The American Revenuer

IN THIS ISSUE:

A little-known provision of New York's Investments tax allowed proportional payment on bonds of interstate railroads, set by the relative value of that portion of the line lying outside the state. For the Lake Shore and Michigan Southern Railway, this was determined to be 90% of the usual tax, resulting in unexpected usages of the Investments $8, $3 and 60¢ stamps. More inside, page 42.

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Illustrated below is the first page of the FIP (Fédération Internationale de Philatélie) Revenue Commission Newsletter #3, 19 pages full of news and information on developments in the field of revenue collecting, with scarcely a mention of the U.S, an eye-opening document for us "provincials." The full newsletter is online at:

http://www.fip-revenue.org/FIP_RevenueCommissionNewsletter-3.pdf

FIP REVENUE COMMISSION
Newsletter #3

A P R I L 2 0 1 3

FIP REVENUE COMMISSION SEMINAR IN MELBOURNE

All revenue collectors and exhibitors are invited to attend the FIP Revenue Commission Seminar to be held at AUSTRALIA 2013, 10.15 to 12.00 pm Tuesday 14 May 2013 in Meeting Room 2 of the Royal Exhibition Building, Melbourne, Australia

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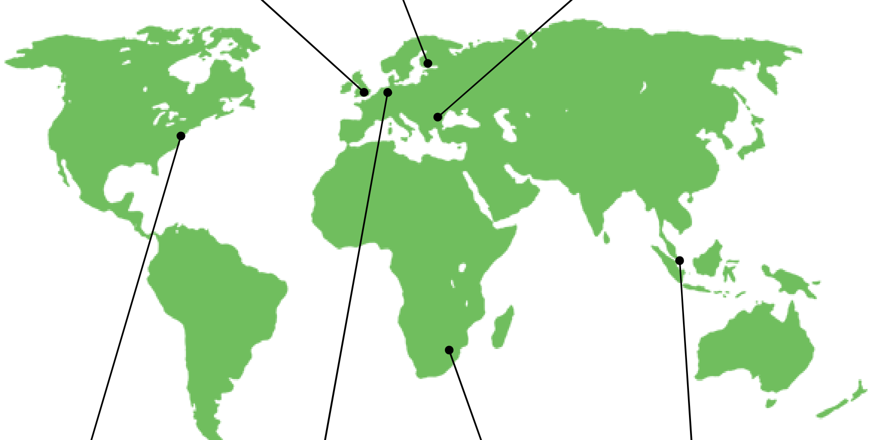

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In this issue:

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R154 First Day Cancel Blocks

by Len McMaster, ARA

After "daydreaming" about locating a one cent "I.R." overprint (R154) used on July 1, 1898 (the first day these overprinted stamps were made available[1] and the first day the Tax Act of 1898 went into effect[2]), Robert Markovits reported finding a block of four so cancelled in the July-August 1967 issue of *First Days*.[3] Thirty-plus years later when I purchased such a block of four with the same first day cancel by Lewis and Holman **(Figure 1),** I assumed that I had rediscovered the block reported by Markovits.

Figure 1. *Lewis & Holman first day of use cancel on R154 blocks of four.*

Last summer (2012) when I was offered a similar block of four with the same first day cancel, I wondered if my earlier assumption had been correct, and even a cursory comparison of the block offered with the block illustrated in Markovits' article and my block indicated they were all different—instead of one, there were suddenly three! (The blocks are easily distinguishable by the location of the cancels on the stamps.)

Figure 2. *Left, McMaster block; middle, Matthew Bennett block (APEX cert 140131); right, eBay block (PF cert 300896).*

Having been awakened, it didn't take me long to locate two additional blocks of four with the Lewis & Holman first day of use cancel, so now there were at least five blocks of four. Pictured in **Figure 2** are my block and the two found: one from the 2007 Matthew Bennett Sale no. 325[4]; the other from eBay with a Philatelic Foundation (PF) Certificate.[5] The Bennett block, described in the catalog as "Lewis & Holman, Peoria (sic), Jul. 1, 1896" came with a 2002 APEX certificate, which only confirmed it was a first day of use cancel. In addition to these five blocks of four with the first day of use cancel, I have a left margin plate number block of six with the same cancel, shown in **Figure 3.**

While preparing this article, I ran across four more blocks with the same Lewis & Holman first day cancel offered on eBay in early March—three blocks of four[6,7,8] and a top left margin block of six.[9] Four more blocks of four of R154 were identified by Frank Cunliffe from his personal collection, one being the block originally shown in the Markovits article; and another offered for sale in Eric Jackson's online auction.[10, 11] Frank Cunliffe also reported a plate number strip of three of the 2¢ "I.R." overprint (R155; **Figure 4).**

Thus there are at least eleven blocks of four and two blocks of six of R154 cancelled on the first day of use, plus one plate number strip of three of R155. None are known on document to the best of our knowledge, but it would be nice if someone out there has one—or any use by Lewis & Holman on document—and would share it with us.

I was unable to find much information about Lewis & Holman other than that it was a brokerage firm mentioned in the Pittsburgh city directories from 1896–8. The owners, David W. Lewis and Charles J. Holman, were listed as brokers in oil and stocks and bonds, and their offices were located at 309 Fourth Avenue in downtown Pittsburgh.[12] While there is no information about the documents these blocks were used on, as stock brokers they would have been expected, for example, to deal in the sale and transfer of stocks, and the Tax Act of 1898 provided that "on all sales, or agreements to

Figure 3 Plate no. 544 block of six with first day of use cancel (1966 PF cert 22465).

sell, ... or transfers of shares or certificates of stock ... [the tax] on each hundred dollars of face value or fraction thereof, [was] two cents. ..."[13] Thus we can assume that if used alone, they were on documents associated with the transfer of stock valued between $100 and $200 (or in the case of the block of six and 2¢ block of three, valued between $200 and $300).

It is natural to wonder if either of these individuals were stamp collectors. While the negative is difficult to prove, a check of the APS membership records did not show any evidence of their having been members.[14]

Added note: At least some of these items were found by Robert Markovits in 1965 in a stock book of back-of-the-book material. "I enjoyed finding this group and the plate block shown; the lot was purchased after returning from my honeymoon when we were held over after a massive snow storm landed us in Philadelphia at 2AM; it was acquired at a pit stop in New Jersey the same day."[15]

***Figure 4.** Plate number strip of three with first day of use cancel, from Cunliffe collection.*

Endnotes

1. While July 1st was their first day of use, the stamps must have been available to tax collectors for distribution prior to that date, because I have a pair on cover used to pay the first class letter rate postmarked Milwaukee, Wis., June 30, 1898.

2. Sec. 6. "That on and after the first day of July, eighteen hundred and ninety-eight, there shall be levied, collected, and paid, for ... [the tax on] documents, instruments, matters, and things mentioned and described in Schedule A of this Act ... Chapter 448, United States Statutes at Large, Vol. 30 (1897-1899), June 13, 1898, p. 451.

3. Robert Markovits, "War Revenue R154," *First Days*, Vol. 12, No. 6 (July-August, 1967), pp. 29–30.

4. Matthew Bennett International Sale 325 (Harbour Auction), December 16–19, 2007, lot no. 2624, accessed November 4, 2012 from http://goo.gl/4unTQ.

5. eBay item "R154 First Day Cancel Block 4...," accessed November 4, 2012, from http://goo.gl/qLR0B; Philatelic Foundation's Certificate Archive, "Block of Four, July 1, 1898 Cancellation (First Day of Usage) and we are of the opinion that It Is Genuine ..." accessed May 7, 2013, from http://goo.gl/AkvKJ.

6. eBay item "Used, BLK/4, ... with First Day cancels ... (ID # 62964)" accessed March 10, 2013, from http://goo.gl/e5cS1.

7. eBay item "Used, BLK/4, ... with First Day cancels ... (ID # 62965)" accessed March 10, 2013, from http://goo.gl/Dl2As.

8. eBay item "R154 1st Day of Use July 1 1898 ... - B238" accessed March 10, 2013, from http://goo.gl/Wu22b.

9. eBay item "Used, BLK/6, ... with First Day cancels" accessed March 10, 2013, from http://goo.gl/QtS7w.

10. Frank Cunliffe, private communication, April 3 and May 7, 2013.

11. Eric Jackson Online Auction, "R154 block of four, July 1, 1898 violet cds, First Day of Use cancel" accessed May 19, 2013, from http://goo.gl/C8EeW.

12. Watson & Co.'s Classified Business Directory, 1898, page 14–15, accessed January 7, 2013 from http://goo.gl/EHMkt (page 14), http://goo.gl/0yWRF (page 15).

