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978-0-521-87083-2 - Income Tax in Common Law Jurisdictions: From the Origins to 1820

Peter Harris

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INCOME TAX IN COMMON LAW JURISDICTIONS

Many common law countries inherited British income tax rules. Whether the inheritance was direct or indirect, the rationale and origins of some of the central rules seem almost lost in history. Commonly, they are simply explained as being of British origin without further explanation, but even in Britain the origins of some of these rules are less than clear. This book traces the roots of the income tax and its precursors in Britain and in its former colonies to 1820. Harris focuses on four issues that are central to common law income taxes and which are of particular current relevance: the capital–revenue distinction, the taxation of corporations, taxation on both a source and residence basis, and the schedular approach to taxation. He uses an historical perspective to make observations about the future direction of income tax in the modern world. Volume II will cover the period 1820 to 2000.

PETER HARRIS is a solicitor whose primary interest is in tax law. He is also a Senior Lecturer at the Faculty of Law of the University of Cambridge, Deputy Director of the Faculty's Centre for Tax Law, and a Tutor, Director of Studies and Fellow at Churchill College.

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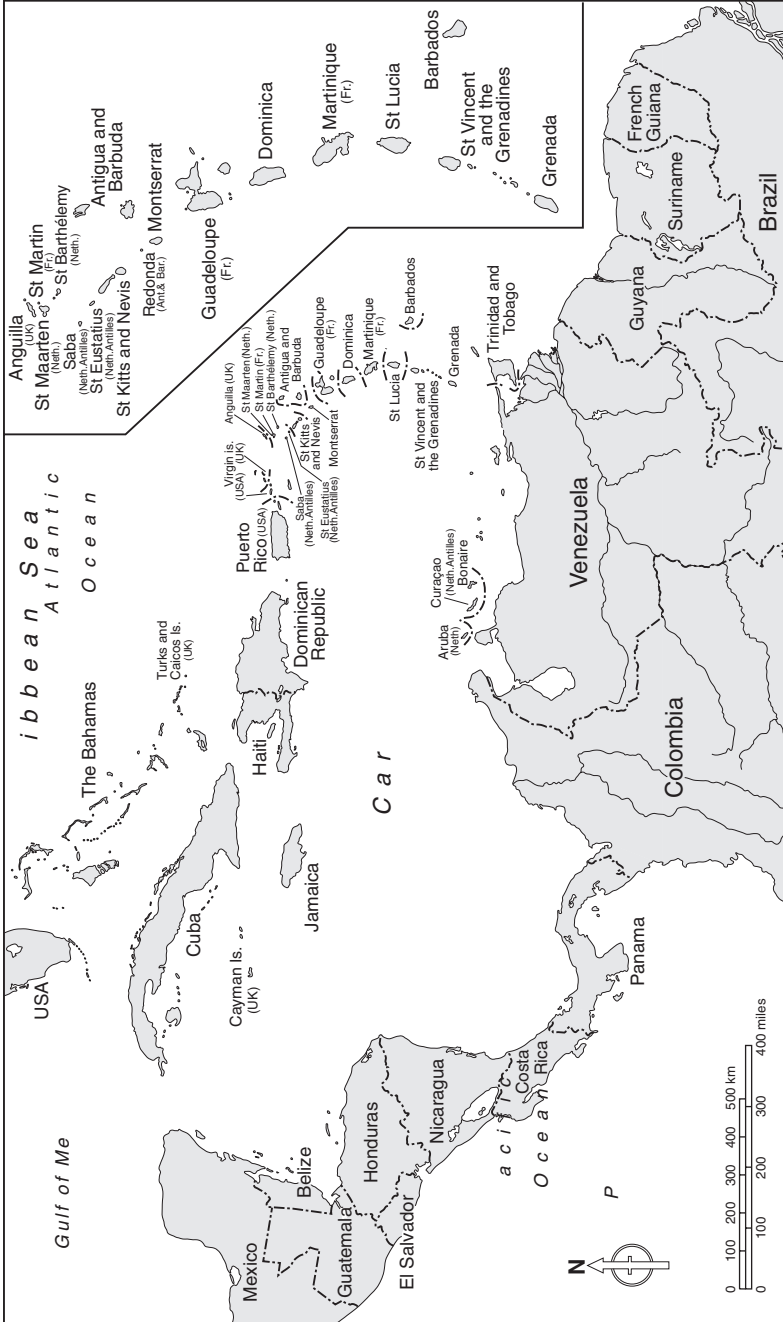


