78TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1079

REVENUE ACT OF 1943

FEBRUARY 4, 1944.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 3687]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3687) to provide revenue, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 33, 52, 54, 56, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 140, 165, 185, 187, 200, 211, 214, 215, 222, 223, 224, 226, 227, 228, 250, 253, 276, 279, 285, 286, 292, 294, 304, 305, and 306.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 7, 20, 21, 22, 23, 24, 25, 26, 28, 38, 39, 41, 42, 43, 44, 45, 46, 48, 50, 51, 59, 60, 62, 63, 64, 65, 66, 74, 75, 76, 77, 78, 79, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 122, 123, 124, 125, 127, 128, 130, 131, 132, 133, 134, 136, 137, 138, 139, 141, 142, 143, 145, 146, 147, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 183, 184, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 201, 209, 210, 216, 217, 218, 219, 220, 221, 225, 229, 230, 231, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 251, 254, 255, 256, 257, 258, 259, 261, 262, 263, 264, 265, 266, 267, 269, 270, 271, 272, 273, 274, 275, 277, 278, 280, 281, 283, 284, 287, 288, 289, 291, 293, 297, 298, 300, 302, 303, 307, and 308, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

[*In the following table, a section number enclosed in parentheses following the description of the subject matter of a section, subsection, or paragraph of this Act indicates each provision of the Internal Revenue Code amended by such section, subsection, or paragraph of this Act.*]

TABLE OF CONTENTS

TITLE III—EXCISE TAXES

TITLE IV—POSTAL RATES

TITLE VIII—REPRICING OF WAR CONTRACTS

TITLE IX—SOCIAL SECURITY TAXES

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

SEC. 102. ALTERNATIVE TAX ON INDIVIDUALS WITH GROSS INCOME FROM CERTAIN SOURCES OF LESS THAN $3,000.

(*a*) *IN GENERAL.—Section 400 (relating to optional tax) is amended to read as follows:*

"SEC. 400. IMPOSITION OF TAX.

"In lieu of the tax imposed under sections 11, 12, and 450, an individual who makes his return on the cash basis may elect, for each taxable year, to pay the tax shown in the following table if his gross income for such taxable year is less than $3,000 and consists wholly of one or more of the following: Salary, wages, compensation for personal services, dividends, interest, or annuities:

"Single person (not head of family)

"If the gross income is—		*And the number of dependents is—*							
		0	*1*	*2*	*3*	*4*	*5*	*6*	*7 or more*
At least	*But less than*	*The tax shall be—*							
$0	$525	$0	$0	$0	$0	$0	$0	$0	$0
525	550	1	0	0	0	0	0	0	0
550	575	5	0	0	0	0	0	0	0
575	600	10	0	0	0	0	0	0	0
600	625	14	0	0	0	0	0	0	0
625	650	19	0	0	0	0	0	0	0
650	675	24	1	1	1	1	1	1	1
675	700	30	2	2	2	2	2	2	2
700	725	35	3	3	3	3	3	3	3
725	750	40	3	3	3	3	3	3	3
750	775	45	4	4	4	4	4	4	4
775	800	51	5	5	5	5	5	5	5
800	825	56	6	6	6	6	6	6	6
825	850	61	6	6	6	6	6	6	6
850	875	66	7	7	7	7	7	7	7
875	900	71	8	8	8	8	8	8	8
900	925	77	10	9	9	9	9	9	9
925	950	82	15	9	9	9	9	9	9
950	975	87	21	10	10	10	10	10	10
975	1,000	92	26	11	11	11	11	11	11
1,000	1,025	97	31	12	12	12	12	12	12
1,025	1,050	103	36	12	12	12	12	12	12
1,050	1,075	108	41	13	13	13	13	13	13
1,075	1,100	113	47	14	14	14	14	14	14
1,100	1,125	118	52	15	15	15	15	15	15
1,125	1,150	124	57	15	15	15	15	15	15

"Single person (not head of family)—Continued

"If the gross income is—		And the number of dependents is—							
		0	1	2	3	4	5	6	7 or more
At least	But less than	The tax shall be—							
$1,150	$1,175	$129	$82	$16	$16	$16	$16	$16	$16
1,175	1,200	134	87	17	17	17	17	17	17
1,200	1,225	139	73	18	18	18	18	18	18
1,225	1,250	144	78	18	18	18	18	18	18
1,250	1,275	150	83	19	19	19	19	19	19
1,275	1,300	155	88	22	20	20	20	20	20
1,300	1,325	160	94	27	21	21	21	21	21
1,325	1,350	165	99	32	21	21	21	21	21
1,350	1,375	170	104	37	22	22	22	22	22
1,375	1,400	176	109	43	23	23	23	23	23
1,400	1,425	181	114	48	24	24	24	24	24
1,425	1,450	186	120	53	24	24	24	24	24
1,450	1,475	191	125	58	25	25	25	25	25
1,475	1,500	197	130	64	26	26	26	26	26
1,500	1,525	202	135	69	27	27	27	27	27
1,525	1,550	207	141	74	27	27	27	27	27
1,550	1,575	213	146	79	28	28	28	28	28
1,575	1,600	217	151	84	29	29	29	29	29
1,600	1,625	223	156	90	30	30	30	30	30
1,625	1,650	228	161	95	30	30	30	30	30
1,650	1,675	233	167	100	31	31	31	31	31
1,675	1,700	238	172	105	32	32	32	32	32
1,700	1,725	244	177	111	44	33	33	33	33
1,725	1,750	249	182	116	49	33	33	33	33
1,750	1,775	254	187	121	54	34	34	34	34
1,775	1,800	259	193	126	60	35	35	35	35
1,800	1,825	264	198	131	65	36	36	36	36
1,825	1,850	270	203	137	70	36	36	36	36
1,850	1,875	275	208	142	75	37	37	37	37
1,875	1,900	280	214	147	81	38	38	38	38
1,900	1,925	285	219	152	86	39	39	39	39
1,925	1,950	290	224	157	91	30	39	39	39
1,950	1,975	296	229	163	96	40	40	40	40
1,975	2,000	301	234	168	101	41	41	41	41
2,000	2,025	306	240	173	107	42	42	42	42
2,025	2,050	311	245	178	112	45	42	42	42
2,050	2,075	317	250	184	117	51	43	43	43
2,075	2,100	322	255	189	122	56	44	44	44
2,100	2,125	327	260	194	127	61	45	45	45
2,125	2,150	332	266	199	133	66	45	45	45
2,150	2,175	337	271	204	138	71	46	46	46
2,175	2,200	343	276	210	143	77	47	47	47
2,200	2,225	348	281	215	148	82	48	48	48
2,225	2,250	353	287	220	154	87	48	48	48
2,250	2,275	358	292	225	159	92	49	49	49
2,275	2,300	363	297	230	164	97	50	50	50
2,300	2,325	369	302	236	169	103	51	51	51
2,325	2,350	374	307	241	174	108	51	51	51
2,350	2,375	379	313	246	180	113	52	52	52
2,375	2,400	384	318	251	185	118	53	53	53
2,400	2,425	390	323	257	190	124	57	54	54
2,425	2,450	395	328	262	195	129	62	54	54
2,450	2,475	400	333	267	200	134	67	55	55
2,475	2,500	405	339	272	206	139	73	56	56
2,500	2,525	410	344	277	211	144	78	57	57
2,525	2,550	416	349	283	216	150	83	57	57
2,550	2,575	421	354	288	221	155	88	58	58
2,575	2,600	426	360	293	227	160	94	59	59
2,600	2,625	431	365	298	232	165	99	60	60
2,625	2,650	436	370	303	237	170	104	60	60
2,650	2,675	442	375	309	242	176	109	61	61
2,675	2,700	448	380	314	247	181	114	62	62
2,700	2,725	454	386	319	253	186	120	63	63
2,725	2,750	460	391	324	258	191	125	63	63
2,750	2,775	465	396	330	263	197	130	64	64
2,775	2,800	471	401	335	268	202	135	69	65
2,800	2,825	477	406	340	273	207	140	74	66
2,825	2,850	483	412	345	279	212	146	79	66
2,850	2,875	489	417	350	284	217	151	84	67
2,875	2,900	495	422	356	289	223	156	90	68
2,900	2,925	501	427	361	294	228	161	95	69
2,925	2,950	507	433	366	300	233	167	100	69
2,950	2,975	513	438	371	305	238	172	105	70
2,975	3,000	519	443	376	310	243	177	110	71