13. Schedule A, Chapter 448, United States Statutes at Large, Vol. 30 (1897-1899), June 13, 1898, pp. 458.

14. Connie Swartz (APS Member Records), private communication, January 8, 2013.

15. Robert Markovits, private communication, December 24 and 29, 2012, January 3, 2013.

China “Sheep Prodigy”/”Chinese Unicorn”/”Holy Goat” Procedural Stamps

By Joe Ross, ARA

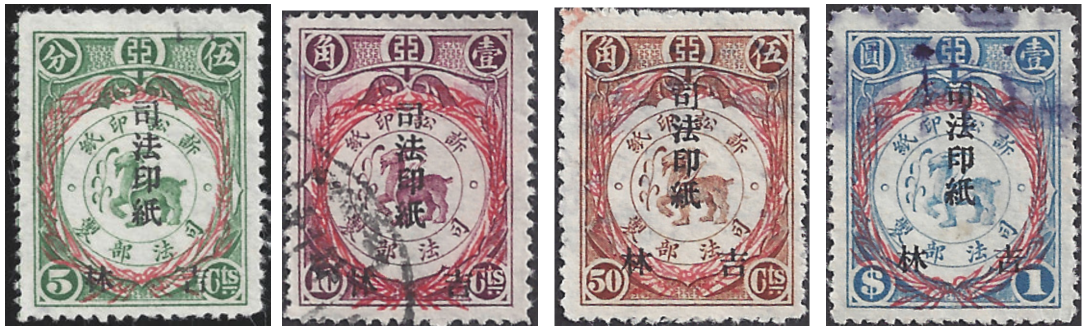
Many years ago these judicial stamps were known as the “Holy Goat” revenue stamps, then came the Revolution and they were renamed “Prodigy Sheep” stamps. *The Judicial Stamp Catalog* (Central Archives of the People’s Republic of China, 2001, p.3) explains:

> Sheep Prodigy usually called sheep prodigy with one horn. It eats nothing but dew in the morning. It is a magical animal that can distinguish the truth from the false and settle doubtful lawsuits. The hat of the judge in the ancient [times] looked like the head of the sheep prodigy that symbolized the honesty of the judicature [and] was the design of the first procedural stamps of the Republic of China.

Eight values were printed in 1912 by the Beijing Ministry of Finance Printing Office. The stamps were engraved, perforated 14.

In 1915 the stamps were overprinted with a red wreath.

An additional overprint of four vertical characters was added, reading "Department of Law Stamps." A local overprint of two characters at the bottom of the stamp was for usage in Kirin Province.



1928 modified design, engraved at Bureau of Printing, Peking (Beijing).

A lithographed set of the same design was printed in 1946 for use in the Kiangsi and North Eastern Provinces. Many different local overprints exist.

New York Mortgage Endorsement, Secured Debts and Investments Stamp Taxes, 1911–20

4. Interstate Railroad Bonds

by Michael Mahler, ARA

Summary of Part 4

Bonds secured by mortgage of property lying partly within and partly without the state of New York—typically those of interstate railroads—were subject to two of that state's stamp taxes: the Mortgage tax, by virtue of the portion of the property within the state, but only in proportion to its value relative to that of the entire property; and the Secured Debts and Investments taxes of 1915–20, by virtue of the portion of the property outside the state, again only in proportion to the relative value of that portion.

Paying both proportional taxes would have imposed an unreasonable burden on bondholders, and processing them would have been similarly inconvenient and costly for the state. The Mortgage tax was collected by the County Clerks and paid over to their County Treasurers, who in turn delivered half the proceeds to the State Treasurer. The Secured Debts and Investments taxes were paid to the Controller at Albany, his deputy in New York, or a traveling agent, and transmitted by them to the State Treasurer. There was no coordination between the two collecting agencies. Accordingly policies were adopted allowing bondholders to pay the full amount of either one tax or the other and receive the associated full benefits. Before 1916 this was not sanctioned by the statutes, in fact in October 1915 it was expressly forbidden by an Opinion of the Attorney General insisting on strict interpretation of the law. This brought matters to a head, and by April 1916 the statutes had been amended to allow full payment of the Mortgage tax on interstate mortgage bonds. When the Investments tax was enacted in 1917 a similar provision allowed full payment of that tax on such bonds. This paper details the development of these various policies, both extralegal and legal, dealing with the stamping of interstate mortgage bonds, illustrated by examples of bonds stamped accordingly.

In a few cases bondholders elected only proportional payment of the Investments tax; so far this has been recorded only on bonds of the Lake Shore and Michigan Southern Railway, and its eventual parent company, the New York Central and Hudson River Railroad Co. This paper describes all such usages, including new finds of $1000, $5,000 and $10,000 bonds on which the appropriate 90% proportional payment was paid with Secured Debt stamps in 1917, then the full payment with Investments stamps in 1918; $20,000 bonds bearing a spectacular combination of both Mortgage Endorsement and Secured Debt stamps; and the discovery copy of the Investments $3.

1917 Tax on Investments

In its last incarnation, effective April 21, 1916, through December 31, 1916, New York's Secured Debts tax of 75¢ per $100 had provided exemption from the state's personal property taxes for five years for a wide class of bonds. The Investments tax, enacted June 1, 1917, and effective immediately, was essentially a renewal of the Secured Debts tax with a different name and increased rate, now 20¢ per $100 per year, for up to five years at the bondholder's discretion.

The same Act of June 1, 1917, directed the Comptroller to effect production of stamps in appropriate denominations and quantities. This resulted in Tax on Investments stamps in 16 denominations from 20¢ to $100 (SRS INV1–16). As the aforementioned Act took effect immediately upon passage, this guaranteed that the stamps it mandated would not be available for the first weeks or months of the tax. In fact the earliest recorded usage of Investments stamps is January 15, 1918. Until the new stamps became available, the Investments tax was paid with the old Secured Debt stamps. Since the stamps were affixed, not by the bondholders, but by agents of the Comptroller, stocks of the Secured Debt stamps were readily available.

The Act of June 1, 1917, also included a novel incentive to payment of the Investments tax, modifying the state's long-standing inheritance tax. It provided that upon transfer of any investment held in an estate, on which neither the stamp tax nor the personal property tax had been paid during the year of the decedent's death, an additional transfer tax of 5% would be collected.

The Curious Case of the Lake Shore & Michigan Southern

Figure 95 shows a 1903 $1,000 coupon bond of the Lake Shore and Michigan Southern Railway Co. with Secured Debt $1, 75¢ and 5¢ affixed September 29, 1917, paying the Investments tax for one year; each stamp is tied by the requisite "PAID" embossed seal, and there are no stamps missing. The tax was ostensibly $2. Figure 95 also shows a similar bond with $1.80 tax paid, this time with Investments $1 and 80¢ affixed September 27, 1918, one of six such usages recorded, coincidentally the only recorded usages of the Investments 80¢.

Figure 95. ***Left,*** *Lake Shore & Michigan Southern 1903 bond with Investments tax paid for one year by Secured Debt $1, 75¢ & 5¢ affixed September 1917; the tax on a $1,000 bond was normally $2.* ***Right,*** *similar bond with Investments $1 and 80¢ affixed September 1918.*

Figure 96 shows another with Secured Debt $7.50, $1 and 25¢ pair affixed July 18, 1917, paying the Investments tax for five years, a payment of $9 rather than the expected $10; five more consecutively numbered essentially identical bonds surfaced along with this one. Figure 96 also shows yet another Lake Shore bond with $9 paid for a five year exemption, this time by Investments $8 and $1 affixed November 20, 1918, the only recorded usage of the Investments $8.

Figure 96. Left, *Lake Shore & Michigan Southern 1903 $1,000 bond with Investments tax paid for five years by Secured Debt $7.50, $1 & 25¢ (x2) affixed July 1917; the tax was normally $10.* ***Right,*** *similar bond with Investments $8 and $1 affixed November 1918, the only recorded bond bearing the Investments $8.*

Figure 97. Close view of stamps on the bonds shown in Figures 95 and 96. There is no evidence of missing stamps. Only seven examples of the Secured Debt 75¢ and seven of the Investments 80¢ have been recorded on bonds.

Split Taxes on Interstate Mortgage Bonds

Since the stamps were affixed by agents of the Comptroller, the conclusion is inescapable that the tax on these bonds was officially construed to be 90% of the normal levy, and a review of the Investments statutes furnishes a satisfying explanation. If a bond was secured by mortgage of property situated partly within and partly without the state of New York, only a portion of the bond was subject to the Investments tax, based on the value of the property outside the state relative the value of the entire property. On application by the bondholder to the Comptroller, the determination of these values was to be made by the State Tax Commission.[1] The Lake Shore and Michigan Southern ran from its eastern terminus at Buffalo, along Lake Erie (the "Lake Shore" in the company name), then all the way to Chicago, with numerous branch lines in several states. A map of its holdings in 1914 **(Figure 98)** is perfectly consistent with an assessment that 10% of their value lay within New York, and that the applicable Investments tax was thus only 90% of the full amount.

Why is Proportional Payment So Scarce?

Recognizing the validity of proportional payment of the Investments tax on interstate mortgage bonds raises more questions than it answers. Similar provisions were included in the Mortgage tax law from its inception,[2] and in the Secured Debts statutes after May 1, 1915,[3] yet until recently the 14 Lake Shore bonds already described were the only recorded examples of proportional payment. While subsequent finds described below have swelled this total to 45 (Table XI), even so these comprise only about 5% of the recorded stamped bonds of the interstate roads. **Figure 99** shows another example of the same Lake Shore and Michigan Southern 1903 coupon bond, this time with the full $2 Investments tax paid in both 1917 and 1918, and this is just the tip of the proverbial iceberg. Tables II–VII of the preceding articles in this series (Mahler 2010a, 2011, 2012a, b, c), together with data from more recent finds, include 21 different bonds of four interstate

1. Chapter 700 (June 1, 1917), Article 15, Sec. 340.

2. Consolidated Laws of 1909, Article 11, Sec. 260 (previously 1907, Ch. 340, Sec. 297; 1906, Ch. 532, Sec. 297; and 1905, Chap. 729, Sec. 305.

3. Ch. 465, Sec. 339 (Mahler 2012a).

Figure 98. Map of Lake Shore & Michigan Southern Railway lines in 1914 ***(red),*** *at the time it became part of the New York Central Railroad. Additional NYC lines shown in* ***orange.***

lines, comprising 675 individual bonds, showing either full payment of the Investments tax (x103); full payment of the Secured Debts tax (x81); or apparently full payment of the Mortgage tax (x491). These are summarized in Table XII, and Figures 99–102, 104 show selected examples. The caveat is necessary in the case of the Mortgage tax as the stamps indicate only "TAX PAID," so it cannot be ascertained that full payment was made; more will be said of this below. In any case the question stands: why is proportional payment so rare?

