

STATE REVENUE NEWSLETTER

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RECIPROCITY AND RETALIATION:

THE DELAWARE AND PENNSYLVANIA TAXES ON EACH OTHER'S BEER

By Ronald E. Leshner, Sr.

The Pennsylvania Reciprocal Beer Tax.

Chapter 119, 1937, of the laws of Pennsylvania, states that if any state, territory or country shall impose a higher tax or fee upon Pennsylvania manufactured beer than is imposed upon beer manufactured in that state, territory or county, then the excess shall be levied against that state's beer when it is sold in Pennsylvania. This law was known as the Pennsylvania reciprocal beer tax law. A stamp, (Fig. 1.)



Figure 1.

Hubbard's B27, was issued for pints of beer under this law. The central keystone is inscribed "Pint / Pennsylvania / Reciprocal / Tax / Stamp." Hubbard lists the issue date as 1933, but this is certainly an error since the law was not enacted until four years later.

The law was obviously intended as protection for Pennsylvania's large number of breweries operating in 1937. At what state was this law aimed? A review of the laws of neighboring states in 1937 shows no state taxing Pennsylvania manufactured beer at a higher rate than their own domestic beer. The closest state with such a differential beer tax rate structure was Michigan. Michigan issued stamps for both state or domestic beer, and out of state beer.

The Delaware Retaliatory Tax.

Chapter 276 of volume 43 of the Delaware Laws was approved on May 21, 1941. The provisions of the law are retaliatory in nature in that they provided for a higher tax on beer imported into Delaware from any state that taxes Delaware manufactured beer at a rate higher than the current Delaware beer tax rate (\$1 per barrel). The retaliatory tax rate is the offending state's higher tax rate! The obvious target was Pennsylvania, which taxed all beer at the rate of \$1.24 per barrel

in bulk and \$1.56 on bottled beer in case lots.

Stamps used to pay this tax were issued in the familiar design of the Delaware beer stamps (Fig. 2 shows B24), but the retaliatory tax stamps were printed in an ominous black. The table



Figure 2.

below compares the regular Delaware stamps with the three known and two possible other retaliatory beer tax stamps.

Delaware Beer Stamps in 1941

Quantity taxed	Regular beer tax \$1.00 per barrel		Retaliatory beer tax \$1.24 per barrel
1¼ gallon case	4 cent	red	(5 cent or 6 cent?)
2½ gallon case	8 cent	green	(10 cent or 12 cent?)
3 gallon case	10 cent	brown	12 cent black
¼ barrel	25 cent	blue	(31 cent)
½ barrel	50 cent	orange	62 cent black

One must first note that Hubbard B23, the 4¼¢ black denomination (not 4½¢, as listed in the original catalog addenda, which was corrected in Hubbard's 1979 supplement) has an inscription calling for 24 bottles, each containing 7 ounces, for a total case size of 168 ounces. This is eight ounces more than 1¼ gallon. I believe that the seven ounce bottles were introduced later and that this is the regular Delaware rate for this new case size. The fact that this stamp is printed in black does not mean, in this case, that it is a retaliatory beer tax stamp. This stamp, then, should be listed as a late addition to the 1940 regular beer issue (Hubbard B18-22). As further evidence, note that when the Delaware beer tax rate was doubled in 1953, a case of 24 7 ounce bottles required an 8½¢ stamp, Hubbard B29.

Having just removed one of the three denominations from the previously published list of retaliatory beer tax stamps, let us now turn to the possibility that there were other denominations in the retaliatory beer tax stamp series. There are two or three other possible denominations that exist or might have existed. First is a stamp for the 1¼ gallon case which should have a 5¢ denomination, if computed at the Pennsylvania bulk beer rate, or a 6¢ denomination if

computed at the rate of $\frac{1}{2}$ ¢ per bottle containing a pint or less. Next is the stamp for the $2\frac{1}{2}$ gallon case, the most common denomination of the regular Delaware beer stamps. This should be of the 10¢ denomination if computed at the Pennsylvania bulk rate or the 12¢ denomination if computed at the $\frac{1}{2}$ ¢ per bottle containing a pint or less rate. There should also be a stamp for the one quarter barrel. Although the quarter barrel stamps are quite common from most states, none of the Delaware quarter barrel stamps are seen very often. So, perhaps it really isn't surprising that we have not seen a quarter barrel retaliatory beer tax stamp.