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- An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America . . . (5 Geo. III. c. 12) (1765) (UK)
- An Act for laying certain Duties upon Gum Senega and Gum Arabic imported into or exported from Great Britain, and for continuing the Exportation of Gum Senega from Africa to Great Britain only (5 Geo. III. c. 37) (1765) (UK)
- An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa (5 Geo. III. c. 44) (1765) (UK)
- An Act to repeal an Act made in the last Session of Parliament, intituled, "An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America . . ." (6 Geo. III. c. 11) (1766) (UK)
- An Act for the better securing the Dependency of His Majesty's Dominions in America upon the Crown and Parliament of Great Britain (6 Geo. III. c. 12) (1766) (UK)
- An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing a Drawback of the Duties of Customs upon the Exportation . . . (7 Geo. III. c. 46) (1767) (UK)
- An Act to repeal so much of an Act made in the Seventh Year of His present Majesty's Reign, intituled "An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing

- a Drawback of the Duties of Customs upon the Exportation . . .”
(10 Geo. III. c. 17) (1770) (UK)
- An Act to allow a Drawback of the Duties of Customs on the Exportation of Tea to any of His Majesty’s Colonies or Plantations in America; to increase the Deposit on Bohea Tea to be sold at the Indian Company’s Sales; and to empower the Commissioners of the Treasury to grant Licences to the East India Company to export Tea Duty-free (13 Geo. III. c. 44) (1773) (UK)
- An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe (13 Geo. III. c. 63) (1773) (UK)
- An Act to discontinue, in such Manner, and for such Time as are therein mentioned, the landing and discharging, lading or shipping, of Goods, Wares and Merchandise, at the Town, and within the Harbour, of Boston, in the Province of Massachuset’s Bay, in North America (14 Geo. III. c. 19) (1774) (UK)
- An Act for the better regulating the Government of the Province of the Massachuset’s Bay, in New England (14 Geo. III. c. 45) (1774) (UK)
- An Act for making more effectual Provision for the Government of the Province of Quebec in North America (14 Geo. III. c. 83) (1774) (UK)
- An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of Quebec, in America (14 Geo. III. c. 88) (1774) (UK)
- An Act for granting to His Majesty a Duty upon all Servants retained or employed in the several Capacities therein mentioned . . . (17 Geo. III. c. 39) (1777) (UK)
- An Act for removing all Doubts and Aprehensions concerning Taxation by the Parliament of Great Britian in any of the Colonies, Provinces and Plantations in North America and the West Indies; and for repealing so much of an Act, made in the Seventh Year of the Reign of His present Majesty, as imposes a Duty on Tea imported from Great Britian into any Colony or Plantation in America, or relates thereto (18 Geo. III. c. 12) (1778) (UK)
- An Act for granting to His Majesty certain Duties upon all inhabited Houses within the Kingdom of Great Britian (18 Geo. III. c. 26) (1778) (UK)
- An Act for repealing an Act, made in the Fifth Year of the Reign of His present Majesty, intituled, An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of

- Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa; and for vesting James Fort, in the River Gambia, and its Dependencies, and all other the British Forts and Settlements between the Port of Sallee and Cape Rouge, in the Company of Merchants trading to Africa; and for securing and regulating the Trade to Africa (23 Geo. III c. 65) (1783) (UK)
- An Act for granting to His Majesty certain Duties on Horses kept for the Purpose of Riding, and on Horses used in drawing certain Carriages, in respect whereof any Duty of Excise is made payable (24 Geo. III. c. 31) (1784) (UK)
- An Act for laying certain Duties upon Licences to be taken out by the Makers of, and Dealers in Exciseable Commodities therein mentioned (24 Geo. III. c. 41) (1784) (UK)
- An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India; and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies (24 Geo. III., Session 2, c. 25) (1784) (UK)
- An Act for granting to His Majesty certain Duties on Certificates issues with respect to the killing of Game (24 Geo. III., Session 2, c. 43) (1784) (UK)
- An Act for granting to His Majesty certain Duties on Shops within Great Britain (25 Geo. III. c. 30) (1785) (UK)
- An Act to repeal the Duties on Male Servants; and for granting new Duties on Male and Female Servants (25 Geo. III. c. 43) (1785) (UK)
- An Act for transferring the Receipt and Management of certain Duties therein mentioned from the Commissioners of Excise and the Commissioners of Stamps respectively, to the Commissioners for the Affairs of Taxes; and also for making further Provisions in respect to the said Duties so transferred (25 Geo. III. c. 47) (1785) (UK)
- An Act for granting to His Majesty certain Stamp Duties on Licences to be taken out by Persons using or exercising the Trade or Business of a Pawnbroker (25 Geo. III. c. 48) (1785) (UK)

