lence to the language, may very properly be considered as in-
cluding net income only.

In re Niland’s Estate (Wis.), 143 N. W. 170;
Dulaney’s Admr. v. Dulaney (Va.), 54 S. E. 40.

For the reasons above given, I think chapter 33 of the Acts
of 1932, applies to the “sinking fund” created under the pro-
visions of section 22 of chapter 94 of the Acts of 1931, and
that your question, therefore, should be answered in the
affirmative.

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TAX COMMISSION: Imposition of penalty for failure to file
schedule in non-taxable estates.

February 27, 1933.

Hon. C. B. Ullum,
Inheritance Tax Administrator,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you request an opin-
ion as to whether courts of probate jurisdiction are required
to impose a penalty for the failure of representatives of an
estate to file a schedule in non-taxable estates pursuant to the
provisions of section 7 of the 1931 Inheritance Tax Law.

The statute referred to, provides in part as follows:

“The court shall charge any executor, administrator,
trustee, heir or party responsible, a penalty of fifty
cents ($0.50) for each day said schedule is not filed
within the time prescribed by this act, or within the
time additionally granted by the court. The amount of
penalty so chargeable shall be included in the court’s
decree in taxable AND NON-TAXABLE ESTATES
and shall be payable to the county treasurer of the
county in which the court is sitting.” (Our italics and
capitals.)


In my opinion, the above language clearly requires the im-
position of the penalty in pending cases where the estate is
non-taxable to the same extent and under the same conditions
as where the estate is taxable. It should be borne in mind
that the penalty is not a part of the tax imposed upon the
transfer, but is a charge against the person or persons re-
quired under the law to file the schedule.