

Establishes State Taxes (1792)

CHAPTER X.

An ACT for establishing a Permanent Revenue.

Approved by the Kentucky General Assembly on June 26, 1792

Section 1. **BE it enacted by the General Assembly,** That there shall be paid within this state the following taxes: for every hundred acres of land, and so in proportion for a greater or smaller quantity, two shillings; for every slave, except such as have been or may be exempted by the county court from the payment of taxes on account of age or infirmity, two shillings; for every horse, mare, colt or mule, eight pence, except for covering horses; and for every covering horse, the sum which such horse covers one mare the season, which rate or sum the owner shall note down when he delivers in his list of property to the commissioners; for every head of cattle three pence; also six shillings a wheel on every coach or chariot; for all other riding carriages with four wheels, except those used for the purposes of agriculture, four shillings a wheel; and for all other riding carriages with two wheels, six shillings a wheel; also ten pounds for every billiard table; also three pounds for every ordinary license; and also the sum of ten pounds for every retail store within this state; which said taxes shall be paid annually in the manner hereinafter directed.

Section 2. There shall be appointed in each county within this state proper persons to be commissioners for the purposes hereinafter mentioned, that is to say, for the county of Mason, three; for the county of Bourbon, three; for the county of Fayette, three; for the county of Woodford, three; for the county of Jefferson, two; for the county of Nelson, four; for the county of Mercer, three; for the county of Lincoln, four; for the county of Madison, three. Each commissioner so appointed shall take the following oath or affirmation before some magistrate of his county, before he begins to exercise the duties of his office: "I, A.B., do solemnly swear or affirm (as the case may be) that as commissioner for --- county, I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office according to the directions of the act entitled "An Act Establishing a Permanent Revenue", without favor, affection or partiality, and that I will do equal right and justice, according to the best of my knowledge, in every case in which I shall act as commissioner, so help me God"; a certificate of which oath shall be recorded in the court held for his county.

Section 3. The court of each county in which more than one commissioner is directed to be appointed shall lay off and ascertain the bounds of the district allotted to each commissioner—every commissioner shall perform the following duties within his district: He shall on the second day of August in the present year, and on the same in each succeeding year, begin and continue, proceeding without delay through his district, and call on every person therein subject to taxation, or having property in his or her possession or care, on which any tax is hereby imposed, for a written list thereof; which list being corrected, if necessary, and distinctly read over by the commissioner to the person delivering the same, he or she shall then make oath or affirmation, that such list contain a true and perfect account of all persons and of every species of property belonging to or in his possession or care, within that district, subject to taxation on the first day of August then next preceding, and that no contract, change or removal whatever of property, had been made or entered into, or any other method devised, practiced or used in order to evade the payment of taxes; which oath or affirmation the commissioner is hereby empowered to administer. In case any person shall be absent from his place of residence at the time the commissioner calls to receive the list, and if it shall appear to the commissioner that such absence was

not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the commissioner to require the attendance of such absent person, with his or her list, at any time and place within his district; and in case of his or her refusing or neglecting to attend at such time and place, the commissioner shall proceed in like manner as is hereinafter directed, in case of refusal to give in lists; and the court shall determine on the circumstances of the case whether the party so neglecting or refusing to attend, shall be subject to the fine hereby imposed on those refusing to give in their lists, and shall give judgment accordingly. Each commissioner shall make a return on oath to another commissioner of the same county, of all his taxable property, and shall then enter the same in the lists hereinafter directed to be made out by him of the taxable property within his district.