- An Act for granting to His Majesty certain Duties upon Licences to be taken out by Coachmakers; and also certain Duties upon Carriages to be built for Sale (25 Geo. III. c. 49) (1785) (UK)
- An Act for granting to His Majesty certain Duties on Clocks and Watches (37 Geo. III. c. 108) (1797) (UK)
- An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain, for the Service of the Year One thousand seven hundred and ninety eight (38 Geo. III. c. 5) (1798) (UK)
- An Act for granting to His Majesty an Aid and Contribution for the Prosecution of the War (38 Geo. III. c. 16) (1798) (UK)
- An Act for making perpetual, subject to Redemption and Purchase in the manner therein stated, the several Sums of Money now charged in Great Britain as a Land Tax for one Year, from the twenty fifth Day of March One thousand seven hundred and ninety eight (38 Geo. III. c. 60) (1798) (UK)
- An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties (39 Geo. III. c. 13) (1799) (UK)
- An Act for extending the Time for returning Statements under an Act, passed in the present Session of Parliament, intituled, “An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties”; and to amend the said Act (39 Geo. III. c. 22) (1799) (UK)
- An Act for the better ascertaining and collecting the Duties granted by several Acts passed in the last Session of Parliament, relating to the Duties on Income: and to explain and amend the said Acts (39&40 Geo. III. c. 49) (1800) (UK)
- An Act for repealing the Duties on Income; for the effectual Collection of Arrears of the said Duties, and accounting for the same; and for charging the Annuities specifically charged thereon upon the Consolidated Fund of Great Britain (42 Geo. III. c. 42) (1802) (UK)
- An Act for granting to his Majesty, until the sixth Day of May next after the Ratification of a Definitive Treaty of Peace, a Contribution on the Profits arising from Property, Professions, Trades, and Offices (43 Geo. III. c. 122) (1803) (UK)

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An Act for granting to His Majesty additional Duties in Great Britain, on the Amount of Assessments to be charged on the Profits arising from Property, Professions, Trades, and Offices (45 Geo. III c. 15) (1805) (UK)

An Act to repeal certain Parts of an Act, made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property, Professions, Trades, and Offices; and to consolidate, and render more effectual, the Provisions for collecting the said Duties (45 Geo. III c. 49) (1805) (UK)

An Act for granting to His Majesty, during the present War, and until the Sixth Day of April next after the Ratification of a Definitive Treaty of Peace, further additional Rates and Duties in Great Britain [on the Rates and Duties on Profits] arising from Property Professions Trades and Offices; and for repealing an Act passed in the Forty-fifth Year of His present Majesty, for repealing certain Parts of an Act made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property Professions Trades and Offices; and to consolidate and render more effectual the Provisions for collecting the said Duties (46 Geo. III c. 65) (1806) (UK)

An Act for transferring to His Majesty, certain Possessions and Rights vested in the Sierre Leone Company, and for shortening the Duration of the said Company; and for preventing any dealing or trafficking in the buying or selling of Slaves within the Colony of Sierre Leone (47 Geo. III, Session 2, c. 44) (1808) (UK)

An Act for continuing in the East India Company, for a further Term, the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter (53 Geo. III. c. 155) (1813) (UK)

An Act to stay Proceedings against any Governor or other Persons concerned in imposing and levying Duties in New South Wales; to continue, until the First Day of January One thousand eight hundred and twenty one, certain Duties; and to empower the said Governor to levy a Duty on Spirits made in the said Colony (59 Geo. III c. 114) (1819) (UK)

Regulation of Railways Act, 1868 (UK)

Settled Land Act, 1882 (UK)

Finance Act 1963 (UK)

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Laws of the Interregnum, 1642–1660