The Problem Restated

These Lake Shore bonds showing proportional payment, while correctly taxed at the Investments rate, nevertheless illustrate a problem common to bonds secured by mortgage of property straddling the state line. The Investments tax applied only to that 90% of each bond representing the portion of the road outside New York, but paying it exempted only that 90% from property tax. To secure full exemption, payment of the Mortgage tax on the remaining 10% was required. Bonds showing proportional payment of *both* taxes, with both Mortgage Endorsement and Secured Debts or Investments stamps affixed, are the figurative Holy Grail of present-day collectors. Alas, such usages are likely to remain elusive. Paying both taxes would have imposed an unreasonable burden on the bondholder, not so much financially as in the time and effort required, and processing partial payments would have been similarly inconvenient and costly for the state. The Secured Debts and Investments taxes were paid to the Controller at Albany, his deputy in New York, or a traveling agent, and transmitted by them to the State Treasurer. The Mortgage tax was collected by the County Clerks and paid over to their County Treasurers, who in turn delivered half the proceeds to the State Treasurer. There was no coordination between the two collecting agencies. Bondholders were presumably not particularly concerned with the fine points of the tax code, but wanted and expected a simple method of making their bonds fully exempt, and it was in the state's interest to accommodate them.

Waiving the Determination

The Act of June 1, 1917, which established the Investments tax, accordingly gave bondholders another option in such cases, to "waive such determination and pay the tax upon the full amount of such investment, and thereafter the whole amount of investment shall be exempt from taxation… ." This presumably explains why so many Lake Shore and Michigan Southern bonds are known with the Investments tax paid in full.

Two other bonds of interstate railroads are known on which the full Investments tax was paid, thereby securing full exemption. **Figure 100** shows an 1892 $1,000 bond of the New Jersey and New York Railroad Co. stamped with Investments

Figure 99. Lake Shore & Michigan Southern 1903 $1,000 bond with full $2 Investments tax paid for one year by Secured Debt $1 (x2) in 1917, then by Investments $2 in 1918.

$2 on September 18, 1918. This road was part of the Erie Railroad system, running from Haverstraw, Rockland County, New York, south into Bergen County, New Jersey, through Jersey City, and finally to New York City, a distance of just over 38 miles; some 65% of its track was in New Jersey. A stamp tax of about $1.30—subject to refinement by the State Tax Commission—would thus have paid the Investments tax *per se,* but left some 35% of the bond subject to property tax. The $2 payment secured full exemption.

Figure 101 shows an 1885 bond of the West Shore Railroad Co. stamped with Secured Debt $5 and $1 on August 30, 1917, paying the Investments tax for three years, with distinctive keystone-shaped cancels. This and one similar usage are the only recorded three-year payments of the Investments tax. The West Shore ran from Weehawken, New Jersey, across the Hudson River from New York City, crossing into New York via the Weehawken Tunnel under the New Jersey Palisades, north along the west shore of the Hudson River to Albany, then west to Buffalo.[4] Only a tiny fraction of its track lay outside the New York, and West Shore bonds, when stamped, typically bear Mortgage Endorsement stamps [Figure 9 (Mahler, 2010a); Table XII]. The $6 payment here is puzzling. By paying the $5 Mortgage tax, permanent exemption from property tax would have been obtained; as it was, only a three year exemption was secured. A plausible explanation is that payment of the Investments tax also secured exemption from the state's 5% inheritance tax, while payment of the Mortgage tax did not.

4. In an earlier incarnation it had been the New York, West Shore and Buffalo Railway, merged in 1881 with the North River Railroad, forming one company in charge of the whole route from New Jersey to Buffalo. The New York Central bought the New York, West Shore and Buffalo on November 24, 1885 and reorganized their new acquisition as the West Shore Railroad on December 5, immediately leasing it for 475 years from January 1, 1886. This explains the statement on this and later West Shore bonds, "Principal due January 1, A.D. 2361" that has astounded scripophilists.

Figure 100. New Jersey and New York Railroad Co. 1892 $1,000 bond with full Investments tax paid for one year in 1918 by Investments $2. As 65% of the line was in New Jersey, the Investments tax per se was approximately $1.30 and the Mortgage tax about $0.70, but bondholders were given the option of paying the full Investments tax and securing full exemption.

Proportional and Full Payments in Successive Years; the "Chamberlain Find"

One previously reported Lake Shore and Michigan Southern 1903 $1,000 coupon bond shows proportional and full payment of the Investments tax in different years: bond #M1790 has $1.80 tax paid April 30, 1918, then $2 on January 30, 1920. A new find included three more such usages on the corresponding Lake Shore 1903 registered bonds, all bearing spectacular combinations of stamps **(Figures 102, 103).** Two $1,000 bonds had one year's proportional tax of $1.80 paid by Secured Debt $1, 75¢ and 5¢ on September 18, 1917, then the full tax by Investments $2 on October 11, 1918, the $2 stamps the scarce perf 11. On the same dates a $5,000 bond had one year's proportional and full taxes of $9 and $10 paid by Secured Debt $7.50, $1 and 25¢ (x2), then Investments $10. And again on the same dates, five $10,000 bonds had one year's proportional and full taxes of $18 and $20 paid by Secured Debt $10, $7.50 and 25¢ (x2), then Investments $20. All these bonds were held by one Joseph P. Chamberlain and had been issued July 9, 1909. They reinforce the conclusion that proportional payment was not the typical choice of bondholders; even here, after it was initially chosen it was abandoned in favor of full payment the following year.

The "Chamberlain Find" also included six 1904 series registered debentures of the New York Central and Hudson River Railroad Co., three for $1,000 and three for $10,000, stamped exactly as the $1,000 and $10,000 Lake Shore bonds **(Figure 104).** At first glance this is puzzling, as this road lay entirely within New York; however in 1914 it had been merged with the Lake Shore to form a new New York Central Railroad Co., which now extended beyond the state's boundaries. Whether the portion outside the state constituted 90% of the line's value seems questionable (Figure 98), but was evidently accepted as a matter of convenience.

Proportional Payment in Successive Years: Discovery Copy of Investments $3

On the Chamberlain bonds proportional payment, once tried, was abandoned the following year. This is consistent with the observation that on the very large majority of interstate bonds, it was never chosen at all. The bond shown in **Figure 105,** which surfaced recently in an online auction, breaks this mold in exciting fashion.

__Figure 101.__ West Shore Railroad Co. 1885 $1,000 bond with full Investments tax paid for three years in 1917 by Secured Debt $5 and $1. The only recorded bond with three-year payment.

Payment of the $5 Mortgage tax would have provided exemption from property tax not just for three years, but permanently; presumably the $6 Investment tax was chosen because it also secured exemption from the state inheritance tax.

Figure 102. *Lake Shore 1903 series $1,000, $5,000 and $10,000 bonds of Joseph Chamberlain, with 90% proportional payment of Investments tax for one year in September1917 by Secured Debt stamps, then full payment in October 1918 with Investments stamp. Right, $18, then $20, paid on $10,000 bond.*

$9, then $10, paid on $5,000 bond.

$1.80, then $2, paid on $1,000 bond; the Secured Debt 75¢ has been recorded on only seven bonds.

Figure 103. Close view of stamps shown in Figure 102.

$3 and 60¢. This usage is extraordinary on multiple levels, most significantly that it is the discovery copy of the Investments $3! This stamp was first listed by Kenyon (1920), evidently on the basis of information furnished by the Controller's office in Albany while the Investments stamps were still in use, rather than via direct observation (Mahler, 2012c). A search of leading collections, dealers' stocks and auction catalogs failed to turn up an example, and a published appeal was similarly unsuccessful (Mahler, 2010b).

The Investments 60¢ is only a little less rare than the $3: this is the first recorded example on a bond, and the aforementioned ongoing survey accounted for just four off-document copies. The Secured Debt 75¢, almost unnoticed here, has been recorded on just seven bonds.

Two-year payments of the Investments tax have been recorded on just ten examples of eight bonds; this is the only one showing proportional payment, and one of just five with payment by Investments stamps.

Finally, this is the sole recorded combination of one and two year payments, and the sole recorded example of two proportional payments. I count eight minor to major superlatives!

It is another of the Lake Shore 1903 $1,000 coupon bonds, with one year's $1.80 90% proportional payment of the Investments tax by Secured Debt $1, 75¢ and 5¢ on December 12, 1917, as seen previously (Figures 95, 97, 102–4). This time though, a second proportional payment was made nearly a year later, on December 9, 1918, and for not one year but two, the $3.60 tax paid by Investments

The proportional payments surveyed here turn topsy-turvy previous notions as to expected usages of the Investments stamps. As shown in Table VIII (reproduced here from Mahler, 2012b), for full payment the only expected $3 tax was a three year payment on a $500 bond. This was a priori unlikely. $500 bonds are scarce in their own right, accounting

Figure 104. *New York Central & Hudson River Railroad Co. 1904 series $1,000 and $10,000 debentures of Joseph Chamberlain, with 90% payment of Investments tax for one year in September1917 by Secured Debt stamps, then full payment in October 1918 with Investments stamp.*

for only about 2% of stamped bonds,[5] and three year payments are ultrarare,with just two examples recorded. The possibility of a three year payment on a $500 bond is practically infinitesimal, and even then would be more likely to have been made with Secured Debt stamps in 1917 than with the Investments $3 in 1918–20.

Similarly, for full payment the anticipated usages of the Investments 60¢ and 80¢ were for three and four year payments on a $100 bond, both extraordinarily unlikely a priori, even more so than a three year payment on a $500 bond.