Section 4. That each of the said commissioners shall, after collecting the lists of property within his district in manner before directed, make four alphabetical general lists therefrom, shewing in columns according to the form hereto also annexed, the date when each list was received, the person chargeable with the tax or taxes, and the number or quantity of every species of property, inserting particularly the number of all free males above the age of twenty-one, and distinguishing those also subject to county levies; which lists shall be kept and delivered in the following manner: Each commissioner shall retain one of them in his own possession so long as he continues in office, and afterwards deliver it to his successor; another of the lists, together with the original lists taken from the individuals in his district, shall be returned to the clerk of his county, to be kept by him; who having examined the said lists and corrected any errors which may appear therein, shall certify that they are true copies: one other of the said lists, after being certified by the clerk, shall be delivered by the commissioner to the high sheriff of the county, as his guide to collect the taxes; and the remaining fourth list shall be transmitted by the commissioner to the auditor, to be kept by him and to be produced and admitted as evidence by any court on any suit or motion against the sheriff for the amount of taxes charged against him: all which lists is hereby declared to be the duty of the several commissioners to have delivered to the persons above named on or before the last day of October annually. The list in the clerk's office shall serve for laying the county levy and fixing the poor rates; and it may be examined, or copies had therefrom, at the charge of any person or persons desiring the same.

Section 5. The clerk of each county shall annually, at the time of examining the said lists, compare the same with the deeds that have been recorded in the office for lands within the district of such commissioner, or which shall be certified to have been recorded in any other court, and shall add the same to the said list.

Section 6. That the commissioners shall hold their offices for two years; and in case any commissioner shall refuse to serve, not having a reasonable excuse in the opinion of the court of the county, he shall for such refusal forfeit and pay the sum of thirty pounds; but any commissioner, after having served one year, may resign his office, **provided** he has completed the list of taxable property, as above directed, and given notice to the governor of such resignation, previous to the month of February, to enable him to appoint a successor. Every new commissioner shall call on his predecessor, or his legal representative, for all public papers in his or their hands, who, on refusal or neglect in delivering them, shall forfeit and pay the sum of fifty pounds.

Section 7. The court of each county shall make such allowances to the clerk for his services under this act as they shall think reasonable, to be included in the county levy; and shall allow to each of the commissioners for their services the sum of six shillings for every day they shall severally make satisfactory proof to the court to have been actually engaged in the execution of this act, and they shall be exempted from militia duty during their continuance in office; and the sheriff of each county is

hereby directed and empowered to pay to the commissioners respectively the amount of their several allowances on receiving the clerk's certificate therefor; and the amount of such certificates, with the party's receipt, shall be credited the sheriff by the auditor in the settlement of his account of taxes.

Section 8. If any person shall give or deliver to a commissioner a false or fraudulent list of persons or property subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the commissioners, the person or person or persons so refusing or giving a false or fraudulent list shall be liable to a fine of five pounds; and the commissioner shall proceed to list such person's property agreeable to the best information he can procure; and all such property so ascertained shall be moreover subject to a treble tax, to be collected and distrained for by the sheriff as in other cases; which fines and treble tax, shall be recovered in the county court, by the following mode of proceeding, and shall be applied as hereafter directed.

Section 9. The commissioner shall give information thereof personally, or if unable to attend, in writing, to the next court held for his county; which court shall forthwith direct the clerk to issue a summons, requiring the party to appear at the next court to be held for the county, to show cause, if any he can, why he should not be fined and treble taxed for refusing to deliver in his list, or for giving in an imperfect or fraudulent list of taxables: and the person or persons upon being served therewith by the sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a jury, or the court, at the defendant's option; or the person failing to appear on being summoned, the court shall proceed to give judgment and award execution of such fine and treble tax, unless for good cause to them shewn the court shall continue the same to the next court; and the court shall certify the amount of such tax and fine to the sheriff and auditor, that the same may be collected and accounted for. The amount of the fine, after deducting thereof as much as may be necessary to pay the clerk's and sheriff's fees, and such allowance as the court may think reasonable to make to the commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the county levy; and the treble tax shall be charged to the sheriff, and accounted for in like manner as other taxes.