"Married person making separate return

"If the gross income is—		And the number of dependents is—							
		0	1	2	3	4	5	6	7 or more
At least	But less than	The tax shall be—							
$0	$650	$0	$0	$0	$0	$0	$0	$0	$0
650	675	5	1	1	1	1	1	1	1
675	700	11	2	2	2	2	2	2	2
700	725	16	3	3	3	3	3	3	3
725	750	21	3	3	3	3	3	3	3
750	775	26	4	4	4	4	4	4	4
775	800	32	5	5	5	5	5	5	5
800	825	37	6	6	6	6	6	6	6
825	850	42	6	6	6	6	6	6	6
850	875	47	7	7	7	7	7	7	7
875	900	52	8	8	8	8	8	8	8
900	925	58	9	9	9	9	9	9	9
925	950	63	9	9	9	9	9	9	9
950	975	68	10	10	10	10	10	10	10
975	1,000	73	11	11	11	11	11	11	11
1,000	1,025	78	12	12	12	12	12	12	12
1,025	1,050	84	17	12	12	12	12	12	12
1,050	1,075	89	22	13	13	13	13	13	13
1,075	1,100	94	28	14	14	14	14	14	14
1,100	1,125	99	33	15	15	15	15	15	15
1,125	1,150	105	38	15	15	15	15	15	15
1,150	1,175	110	43	16	16	16	16	16	16
1,175	1,200	115	48	17	17	17	17	17	17
1,200	1,225	120	54	18	18	18	18	18	18
1,225	1,250	125	59	18	18	18	18	18	18
1,250	1,275	131	64	19	19	19	19	19	19
1,275	1,300	136	69	20	20	20	20	20	20
1,300	1,325	141	75	21	21	21	21	21	21
1,325	1,350	146	80	21	21	21	21	21	21
1,350	1,375	151	85	22	22	22	22	22	22
1,375	1,400	157	90	24	23	23	23	23	23
1,400	1,425	162	95	29	24	24	24	24	24
1,425	1,450	167	101	34	24	24	24	24	24
1,450	1,475	172	106	39	25	25	25	25	25
1,475	1,500	178	111	45	26	26	26	26	26
1,500	1,525	183	116	50	27	27	27	27	27
1,525	1,550	188	122	55	27	27	27	27	27
1,550	1,575	193	127	60	28	28	28	28	28
1,575	1,600	198	132	65	29	29	29	29	29
1,600	1,625	204	137	71	30	30	30	30	30
1,625	1,650	209	142	76	30	30	30	30	30
1,650	1,675	214	148	81	31	31	31	31	31
1,675	1,700	219	153	86	32	32	32	32	32
1,700	1,725	225	158	92	33	33	33	33	33
1,725	1,750	230	163	97	33	33	33	33	33
1,750	1,775	235	168	102	35	34	34	34	34
1,775	1,800	240	174	107	41	35	35	35	35
1,800	1,825	245	179	112	46	36	36	36	36
1,825	1,850	251	184	118	51	36	36	36	36
1,850	1,875	256	189	123	56	37	37	37	37
1,875	1,900	261	195	128	62	38	38	38	38
1,900	1,925	266	200	133	67	39	39	39	39
1,925	1,950	271	205	138	72	39	39	39	39
1,950	1,975	277	210	144	77	40	40	40	40
1,975	2,000	282	215	149	82	41	41	41	41
2,000	2,025	287	221	154	88	42	42	42	42
2,025	2,050	292	226	159	93	42	42	42	42
2,050	2,075	298	231	165	98	43	43	43	43
2,075	2,100	303	236	170	103	44	44	44	44
2,100	2,125	308	241	175	108	45	45	45	45
2,125	2,150	313	247	180	114	47	46	46	46
2,150	2,175	318	252	185	119	52	46	46	46
2,175	2,200	324	257	191	124	58	47	47	47
2,200	2,225	329	262	196	129	63	48	48	48
2,225	2,250	334	268	201	135	68	48	48	48
2,250	2,275	339	273	206	140	73	49	49	49
2,275	2,300	344	278	211	146	78	50	50	50
2,300	2,325	350	283	217	150	84	51	51	51
2,325	2,350	355	288	222	155	89	51	51	51
2,350	2,375	360	294	227	161	94	52	52	52
2,375	2,400	365	299	232	166	99	53	53	53
2,400	2,425	371	304	238	171	105	54	54	54
2,425	2,450	376	309	243	176	110	54	54	54
2,450	2,475	381	314	248	181	115	55	55	55
2,475	2,500	386	320	253	187	120	56	56	56
2,500	2,525	391	325	258	192	125	59	57	57
2,525	2,550	397	330	264	197	131	64	57	57

"*Married person making separate return*—Continued

"If the gross income is—		And the number of dependents is—							
		0	1	2	3	4	5	6	7 or more
At least	But less than	The tax shall be—							
$2,650	$2,675	$402	$385	$369	$202	$136	$69	$58	$58
2,675	2,600	407	341	274	208	141	75	59	59
2,600	2,625	412	346	279	213	146	80	60	60
2,625	2,650	417	351	284	218	151	85	60	60
2,650	2,675	423	356	290	223	157	90	61	61
2,675	2,700	428	361	295	228	162	96	62	62
2,700	2,725	433	367	300	234	167	101	63	63
2,725	2,750	438	372	305	239	172	106	63	63
2,750	2,775	444	377	311	244	178	111	64	64
2,775	2,800	449	382	316	249	183	116	65	65
2,800	2,825	455	387	321	254	188	121	66	66
2,825	2,850	461	393	326	260	193	127	66	66
2,850	2,875	467	398	331	265	198	132	67	67
2,875	2,900	473	403	337	270	204	137	71	68
2,900	2,925	479	408	342	275	209	142	76	69
2,925	2,950	485	414	347	281	214	148	81	69
2,950	2,975	491	419	352	286	219	153	86	70
2,975	3,000	497	424	357	291	224	158	91	71

"(1) *Married person whose spouse has no gross income or (2) married person making joint return or (3) head of family*

"If the gross income is—		And the number of dependents is—					
		0	1	2	3	4	5 or more
At least	But less than	The tax shall be—					
$0	$650	$0	$0	$0	$0	$0	$0
650	675	1	1	1	1	1	1
675	700	2	2	2	2	2	2
700	725	3	3	3	3	3	3
725	750	3	3	3	3	3	3
750	775	4	4	4	4	4	4
775	800	5	5	5	5	5	5
800	825	6	6	6	6	6	6
825	850	6	6	6	6	6	6
850	875	7	7	7	7	7	7
875	900	8	8	8	8	8	8
900	925	9	9	9	9	9	9
925	950	9	9	9	9	9	9
950	975	10	10	10	10	10	10
975	1,000	11	11	11	11	11	11
1,000	1,025	12	12	12	12	12	12
1,025	1,050	12	12	12	12	12	12
1,050	1,075	13	13	13	13	13	13
1,075	1,100	14	14	14	14	14	14
1,100	1,125	15	15	15	15	15	15
1,125	1,150	15	15	15	15	15	15
1,150	1,175	16	16	16	16	16	16
1,175	1,200	17	17	17	17	17	17
1,200	1,225	18	18	18	18	18	18
1,225	1,250	18	18	18	18	18	18
1,250	1,275	19	19	19	19	19	19
1,275	1,300	22	20	20	20	20	20
1,300	1,325	27	21	21	21	21	21
1,325	1,350	32	21	21	21	21	21
1,350	1,375	37	22	22	22	22	22
1,375	1,400	43	28	23	23	23	23
1,400	1,425	48	24	24	24	24	24
1,425	1,450	53	24	24	24	24	24
1,450	1,475	58	25	25	25	25	25
1,475	1,500	64	26	26	26	26	26
1,500	1,525	69	27	27	27	27	27
1,525	1,550	74	27	27	27	27	27
1,550	1,575	79	28	28	28	28	28
1,575	1,600	84	29	29	29	29	29
1,600	1,625	90	30	30	30	30	30
1,625	1,650	95	30	30	30	30	30
1,650	1,675	100	34	31	31	31	31

