Lindsay

NEW PROVISIONS OF THE REVENUE ACT OF 1932 RELATIVE TO FEDERAL INCOME TAXES*

By Arthur J. Lindsay

THE new Federal tax law, known as the Revenue Act of 1932, contains certain very important changes, as well as increased rates, which justify careful consideration.

The following is a brief summation of the more important provisions of the Federal Revenue Act of 1932 pertaining to the *income taxes* imposed upon individuals and corporations. (The various estate, gift, stamp, excise, import, and other taxes are not discussed herein.)

The tax rates under the 1932 Act are substantially higher than the rates of the 1928 Act, as shown hereinafter by the comparative tables.

The 1932 Act became a law June 6, 1932; however, the income tax provisions are generally speaking retro-active and effective as of January 1, 1932.

The Revenue Act of 1932 is in substance a complete new law.

The following tabulation presents comparisons of the tax rates for individuals and corporations for the year 1931 (governed by the amended 1928 Revenue Act) and the new rates effective January 1, 1932 provided by the 1932 Revenue Act.

TAX RATE COMPARISON TABLE

INDIVIDUALS

NORMAL INCOME TAX RATES

Personal Exemptions:	*1928 Act*	*1932 Act*
Single	$1,500	$1,000
Family head or married	3,500	2,500
Credit for each dependent	400	400
Tax Rates	*Per Cent*	*Per Cent*
First $4,000	1½%	4%
$4,000 to $8,000	3%	8%
Over $8,000	5%	8%

*Dicta is indebted to the author of this timely article dealing with the 1932 Revenue Act. The author is a Certified Public Accountant and Tax Consultant, and an authority upon tax matters.

CORPORATIONS

INCOME TAX RATES

	1928 Act	1932 Act
Tax Rate, Per Cent	12%	13¾%
Exemption	$3,000	None
Extra Tax on Consolidated Returns	NONE	¾%

Earned Income Credit for Individuals. The earned income credit provided by prior laws has been discontinued under the 1932 Act.

Exemptions. It is important to note in the foregoing table of tax rates that the personal exemptions for individuals have been reduced, while the former exemption for corporations has been eliminated altogether.

Dependents. The $400 credit for dependents is unchanged, except that the deduction is not now determined solely by status at the end of the year. The credit is prorated by months if a change in the status occurs during the year.

Dividends. Dividends are subject to surtax, but are exempt from normal tax if the corporation which paid them is not an exempt corporation. Dividends received by a corporation are not taxable if they are received from a corporation which is subject to the Federal income tax. They are to be reported as income on a corporation return, but may be entered in the same amount as a deduction.

Net Losses. Under the 1932 Act net losses from the ordinary operation of a trade or business (commonly referred to as statutory net losses) can be carried over and deducted in the one next succeeding year *only*. For example, a statutory net loss incurred in the ordinary operation of a trade or business during the year 1931 can be carried over and deducted in the year 1932 only. Furthermore, a statutory net loss for the year 1930 may *not* be carried forward beyond 1931. Under prior laws a statutory net loss had a carry-over of two successive years.

Two separate and distinct classes of profits or losses from the purchase and sale of stocks and bonds (when such transactions do not constitute the taxpayer's ordinary trade or business):

A. Profit or loss from the purchase and sale of stocks and bonds held for LESS *than two years.*

B. Profit or loss from the purchase and sale of stocks and bonds held for MORE *than two years (defined as capital gains or losses).*

Note: If securities are held for exactly two years then sold on the last day of the two year period, such transaction would come under the first class (A).

A. Profits or losses of the first class, that is arising from the purchase and sale of stocks and bonds held for less than two years:

The new law defines "stocks and bonds" as (1) shares of stock in any corporation, or (2) rights to subscribe for or to receive such shares, or (3) bonds, debentures, notes, or certificates or other evidences of indebtedness, issued by any corporation (other than a government or political subdivision thereof), with interest coupons or in registered form, or (4) certificates of profit, or of interest in property or accumulations, in any investment trust or similar organization holding or dealing in any of the instruments mentioned or described above, regardless of whether or not such investment trust or similar organization constitutes a corporation within the meaning of the Act.

The 1932 Revenue Act places a new limitation on the deductibility of stock and bond losses held less than the two years as follows:

If the stocks and bonds are not capital assets, that is, if they have been held two years or less, *losses from their sale or exchange are deductible in the return of the year in which they were sustained only to the extent that there are gains in such year from such two years' old or less sales or exchanges. The nondeductible balance can be carried forward to the following year's return and applied against gains of that year from similar transactions of sales or exchanges of stocks or bonds that are two years old or less, provided, first, that there is deducted from such excess the amount of any losses brought forward from the preceding year, and, second, that the remainder may not be carried forward in an amount exceeding the net income of the taxpayer for the current taxable year.*

Dealers in securities and incorporated banks and trust companies are not subject to these provisions. Their losses are deductible as under prior laws. Short sales are included in the limitation, also gains or losses attributable to privileges or options to sell such stocks and bonds, as well as from sales or exchanges of such privileges or options.

B. If the stocks and bonds have been held *more* than two years by a taxpayer they are capital assets and losses arising from their disposition are allowed as capital losses as under prior law, so to be compared with capital gains of the year from sales or exchanges of capital assets to determine the "capital net gain" for the year reportable at taxpayer's election at the 12½ per cent rate, or the "capital net loss" for the year, the deduction for which is necessarily limited to 12½ per cent thereof, as a credit on the amount of tax otherwise due.

Basis for Determining Gain or Loss. The provisions of the new law covering the method of determining gain or loss resulting from the sale or other disposition of securities or other property are substantially the same as under the old law. The old law is clarified by providing specifically that where the basis for determining gain or loss is continued or carried over from one person to another or from one piece of property to another, not only the basis itself, but also the adjustments pertaining thereto must be continued or carried over.

Transactions must, as under all previous laws, be actually consummated. "Paper profits or losses", that is, unrealized profits or losses, are not recognized.

Miscellaneous. Certain new provisions are included in the 1932 Act relative to the taxability of income from domestic building and loan associations; depletion; the transfer of assets to foreign corporations; the payment of tax for foreign corporations; certain new provisions relative to the income of insurance companies; installment obligations; annuities; World War compensation, etc.

The matter of computing taxes for individuals or corporations using the fiscal year basis of reporting income or losses instead of reporting on calendar year basis (a portion of such year to be taxed under the 1931 laws under the amended Revenue Act of 1928, and a portion of which is to be taxed under the 1932 Act), requires determination by the same method as prescribed heretofore by the Treasury Department.