Section 10. For preventing frauds or impositions on the commissioners, any person having knowledge of any false or fraudulent list being given to the commissioners, shall give information thereof either to the commissioner of the county court, in like manner as the commissioner is directed, and thereupon the same mode of proceeding shall be had as if the commissioner gave the information, and the person informing shall be entitled to and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half, after paying costs, to be applied towards lessening the county levy. The clerk or commissioners failing to perform any one of the duties imposed on them respectively by this act, shall be subject to a fine of fifty pounds, to be recovered on the motion of the auditor, in any court of record, notice of such motion having been previously given in the same manner as to delinquent sheriffs. **Provided**, That no tax shall be paid for any lot in a town established by law.

Section 11. A list of all the insolvents, and of the land on which no property can be found, being returned by the sheriff on oath to the court, shall be transmitted by the clerk to the commissioners of the tax, to be entered on their books of taxes for that year; and no sheriff shall have credit for such insolvents, in his account with the public, unless certified by the said commissioners to have been allowed by the court, and unless it also be accompanied by an account sworn to by the sheriff before the court, of all sums received by him for taxes from persons who have failed to give in their lists, or who have concealed and not given in any part of their property in such lists as they have given in, stating in the said account, the names of the persons from whom he received such sums, and the property on account of which the sums were paid; and the said commissioners shall moreover transmit with the said

lists of insolvents, an account of the tax of any person who may have removed out of the county, together with the name of the county to which they have removed; which account the auditor is hereby directed to transmit to the commissioners of the tax of the county to which they have removed, to be charged on their books and collected by the sheriff; an account of all fines and additional taxes imposed by virtue of this act, shall be by the said commissioners transmitted to the auditor before the last day of November annually; and the said commissioners shall state in their books of taxes a general account with the sheriff of all taxes, fines and additional taxes in their county, crediting him for all insolvents, and for the allowance made to the commissioners for their salaries; which allowances to the commissioners the sheriff shall have credit for in his account with the public, and also for all payments made by the said sheriff to the public; receipts for which shall be by the said sheriff transmitted to the commissioners within twenty days after obtaining the same; a copy of which account shall be by the said commissioners transmitted to the auditor before the first day of August annually.

Section 12. The sheriff of each county shall from and after the first day of December annually, collect and receive from all and every person and persons charged therewith, the taxes imposed by this act in his said county, and in case payment be not made or received on or before the 1st of April annually, the said sheriff shall have power to distraint the slaves, goods, or chattels which shall be found on the lands or in the possession of the person so indebted or failing; notwithstanding such slaves, goods, or chattels shall be comprised in any deed or mortgage; and if the owner thereof shall not pay the taxes due within five days after such distress, such sheriff shall and may lawfully sell the same, or so much thereof, as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money: **Provided always:** That when unreasonable seizures or distress shall be made, the party grieved shall have an action against the sheriff, and shall recover full costs where any damages shall begin. The sheriff shall duly account for and pay into the treasury of the commonwealth, on or before the first day of August annually, the full amount of all taxes imposed in his said county, deducting therefrom such allowances as this act directs to be made, and six per centum for his commissioners thereon; and in case the said sheriff shall fail to account for and pay into the treasury as aforesaid, the amount of taxes to be collected by him under this act, every such delinquent sheriff shall be liable to a judgment against him on motion to be made by the auditor, in any court of record within this state (provided he has ten days notice of the day on which the motion is to be made) for the amount of the taxes due, and fifteen per centum damages, together with an interest at five per centum on the whole amount until paid, and the costs of the motion including any expences that may have been incurred in giving the said notice, for the use of the commonwealth, and thereupon execution shall issue accordingly. The said taxes shall be paid in Spanish milled dollars, at the rate of six shillings each, or in other current silver or gold coin at a proportionate value.