- An Ordinance for the assessing of all such as have not contributed upon the Propositions of both Houses of Parliament, for the raising of Money, Plate, Horse, Horsemen, and Arms, for defence of the King, Kingdom and Parliament, or have not contributed proportionably to their Estates (26 November 1642) (UK)
- An Ordinance to appoint Sir William Waller Serjeant Major General of the Forces in Gloucester and other adjacent Counties, and for paying his Army (11 February 1643/44) (UK)
- An Ordinance for the speedy raising and levying of Money for the maintenance of the Army Raised by the Parliament, And other great Affairs of the Commonwealth, by a Weekly Assessment upon the Cities of London and Westminster, and every County and City of the Kingdom of England, and Dominion of Wales (24 February 1643/44) (UK)
- An Ordinance for the speedy raising and levying of money throughout the whole Kingdom of England, and dominion of Wales for the relief of the Commonwealth, by taxing such as have not at all contributed or lent, or not according to their Estates and Abilities (7 May 1643) (UK)
- An Ordinance for Raising and maintaining of Forces for the defence of the Kingdom, under the Command of Sir Thomas Fairfax, Knight (17 February 1645/46) (UK)
- An Ordinance for the raising of Monies to be employed towards the maintenance of Forces within this Kingdom, under the Command of Sir Thomas Fairfax Knight. And for the speedy transporting of, and paying the Forces for the carrying on the War of Ireland (23 June 1647) (UK)
- An Ordinance For raising of Twenty thousand pounds a Month for the Relief of Ireland (16 February 1648/49) (UK)
- An Ordinance for Raising Moneys to be employed for the maintenance of the Forces under the Command of Sir Thomas Fairfax Knight (17 March 1648/49) (UK)
- An Act For Raising Ninety thousand pounds per Mensem, For the Maintenance of the Forces raised by Authority of Parliament, for the Service of England and Ireland, For Six Months, from the 25th of March, 1649 to the 29th of September, 1649 (7 April 1649) (UK)
- An Act for prohibiting Trade with the Barbadoes, Virginia, Bermuda and Antego (3 October 1650) (UK)

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An Act for raising of One hundred and twenty thousand pounds per mensem for Four Months, To commence the Five and twentieth of December 1650. for Maintenance of the Forces in England, Ireland and Scotland, Raised by Authority of Parliament for the Service of this Commonwealth (26 November 1650) (UK)

An Act for increase of Shipping, and Encouragement of the Navigation of this Nation (9 October 1651) (UK)

An Act for an Assessment at the Rate of One hundred and twenty thousand Pounds by the Month for Six Months, from the Five and twentieth day of December, One thousand six hundred fifty two; to the Four and twentieth day of June next ensuing, towards the Maintenance of the Armies in England, Ireland and Scotland; as also for the Navy (10 December 1652) (UK)

An Act for an Assessment upon England at the Rate of Sixty thousand Pounds by the Month, for three Months (9 June 1657) (UK)

An Act for an Assessment of One hundred Thousand Pounds by the Month, upon England, Scotland, and Ireland, for Six Months (26 January 1660/61) (UK)

America

Canada

Cape Breton

An Ordinance for Granting to His Majesty a Duty of Impost on Rum and other Distilled Spirituous Liquors (14 December 1801) (Cape Breton)

New Brunswick

An Act for laying out repairing and amending, highways, roads, and Streets, and for appointing Commissioners and Surveyors of highways, within the Several Towns or Parishes within this Province (No. 32) (1786) (New Brunswick)

An Act to oblige absent Proprietors to pay a proportion of any Public Charge, and to repair Highways (No. 40) (1786) (New Brunswick)

An Act for Assessing, Collecting and Levying, County Rates (No. 42) (1786) (New Brunswick)

An Act to Regulate and Provide for the Support of the Poor in this Province (No. 43) (1786) (New Brunswick)

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- An Act for appointing Commissioners of Sewers (No. 45) (1786) (New Brunswick)
- An Act for raising a Revenue in this Province (No. 55) (1786) (New Brunswick)

Nova Scotia

- An Act for granting a Bounty upon Fish and Oyl and for laying a Duty upon Spirituous Liquers as a Fund for the Payment thereof, and for effectually Securing the payment of the said Duty (29 April 1751) (Nova Scotia)
- An Act laying a Duty of three pence per Gallon on Spirituous Liquors imported from the Neighbouring Colonies and to encourage the Distilling thereof in this Province and for granting a Bounty of Ten Shillings per Ton upon all Vessells or Boats built within the said Province (31 July 1751) (Nova Scotia)
- An Act for confirming the Proceedings on the severall Resolutions of the Governors and Council of this Province, relating to the Duties of Impost on Rum, and other distilled Liquors; and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; And for establishing and regulating several Duties of Impost on Wines, Beer, Rum, and other distilled Spiritous Liquors for the future (32 Geo. II c. 1) (1758) (Nova Scotia)
- An Act in Addition to an Act, intituled, An Act for the Relief of the Poor in the Town of Halifax: Made and passed in the 33rd Year of His Majesty's Reign (33 Geo. II Session 2 c. 12) (1759) (Nova Scotia)
- An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor (3 Geo. III c. 7) (1763) (Nova Scotia)
- An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (5 Geo. III c. 6) (1765) (Nova Scotia)
- An Act in Addition to, and Amendment of an Act made in the fifth Year of His Present Majesty's Reign, intituled An Act for the Raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (No. 140) (1768) (Nova Scotia)
- An Act for raising a fund for the purpose of making and repairing Bridges and Roads of Communication thro' the Province (No. 201) (1772) (Nova Scotia)