"(1) *Married person whose spouse has no gross income or (2) married person making joint return or (3) head of family*—Continued

"If the gross income is—		And the number of dependents is—					
		0	1	2	3	4	5 or more
At least	But less than	The tax shall be—					
$1,675	$1,700	$106	$89	$32	$32	$32	$32
1,700	1,725	111	43	33	33	33	33
1,725	1,750	116	49	33	33	33	33
1,750	1,775	121	54	34	34	34	34
1,775	1,800	126	60	35	35	35	35
1,800	1,825	131	65	36	36	36	36
1,825	1,850	137	70	36	36	36	36
1,850	1,875	142	76	37	37	37	37
1,875	1,900	147	81	38	38	38	38
1,900	1,925	152	86	39	39	39	39
1,925	1,950	157	91	39	39	39	39
1,950	1,975	163	96	40	40	40	40
1,975	2,000	168	101	41	41	41	41
2,000	2,025	173	107	42	42	42	42
2,025	2,050	178	112	45	42	42	42
2,050	2,075	184	117	51	43	43	43
2,075	2,100	189	122	56	44	44	44
2,100	2,125	194	127	61	45	45	45
2,125	2,150	199	133	66	45	45	45
2,150	2,175	204	138	71	46	46	46
2,175	2,200	210	143	77	47	47	47
2,200	2,225	215	148	82	48	48	48
2,225	2,250	220	154	87	48	48	48
2,250	2,275	226	159	92	49	49	49
2,275	2,300	230	164	97	50	50	50
2,300	2,325	236	169	103	51	51	51
2,325	2,350	241	174	108	51	51	51
2,350	2,375	246	180	113	52	52	52
2,375	2,400	251	185	118	53	53	53
2,400	2,425	257	190	124	57	54	54
2,425	2,450	262	195	129	62	54	54
2,450	2,475	267	200	134	67	55	55
2,475	2,500	272	206	139	73	56	56
2,500	2,525	277	211	144	78	57	57
2,525	2,550	283	216	150	83	57	57
2,550	2,575	288	221	155	88	58	58
2,575	2,600	293	227	160	94	59	59
2,600	2,625	298	232	165	99	60	60
2,625	2,650	303	237	170	104	60	60
2,650	2,675	309	242	176	109	61	61
2,675	2,700	314	247	181	114	62	62
2,700	2,725	319	253	186	120	63	63
2,725	2,750	324	258	191	125	63	63
2,750	2,775	330	263	197	130	64	64
2,775	2,800	335	268	202	135	69	65
2,800	2,825	340	273	207	140	74	66
2,825	2,850	345	279	212	146	79	66
2,850	2,875	350	284	217	151	84	67
2,875	2,900	356	289	223	156	90	68
2,900	2,925	361	294	228	161	95	69
2,925	2,950	366	300	233	167	100	69
2,950	2,975	371	305	238	172	105	70
2,975	3,000	376	310	243	177	110	71

"*Joint returns.—If a joint return of husband and wife is filed, the amount of tax shown in the above table shall be reduced by 8 per centum of the smaller income of the two spouses, but not by more than $19.*"

(b) TECHNICAL AMENDMENT.—Section 404 (relating to certain taxpayers ineligible to compute tax under alternative method) is amended by inserting after "nonresident alien individual," the following: "to a citizen of the United States entitled to the benefits of section 251,".

And the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

SEC. 103. DETERMINATION OF STATUS FOR PURPOSES OF PERSONAL EXEMPTION AND CREDIT FOR DEPENDENTS.

Section 25 (b) (relating to credits for both normal tax and surtax) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

> *"(3) Determination of Status.—For the purpose of determining the amount of the personal exemption and credit for dependents, the status of the taxpayer shall be determined as of July 1 of the taxable year, unless the taxable year does not include July 1, in which case such status shall be determined as of the last day of the taxable year."*

SEC. 104. REDUCTION OF CREDITS IN CASE OF SHORT YEAR LIMITED TO JEOPARDY.

Section 47 (c) (relating to reduction of personal exemption and credit for dependents in case of short taxable year) is amended by striking out ", except a return made under subsection (a), on account of a change in the accounting period" and inserting in lieu thereof "under section 146 (a) (1)".

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

SEC. 105. RETURNS OF INCOME.

(a) INDIVIDUAL RETURNS.—Section 51 (relating to individual returns) is amended by inserting at the end thereof the following:

"(f) Determination of Status.—For the purposes of this section and section 142 (a), the determination of whether an individual is married and living with husband or wife shall be made as of July 1 of the taxable year, unless the taxable year does not include July 1, in which case such determination shall be made as of the last day of the taxable year."

(b) JOINT RETURNS.—Section 51 (b) (relating to joint returns) is amended by inserting before the period at the end thereof "or if husband and wife have different taxable years".

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with amendments as follows:

On page 8, line 10, of the Senate engrossed amendments, strike out "SEC. 102" and insert *SEC. 106*;

On page 24, line 21, of the House bill strike out "and 15" and insert *15, and 450*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *107*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amend ment insert *108*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows:

On page 9, line 4, of the Senate engrossed amendments, strike out "105" and insert *109*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows:

On page 9, line 14, of the Senate engrossed amendments, strike out "106" and insert *110*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *111*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with amendments as follows:

On page 11, line 20, of the Senate engrossed amendments, strike out "108" and insert *113*;

On page 12, line 4, of the Senate engrossed amendments, after "year", insert a comma; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with amendments as follows:

On page 12 of the Senate engrossed amendments, in line 9, strike out "109" and insert *114*, and in line 14, strike out "end to" and insert *end of*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *115*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with amendments as follows:

On page 13 of the Senate engrossed amendments, in line 2, strike out "111" and insert *116*, and in line 25, strike out "(9)" and insert *(10), or so much of section 112 (d) or (e) as relates to section 112 (b) (10),*;

On page 28, line 1, of the House bill, strike out "112" and insert *117*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

On page 15, line 9, of the Senate engrossed amendments, after "exempt", insert *solely*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 118. PENALTIES IN CONNECTION WITH ESTIMATED TAX.

(a) IN GENERAL.—Section 294 (relating to additions to the tax) is amended by striking out paragraphs (3), (4), and (5) of subsection (a) and inserting at the end thereof the following:

"*(d) ESTIMATED TAX.—*

"*(1) FAILURE TO FILE DECLARATION OR PAY INSTALLMENT OF ESTIMATED TAX.—*

"*(A) Failure to File Declaration.—In the case of a failure to make and file a declaration of estimated tax within the time prescribed, unless such failure is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect, there shall be added to the tax 5 per centum of each installment due but unpaid, and in addition, with respect to each such installment due but unpaid, 1 per centum of the unpaid amount thereof for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment. For the purposes of this subparagraph each installment shall be considered to be an amount equal to the amount that would have been due and payable if a declaration showing an estimated tax in the amount of the correct tax had been timely filed, and one such installment shall be considered due on the fifteenth day of the last month of that quarter of the taxable year in which the declaration is required to be filed, and another such installment shall be considered due on the fifteenth day of the last month of each succeeding quarter of the taxable year.*

"*(B) Failure to Pay Installments of Estimated Tax Declared.—Where a declaration of estimated tax has been made and filed within the time prescribed, or where a declaration of*

estimated tax has been made and filed after the time prescribed and the Commissioner has found that failure to make and file such declaration within the time prescribed was due to reasonable cause and not to willful neglect, in the case of a failure to pay an installment of the estimated tax within the time prescribed, unless such failure is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect, there shall be added to the tax 5 per centum of the unpaid amount of such installment, and in addition 1 per centum of such unpaid amount for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment.