The Delaware retaliatory beer tax law remains on the books to this day. However, since there are no longer any brewers in Delaware, the issue is moot. The Delaware law depends upon the actual sale of Delaware manufactured beer in another state before it can be invoked to impose a higher tax on beer coming into Delaware from that state.

There was a court case in which the validity of the statute was called into question. On November 25, 1941 the Delaware Court of Chancery found that the law does not violate the interstate commerce or due process clauses of the United States Constitution (*Ajax Distributors, Inc. v. Springer*, 26 Del. Ch. 101, 22 A 2nd 838). Further, the court found nothing arbitrary or unreasonable about the class of product being singled out for taxation.

Reductio ad absurdum.

While not disagreeing with the decision of the court, this writer finds the Delaware retaliatory tax rather absurd. Delaware beer had not been discriminated against in Pennsylvania. It had been taxed at the same rate as the Pennsylvania manufactured brew. However, the immediate impact of the law was just the opposite of its intent. Delaware manufactured beer was now the target of discrimination in Pennsylvania.

Let's look at how the law should have been implemented. If the bureaucrats had followed the letter of the law, the two laws would have resulted in an infinite regress that would have ended the sale of beer imported from the neighboring state. The immediate impact on Pennsylvania beer sold in Delaware was that it should have been taxed at \$1.24 per barrel, an excess of 24¢ over the Delaware domestic beer tax rate. But, upon this action, the Pennsylvania bureaucrats should have insisted that an additional 24¢ be collected on every barrel of Delaware beer sold in Pennsylvania, as required by the reciprocal tax. The astute Delaware bureaucrats should then have seen that the new tax rate on Delaware beer sold in Pennsylvania was \$1.48 per barrel. They should then have insisted that this is really the rate to be charged on Pennsylvania beer sold in Delaware. Aha! Now Pennsylvania should have insisted that Where would it all end?

The infinite regress did not happen, as the known stamps attest. Hubbard indicates that the stamps were only used until 1944, although the reason he cites, that the law was declared unconstitutional, is not correct. The stamps are not common, so they probably saw service for only a short period.

A 1939 law allowed the Delaware Liquor Commission to negotiate with their equivalent in other states. I suspect that is what really brought about the discontinuation of the application of the retaliatory tax rates on Pennsylvania beer. In any case, there are no longer any

Delaware brewers. Thus, although the law remains in force today, it has no real application.

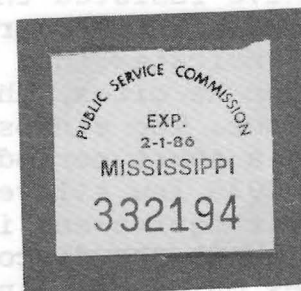
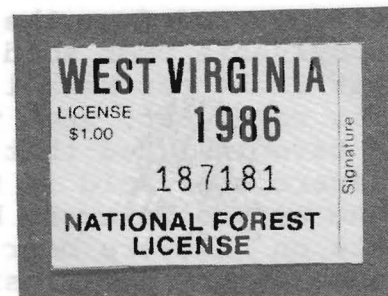
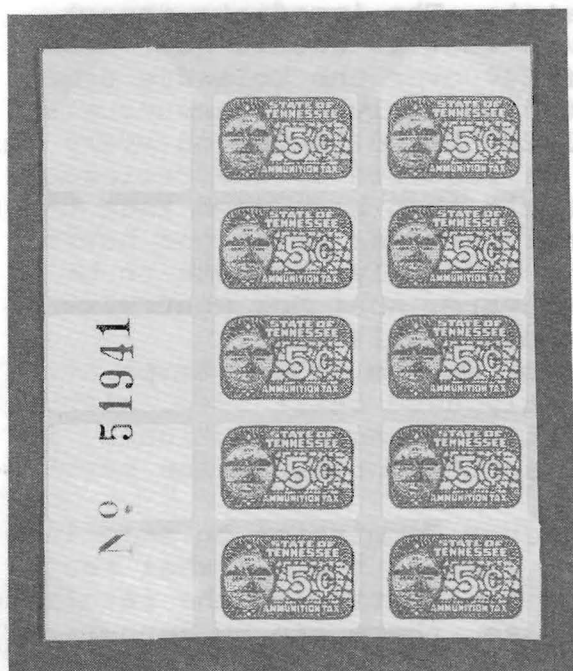
The author would like to gratefully acknowledge the assistance of Bert Hubbard for a photocopy of Delaware B23 and William Smiley for checking my calculations and reviewing the legal aspects of this article.