Table VIII. Investments Tax on Bonds of Typical Denominations

	Exemption (Years)				
Denomination	**One**	**Two**	**Three**	**Four**	**Five**
$100	20¢	40¢	60¢	80¢	$1
$500	$1	$2	$3	$4	$5
$1,000	$2	$4	$6	$8	$10
$5,000	$10	$20	$30	$40	$50
$10,000	$20	$40	$60	$80	$100
$50,000	$100	$200	$300	$400	$500
$100,000	$200	$400	$600	$800	$1000

5. In a 2010 survey, the 82 different recorded bonds taxed at the Secured Debt 0.5% rate of 1911–15 had denominations $500 (x3, or 3.7%), $1,000 (x48), $5,000 (x12), $10,000 (x10), $20,000 (x1), $50,000 (x3) and $100,000 (x5) (Mahler, 2011). When the numbers of examples are tallied, the fraction accounted for by $500 bonds drops to roughly 1%.

Figure 105. *Lake Shore 1903 $1,000 bond with Investments 90% proportional tax paid for one year by Secured Debt $1, 75¢ & 5¢ affixed December 1917, then for two more years by Investments $3 and 60¢ affixed December 1918, the only recorded bond bearing the Investments 60¢ and the only recorded example of the Investments $3.* ***Inset,*** *close view of the stamps.*

The 90% proportional payments on Lake Shore bonds thus open up previously unseen possibilities. Indeed once the first one year $1.80 payments on $1,000 bonds surfaced, the possibility of two and three year $3.60 and $5.40 payments was noted (Mahler, 2010b). Now that the first of these has materialized, what will be next? No examples of the Investments $40 have been recorded, but a five year 90% payment on a Lake Shore $5,000 bond made in 1918 or later would require $45 tax, presumably paid by Investments $40 and $5. One can dream!

Massaging the Law: the "Permissive Period" of Mortgage Endorsement on Interstate Bonds, 1911-15

The waiver in the Investments Tax Act described above—allowing holders of bonds secured by mortgage of property straddling the state line to pay the Investments tax on the full amount of their bonds, thereby gaining full exemption from other taxation—was a late development designed to alleviate problems encountered earlier. Prior to 1916, no simple method of securing full exemption had been enacted.

Since its passage in 1905 the Mortgage tax had applied to such bonds, the tax to be based on the relative value of that portion of the property within the state. However the Secured Debts tax as originally enacted in 1911 did not specifically apply to this class of bonds; this was due to a legislative oversight not remedied until May 1, 1915.[6] Until that date, by the letter of the law such bonds could be exempted from property tax only by payment of the Mortgage tax, and then only to the extent that it applied, that is, to the proportion of the property lying within the state.

This situation worked against the interests of both the state, which could tax only a portion of the bonds, and the bondholders, who could obtain only partial exemption from property tax. Here was a law figuratively begging to be broken, or at least bent, to the benefit of both parties. Accordingly, in practice bondholders were allowed to pay the Mortgage tax on the full amount of their bonds, and were granted full exemption from property tax. Attorney General Merton Lewis, looking backward in an Opinion dated October 19, 1918, summarized the situation:

> [In 1909] the Tax Commission was urging the owners of [bonds secured by] mortgages covering property both within and without the State to pay recording taxes, not only upon the proportion of the debt represented by the security within the State but also upon the proportion of the debt represented by the security without the State, upon the theory that such payment would render the bonds entirely free from State and local taxation, except the bank, franchise and inheritance taxes.

Attorney General Edward O'Malley, in an Opinion addressed to the Tax Commissioners dated December 27, 1910, had concluded that full payment of the Mortgage tax was in fact obligatory for such bonds:

> 4. In case of bonds secured by corporate trust mortgages brought in for taxation and endorsement under section 264, where the mortgage tax security consists of real property situated partly within and partly without the State, ... there is no provision in the statute for apportioning the amount of taxes to be paid on single bonds presented under section 264.... In such case the tax would have to be paid on the full amount of the bond....

This practice of allowing full payment in exchange for full exemption on bonds of interstate roads may be considered to define a "Permissive Period" of mortgage endorsement on such bonds. During this period ten different bonds of the Lake Shore, New Jersey and New York, and West Shore interstate roads have been recorded with Mortgage Endorsement stamps, presumably signifying payment of the full tax **(Figures 106, 107)**. In the case of the New Jersey and New York bonds shown in **Figure 106**, no presumption is necessary. Each bears a Mortgage Endorsement green imperforate affixed August 15, 1913, in Rockland County, with manuscript notation "I Cyrus M. Crum Clerk of said County hereby certify that I have received the sum of [$5.00 and $2.50, respectively] as tax on the within Bond." This was the full 0.5% Mortgage tax. As only about 35% of the line lay within New York, by the strictest interpretation of the law only about 35% of the full amount was due.

6. It applied to "Any bond, note or debt secured by mortgage of real property recorded in any state or country other than New York and not recorded in the state of New York." In 1915 this would be specifically extended to include "Such proportion of a bond, note or debt ... secured by mortgage or deed of trust recorded in the state of New York of property or properties situated partly within and partly without the state of New York as the value of that part of the mortgaged property or properties situated without the state of New York shall bear to the value of the entire mortgaged property or properties."

Figure 106. New Jersey & New York Railroad Co. $500 and $1,000 bonds with Mortgage Endorsement stamps affixed in 1913.

Below, close view of stamps showing full Mortgage taxes of $2.50 and $5.00 were paid, under the Tax Commission's permissive policy of 1911–15, providing full exemption from property tax.

Permissive Payment of Secured Debts Tax on Interstate Bonds, 1911–15

In defense of this permissive policy, once the Secured Debts tax was enacted in 1911, until 1915 the Mortgage and Secured Debts taxes were assessed at the same rate, 0.5%, and provided the same benefit, permanent exemption from all other taxes. This prompts an interesting hypothetical. Had the Secured Debts tax applied to interstate bonds in 1911 as it eventually did in 1915—and one might say, *should* have applied from the outset had the legislature been paying sufficient attention—full payment of either the Mortgage or Secured Debt taxes would have brought essentially the same amounts to the state's coffers as proportional payment of both taxes, and would have simplified matters immensely. For individual bonds apportionment of the tax between the county and state treasurers would have been incorrect, but in the aggregate these errors would have been smoothed out.

Figure 107. *Lake Shore 1897 series coupon and registered bonds bearing Mortgage Endorsement stamps affixed in Erie County in 1911, presumably paying the full tax and providing full exemption.*

This eminently sensible reasoning provides some justification for the officially condoned practice of allowing full payment of the Mortgage tax on bonds of interstate roads in exchange for full exemption. It likewise justifies allowing, as an alternative, full payment of the Secured Debts tax. I am aware of no official endorsement of the latter policy, which would seem to have violated the letter of the law. Nevertheless Secured Debt stamps affixed before May 1, 1915, have been recorded on eight different 1897, 1903 or 1906 Lake Shore bonds **(Figures 108, 109)**; a beautiful 1887 mortgage bond of the New York, Susquehanna and Western Railroad Co., which ran through New Jersey, New York, and Pennsylvania;[7] and two examples of the West Shore $1,000 registered bond **(Figure 110)**.

Most of these usages are from September 1911, the first month of

Figure 108. *Lake Shore 1897 series coupon and registered bonds bearing Secured Debt stamps paying the full 0.5% tax in September 1911. By the letter of the law, the Secured Debts tax did not apply to bonds secured by mortgage of property crossing the state line until 1915, and even then only to that portion corresponding to the property outside the state, yet these and similar bonds show that full payment was at least occasionally accepted from the outset, presumably at the bondholder's request.*

the Secured Debts tax, and might be attributed to initial unfamiliarity with the new tax or uncertainty as to its application in such cases. It applied to "Any bond, note or debt secured by mortgage of real property recorded in any state or country other than New York and not recorded in the state of New York." Bonds of the interstate roads met the first of these criteria, but not the second, as their underlying mortgages were recorded outside New York, but also within it. The New York, Susquehanna and Western bond, though, was stamped nearly a year later, in August 1912, and Lake Shore usages have been seen as late as January 1914

Figure 109. By the letter of the law, the Secured Debts tax did not apply to bonds secured by mortgage of property crossing the state line until 1915, and even then only to that portion corresponding to the property outside the state. Here are more Lake Shore bonds—1903 series coupon and registered and 1906 registered—bearing Secured Debt stamps paying 0.5% tax in 1911–1914, showing that full payment was at least occasionally accepted from the outset.

(Figure 110), by which time the official policy toward such bonds should presumably have been considered and established. Were these payments accepted in ignorance of the nature of the bonds and the letter of the law, or knowledgably permitted? It is worth noting that Lake Shore bonds from this period are only about a third as likely to be found with Secured Debt as with Mortgage stamps (49 recorded examples versus some 125).

Egburt Woodbury Lays Down the Law

The lay of this land would change in 1915. First the Secured Debts law was amended effective May 1, 1915, to apply to bonds secured by mortgage of property straddling the state line, with tax based on the relative value of the mortgaged property lying outside the state. Then in an Opinion dated October 13,

__Figure 110.__ By the letter of the law, the Secured Debts tax did not apply to bonds secured by mortgage of property crossing the state line until 1915. These $1,000 bonds of the New York, Susquehanna & Western[7] and West Shore Railroads with Secured Debt $5 affixed in 1911–2, provide additional evidence that full payment of the 0.5% tax was accepted from the outset.