"(2) SUBSTANTIAL UNDERESTIMATE OF ESTIMATED TAX.—If 80 per centum of the tax (determined without regard to the credits under sections 32, 35, and 466 (e)), in the case of individuals other than farmers exercising an election under section 60 (a), or 66⅔ per centum of such tax so determined in the case of such farmers, exceeds the estimated tax (increased by such credits), there shall be added to the tax an amount equal to such excess, or equal to 6 per centum of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. This paragraph shall not apply to the taxable year in which falls the death of the taxpayer, nor, under regulations prescribed by the Commissioner with the approval of the Secretary, shall it apply to the taxable year in which the taxpayer makes a timely payment of estimated tax within or before each quarter (excluding, in case the taxable year begins in 1943, any quarter beginning prior to July 1, 1943) of such year (or in the case of farmers exercising an election under section 60 (a), within the last quarter) in an amount at least as great as though computed (under such regulations) on the basis of the taxpayer's status with respect to the personal exemption and credit for dependents on the date of the filing of the declaration for such taxable year (or in the case of any such farmer, or in case the fifteenth day of the third month of the taxable year occurs after July 1, on July 1 of the taxable year) but otherwise on the basis of the facts shown on his return for the preceding taxable year."

(b) TECHNICAL AMENDMENT.—Section 60 (b) (relating to the application of declarations of estimated tax to short taxable years) is amended by striking out "294 (a) (3), (4), and (5)" and inserting in lieu thereof "294 (d)".

(c) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be applicable with respect to taxable years beginning after December 31, 1942.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

SEC. 119. BACK PAY ATTRIBUTABLE TO PRIOR YEARS.

(a) IN GENERAL.—Section 107 (relating to compensation for certain services rendered) is amended by inserting at the end thereof the following new subsection:

"(d) BACK PAY.—

"(1) IN GENERAL.—If the amount of the back pay received or accrued by an individual during the taxable year exceeds 15 per centum of the gross income of the individual for such year, the part of the tax attributable to the inclusion of such back pay in gross income for the taxable year shall not be greater than the aggregate of the increases in the taxes which would have resulted from the inclusion of the respective portions of such back pay in gross income for the taxable years to which such portions are respectively attributable, as determined under regulations prescribed by the Commissioner with the approval of the Secretary.

"(2) DEFINITION OF BACK PAY.—For the purposes of this subsection, 'back pay' means (A) remuneration, including wages, salaries, retirement pay, and other similar compensation, which is received or accrued during the taxable year by an employee for services performed prior to the taxable year for his employer and which would have been paid prior to the taxable year except for the intervention of one of the following events: (i) bankruptcy or receivership of the employer; (ii) dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings; (iii) if the employer is the United States, a State, a Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or (iv) any other event determined to be similar in nature under regulations prescribed by the Commissioner with the approval of the Secretary; and (B) wages or salaries which are received or accrued during the taxable year by an employee for services performed prior to the taxable year for his employer and which constitute retroactive wage or salary increases ordered, recommended, or approved by any Federal or State agency, and made retroactive to any period prior to the taxable year; and (C) payments which are received or accrued during the taxable year as the result of an alleged violation by an employer of any State or Federal law relating to labor standards or practices, and which are determined under regulations prescribed by the Commissioner with the approval of the Secretary to be attributable to a prior taxable year. Amounts not includible in gross income under this chapter shall not constitute 'back pay'."

*(b) TECHNICAL AMENDMENT.—The title of section 107 is amended by adding at the end thereof the following: "**AND BACK PAY**".*

(c) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1940.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows:

On page 19, line 7, of the Senate engrossed amendments, strike out "114" and insert *120*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 121. REORGANIZATION OF CERTAIN INSOLVENT CORPORATIONS.

(a) NONRECOGNITION OF GAIN OR LOSS ON CERTAIN REORGANIZATIONS.—Section 112 (b) (relating to recognition of gain or loss upon certain exchanges) is amended by inserting at the end thereof the following:

"(10) GAIN OR LOSS NOT RECOGNIZED ON REORGANIZATION OF CORPORATIONS IN CERTAIN RECEIVERSHIP AND BANKRUPTCY PROCEEDINGS.—No gain or loss shall be recognized if property of a corporation (other than a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended) is transferred, in a taxable year of such corporation beginning after December 31, 1933, in pursuance of an order of the court having jurisdiction of such corporation—

"(A) in a receivership, foreclosure, or similar proceeding, or

"(B) in a proceeding under section 77B or Chapter X of the National Bankruptcy Act, as amended,

to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation."

(b) RECOGNITION OF GAIN OR LOSS OF SECURITY HOLDERS IN CONNECTION WITH CERTAIN CORPORATE REORGANIZATIONS.—Section 112 (relating to recognition of gain or loss) is amended by inserting at the end thereof the following:

"(l) EXCHANGES BY SECURITY HOLDERS IN CONNECTION WITH CERTAIN CORPORATE REORGANIZATIONS.—

"(1) GENERAL RULE.—No gain or loss shall be recognized upon an exchange consisting of the relinquishment or extinguishment of stock or securities in a corporation the plan of reorganization of which is approved by the court in a proceeding described in subsection (b) (10), in consideration of the acquisition solely of stock or securities in a corporation organized or made use of to effectuate such plan of reorganization.

"(2) EXCHANGE OCCURRING IN TAXABLE YEARS BEGINNING PRIOR TO JANUARY 1, 1943.—If the exchange occurred in a taxable year of the person acquiring such stock or securities beginning prior to January 1, 1943, then, ~~under~~ regulations prescribed by the Commissioner with the approval of the Secretary, gain or loss shall be recognized or not recognized—

"(A) to the extent that it was recognized or not recognized in the final determination of the tax of such person for such taxable year, if such tax was finally determined prior to the ninetieth day after the date of the enactment of the Revenue Act of 1943; or

"(B) in cases to which subparagraph (A) is not applicable, to the extent that it would be recognized or not recognized under the latest treatment of such exchange by such person prior to December 15, 1943, in connection with his tax liability for such taxable year."

(c) *Basis.*—*Section 113 (a) (relating to basis of property) is amended*

(1) by inserting after "112 (b) to (e), inclusive," in paragraph (6) the following: "or section 112 (l),";

(2) by inserting after "property permitted by section 112 (b)" in paragraph (6) the following: "or section 112 (l)"; and

(3) by inserting after paragraph (21) the following:

"(22) Property acquired on reorganization of certain corporations.—If the property was acquired by a corporation upon a transfer to which section 112 (b) (10), or so much of section 112 (d) or (e) as relates to section 112 (b) (10), is applicable, then, notwithstanding the provisions of section 270 of the National Bankruptcy Act, as amended, the basis in the hands of the acquiring corporation shall be the same as it would be in the hands of the corporation whose property was so acquired, increased in the amount of gain recognized to the corporation whose property was so acquired under the law applicable to the year in which the acquisition occurred, and such basis shall not be adjusted under subsection (b) (3) by reason of a discharge of indebtedness pursuant to the plan of reorganization under which such transfer was made."

(d) *Technical Amendments.*—

(1) Section 112 (c) (relating to gain from exchanges not solely in kind) is amended by inserting after "(b) (1), (2), (3), or (5)", the following: ", or within the provisions of subsection (l),", and by inserting after "paragraph" the following: "or by subsection (l)".

(2) Section 112 (d) (relating to gain of corporation) is amended by inserting after "subsection (b) (4)" the following: "or (10)".