STATE REVENUE SLIDE SHOW. This show consists of 72 slides and an accompanying audio cassette tape and program booklet with the text that is on the tape. The slides illustrate numerous different state revenues, in color, and tell the story of state revenue collecting. The program is excellent for a presentation at a local stamp club. The slides, tape and booklet can be borrowed from the SRS Library.

STAMPS AVAILABLE FROM THE SRS: ADDENDA

Mississippi	1985 Uniform identification cab card stamp for trucks, aka "bingo" card stamp, black on yellow.	FREE
	1983 automobile license plate sticker, red on silver, not illustrated.	FREE
Tennessee	5¢ ammunition tax pressure sensitive stamps, red.	.05
West Virginia	1986 bear stamp, \$4, dark blue on white, n.i.	.80
	1986 National forest license, \$1 black & grey on white, red serial number.	.50
	1986 trout stamp, \$5, blue on golden yellow, black serial number, not illustrated.	.50

Illustrations appear below. Order from Harold A. Effner, Jr.
425 Sylvania Ave., Avon by the Sea, NJ 07717.



FOREIGN SALES TAX TOKENS? Merlin K. Malehorn, SRS member and Editor of the American Tax Token Society wonders if anyone in the SRS has information about any foreign nation's use of sales tax tokens, stamps, cards or other devices to assist in the collection of the tax. If so, let him know at 6837 Murray Lane, Annandale, VA 22003.

OHIO SALES TAX RECEIPT STAMPS. Mr. Malehorn reports that the ATTS is developing a new catalog of all sales tax related tokens and, of course, the Ohio items will be included. He asks if any SRS members have a detailed list of these stamps, with all the varieties of perforations, off-center printings, control numbers, serial numbers and colors, watermarks, security paper, etc. He reports that he has "some stuff that's not in any list I've been able to get my hands on". So, if you have any unlisted Ohio sales tax material, let him know at the address above. (You might let me know, too, so it could be reported here in the Newsletter).

MEDICINAL LIQUOR IN THE UNITED STATES is the title of an article by SRS member George Griffenhagen which appeared in the journal "Pharmacy in History, vol. 29, 1987, pp. 29-34. The article the history of the use of liquors for medical purposes and illustrates medicinal liquors stamps from New York, West Virginia, Wisconsin and Texas. A copy of the journal is in the SRS Library.

CORRECTION to E.L. Vanderford's article "State Waterfowl, Conservation or Habitat Stamps" which appeared in the July-August, 1986 issue of the Newsletter. Line 13 of that article (page 19) should have read "It is hoped that the following time honored classifications for these stamps..."

AD CORNER

NORTH CAROLINA 1985-86 \$30 pictorial sportsman stamp in fine condition on license, \$3. Also 1985-86 \$15.50 and \$11.50 denominated stamps on license, \$1 each. All three items, \$4. Other North Carolina items for sale or trade. TIMOTHY M. McREE, RT. 3, BOX 336, CLAREMONT, NC 28610. (3)

STATE AND FEDERAL DUCK STAMPS. We buy and sell state and federal duck stamps, used and unused, any condition. Send for free price lists. NATIONAL WILDLIFE GALLERIES, 11000-33 METRO PARKWAY, FORT MAYERS, FL 33912. Phone # 813-275-0500. (0)

NEW ENGLAND STATES' fish and game and documentary stamps wanted on licenses and documents. Send descriptions. Minimum of \$10 each paid for items I need. TERENCE HINES, Box 258, THORNWOOD, NY 10594-0258. (1)

More ads on page 42

Note: The number in parentheses indicates the number of insertions left.

NEW WASHINGTON STATE GAMBLING IDENTIFICATION STAMP

By M. E. Matesen

The May-June, 1986 Newsletter, on page 11, provided illustrations of two Washington gambling identification stamps. Recently, another stamp in this series has appeared. The design on the new "Ser-8" stamps is slightly different from previous issues, as it has an enlarged serial number. The entire stamp, serial number included, is blue.

The illustration on the facing page (reduced to 88% of actual size) shows how these gambling identification stamps are used. In this case, the stamp is affixed to a "CRAZY 8's" game card in the lower left corner. Cards such as these are attached to large acrylic bins into which hundreds of pull tabs are dumped. Bins such as these are located in community taverns and persons interested in playing simply pay the bartended 25¢ for each tab they want and then reach in and retrieve the appropriate number of tabs. Often times the odds of winning are printed on the face or back of the card. The odds must be available from the proprietor in some form for the game patron to read if he or she so desires.