1915, Attorney General Egburt Woodbury would insist on a strict interpretation of the Mortgage Tax law with respect to such bonds, specifically repudiating the Opinion of his predecessor Edward O'Malley. The essential portions of his reasoning are given in Appendix 4, and his conclusion follows:

> This brings us to a consideration of the particular inquiries presented by State Tax Commission, as to whether or not the owner of a bond issued prior to July 1, 1906, secured by a mortgage which covers real property situated partly within and partly without the State, which is brought in for taxation pursuant to section 264, is required to pay the tax upon the full amount thereof, or if not, whether he may waive the right of apportionment, pay the tax upon the full amount of the bond, and thereby secure the benefit of exemption from local taxation conferred by section 251 of the Mortgage Tax Law.
>
> It seems quite clear that the only tax imposed by this act in such case is upon that portion of the bond represented by the mortgage security in this State, apportioned as prescribed by section 260, or, stated in another form, this is the only part of the bond "taxed by this article." The owner of the bond is not given the optional right to pay the tax upon that portion thereof on which the law does *not impose* the tax, and thereby secure an

7. The NYS&W (or "Susie Q") ran from North Bergen, New Jersey, north into New York, following the Delaware River along its entire course forming the New York-Pennsylvania border, with two border crossings. Past Deposit, New York, its right of way followed the Susquehanna River south into Susquehanna County, Pennsylvania for 15 miles, crossing the historic Starrucca Viaduct before swinging northward to Binghamton, New York, then branching at Chenango Forks into two lines terminating at Syracuse and Utica. Roughly 75% lay within New York.

> exemption of such portion from other forms of taxation. In the absence of the tax being *imposed* or the *optional right clearly given* to pay on that portion represented by the mortgage security without the State, the right cannot be said to exist. In other words, the privilege of exemption cannot be extended by implication.
>
> ...
>
> An opinion was rendered to your Department on December 27, 1910, by one of my predecessors, in connection with five other questions then under consideration, which seems to be to the effect that there is no provision in the statute for apportioning the amount of taxes to be paid on single bonds, representing prior advances, presented under section 264, and therefore in case such bond should be presented for taxation it would be required to pay the tax upon the full amount thereof.
>
> I am clearly of the opinion, as already stated, that the power and duty of apportionment exists with the Commission in all cases where an apportionment is required, to give effect to the provisions of the Mortgage Tax Article, and hence am unable to follow the opinion of my predecessor to the contrary.

According to Woodbury's ruling, to obtain full exemption for bonds secured by mortgage of property crossing the state line, the appropriate portions of both the Mortgage Endorsement and Secured Debt taxes would now have to be paid. Such usages would have been philatelically spectacular, but none have been recorded.

1916: The Legislature Weighs In

A complication not mentioned by Woodbury is that effective May 1, 1915, the Secured Debts tax had been increased to 0.75% and provided only five years exemption from all other taxes, while the Mortgage tax remained at 0.5% and provided permanent exemption. Allowing payment of the Mortgage tax in lieu of the Secured Debts tax now not only contravened the letter of both laws, it was financially disadvantageous for the state. To make matters worse, bonds for which the appropriate portions of both taxes were paid would now have a portion permanently exempt from other taxes, and the remaining portion only temporarily exempt! The legislature evidently found this intolerable. In two Acts passed April 27, 1916, effective immediately, it restored to both companies and individual bondholders the options taken away by Woodbury's Opinion.

The provision in the Mortgage Tax statutes allowing individuals to pay the tax on their bonds had been an amendment made in 1910 to Section 264. Chapter 337 of April 27, 1916, now further amended Section 264 by adding the final clause in the following sentence (bolding mine):

> Sec. 264. **Tax on prior advance mortgages.** ... any mortgagor or mortgagee under a corporate trust mortgage given to secure a series of bonds or the owner of any such bond or bonds secured thereby may file in the office of the recording officer where such mortgage is first recorded a statement in form and substance as required by section two hundred and fifty-four of this article [254. Optional tax on prior mortgages], except that it shall specify the serial number, the date and amount of each bond and otherwise sufficiently describe the same to identify it as being secured by such mortgage, and thereby elect that such bond or bonds be taxed under this article, **and such bond or bonds shall be taxed upon the whole amount thereof notwithstanding the provisions of section two hundred and sixty of this article.**

Section 260, headed "Determination and apportionment by the state tax commissioners," dealt with properties covered by more than one tax district, including those partly within and partly without the state, and specified the procedure for determining the portion of such mortgages liable to the Mortgage tax. To reiterate, after April 27, 1916, the law specifically allowed the owner of a bond secured by mortgage of property straddling the state line to make it fully exempt from all other taxes simply by paying the Mortgage tax on the full amount of the bond. Partial payment, as had been required by Attorney General Woodbury, was no longer even an option.

Chapter 335, also enacted April 27, 1916, likewise allowed companies or their trustees to secure full exemption on a mortgage of property crossing the state line or an entire issue of bonds secured by such a mortgage, simply by paying the Mortgage tax on the full amount of the mortgage or bonds. Specifically, it amended Section 260 of the Mortgage Tax statutes by adding the paragraph (bolding mine):

> Sec. 260. **Determination and apportionment by the state tax commissioners.** ... The mortgagor or mortgagee of any mortgage which covers **property within and without the state** may **waive the determination** provided for in this section and **pay the tax upon the full amount** of such mortgage or

Figure 111. Lake Shore $10,000 registered bond of 1897 with Mortgage Endorsement stamp affixed in Erie County November 20, 1915, within the six month window during which the Attorney General had ruled that only proportional payment of the Mortgage tax was legally permissible, but with no indication that this was done here. A $5,000 bond held by the same trust and stamped the same day has also survived.

of any advancement thereon, and thereafter the **whole amount of such mortgage or advancement shall be exempt from taxation** under the provisions of section two hundred and fifty-one of this article.

It even went so far as to provide the same option in cases where a determination had already been made of the portion of the mortgage or bonds strictly liable to the Mortgage tax, and the tax on that portion had already been paid. A second paragraph was added:

In any case **where a determination has been made** pursuant to this section in respect to a mortgage or advancements upon a mortgage covering **property within and without the state** and **the tax has been paid upon a portion** of the indebtedness secured by such mortgage pursuant to such determination, the mortgagor or mortgagee or the owner of any bonds secured by such mortgage may file with the recording officer where such mortgage is first recorded a verified statement in form and substance as provided for in section two hundred and sixty-four of this article, which statement shall also specify the portion of the indebtedness secured by such mortgage or bonds upon which the tax has been paid, and thereupon the recording officer shall **collect the tax upon the remaining portion** of such mortgage or bonds, and all of the provisions of said section two hundred and sixty-four in respect to the indorsement of the payment of the tax and notation on the margin of the record of the mortgage shall be applicable to taxes paid upon such remaining portion, and thereafter **the whole amount of such mortgage, advancement or bonds shall be exempt from taxation** under the provisions of section two hundred and fifty-one of this article.

These two paragraphs newly added to Chapter 335 would be eliminated March 20, 1917, as a condition to passage of the Investments Tax.

The strict interpretation of the Mortgage law expressed in Attorney General Woodbury's Opinion of October 13, 1915, thus had a legal life of only about six months, until Section 337 was enacted on April 27, 1916. It may in fact never have been implemented at all. Four Lake Shore bonds from this six month window bearing Mortgage Endorsement stamps are known, dated between November 20, 1915, and February 9, 1916 (Part 1, Table I; **Figure 111).** As discussed above, the insistence on separate partial payments and partial exemptions greatly complicated matters for both bondholders and the state. Certainly Woodbury's Opinion must have served as a wakeup call to the Tax Commissioners. They must have realized very quickly that legislative action was necessary to resimplify the situation, and presumably received assurances that it would be forthcoming. Acceptance of full payment of the tax by County Clerks may have continued apace during the six month window, in anticipation of the changes to the statutes.

Permissive Payment of Secured Debts Tax on Interstate Bonds, 1915–6

For bonds secured by mortgage of property crossing the state line, there was never a provision allowing full exemption from other taxes upon full payment of the Secured Debts tax. Nevertheless, as noted above and listed in Table XII, Secured Debt stamps paying the full 0.5% rate of 1911–15 have been seen on mortgage bonds of the Lake Shore, the New York, Susquehanna and Western, and the West Shore interstate roads (Figures 107–9). It is impossible to know whether those payments were accepted in ignorance or knowledgably permitted. They did bring the state essentially the same revenue as full payment of the Mortgage tax, which was permitted in practice if not by statute.

Effective May 1, 1915, proportional payment of the Secured Debts tax on interstate bonds, in proportion to that part of the property outside the state, became legally permissible. Full exemption from other taxes upon full payment of the Secured Debts tax was never enabled by the statutes. At the same time the Secured Debts rate was increased to 0.75% and now provided only five years' exemption; previously it had been 0.5% and conferred permanent exemption, the same as the Mortgage tax. Given the option, no one would now pay the Secured Debts tax rather than the Mortgage tax, never mind that strictly speaking the option should not have been available. Nevertheless, as shown in **Figure 112** (see also Part 2, Figure 54) and Table XII, a handful of Lake Shore $1,000, $5,000 and $10,000 bonds are known with full Secured Debts taxes of $7.50, $37.50 and $75 paid during 1915, and three examples have been recorded of the 1897 series $1,000 with Secured Debt $7.50 paying the 1916 rate of 75¢ per $100 **(Figure 113).**

1917: A Quick Reversal of Direction

A final twist to this convoluted tale occurred in 1917. The last version of the Secured Debts tax had expired at the end of December 1916, pending passage of the Investments Tax bill, which was being shepherded through the legislature by Senator Ogden Mills and would become law June 1, 1917. In the interim the following notice appeared in the *New York Times* of March 21, 1917:

> SIGNS MILLS TAX BILL
>
> Whitman Approves a Measure Affecting Secured Debts.
>
> ALBANY, March 20.—Under an emergency message from Governor Whitman, the Legislature today passed a bill introduced by Senator Ogden L. Mills, preventing owners of secured debts on property within and without the State from paying a small registration fee under the mortgage tax law, thereby becoming exempt from any additional taxation.
>
> The bill was passed to correct an omission in the present laws governing taxation of secured debts. The bill was signed by Governor Whitman tonight.