(3) Section 112 (e) (relating to loss from exchanges not solely in kind) is amended by inserting after "subsection (b) (1) to (5), inclusive," the following: "or (10), or within the provisions of subsection (l),".

(4) So much of section 112 (g) (defining "reorganization") as precedes paragraph (1) is amended to read as follows:

"(g) Definition of Reorganization.—As used in this section (other than subsection (b) (10) and subsection (l)) and in section 113 (other than subsection (a) (22))—".

(5) Section 112 (k) (relating to assumption of liability) is amended by striking out "subsection (b) (4) or (5)" wherever appearing therein and inserting in lieu thereof the following: "subsection (b) (4), (5), or (10)".

(6) Section 718 (a) (6) (A) is amended by striking out "112 (b) (3), (4), or (5), or so much of section 112 (c), (d), or (e) as refers to section 112 (b) (3), (4), or (5)" and inserting in lieu thereof "112 (b) (3), (4), (5), or (10), or so much of section 112 (c), (d), or (e) as refers to section 112 (b) (3), (4), (5), or (10)".

(e) *Effective Date.—Provisions having the effect of the amendments made by subsection (a), subsection (c) (3), and subsection (d) (2), (3), (4), (5), and (6), shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1933, but shall not affect any tax liability for any taxable year beginning prior to January 1, 1943. Provisions having the effect of the amendments made by subsection (b), subsection (c) (1) and (2), and subsection (d) (1), shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1931.*

And the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 122. REORGANIZATION BY ADJUSTMENT OF CAPITAL STRUCTURE PRIOR TO SEPTEMBER 22, 1938.

(a) IN GENERAL.—Section 113 (b) (relating to adjustments to the basis of property) is amended by inserting at the end thereof the following:

"(4) ADJUSTMENT OF CAPITAL STRUCTURE PRIOR TO SEPTEMBER 22, 1938.—Where a plan of reorganization of a corporation, approved by the court in a proceeding under section 77B of the National Bankruptcy Act, as amended, is consummated by adjustment of the capital or debt structure of such corporation without the transfer of its assets to another corporation, and a final judgment or decree in such proceeding has been entered prior to September 22, 1938, then the provisions of section 270 of the National Bankruptcy Act, as amended, shall not apply in respect of the property of such corporation. For the purposes of this paragraph the term 'reorganization' shall not be limited by the definition of such term in section 112 (g)."

(b) TAXABLE YEARS TO WHICH APPLICABLE.—A provision having the effect of the amendment made by subsection (a) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1935.

And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 123. GAIN FROM SALE OR EXCHANGE OF PROPERTY PURSUANT TO ORDERS OF FEDERAL COMMUNICATIONS COMMISSION.

(a) IN GENERAL.—Section 112 is amended by adding at the end thereof a new subsection as follows:

"(m) GAIN FROM SALE OR EXCHANGE TO EFFECTUATE POLICIES OF FEDERAL COMMUNICATIONS COMMISSION.—If the sale or exchange of property (including stock in a corporation) is certified by the Federal Communications Commission to be necessary or appropriate to effectuate the policies of the Commission with respect to the ownership and control of radio broadcasting stations, such sale or exchange shall, if the taxpayer so elects, be treated as an involuntary conversion of such property within the meaning of subsection (f) of this section. For the purposes of subsection (f) of this section as made applicable by the provisions of this subsection, stock of a corporation operating a radio broadcasting station, whether or not representing control of such corporation, shall be treated as property similar or related in service or use to the property so converted.

The part of the gain, if any, upon such sale or exchange to which subsection (f) of this section is not applied shall nevertheless not be recognized, if the taxpayer so elects, to the extent that it is applied to reduce the basis for determining gain or loss upon sale or exchange of property, of a character subject to the allowance for depreciation under section 23 (l), remaining in the hands of the taxpayer immediately after the sale or exchange, or acquired in the same taxable year. The manner and amount of such reduction shall be determined under regulations prescribed by the Commissioner with the approval of the Secretary. Any election made by the taxpayer under this subsection shall be made by a statement to that effect in his return for the taxable year in which the sale or exchange takes place (or, with respect to taxable years beginning before January 1, 1944, by a statement to that effect filed within six months after the date of the enactment of the Revenue Act of 1943 in such manner and form as may be prescribed by regulations prescribed by the Commissioner with the approval of the Secretary) and such election shall be binding for the taxable year and all subsequent taxable years."

(b) *TAXABLE YEARS TO WHICH APPLICABLE.— The amendments made by this section shall be applicable with respect to taxable years beginning after December 31, 1942.*

And the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *124*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert ***TALC, BARITE,***; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(*A*) *In General.*—

And the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(c) *DEFINITION OF GROSS INCOME FROM THE PROPERTY.—Section 114 (b) (4) is amended by adding at the end thereof the following:*

"(B) Definition of Gross Income From Property.—As used in this paragraph the term 'gross income from the property' means the gross income from mining. The term 'mining', as used herein, shall be considered to include not merely the extraction of the ores or minerals from the ground but also the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products. The term 'ordinary treatment processes', as used herein, shall include the following: (i) In the case of coal—cleaning, breaking, sizing, and loading for shipment; (ii) in the case of sulfur—pumping to vats, cooling, breaking, and loading for shipment; (iii) in the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of a crude mineral product—sorting, concentrating, and sintering to bring to shipping grade and form, and loading for shipment; and (iv) in the case of lead, zinc, copper, gold, silver, or fluorspar ores, potash, and ores which are not customarily sold in the form of the crude mineral product—crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including as an ordinary treatment process electrolytic deposition, roasting, thermal or electric smelting, or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the product or products from the ore, including the furnacing of quicksilver ores. The principles of this subparagraph shall also be applicable in determining gross income attributable to mining for the purposes of sections 731 and 735."

And the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *A provision having the effect of the amendment made by subsection (c) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1931.*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows:

On page 34, line 12, of the Senate engrossed amendments, strike out "118" and insert *125*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows:

On page 36, line 11, of the Senate engrossed amendments, strike out "120" and insert *126*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 127. GAIN OR LOSS UPON THE CUTTING OF TIMBER.

(a) IN GENERAL.—Section 117 (relating to capital gains and losses) is amended by inserting at the end thereof the following new subsection:

"(k) GAIN OR LOSS UPON THE CUTTING OF TIMBER.—

"(1) If the taxpayer so elects upon his return for a taxable year, the cutting of timber (for sale or for use in the taxpayer's trade or business) during such year by the taxpayer who owns, or has a contract right to cut, such timber (providing he has owned such timber or has held such contract right for a period of more than six months prior to the beginning of such year) shall be considered as a sale or exchange of such timber cut during such year. In case such election has been made, gain or loss to the taxpayer shall be recognized in an amount equal to the difference between the adjusted basis for depletion of such timber in the hands of the taxpayer and the fair market value of such timber. Such fair market value shall be the fair market value as of the first day of the taxable year in which such timber is cut, and shall thereafter be considered as the cost of such cut timber to the taxpayer for all purposes for which such cost is a necessary factor. If a taxpayer makes an election under this paragraph such election shall apply with respect to all timber which is owned by the taxpayer or which the taxpayer has a contract right to cut and shall be binding upon the taxpayer for the taxable year for which the election is made and for all subsequent years, unless the Commissioner, on showing of undue hardship, permits the taxpayer to revoke his election; such revocation, however, shall preclude any further elections under this paragraph except with the consent of the Commissioner.

"(2) In the case of the disposal of timber (held for more than six months prior to such disposal) by the owner thereof under any form or type of contract by virtue of which the owner retains an economic interest in such timber, the difference between the amount received for such timber and the adjusted depletion basis thereof shall be considered as though it were a gain or loss, as the case may be, upon the sale of such timber.

(b) TECHNICAL AMENDMENT.—Section 117 (j) (1) (relating to gains and losses from involuntary conversion and from the sale or exchange of certain property used in the trade or business) is amended by inserting at the end thereof the following: "Such term also includes timber with respect to which subsection (k) (1) or (2) is applicable."