When a patron wins one of the cash prizes noted on the card, the prize is blackened out, as has been done on the illustrated card. When a substantial portion of the prizes have been won, the card and remaining tabs are removed, inventoried and held for six months after which they are destroyed.

AD CORNER

DISABLED VETERANS KEY CHAINS, tags, B.F. Goodrich key chains, tags, automobile registration and inspection windshield stickers, chauffeurs' badges, license plates WANTED. DR. EDWARD H. MILES, 888 8TH AVENUE, NEW YORK, NY 10019. (4)

SELLING VIRGINIA STATE used pictorial fish and game stamps: 16 different state forest stamps, \$4; 15 different damage stamps, \$5. Also approvals to SRS members. LEO LEBO, 9318 COLLINGWOOD KNOXVILLE, TN 37922. (1)

AD CORNER RATES: Minimum of \$1 for up to 25 words, 5¢ each for each additional word. No charge for name and address. Three insertions for the price of two, five insertions for the price of three. Short trade ads accepted free for one insertion. These may be resubmitted. Send ad copy and payment to SRS TREASURER HAROLD A. EFFNER, JR., 425 SYLVANIA AVF., AVON-BY-THE-SEA, NJ 07717.

NEW JERSEY yellow cigarette decal, in use for only 2 months plus 2 other older decals for one Montana 13¢ cigarette decal. HAROLD A. EFFNER, JR., 425 SYLVANIA AVE., AVON-BY-THE SEA, NJ 07717.

25¢ PER CARD

FORM 815



Crazy 8s

3 EIGHTBALLS WIN 4 TIMES

~~\$25~~ \$25

~~\$25~~ \$25

~~\$25~~ \$25

~~\$25~~ \$25

2 EIGHTBALLS + 1 HEART WIN 4 TIMES


2 EIGHTBALLS + 1 GREEN CLUB WIN 4 TIMES

2 EIGHTBALLS + 1 ORANGE SPADE WIN 12 TIMES

~~\$2~~ \$2

2 EIGHTBALLS + 1 DIAMOND WIN 150 TIMES

50¢



No. 7675091

Ser-8

GAMBLING COMMISSION

SERIAL NO. 344153 SIZE 2016 COLOR _____

DATE IN _____ DATE OUT _____

SIGNATURE _____

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FISH AND GAME STAMPS AVAILABLE FROM STATE AGENCIES

By Harold A. Effner, Jr.

The listing that appears below (and which will be continued in the next issue) gives the fish and game stamps that are currently available at or below face value from the various states. Specific addresses for orders along with any special ordering instructions are given. It must be jept in mind that this list is neither complete nor will it be valid forever. The stamps the states have for sale are constantly changing. Where a specific date on which certain stamps will no longer be available is known, that is indicated. Likewise, when a stamp will not be available until a specific date, that date is also shown. The information in this listing was obtained from the various states.

ALABAMA

Duck Stamps. 1979-80; 1980-81; 1981-82; 1982-83; 1983-84; 1984-85; 1985-86; 1986-87. All \$6 each from Department of Conservation, 64 North Union St., Montgomery, AL 36130. The 1987-88 duck stamp will be available, for \$6, on Oct. 1, 1987.

ALASKA

Waterfowl Conservation Stamps. 1986 issue, \$5 for single, \$20 for plate block of 4, \$150 for sheet of 30. The 1987 issue will sell for the same prices, but no orders will be accepted until June 15, 1987. Any 1986 issues remaining unsold will be destroyed on July 1, 1988. Unsold 1987 issued will be destroyed July 1, 1989.

King Salmon / Steelhead Trout Stamps. 1980 regular stamp, \$5; 1980 fee exempt stamp, \$1; 1981 regular stamp, \$5; 1981 fee exempt stamp, \$1; 1982 regular stamp, \$5. May be purchased as singles, or as strips of 10 at ten times single price.

NOTE: If ordering both waterfowl and salmon stamps, a separate check MUST be sent in payment for both types. Order from Alaska Department of Revenue, Public Services Division, Licensing Section, 1111 West 8th St., Rm. 108, Juneau, AK 99801.

ARIZONA

Waterfowl Stamps. 1987 \$5.50.

Other stamps. The Arizona Game and Fish Department (2222 West Greenway Rd., Phoenix, AZ 85023) has an extensive stock of obsolete fish and game stamps which it sells at \$1 each. The current list contains 128 stamps dating from 1957 to 1985. It is much too long to reproduce here. If you're interested, send the Game and Fish Dept. an SASE and ask for a copy.