The pending Investments tax was to be 0.2% per year, while the "small" Mortgage tax was a one-time payment of 0.5% that guaranteed permanent exemption. The intent of the bill was to prevent payment of the Mortgage tax in lieu of the Investments tax, which would be potentially more profitable to the state.

Its application, however, was misstated by the *Times*. It applied, not to individual bondholders, but to entire mortgages or bond issues. The corresponding Act, Chapter 72 of the 1917 legislative session, consisted exclusively of an amendment to Section 260 of the Mortgage Tax law which eliminated the same two paragraphs that had just been added April 27, 1916, by Chapter 335 of the 1916 session, quoted above. This had the effect of denying "the mortgagor or mortgagee" of any mortgage covering property within and without the state the right to pay the Mortgage tax on the full amount of the mortgage and receive

__Figure 112.__ After May 1, 1915, the Secured Debts tax applied to bonds secured by mortgage of property crossing the state line, but only to that portion corresponding to the property outside the state. Nevertheless these Lake Shore bonds—series 1897, 1903 and 1906—bearing Secured Debt stamps paying the full 1915 0.75% tax show that full payment was permitted. Such choices are puzzling: payment of the Secured Debt tax provided five years exemption from property tax; the Mortgage tax was cheaper (0.5%) and afforded permanent exemption!

exemption from taxation on "the whole amount of such mortgage." This language applies not to individual bondholders, but to companies ("mortgagors") or their trustees ("mortgagees") and to payment and exemption on an entire mortgage or bond issue. There is no reference here to "bonds" or to "the owner of any such bond or bonds," as in Section 264. That section

Amount $1,000, tax $7.50.

Amount $10,000, tax $75.

Amount $5,000, tax $37.50.

Figure 113. *As in 1915, the 1916 Secured Debts tax applied to bonds secured by mortgage of property crossing the state line, but only to that portion corresponding to the property outside the state. Nevertheless this Lake Shore series 1897 $1,000 bond bearing Secured Debt $7.50 paying 75¢ per $100 in November 1916 shows that full payment was permitted; moreover, it was affixed at the Controller's office in Albany, as evidenced by the cancel with initials "WBL" not underlined. Again, the Mortgage tax would seem to have been a wiser choice.*

remained unchanged, and left unchanged the right of individuals to pay the Mortgage tax on the full amount of their bonds and receive full exemption. This was affirmed in an Opinion of September 5, 1917, by Attorney General Merton Lewis, which stated that individuals holding interstate mortgage bonds could choose to pay the full amount of *either* the Mortgage or Investments taxes and receive the attendant benefits: for the Investments tax of 0.2% per year, an exemption from all other taxes for the number of years paid, and from the new 5% estate tax provided the Investments tax was paid up to the time of the decedent's death; and for the Mortgage tax of 0.5%, permanent exemption from all other taxes except the estate tax. Each choice had its advantages and disadvantages.

> There is nothing necessarily inconsistent in the two provisions. Under each of them the tax is purely optional with the taxpayer. He is at liberty to pay it if he desires by that means to render the security exempt from further taxation. The different methods result in a somewhat different exemption.... Under section 264 the [Mortgage] tax of fifty cents per hundred dollars is payable once for all, but on the death of the owner the security is subject to an additional 5 per cent transfer tax (unless local taxes have been paid upon it, or the owner held it merely in the course of trade in his business as a dealer). On the other hand the investment tax under section 331 will cost the taxpayer twenty cents per hundred dollars for every year it is to be effective, but will exempt him from the extra 5 per cent transfer tax to which the security would be subject were the tax paid under section 264.
>
> It is perfectly possible to reconcile the two sections and there is no basis for assuming that the Legislature, in passing chapter 700 of the Laws of 1917 [establishing the Investments tax], meant to repeal section 264 of the Tax Law... And it is, therefore, my opinion that both section 264 and section 331 are in full effect and may apply to the same investment, the difference being that if the owner shall desire to exempt his securities from the 5 per cent transfer tax under, section 221-b, he must pay the higher tax under section 331.

Lewis's analysis provides a plausible explanation for the otherwise puzzling payment of the full Investments tax of $6 for three years on West Shore Railroad bonds (Figure 101). The West Shore ran from Weehawken, New Jersey, into New York City, along the west shore of the Hudson River to Albany, then to Buffalo. Some 99% of its track lay within New York, and West Shore bonds, when stamped, typically bear Mortgage Endorsement stamps. The fact that a portion of the road, however small, lay outside New York did make its bonds eligible for

Figure 114. *Lake Shore 1906 series $10,000 bond with Mortgage Endorsement orange stamp affixed May 3, 1917, then marked "Cancelled June 20/17," and Investments 90% proportional tax of $90 paid for five years by Secured Debt $50, $25, $10 & $5 on July 2, 1917.*

the Investments tax as well. Paying the $5 Mortgage tax would have secured permanent exemption from property tax; the $6 Investments tax provided only three years' exemption, and on this basis it is difficult to imagine why it was chosen. However it also provided exemption from the new estate tax of 5%, or $50 on a $1,000 bond, which the Mortgage tax did not. If the bondholder was elderly and a transfer predictable in the near future, the Investments tax would have been the obvious choice.

It is worth pointing out that the Investments tax and the new 5% estate tax went hand in glove: the latter was enacted precisely to encourage payment of the former. Both were established by the same Act of June 1, 1917. The estate tax applied only to "investments ... taxable under this article" on which the Investments tax had not been paid.

The Grail, Approximately

Lewis's analysis likewise sheds light on another sensational recent find, again of Lake Shore and Michigan Southern registered bonds, showing the long-sought payment of both Mortgage Endorsement and Investments taxes.

Six $10,000 bonds of 1906 each bear a Mortgage Endorsement orange, plus Secured Debt $50, $25, $10 and $5 paying the now-familiar 90% of the full $100 Investments tax for five years **(Figure 114).** These were the first bonds issued in this series, serial numbers #1–5 and #10, all to the Atlantic Mutual Insurance Co. of New York City, issued September 13, 1906.

Ten $20,000 bonds of 1904 each bear a Mortgage Endorsement orange plus Secured Debt $100, $50, $25 and $5 paying 90% of the full $200 Investments tax for five years **(Figure 115).** These were again the first bonds issued in this series, numbers #XXM1–10, again to the Atlantic Mutual Insurance Co. of New York City, issued April 18, 1904.

In both cases, at first glance the two payments appear to be complementary as expected, with the Mortgage stamp indicating payment proportional to the 10% of the bonds represented by the portion of the road within New York. A closer look reveals otherwise. The Mortgage Endorsement stamps were affixed May 3, 1917, in Erie County, with manuscript notation "Cancelled June 20/17" alongside in red, with the same agent's

Figure 115. Lake Shore 1903 series $20,000 bond with Mortgage Endorsement orange stamp affixed May 3, 1917, then marked "Cancelled" (inset) and Investments 90% proportional tax of $180 paid for five years by Secured Debt $100, $50, $25 & $5 on July 2, 1917.

signature and deputy's initials that accompanied the May 3 datestamp; that original signature has also been crossed out. The Secured Debt stamps were affixed July 2, 1917, at the Deputy Controller's New York City office. The full Mortgage taxes on $10,000 and $20,000 bonds were $50 and $100; why pay instead $90 and $180 in Investments tax? Again, a plausible explanation is that this provided exemption from the new 5% estate tax, which amounted to $500 and $1,000, respectively, but paying the Mortgage tax did not.

A fine point from the statutes is involved here. The Act of June 1, 1917, which established both the Investments tax and the new estate tax intended to encourage its payment, did not apply to bonds on which the Secured Debt or Mortgage taxes had already been paid, with two exceptions. Those on which the Secured Debt tax had been paid between May 1, 1915, and December 31, 1916, and were thereby exempt from local taxation for five years, were likewise exempt from the Investments tax only for that five year period from the date of payment. And bonds on which the Mortgage tax had been paid were exempt from the Investments tax only if the Mortgage tax had been paid before April 1, 1917. Those stamped between April 1 and May 31, 1917, were in a never-never land, retroactively declared taxable as investments even though that tax would not be enacted or effective until June 1!

The bonds at hand fell into that neverland. The Mortgage tax on them had been paid May 3, 1917, before the Investments tax or the accompanying 5% estate tax existed. Yet on June 1 they would be declared subject to those taxes, thereby liable to the estate tax unless the Investments tax was paid. Evidently an appeal was made, and granted, whereby the Mortgage tax payment could be canceled, on June 20, 1917, and the Investments tax paid instead, on July 2.

Questions remain. The posited explanation for paying $90 and $180 in Investments tax rather than $50 and $100 in Mortgage tax is that it provided exemption from the 5% estate tax. But what were the chances that bonds held by the Atlantic Mutual Insurance Co. would become part of an estate? Notations on the reverse of the bonds in fact show that they remained in the company's hands at least until 1928. Why was only 90% of the full Investments tax paid? This was allowable but not optimal; the 10% of the bonds on which the tax was not paid would still have been liable to the estate tax, in this case $50 or $100 per bond, and to the property tax. In this case, though, nitpicking the rationale underlying these spectacular combinations of stamps, even if strictly justified, seems a bit unseemly; a more fitting posture is one of simple gratitude that they exist.