Section 13. The sheriff of each county shall, before he receives the lists above directed from the commissioners or makes any collection under this act, enter into bond with at least two sufficient securities in the penalty of ten thousand pounds, payable to the governor for the time being, conditioned for the due and faithful paying and accounting for all the taxes imposed by this act, which ought to be collected and accounted for by him during his continuing to act as sheriff; which bond shall be recorded in the court of the county. If upon any execution being issued against any sheriff in the manner above directed, it shall be returned that there were no effects or not a sufficiency thereof to levy the whole of the said execution, the securities shall be liable to a judgment against them, on motion to be made by the auditor in any court of record within the state, for the sum which shall appear to remain due on the said execution, together with the costs of the motion as directed in case of judgments against the sheriff, provided that ten days previous notice of the day on which such motion is to be made, be given to said securities; and the said bond shall not be void on the first recovery, but

may be moved on from time to time until the whole sum of the penalty of such bond shall be recovered thereon; and on any motion to be made on such bond, an attested copy thereof shall be admitted in evidence. And if the sheriff of any county shall neglect or refuse to give such bond, a collector of the taxes shall be appointed for that county, who shall continue to act as such during the term that the sheriff so neglecting or refusing to give bond, had to serve as sheriff; and the said collector shall give such bond, perform such duties, be entitled to such emoluments, subject to such penalties and be liable to have such proceedings carried on against him and his securities, as is above directed in case of sheriffs.

Section 14. It shall be the duty of all owners and proprietors of land with this state, whether they claim the same by patent or by entry only, to give in to the commissioners of the district in which such land is situate, and account of the quantity of land which he holds in such district, and the commissioner shall enter the same in his list as before directed; and all lands of which a list shall not be given in by the owner or proprietor to a commissioner on or before the fourth day of February which shall be in the year of our Lord, one thousand seven hundred and ninety-five, and on which the taxes that may become due with interest thereon, shall not be paid by such owner or proprietor on or before the said fourth day of February, shall be considered as, and actually be forfeited to the state, and shall be disposed of in such manner as shall be directed by law. But when the owner or proprietor of any such land shall be infant, feme covert, or non compos mentis, on the said fourth day of February, he or she shall have the further time of two years after such disability shall be removed, to enter such list with the commissioners and to pay the tax due thereon in the manner above directed.

Section 15. No distress shall be made for the land tax prior to the said fourth day of February, except on the slaves, goods or chattels which may be found on the land for which such tax is due, in the possession of the owner or proprietor thereof, or of some person claiming under him. But the whole amount of the tax which may become due on any tract of land, whether the same be held by patent or by entry only, prior to an actual and bona fine sale of the said land, may be levied by distress on the slaves, goods and chattels which may be found on any part of the said land in the possession of the owner or proprietor thereof, or of any person claiming under him. **Provided nevertheless**, That no purchaser shall be subject to the payment of any taxes that may be due, except for that part which he may have purchased: and the state shall have a perpetual lien on every tract of land within this state and every part thereof for all taxes which may be due thereon as aforesaid, prior to an actual transfer of the said land. And all tenants who shall be obliged under this act to pay the taxes due on any land leased by them prior to their interest in the same, or who shall be obliged to pay taxes on a greater part of such land than they hold under such lease, shall have a right to demand and receive the amount of such taxes so paid by them from the original owner and proprietor of such land, and shall have a lien on the land for which the taxes were so paid, until they be repaid the amount thereof. **Provided**, That nothing herein contained shall effect any special contract entered into between such original owner and proprietor or tenant concerning the payment of the taxes which shall be due on such land. Every person who shall pay the taxes due on any land, and who shall afterwards be evicted from the same, shall have a lien on the land for the taxes so paid by him and interest thereon, and shall have a right to retain possession of the said land until the person recovering it from him shall pay or tender him the amount thereof, unless the person so recovering the land, shall also have paid the taxes due thereon, in which case, the person so evicted and having paid the taxes, shall receive the amount thereof with interest thereon from the public treasury. And in all cases where it shall appear that two or more person have paid the taxes due on the same tract of land, the taxes so paid together with the interest thereon, shall be refunded to all such persons except him in whom the legal title shall be established.