(c) *EFFECTIVE DATE.—A provision having the effect of section 117 (k) (2) of the Internal Revenue Code inserted by the amendment made by subsection (a) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after February 28, 1913. The amendment made by subsection (b) shall be effective as if it were made by section 151 of the Revenue Act of 1942.*

And the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *128*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *If (1) any person or persons acquire, on or after October 8, 1940, directly or indirectly, control of a corporation, or (2) any corporation acquires, on or after October 8, 1940, directly or indirectly, property of another corporation, not controlled, directly or indirectly, immediately prior to such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and the principal purpose for which such acquisition was made is evasion or avoidance of Federal income or excess profits tax by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then such deduction, credit, or other allowance shall not be allowed. For the purposes of clauses (1) and (2), control means the ownership of stock possessing at least 50 per centum of the total combined voting power of all classes of stock entitled to vote or at least 50 per centum of the total value of shares of all classes of stock of the corporation.*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment and strike out the matter proposed to be stricken out by the Senate amendment and insert the following: *after December 31, 1943. The determination of the law applicable to prior taxable years shall be made as if this section had not been enacted and without inferences drawn from the fact that the amendment made by this section is not expressly made applicable to prior taxable years.*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 129. DISALLOWANCE OF CERTAIN DEDUCTIONS ATTRIBUTABLE TO BUSINESS OPERATED BY INDIVIDUAL AT LOSS FOR FIVE YEARS.

(a) IN GENERAL.—Supplement B of chapter 1 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

"SEC. 130. LIMITATION ON DEDUCTIONS ALLOWABLE TO INDIVIDUALS IN CERTAIN CASES.

"(a) RECOMPUTATION OF NET INCOME.—If the deductions (other than taxes and interest) allowable to an individual (except for the provisions of this section) and attributable to a trade or business carried on by him for five consecutive taxable years have, in each of such years, exceeded by more than $50,000 the gross income derived from such trade or business, the net income of such individual for each of such years shall be recomputed. For the purpose of such recomputation in the case of any such taxable year, such deductions shall be allowed only to the extent of $50,000 plus the gross income attributable to such trade or business, except that the net operating loss deduction, to the extent attributable to such trade or business, shall not be allowed.

"(b) REDETERMINATION OF TAX.—Upon the basis of the net income computed under the provisions of subsection (a) for each of the five consecutive taxable years specified in such subsection, the tax imposed by this chapter shall be redetermined for each such taxable year. If for any such taxable year assessment of a deficiency is prevented (except for the provisions of sections 3801 and 3807) by the operation of any law or rule of law (other than section 3761, relating to compromises) any increase in the tax previously determined for such taxable year shall be considered a deficiency for the purposes of this section. For the purposes of this section the term 'tax previously determined' shall have the meaning assigned to such term by section 3801 (d).

"(c) EXTENSION OF STATUTE OF LIMITATIONS.—Notwithstanding any law or rule of law (other than section 3761, relating to compromises), any amount determined as a deficiency under subsection (b), or which would be so determined if assessment were prevented in the manner described in subsection (b), with respect to any taxable year may be assessed as if on the date of the expiration of the time prescribed by law for the assessment of a deficiency for the fifth taxable year of the five consecutive taxable years specified in subsection (a), one year remained before the expiration of the period of limitation upon assessment for any such taxable year."

(b) EFFECTIVE DATE OF AMENDMENT.—The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1939, but shall not affect any tax liability for any taxable year beginning prior to January 1, 1944.

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows:

On page 43, line 2, of the Senate engrossed amendments, strike out "124" and insert *130*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows:

On page 45, line 16, of the Senate engrossed amendments, strike out "125" and insert *131*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows:

On page 46, line 9, of the Senate engrossed amendments, strike out "126" and insert *132*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows:

On page 47, line 2, of the Senate engrossed amendments, strike out "127" and insert *133*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *134*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows:

On page 49, line 7, of the Senate engrossed amendments, strike out "129" and insert *135*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *136*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

SEC. 137. STATUS FOR WITHHOLDING AT SOURCE ON WAGES.

Section 1622 (h) (1) (relating to withholding exemption certificates) is amended to read as follows:

"(1) If furnished after the date of commencement of employment with the employer by reason of a change of status, shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least thirty days from the date on which such certificate is furnished to the employer, except that at the election of the employer such certificate, if furnished by reason of a change of status occurring on or before July 1 of the calendar year, may be made effective with respect to any previous payment of wages made on or after the date of the furnishing of such certificate. For the purposes of this paragraph the term 'status determination date' means January 1 and July 1 of each year."

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 209. EXEMPT CORPORATIONS.

(a) CORPORATIONS SUBJECT TO TITLE IV OF THE CIVIL AERONAUTICS ACT OF 1938.—Section 727 (h) (exempting certain corporations subject to Title IV of the Civil Aeronautics Act of 1938) is amended by adding at the end thereof the following new sentence: "Such exclusion from gross income for such year shall also be made in computing the unused excess profits credit adjustment for any other taxable year, but only for the purpose of determining whether the corporation is exempted by this subsection from the tax imposed by this Chapter for such other taxable year."

(b) RETROACTIVE EFFECT.—The amendment made by this section shall be effective as if it were a part of the Excess Profits Tax Act of 1940 on the date of the enactment of such Act.

And the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(2) SPECIAL RULE IN CASE OF FISCAL YEARS BEGINNING IN 1941 AND ENDING AFTER JUNE 30, 1942.—In the case of a taxable year beginning in 1941 and ending after June 30, 1942, the credit under section 780 (a) for such taxable year shall not be greater than the excess of the tax paid under this subchapter to the United States for such taxable year (and not credited or refunded under the internal revenue laws) over the amount of tax which would be payable to the United States under this subchapter if the portion of the tentative tax determined under section 710 (a) (3) (B) were reduced by 10 per centum.

And the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows:

On page 57, line 5, of the Senate engrossed amendments, strike out "fiscal" and insert *taxable*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 251. TECHNICAL AMENDMENT TO CREDIT FOR DEBT RETIREMENT.

(a) IN GENERAL.—Section 783 (b) (2) (relating to a limitation on the credit for debt retirement) is amended to read as follows:

"(2) An amount equal to 40 per centum of the amount by which (A) the amount of indebtedness as of September 1, 1942, or (B) the smallest amount of indebtedness as of the close of any preceding taxable year ending after September 1, 1942, whichever amount is the lesser, exceeds the amount of indebtedness as of the close of the taxable year."

(b) TAXABLE YEARS TO WHICH APPLICABLE.—The amendment made by subsection (a) shall be applicable with respect to taxable years beginning after September 1, 1942.

(c) ELECTION WITH RESPECT TO PRIOR TAXABLE YEARS.—If by reason of the amendment made by subsection (a) a taxpayer would be entitled, had the election provided for in section 783 (a) of the Internal Revenue Code been duly made, to take any credit under such section with respect to a taxable year ended prior to the date of the enactment of this Act in any amount to which such taxpayer would not be entitled were it not for such amendment, the election of the taxpayer to take such credit in such amount may be made within ninety days after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and on page 69 of the House bill, in the section column under "3465 (a) (1) (A)", insert *3465 (a) (1) (B) (insofar as it relates to domestic telegraph, cable, and radio dispatches)*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *20*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *20*; and the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(*c*) *POWER OF SECRETARY OF TREASURY TO AUTHORIZE EXEMPTION.—Notwithstanding the amendments made by this section, the Secretary of the Treasury may authorize exemption from the taxes imposed by Chapters 19, 29, or 30 of the Internal Revenue Code as to any particular articles or services, or class of articles or services, to be purchased for the exclusive use of the United States, if he determines that the imposition of such taxes with respect to such articles or services, or class of articles or services, will cause substantial burden or expense which can be avoided by granting tax exemption and that the full benefit of such exemption, if granted, will accrue to the United States. This subsection shall not be applicable to any contract entered into on or after the first day of the first month which begins six months or more after the date of the termination of hostilities in the present war.*

And the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment as follows:

On page 66, line 20, of the Senate engrossed amendments, strike out "310" and insert *311*; and the Senate agree to the same.