Table XI. Recorded Bonds of Interstate Railroads with Proportional Payment of Investments Tax

Railroad/Bond	Cox #	Amount	Bond Date	Stamp(s)	Stamp(s) Date	Comments	Number
Lake Shore & Mich. Southern Rwy. Co. 25 Year 4% Gold Bond	LAK-627-B-40	$1,000	11/18/1903	S.D. $1, 75¢, 5¢	9/29/1917	#M4190	1
				S.D. $1, 75¢, 5¢ Inv. $3, 60¢	12/12/1917 12/9/1918	M719; $1.80 tax paid for one year, then $3.60 for two	1
				Inv. $1, 80¢ Inv. $2	4/30/1918 1/30/1920	#M1790; $1.80 proportional tax 1918, then $2 full tax 1920	1
				Inv. $1, 80¢	9/27/1918	#M5159–60, 5186–8	5
				S.D. $7.50, $1, 25¢ (x2)	7/18/1917	#M6918–23; $9 tax paid for five yrs; stamps damaged on M6918	6
				Inv. $8, $1	11/20/1918	#M7100; only recorded usage of $8	1
25 Year 4% Registered Gold Bond	LAK-627-B-50	$1,000	7/9/1909	S.D. $1, 75¢, 5¢ Inv. $2 p. 11	9/18/1917 10/11/1918	#RM534–5; to Joseph Chamberlain	2
	LAK-627-B-52	$5,000	7/9/1909	S.D. $7.50, $1, 25¢ (x2) Inv. $10	9/18/1917 10/11/1918	#RVM206; to Joseph Chamberlain	1
	LAK-627-B-53	$10,000	7/9/1909	S.D. $10, $7.50, 25¢ (x2) Inv. $20	9/18/1917 10/11/1918	#XM306–10; to Jos. Chamberlain	5
	LAK-627-B-55	$20,000	4/18/1904	Mtge. orange S.D. $100, $50, $25, $5	5/3/1917 7/2/1917	#XXM1–10; to Atlantic Mut. Ins. Co.	10
25 Year 4% Regis. Gold Bond of 1906	LAK-627-B-62	$10,000	9/13/1906	Mtge. orange S.D. $50, $25, $10, $5	5/3/1917 7/2/1917	#1–5, 10; to Atlantic Mut. Ins. Co.	6
NY Central & Hudson River RR Co. 30 Yr. 4% Regis. Gold Deb. (of 1904)	NEW-533a-B-11	$1,000	8/30/1909	S.D. $1, 75¢, 5¢ Inv. $2 p. 11	9/18/1917 10/11/1918	#M401–3; to Joseph Chamberlain	3
	NEW-533a-B-12	$10,000	8/30/1909	S.D. $10, $7.50, 25¢ (x2) Inv. $20	9/18/1917 10/11/1918	#X253–5; to Joseph Chamberlain	3

Table XII. Recorded Bonds of Interstate Railroads with Full Payment of Mortgage, Secured Debts or Investments Tax

Railroad/Bond	Percentage within N.Y.	Cox #	Amount	Date	Stamp(s)	Number
Lake Shore & Mich. Southern Rwy. Co. 3½% Gold Bond, vertical format	10%	LAK-627-B-30	$1,000	6/1/1897	Mortgage Endorsement green imperf	2
					Mortgage Endorsement green perf	2
					Mortgage Endorsement (green)	16
					Mortgage Endorsement orange	7
					Secured Debt $5	24
					Secured Debt $5, $2.50	1
					Secured Debt $1 (x2)	2
					Investments $2	6
					Investments $4	2
					Secured Debt $10	51
3½% Regis. Gold Bond, horiz. format		LAK-627-B-35	$1,000	(1897)	Mortgage Endorsement green imperf	4
					Mortgage Endorsement green perf	15
					Mortgage Endorsement (green)	58

Table XII (cont.)

Railroad/Bond	Percentage within N.Y.	Cox #	Amount	Date	Stamp(s)	Number
Lake Shore & Mich. Southern Rwy. Co.	10%	LAK-627-B-35	$1,000	(1897)	Mortgage Endorsement orange	127
3½% Regis. Gold Bond, horiz. format					Secured Debt $5	3
(cont.)					Secured Debt $7.50	3
					Secured Debt $1 pair	3
					Secured Debt $1 pair, Investments $10	1
					Investments $2	6
					Secured Debt $10	7
					Investments $10	4
		LAK-627-B-36	$5,000	(1897)	Mortgage Endorsement green imperf	2
					Mortgage Endorsement green perf	3
					Mortgage Endorsement (green)	9
					Mortgage Endorsement orange	44
					Secured Debt $25	6
					Secured Debt $25, $10, $2.50	1
					Secured Debt $25, $7.50, $5	1
					Secured Debt $10	1
					Secured Debt $50	1
		LAK-627-B-37	$10,000	(1897)	Mortgage Endorsement green perf	7
					Mortgage Endorsement (green)	24
					Mortgage Endorsement orange	74
					Secured Debt $50, $25	1
					Secured Debt $10 pair	1
					Secured Debt $10 pair, Investments $20	2
		LAK-627-B-38	$50,000	(1897)	Mortgage Endorsement green perf	2
25 Year 4% Gold Bond		LAK-627-B-40	$1,000	11/18/1903	Secured Debt $5	4
					Secured Debt $5, $2.50	2
					Secured Debt $1 (x2), Investments $2	2
					Secured Debt $1 (x2), Investments $2 (x2)	3
25 Year 4% Registered Gold Bond		LAK-627-B-50	$1,000	(1903)	Secured Debt $5	16
					Secured Debt $5, $2.50	1
					Investments $2 (x3)	4
		LAK-627-B-52	$5,000	(1903)	Mortgage Endorsement orange	2
					Secured Debt $25	2
		LAK-627-B-53	$10,000	(1903)	Mortgage Endorsement orange	5
					Secured Debt $50	6
					Secured Debt $50, $25	1
					Investments $10 (x2)	1
		LAK-627-B-60	$1,000	(1906)	Secured Debt $5	2
		LAK-627-B-61	$5,000	(1906)	Secured Debt $25, $10, $2.50	2
New Jersey & New York Railroad Co.						
30 year 6% First Mortgage Bond	35%	NEW-236-B-30	$500	4/3/1880	Investments $5	1
General Mortgage 40 Year 5% Gold Bond		NEW-236-B-55	$500	12/31/1892	Mortgage Endorsement green imperf	1
		NEW-236-B-56	$1,000	(1892)	Mortgage Endorsement green imperf	1
					Investments $2	1
New York, Susquehanna & Western RR Co.	75%	NEW-794a-B-30	$1,000	1/1/1887	Secured Debt $5	1
First Mortgage Refunding 5% Gold Bond						
West Shore Railroad Co.	99%	WES-304-B-51	$1,000	12/5/1885	Mortgage Endorsement green imperf	2
First Mortgage Guaranteed Bond					Mortgage Endorsement green perf	5
vertical format, green & black					Mortgage Endorsement orange	3
					Secured Debt $5, $1	2
horizontal format, orange & black		WES-304-B-55a	$500	(1885)	Mortgage Endorsement green perf	1
horizontal format, red & black		WES-304-B-56a	$1,000	(1885)	Mortgage Endorsement green perf	1
		WES-304-B-56b	$1,000	(1900)	Mortgage Endorsement green perf	17
					Mortgage Endorsement (green)	14
					Mortgage Endorsement orange	38
					Secured Debt $5	2
					Investments $2	1
horizontal format, brown & black		WES-304-B-58b	$10,000	(1900)	Mortgage Endorsement green perf	4
					Mortgage Endorsement orange	2
horizontal format, rust & black		WES-304-B-59a	$50,000	(1900)	Mortgage Endorsement green perf	1

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Appendix. Excerpts from Opinion of Attorney General Egburt E. Woodbury October 13, 1915, Regarding Bonds Secured by Mortgage of Property Situated Partly Within and Partly Without the State.

Inquiry is made by the State Tax Commission as to whether or not the owner of a bond issued prior to July 1, 1906, secured by a mortgage which covers real property situated partly within and partly without the State, which is brought in for taxation pursuant to section 264, is required to pay the tax upon the full amount thereof, or if not, whether he may waive the right of apportionment, pay the tax upon the full amount of the bond, and thereby secure the benefit of exemption from local taxation conferred by section 251 of the Mortgage Tax Law.

...

It remains to be considered whether or not this right of exemption from other taxation exists where the mortgage debt is only taxed in part, under this statute, or, in case the mortgagee makes voluntary payment upon the whole amount secured, although only required to pay on a part thereof.

With certain exceptions, not necessary to enumerate here, section 251 provides that "all mortgages of real property situated within the state WHICH ARE TAXED BY THIS ARTICLE, and the debts and obligations which they secure, shall be exempt from other taxation by the state, county and other local subdivisions."

The real criterion for determining whether the right of exemption exists depends upon the construction to be placed upon the words "which are taxed by this article"—in other words, whether or not the debt for which the exemption is claimed has been taxed under this law, within the meaning of its provisions, to entitle it to such exemption.

... the only cases in which the question is presented as to whether or not mortgages have been so taxed arise, where the real property securing the mortgage debt is situated partly within and partly without the State, and apportionments have been made pursuant to section 260.

In such case can it then be said that this part of the debt (which has been excluded as a basis of determining the amount of tax to be paid, because of its being secured by real property situated partly outside of the State) has been "taxed by this article?"

... a strong and irresistible inference of legislative intent, that the right of exemption under the Mortgage Tax Law should only extend to that part of the mortgage debt used as the basis of taxation, is found in the passage of the Secured Debts Law (... Sec. 330, Tax Law), which permits the proportion of such debt secured by mortgage on real property situated outside the State to be taxed thereunder and thereby secure the benefit of exemption from local taxation, because clearly if the whole debt was to be considered as having been taxed under the Mortgage Tax Law by paying a tax based upon only a part thereof, and thereby entitled to the exemption, this provision of the Secured Debts Law would be useless.