Section 16. There shall also be paid the following taxes, to wit: on each original writ or subpoena issued from the court of appeals, the sum of six shillings; on each original writ or subpoena in chancery, issued from any other court, three shillings; on each appeal to the court of appeals, twelve shillings; on each writ of error, supersedeas and certiorari issued from the court of appeals, six shillings; on each final judgment or decree in the court of appeals concerning lands or slaves, six shillings; on every other final judgment or decree in the court of appeals, six shillings; on each final judgment or decree in any other court concerning lands or slaves, three shillings; on every other final judgment or decree in any other court, three shillings; on each deed recorded concerning any improved lot or lots in any town, for each lot three shillings; for each deed recorded concerning any unimproved lot or lots in any town, three shillings; on each deed recorded concerning other lands, three shillings; on the seal of any court, three shillings; on the seal of the commonwealth, six shillings; which several sums shall be paid to the clerk of the respective courts from whence such process shall issue, or judgments or decree shall be entered, or where such deeds shall be recorded or other proceedings had; and the said clerks shall be allowed for collecting, accounting for the paying the said taxes imposed by this act into the treasury of the commonwealth, the sum of five per centum on the money so collected by them, or any of them; and they are hereby required to account for and pay into the treasury aforesaid, every half year, to wit: on the tenth day of June and the tenth day of December in every year, or within ten days afterwards, all the money received by them respectively on public account pursuant to this act; and that the amount of the said taxes may be justly ascertained, the said clerks shall make out a fair account half yearly, prior to the said tenth day of June and tenth day of December, of all sums received by them in pursuance to this act, which account the clerk shall deliver into one of the commissioners for his county on oath, and the commissioner having compared the said account with the proper books in the clerk's office, shall certify the same to the auditor, who shall thereupon settle with such clerk agreeably to such account. Every clerk failing to render such account, or failing to pay into the treasury the sum which he shall thereby appear to be indebted to the state by such account, shall for every such offence forfeit and pay the sum of one hundred pounds, to be recovered by motion of the auditor in the same manner there is hereby directed to be used against delinquent sheriffs.

Section 17. **And be it further enacted,** That the treasurer is hereby authorised and required as soon as may be to borrow any sum of money not exceeding two thousand pounds at five per centum per annum; which shall be applied to paying the wages of the members and clerk of the late convention, and of the legislature, chaplain, clerks, sergeants-at-arms, door-keepers, and other contingent expenses that may be incurred previous to the collection of the taxes.

Section 18. The civil list warrants or certificates from the auditor shall be receivable in payment of all public taxes.

Section 19. Form of the return of taxable property to be made by the commissioners.

List of taxable property with the district of A. B. commissioner in the county of C for the year 1792.

Date of Receiving Lists		Persons Names Chargeable with the Taxes	Number of white males above 21	Number of white males above 16 and under 21	Total Blacks	Blacks under 16	Horses, Mares, Colts & Mules	Cattle	Coach & Chariot Wheels	Other Carriages with 4 wheels	Carriages with two wheels	Ordinary Licenses	Billiard Tables	Retail Stores	Acres of land	Stud horses	Rate of Covering per Season
1792		AC	1	2	3	4	6										8
July	10	AD	2	1	2	1	8	9	4	12	6	18	1	1	100	1	2
			4	10	15	9		10	4	8	8	3	2	1	200	1	3
			3	5	10	10							3	1	300	1	4
					1	2							4		400	1	5
Total Amount			10	28	31	26	14	19	8	20	14	21	10	3	1000	4	14

Section 20. So much of every act of assembly as directs any tax to be collected within this state in the year 1792, and so much of all and every other act or acts as comes within the purview of this act shall be and the same is hereby repealed.

Section 21. This act shall commence and be in force on the first day of July in the present year. (Note: This section is identified, in error, as Section 18 in the published text.)

REF: "The Statute Law of Kentucky", Vol. I, 1809, by William Littell, pages 69-75.