ARKANSAS

Duck Stamps. 1985, 1986, 1987, \$5.50 each. The 1985 stamps will be destroyed on June 31, 1988, the 1986 stamps on June 31, 1989, etc. Issued in sheets of ten. Arkansas Game and Fish Commission, Attn: Duck Stamps, No. 2 Natural Resources Drive, Little Rock, AR 72205.

CALIFORNIA

Like Arizona, the California Department of Fish and Game has a large stock of obsolete stamps for sale. Request a full list: License and Revenue Branch, 3211 S St., Sacramento, CA 95816.

DELAWARE

Duck Stamps. 1985, available only in sheets of 10 at \$50; 1986 and 1987 stamps, \$5 each, also available in sheets of 10 at \$50. Division of Fish and Wildlife, Box 1401 Dover, DE 19903.

FLORIDA

Waterfowl Stamps. 1982-83; 1983-84; 1984-85; 1985-86; 1986-87. All \$3.50 each.

Management Area Stamps. The large number of these stamps available precludes their listing here. Write for a full listing. Florida Game and Fresh Water Fish Commission, Department of Natural Resources, 620 South Meridian St. Tallahassee, FL 32301.

GEORGIA

Waterfowl Conservation Stamps. 1985 and 1986, \$5.50 each. The 1985 stamps will be destroyed December 31, 1987 and the 1986 stamps on December 31, 1988.

Wildlife Management Stamps. 1981; 1982; 1983; 1984; 1985; 1986, \$2.50 each. Sold until supplies exhausted. Order from Mr. Michael D. Hughes, Georgia Department of Natural Resources Licensing and Boat Registration Unit, 2258 Northlake Parkway, Suite 100, Tucker, GA 30084. Please include "protective devices" for the stamps and an addressed envelope. A couple of glassines ought to do for protective devices.

IDAHO

Archery Stamps. 1982; 1983; 1984; 1985; 1986; 1987, \$5.50 each.
Muzzle Loader Stamps. 1982; 1983; 1984; 1985; 1986; 1987, \$5.50 each.
Order from Idaho Department of Fish and Game, 600 South Walnut St. Boise, ID 83707. NO PERSONAL CHECKS. Certified cashier's check or money orders only.

ILLINOIS

Hunting Stamps. 1986 and 1987, \$5.50 each. Stamps destroyed one year after expiration date, which is March 31 of each year.

Fishing Stamps. 1986 and 1987, \$2.50 each. Stamps destroyed as hunting stamps. Order from Department of Conservation, License and Permit Section, 524 South Second St., Lincoln Tower Plaza, Springfield, IL 62706

INDIANA

Migratory Waterfowl Stamps. 1976; 1977; 1978; 1979; 1980; 1981; 1982; 1983; 1984; 1985; 1986; 1987, \$5 each.

Trout / Salmon Stamps. 1967, \$2; 1968, \$2; 1969, \$2; 1976, \$2.25;

INDIANA continued.

1977, \$2.25; 1978, \$2.25; 1979, \$2.25; 1980; 1981; 1982; 1983; 1984; 1985; 1986; 1987, \$5 each.

Game Bird Habitat Stamps. 1980; 1981; 1982; 1983, \$1 each. 1984; 1985; 1985; 1987, \$3 each.

Order from Indiana Division of Fish and Wildlife, "STAMPS",
607 State Office Building, Indianapolis, IN 46204.

NOTE: Enclose and SASE with order.

IOWA

Duck Stamps. 1987, \$5.

Habitat Stamp. 1987, \$3.

Trout Stamp. 1987, \$8. Order from Iowa Conservation Commission
Wallace State Office Building, Des Moines, IA 50319.

KANSAS

Upland Game Bird Stamps. 1964; 1965; 1966; 1967; 1968; 1969; 1970; 1971; 1972; 1973, \$1 each.

Quail Stamps. 1954; 1955; 1956; 1957; 1958; 1959; 1960; 1961; 1962, 50¢ each.

Maximum sale of 3 stamps from any one year. Payment by cashiers check, bank draft or money order. NO PERSONAL CHECKS. Order from Kansas Fish and Game Headquarters, Box 54A, Rt. 2, Pratt, KS 67124.

KENTUCKY

Waterfowl Stamps. 1985; 1986; 1987, \$5.25 each. Available in singles, sheets of 5 or booklets of 2 sheets.

Trout Stamps. 1981; 1982; 1983, \$1 each. 1984, 1985, 1986, \$3.50 each.