It is difficult to conceive how the bond can be said to be taxable and ''taxed" within the meaning of this statute, as respects the right of exemption, even though the owner should voluntarily pay the tax upon the whole amount. If such an exemption could be secured by such voluntary payment, it would seem that the same result would follow a voluntary payment in all other cases where an apportionment is contemplated pursuant to section 260 on account of the mortgage security being situated partly within and partly without the State, but the court has held to the contrary, as above stated [People ex rel. Braeburn Association v. Hanking, 154 App. Div. 679 (affirmed on opinion of that court by the Court of Appeals in 207 N.Y. 761)]. The tax imposed by this article upon mortgages and debts secured thereby is very small as compared with the taxation of other classes of personal property in general, and as the statute now stands, the exemption granted extends without limitation of time. Under such circumstances, the exemption must be regarded as a privilege; the right to such exemption will not be presumed, but must be found to fall fairly within the language of the statute, and the language of the statute will not be extended by any doubtful interpretation to cover a right of exemption.

This brings us to a consideration of the particular inquiries presented by State Tax Commission, as to whether or not the owner of a bond issued prior to July 1, 1906, secured by a mortgage which covers real property situated partly within and partly without the State, which is brought in for taxation pursuant to section 264, is required to pay the tax upon the full amount thereof, or is not, whether he may waive the right of apportionment, pay the tax upon the full amount of the bond, and thereby secure the benefit of exemption from local taxation conferred by section 251 of the Mortgage Tax Law.

It seems quite clear that the only tax imposed by this act in such case is upon that portion of the bond represented by the mortgage security in this State, apportioned as prescribed by section 260, or, stated in another form, this is the only part of the bond "taxed by this article." The owner of the bond is not given the optional right to pay the tax upon that portion thereof on which the law does not impose the tax, and thereby secure an exemption of such portion from other forms of taxation. In the absence of the tax being imposed or the optional right clearly given to pay on that portion represented by the mortgage security without the State, the right cannot be said to exist. In other words, the privilege of exemption cannot be extended by implication.

The only cases in which the right of exemption is granted are those where mortgages are taxable and "taxed by this article" and this language means in those cases only where the tax is imposed and required to be paid, or, where the optional right of payment is clearly conferred, as distinguished from a mere voluntary payment, and as already stated, such right of exemption extends only to that part of the mortgage debt which is properly used as a basis of computing and fixing the amount of tax to be paid. To hold otherwise would be to render nugatory the provision of the Secured Debt Law, to which reference has already been made, and hence contrary to legislative intention.

It is urged that where the owner of a serial bond secured by a prior advance mortgage, covering property partly within and partly without the state, brings in such bond for taxation pursuant to section 264 and pays the tax upon the full amount thereof, such payment should be construed to confer full right of exemption of such bond from local taxation, because no specific provision is made for apportionment in such case.

This argument, to my mind, is fallacious and no such conclusion properly results from the condition sated in such case. It is quite true that, in immediate connection with the specific case stated, there is no express provision for apportionment, but this is far from conceding that no apportionment can be made under the statute and far from the spirit and intent of the statute in such cases. It may be observed that in fact there is no specific provision made for apportionment in immediate connection with any class or case of mortgages. The language of the act is:

"When the real property covered by a mortgage is located partly within the state and partly without the state, it shall be the duty of the State Board of Tax Commissioners to determine what proportion shall be taxable under this article by determining the relative value of the mortgaged property within this State, as compared with the total value of the entire mortgaged property, and"

Again it provides:

"For the purpose of determining such value, the State Board of Tax Commissioners may require the mortgage or mortgages to furnish the board by affidavit, or verified report, such information or data as it deems needed for such purpose, or the board may take the testimony of the mortgagor or any other person in relation thereto, etc."

And finally:

"The State Board of Tax Commissioners shall adopt rules to govern their procedure and the manner of taking evidence in these matters, etc."

These provisions, made for apportionment, coupled with the power and duty of the State Tax Commission to make rules and regulations governing procedure, must be held to cover all cases and all conditions of mortgages or serial bonds where an apportionment is necessary to give effect to the act. As respects the owner of a serial bond, he would without doubt, if so required by the rules of the Tax Commission, be required to make the necessary statement and furnish the requisite information upon which an apportionment could be made the same as though he were the mortgagee. In fact, it is my opinion that he must be regarded as a mortgagee, within the meaning of the statute, for these purposes.

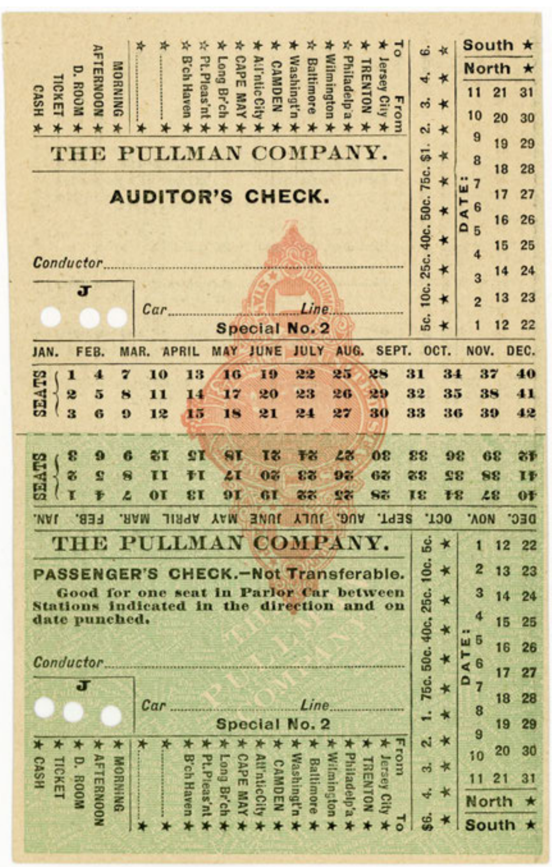
An opinion was rendered to your Department on December 27, 1910, by one of my predecessors, in connection with five other questions then under consideration, which seems to be to the effect that there is no provision in the statute for apportioning the amount of taxes to be paid on single bonds, representing prior advances, presented under section 264, and therefore in case such bond should be presented for taxation it would be required to pay the tax upon the full amount thereof.

I am clearly of the opinion, as already stated, that the power and duty of apportionment exists with the Commission in all cases where an apportionment is required, to give effect to the provisions of the Mortgage Tax Article, and hence am unable to follow the opinion of my predecessor to the contrary.

Dated October 13, 1915.

EGBURT E. WOODBURY,
Attorney-General.

To the HONORABLE, *The State Tax Commission, Albany, N. Y.*



Finds in the Marketplace

[From Bob Hohertz] As an avid collector of the revenue-imprinted parlor car tickets of 1898–1902, I'm occasionally treated to a surprise. One reason is that people who collect railroad memorabilia have examples which they don't consider to be philatelic objects, if they even would care. Another is that stamp collectors may have an odd ticket or two just to say they have an example, without any idea whether what they have is common or scarce. One such surprise came on the market in a recent auction.

The larger sized Pullman ticket stubs fall into the category of "not common, not really scarce." There are subtle differences between many of the copies: the stations listed, the background design, and/or the color of the imprint. It is no real surprise when a new variation surfaces. But an entire, unused version? I would have said it is unlikely, but not impossible, that one exists.

Not impossible at all. Here one is. This ticket would have been used to furnish a luxury seat in a parlor car on a trip from any points including and between Jersey City and Beach Haven in 1901–2. The holes punched in it indicate that it was treated as a sample or specimen by the Pullman Company.

Members' Ads

ARA members: send your request for free ad to mikemahler1@verizon.net, or to Editor, The American Revenuer, 2721 2nd St. #211, Santa Monica, CA 90405, limit 50 words plus address, must be about revenues or cinderellas. First come, first served, space available.

Wanted: Hong Kong Airport Passenger Service or Departure Tax slips. Send scans or descriptions with asking price or my offer to gpagota@aol.com. GT Olson, 6650 Lake Run Drive, Flowery Branch, GA 30542. *2035*

Wanted: Playing Card stamps! I will buy or trade other revenue material for your duplicate RF material. All RF or RU material is wanted. Richard Lesnewski, 1703 W. Sunridge Drive, Tucson AZ 85704. *2036*

Beer stamp album for sale: 125 pages, unpunched, on bright white 67 lb card stock with image of first stamp in most series. Modeled after Priester. $90.00 plus $4.00 postage and insurance, prepaid, to: David Sohn, 1125 Lake Cook Rd, Northbrook, IL 60062. (941) 966-6505 or (847) 564-0692 or email <davidsohn32@comcast.net>. *2037*

Wanted: Canadian cinderellas and labels. No Christmas or Easter please. Gordon Brooks, PO Box 100, Station N.D.G., Montreal, Quebec, Canada H4A 3P4. *2038*

1890s Revenue Stamp book: *Stamp Hunting* by Lewis Robie, salesman for J. Elwood Lee (RS290–294), relates tales of looking for revenue stamps in drugstores. All new, illustrated; commentary by Richard Riley; trade paperback binding, 104 pages—$12.50. From Eric Jackson, Richard Friedberg or Ken Trettin. *2039*

The American Revenuer back issues inventory clearance. There are more boxes than I can handle. Available full year sets only, 75¢ per issue plus shipping, order by mail or email, send no money you will be billed. It may take a while as there are hundreds of boxes to go through. Kenneth Trettin, PO Box 56, Rockford, IA 50468-0056 or <revenuer@omnitelcom.com>. *2040*

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