- An Act for raising a tax on the Inhabitants of this Province for defraying the Expence of Maintaining and Supporting the Militia of the said Province, and for the defence of the same (No. 247) (1775) (Nova Scotia)
- An Act for laying a Tax upon Lands Tenements and Hereditaments in the Province for a certain limited Time (No. 306) (1779) (Nova Scotia)
- An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted (No. 444) (1791) (Nova Scotia)
- An Act to amend and render more productive an Act passed in the thirty first year of his present Majesty's Reign Intituled "An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted" (No. 479) (1793) (Nova Scotia)
- An Act in Amendment of an Act passed in the thirty first Year of his present Majesty's Reign Intituled an Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the funded Debt only excepted And to suspend the Operation of such parts of the said Act and the several Acts in Amendment thereof as relate to any new Tax or Assessment hereafter to be made (No. 533) (1796) (Nova Scotia)

Prince Edward Island

- An Act laying an imposition upon retailers of Rum and other distilled Spirituos Liquors (No. 20) (17 October 1774) (Prince Edward Island)
- An act in addition to and Amendment of an Act made and passed in the 14th year of His Majesty's Reign, Intituled an act empowering His Excellency the Governor or other Commander In Chief for the time being to direct the making of Public Roads and to appoint persons to carry the same into Execution (No. 29) (11 July 1776) (Prince Edward Island)
- An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing

- of the Highways, Roads and Bridges of the said Island (No. 105) (5 April 1790) (Prince Edward Island)
- An Act for appointing Commissioners of Sewers (No. 131) (13 February 1796) (Prince Edward Island)
- An Act for altering and Changing the name of this Island from Saint John to that of Prince Edward Island (No. 134) (26 November 1798) (Prince Edward Island)
- An Act to alter and amend An Act made and passed in the Thirtieth year of His present Majesty's Reign intituled An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing of the Highways, Roads and Bridges of the said Island (No. 165) (8 April 1808) (Prince Edward Island)
- An Act for raising the Sum of Sixteen Hundred Pounds for the purposes of Erecting Buildings for the Meeting of the General Assembly, the Supreme Court and its Offices and other public Offices in Charlotte Town And for Building two Goals vizt one in Prince County and one in King's County in this Island (No. 177) (10 May 1809) (Prince Edward Island)

Quebec (Lower Canada)

- An Act for the making repairs & altering the Highways & Bridges, within this Province, and for other purposes (7 May 1796) (Quebec)

Upper Canada (Ontario)

- An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (9 July 1793) (Upper Canada)
- An Act to amend certain parts of an Act passed in the thirty third year of the Reign of his present Majesty intituled An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (7 July 1794) (Upper Canada)

- An Act to amend an Act intituled “An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly” (1795, presumed) (Upper Canada)
- An Act for the more uniform laying of Assessments throughout this Province (1798, presumed) (Upper Canada)
- An Act for the more uniform laying of Assessments and Rates throughout this Province (30 June 1800) (Upper Canada)
- An Act particularizing the Property, real and Personal, which during the Continuance thereof shall be subject to Assessment and Rates, and fixing the several Valuations at which Each and every Particular of such Property shall be rated and assessed (5 March 1803) (Upper Canada)
- An act to repeal the several laws now in force, relative to levying and collecting rates and assessments in this province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this province (12 July 1819) (Upper Canada)

The United States

Federal

- An Act making provision for the payment of the Debt of the United States (4 August 1790) (United States)
- An Act to provide for the valuation of Lands and Dwelling-Houses, and the enumeration of Slaves within the United States (9 July 1798) (United States)
- An Act to lay and collect a direct tax within the United States (14 July 1798) (United States)
- An Act to provide for completing the valuation of lands and dwelling-houses and the enumeration of slaves in South Carolina, and for other purposes (30 January 1805) (United States)
- An Act for the assessment and collection of direct taxes and internal duties (22 July 1813) (United States)
- An Act to lay and collect a direct tax within the United States (2 August 1813) (United States)
- An Act to provide additional revenues for defraying the expenses of government, and maintaining the public credit, by laying a direct tax