Amendment numbered 197:

That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment and on page 92, lines 5 and 6, of the House bill, strike out "comparable corporations" and insert *corporations engaged in the same or a similar line of business*; and the Senate agree to the same.

Amendment numbered 199:

That the House recede from its disagreement to the amendment of the Senate numbered 199, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 502. CERTAIN DISCRETIONARY TRUSTS IN CONNECTION WITH GIFT TAX.

(*a*) *AMENDMENT OF THE INTERNAL REVENUE CODE.—Section 1000 of the Internal Revenue Code (imposing the gift tax) is amended by inserting at the end thereof the following:*

"(e) CERTAIN DISCRETIONARY TRUSTS.—In the case of property in a trust created prior to January 1, 1939, if on and after January 1, 1939, no power to revest title to such property in the grantor could be exercised either by the grantor alone, or by the grantor in conjunction with any other person not having a substantial adverse interest in the disposition of such property or the income therefrom, then a relinquishment by the grantor on or after January 1, 1940, and prior to January 1, 1945, of power or control with respect to the distribution of such property or the income therefrom by an exercise or other termination of such power or control shall not be deemed a transfer of property for the purposes of this Chapter. If such property was transferred in trust, the grantor not retaining such power to revest title thereto in himself, or if such power to revest title to such property in the grantor was relinquished, while a law was in effect imposing a tax upon the transfer of property by gift, this subsection shall apply only if (1) gift tax was paid with respect to such transfer or relinquishment, and not credited or refunded, or a gift tax return was made within the time prescribed on account of such transfer or relinquishment but no gift tax was paid with respect to such transfer or relinquishment because of the deductions and exclusions claimed on such return, and (2) the grantor consents, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, for all purposes of this Chapter to treat such transfer or relinquishment in the calendar year in which effected, and for all periods thereafter, as having been a transfer of property subject to tax under this Chapter. This subsection shall not apply to any payment or other disposition of income occurring prior to the termination of power or control with respect to the future disposition of income from the trust property."

(b) AMENDMENT OF REVENUE ACT OF 1932.—Section 501 of the Revenue Act of 1932 (imposing a gift tax) is amended by inserting at the end thereof the following:

"(c) CERTAIN DISCRETIONARY TRUSTS.—In the case of property in a trust created prior to January 1, 1939, if on and after January 1, 1939, no power to revest title to such property in the grantor could be exercised either by the grantor alone, or by the grantor in conjunction with any other person not having a substantial adverse interest in the disposition of such property or the income therefrom, then a relinquishment by the grantor on or after January 1, 1939, and prior to January 1, 1940, of power or control with respect to the distribution of such property or the income therefrom by an exercise or other termination of such power or control shall not be deemed a transfer of property for the purposes of this title. If such property was transferred in trust, the grantor not retaining such power to revest title thereto in himself, or if such power to revest title to such property in the grantor was relinquished, while a law was in effect imposing a tax upon the transfer of property by gift, this subsection shall apply only if (1) gift tax was paid with respect to such transfer or relinquishment, and not credited or refunded, or a gift tax return was made within the time prescribed on account of such transfer or relinquishment but no gift tax was paid with respect to such transfer or relinquishment because of the deductions and exclusions claimed on such return, and (2) the grantor consents, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, for all purposes of this title to treat such transfer or relinquishment in the calendar year in which effected, and for all periods thereafter, as having been a transfer of property subject to tax under this title. This subsection shall not apply to any payment or other disposition of income occurring prior to the termination of power or

control with respect to the future disposition of income from the trust property."

(c) *INTEREST ON OVERPAYMENTS.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.*

And the Senate agree to the same.

Amendment numbered 202:

That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment as follows:

On page 72, line 17, of the Senate engrossed amendments, strike out "503" and insert *504*; and the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment as follows:

On page 73, line 2, of the Senate engrossed amendments, strike out "504" and insert *505*; and the Senate agree to the same.

Amendment numbered 204:

That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with an amendment as follows:

On page 73, line 16, of the Senate engrossed amendments, strike out "505" and insert *506*; and the Senate agree to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 507. IMPORTATION OF STANDARD NEWSPRINT PAPER.

(a) *IN GENERAL.—For the purposes of paragraph 1772 of the Tariff Act of 1930, as amended—*

(1) Paper which is in rolls not less than 15 inches in width shall be deemed to be standard newsprint paper insofar as width of rolls is concerned; and

(2) Paper which weighs not less than 30 pounds (with a 5 per centum manufacturing tolerance permitted) per ream of 500 sheets 24 by 36 inches shall be deemed to be standard newsprint paper insofar as minimum weight is concerned.

(b) *EFFECTIVE PERIOD.—The provisions of subsection (a) shall apply with respect to paper entered, or withdrawn from warehouse, for consumption, after the date of the enactment of this Act and while United States newspaper publishers are limited by law or by governmental order or regulation as to the amount of paper they may use in the publication of their newspapers.*

And the Senate agree to the same.

Amendment numbered 206:

That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 508. EXEMPTION FROM TAX ON PLAYING CARDS EXPORTED FOR USE OF ARMED FORCES OUTSIDE CONTINENTAL UNITED STATES.

(a) IN GENERAL.—Section 1830 (relating to the exemption from the tax upon playing cards exported) is amended to read as follows:

"SEC. 1830. EXEMPTION IN CASE OF EXPORTATION.

"Playing cards may be removed from the place of manufacture for export to a foreign country or for shipment to a possession of the United States (or, until the date on which the President proclaims that hostilities in the present war have terminated, to a territory of the United States for the use of members of the military or naval forces of the United States) without payment of tax, or affixing stamps thereto, under such rules and regulations and the filing of such bonds as the Commissioner, with the approval of the Secretary, may prescribe."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of January 1, 1942.

And the Senate agree to the same.

Amendment numbered 207:

That the House recede from its disagreement to the amendment of the Senate numbered 207, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment and, on page 27 of the House bill, after line 3, insert the following:

SEC. 112. DEDUCTION FOR LOSSES ON SECURITIES IN AFFILIATED CORPORATIONS.

(a) STOCK LOSSES.—Section 23 (g) (4) (B) of the Internal Revenue Code (relating to losses on stock of affiliated corporations) is amended to read as follows:

> *"(B) more than 90 per centum of the aggregate of its gross incomes for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the company in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, or gains from sales or exchanges of stocks and securities; and"*

(b) BOND LOSSES.—Section 23 (k) (5) (B) of the Internal Revenue Code (relating to losses on securities of affiliated corporations) is amended to read as follows:

> *"(B) more than 90 per centum of the aggregate of its gross incomes for all taxable years has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the company in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, or gains from sales or exchanges of stocks and securities; and"*

(c) TAXABLE YEARS TO WHICH APPLICABLE.—The amendments made by this section shall be applicable with respect to taxable years beginning after December 31, 1941.

And the Senate agree to the same.

Amendment numbered 208:

That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 509. RETROACTIVE EFFECT OF SECTION 169 OF THE REVENUE ACT OF 1942.

(a) IN GENERAL.—Section 169 (c) of the Revenue Act of 1942 (relating to the effective date of certain amendments to section 322) is amended by inserting at the end thereof the following: "A provision having the effect of the amendment inserting section 322 (b) (3) of the Internal Revenue Code, and a provision having the effect of the amendment made by subsection (b) of this section, shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1923, but such amendments shall be effective with respect to taxable years beginning prior to January 1, 1942, only if on or at some time after the date of the enactment of the Revenue Act of 1943 the Commissioner may assess the tax for such taxable year solely by reason of having made (either before, on, or after the date of the enactment of the Revenue Act of 1943) an agreement with the taxpayer pursuant to section 276 (b) of the Internal Revenue Code or the corresponding provision of the applicable prior revenue law to extend beyond the time prescribed in section 275 or the corresponding provision of such prior revenue law the date within which the Commissioner may assess the tax."