Order from Department of Fish and Wildlife Resources, Attn:
Lloyd Ryles, # 1 Game Farm Road, Frankfort, KY 40601.

MARYLAND

Waterfowl Stamps. 1985-86, \$3; 1986-87, \$6.

Trout Stamps. 1986 regular, \$3.50; 1986 senior resident, \$1.

Chesapeake Bay Sport Fishing Stamps. 1985 annual, \$2.50; 1985 collectors type, \$2.50; 1986 annual, \$5; 1986 collectors, \$2.50; 1986 3-day, \$2.

Wildlife Conservation Stamps. 1985; 1986, \$5 each.

Order from Department of Natural Resources, Division of Licensing and Consumer Services, 580 Taylor Ave. Annapolis, MD 21401.

MINNESOTA

Waterfowl Stamps. 1977; 1978; 1979; 1980; 1981. For these years' stamps, the price is \$3.50 for the first stamp, which includes an "issuing fee" of 50¢ and \$3 for each additional stamp of the same year. 1982; 1983; 1984; 1985, \$3.75 for the first and \$3 for each additional stamp from any year; 1986, \$5.75 for the first and \$5 for each additional stamp; 1987, \$5.75 each.

Trout Stamps. 1982; 1983; 1984; 1985, \$3.75 for the first and \$3 for each additional stamp from a given year; 1986, \$5.75 for the first and \$5 for each additional stamp; 1987, \$5.75 each.

MINNESOTA continued.

Pheasant Stamps. 1983, \$5.75 for the first and \$3 for each additional stamp; 1984; 1985; 1986, \$5.75 for the first and \$5 for each additional stamp from a given year; 1987, \$5.75 each. Order from Minnesota Department of Natural Resources, License Bureau, 500 Lafayette Rd., St. Paul, MN 55146. Payment by money order or cashier's check. NO PERSONAL CHECKS.

MISSISSIPPI

Waterfowl License Form. 1976-77, \$5. This is a computer card with four color picture of wood duck printed thereon.

Waterfowl Stamps. 1977-78; 1978-79; 1979-80; 1980-81; 1981-82; 1982-83; 1983-84; 1984-85; 1985-86; 1986-87, \$2 each.

Endangered Species Stamp. 1975, \$5.

Order from Mississippi Department of Wildlife Conservation Southport Center, Box 451, Jackson, MS 39205-0451.

NOTE: Special payment requirements. NO PERSONAL CHECKS. Use money orders. Also, separate money orders must be sent for each of the three classes of stamps listed above. Also include a legal sized SASE.

NEBRASKA

Habitat Stamp. 1977; 1978; 1979; 1980; 1981; 1982; 1983; 1984; 1985; 1986; 1987, \$7.50 each.

Upland Game Bird Stamps. The state distinguishes between stamps perf. on four and perf. on three sides. The latter are from the right edge of the pane (2 x 10) in which these were issued, that right edge being imperf. Perf. on four sides: 1955; 1956; 1961; 1966; 1967; 1968; 1970, \$3.50 each; 1972; 1973; 1974; 1975; 1976, \$2 each. Perf. on three sides: 1961; 1963; 1965; 1966; 1967; 1968; 1969; 1970; 1971, \$3 each; 1972; 1973; 1974 1975; 1976, \$1.50 each. Order from Nebraska Game and Parks Commission 2200 North 33rd St., Lincoln, NE 68505.

NEW HAMPSHIRE

Pheasant Stamps. 1975; 1976, \$2 each; 1977; 1978; 1979; 1980; 1981; 1982, \$4 each; 1983; 1984; 1985; 1986, \$10 each.

Order from New Hampshire Fish and Game Department, 34 Bridge Street, Concord, NH 03301.

NEW JERSEY

Waterfowl Stamps. 1986 resident stamp, \$2.50. 1986 non-resident stamp, \$5. Sold until stamps destroyed on December 31, 1987.

Order from New Jersey Division of Fish, Game and Wildlife, Waterfowl Stamp, CN 400, Trenton, NJ 08625.

NEW MEXICO

Trout Stamps. 1987-88, \$3.25; \$4.75; \$5.75; \$7.00.

Wildlife Habitat and Improvement Stamp. 1987-88, \$5.25.

Turkey Stamp. 1987-88, \$3.25.

Valle Vidal Stamp. 1987-88, \$10.00.

Order from New Mexico Department of Game and Fish, State Capitol, Santa Fe, NM 87503.

Continued next issue...

THE STATE REVENUE SOCIETY

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10594-0258.

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(177)

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