(b) CERTAIN TRANSFEREES.—If a transferee of a taxpayer and the Commissioner executed an agreement to extend the time within which the liability with respect to the tax of the taxpayer for a taxable year beginning in 1936 might be assessed against such transferee, any overpayment of the tax of the taxpayer with respect to such taxable year which the Tax Court of the United States finds has been paid by such transferee shall, when the decision of the Tax Court of the United States has become final, be credited or refunded to such transferee. Such credit or refund shall not exceed the amount paid by the transferee with respect to the tax of the taxpayer for such taxable year within the four years immediately preceding the execution of such agreement.

And the Senate agree to the same.

Amendment numbered 212:

That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with amendments as follows:

On page 81 of the Senate engrossed amendments, in line 2, strike out "513" and insert *512*; in line 3, after "(a)", insert *In General.—*; and in line 8, after "(b)", insert *Effective Date.—*; and the Senate agree to the same.

Amendment numbered 213:

That the House recede from its disagreement to the amendment of the Senate numbered 213, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 513. PERIOD OF LIMITATIONS IN CASE OF RELATED TAXES UNDER CHAPTER 1 AND CHAPTER 2.

(a) IN GENERAL.—The Internal Revenue Code is amended by inserting at the end of Chapter 38 a new section to read as follows:

"SEC. 3807. PERIOD OF LIMITATIONS IN CASE OF RELATED TAXES UNDER CHAPTER 1 AND CHAPTER 2.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'tax previously determined' shall have the meaning assigned to such term by section 3801 (d).

"(2) The term 'the same taxable year' shall include any taxable year which coincides in whole or in part with the taxable year for which the determination referred to in subsection (b) is made.

"(b) EXTENSION OF PERIOD OF LIMITATIONS.—If—

"(1) under a determination in respect of a tax imposed by chapter 1 or chapter 2, a deficiency is assessed or a credit or refund of an overpayment is allowed, within the period of limitations properly applicable thereto, and

"(2) the application of the law or facts determined in the ascertainment of such deficiency or overpayment to any other such tax of the taxpayer under chapter 1 or chapter 2 for the same taxable year would result in an increase or decrease in the amount of the tax previously determined in respect of such other tax, and

"(3) on any date prior to the expiration of one year from the assessment of a deficiency or the allowance of a credit or refund in respect of the tax referred to in paragraph (1), the assessment of a deficiency or the allowance of a credit or refund in respect of the tax referred to in paragraph (2) is prevented (except for the provisions of section 3801 or 734) by the operation (whether before, on, or after the date of enactment of the Revenue Act of 1943) of any law or rule of law other than this section and other than section 3761 (relating to compromises)

then upon such date the increase or decrease in the tax referred to in paragraph (2) shall be considered a deficiency or an overpayment, as the case may be. Such deficiency may be assessed and collected or such overpayment may be credited or refunded as if on the date the deficiency is assessed or the credit or refund allowed in respect of the tax referred to in paragraph (1) one year remained before the expiration of the periods of limitation upon assessment or filing claim for refund in respect of the tax referred to in paragraph (2) for the same taxable year.

"(c) ADJUSTMENT UNAFFECTED BY OTHER ITEMS, ETC.—In determining whether an increase or decrease in the amount of the tax previously determined shall be considered to result from the application of the law or facts under a determination referred to in subsection (b) (1) changes shall be made in items which are the subject of such determination and in items which are affected thereby, and in no others. The amount which may be assessed or allowed as a credit or refund under subsection (b) shall not be diminished by any credit or set-off based upon any item which was not the subject of such determination or affected thereby. Such amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item which was not the subject of such determination or affected thereby, except in connection with a subsequent application of this section.

"(d) APPLICATION TO AFFILIATED GROUPS.—As used in subsection (b) the term 'any other such tax of the taxpayer' shall, if the taxpayer was a member of an affiliated group, also include any other such tax of any other member of the group."

(b) TAXABLE YEARS TO WHICH APPLICABLE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1939.

And the Senate agree to the same.

Amendment numbered 232:

That the House recede from its disagreement to the amendment of the Senate numbered 232, and agree to the same with an amendment as follows:

On page 86, line 20, of the Senate engrossed amendments, strike out "and in the case of carry-overs and carry-backs".

On page 104 of the House bill, after the period in line 11, insert:

"(C) Notwithstanding any of the provisions of this section to the contrary, no amount shall be allowed as an item of cost (i) by reason of a recomputation of the amortization deduction pursuant to section 124 (d) of the Internal Revenue Code until after such recomputation has been made in connection with a determination of the taxes imposed by Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code for the fiscal year to which the excessive profits determined by the renegotiation are attributable or (ii) by reason of the application of a carry-over or carry-back under any circumstances. The absence of such a recomputation of the amortization deductions referred to in clause (i) above shall not constitute a cause for postponing the making of an agreement, or the entry of an order, determining the amount of excessive profits, or for staying the elimination thereof.

"(D) Notwithstanding any of the provisions of subsection (c) (4) of this section to the contrary, in the case of a renegotiation which is made prior to such recomputation, there shall be repaid by the United States (without interest) to the contractor or subcontractor after such recomputation the amount of a net renegotiation rebate computed in the following described manner. There shall first be ascertained the portion of the excessive profits determined by the renegotiation which is attributable to the fiscal year with respect to which a net renegotiation rebate is claimed by the contractor or subcontractor (hereinafter referred to as "renegotiated year"). There shall then be ascertained the amount of the gross renegotiation rebate for the renegotiated year, which amount shall be an allocable part of the additional amortization deduction which is allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code in connection with the determination of the taxes for such year and which is attributable to contracts with the Departments and subcontracts, except that the amount of the gross renegotiation rebate shall not exceed the amount of excessive profits eliminated for the renegotiated year pursuant to the renegotiation. The allocation of the additional amortization deduction attributable to contracts with the Departments and subcontracts, and the allocation of the additional amortization deduction to the renegotiated year shall be determined in accordance with regulations prescribed by the Board. There shall then be ascertained the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for the renegotiated year. Such Federal tax benefit shall be the amount by which the taxes for the renegotiated year under Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code were decreased by reason of

omitting from gross income (or by reason of the application of the provisions of section 3806 (a) of the Internal Revenue Code with respect to) that portion of the excessive profits for the renegotiated year which is equal to the amount of the gross renegotiation rebate. The amount by which the gross renegotiation rebate for the renegotiated year exceeds the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for such year shall be the amount of the net renegotiation rebate for such year.

And the Senate agree to the same.

Amendment numbered 233:

That the House recede from its disagreement to the amendment of the Senate numbered 233, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"*(5) The term 'subcontract' means—*

"*(A) Any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies; or*

And the Senate agree to the same.

Amendment numbered 249:

That the House recede from its disagreement to the amendment of the Senate numbered 249, and agree to the same with amendments as follows:

On page 110 of the House bill, after the period in line 1, insert the following: *Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued.* ;

On page 110, line 2, of the House bill strike out "such an agreement" and insert *an agreement with respect to the elimination of excessive profits received or accrued*; and the Senate agree to the same.

Amendment numbered 252:

That the House recede from its disagreement to the amendment of the Senate numbered 252, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *in The Tax Court of the United States as proof of the facts or conclusions stated therein*; and the Senate agree to the same.

Amendment numbered 260:

That the House recede from its disagreement to the amendment of the Senate numbered 260, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *in respect of amounts paid to the contractor from appropriations from the Treasury*; and the Senate agree to the same.

Amendment numbered 268:

That the House recede from its disagreement to the amendment of the Senate numbered 268, and agree to the same with amendments as follows:

On page 90, line 19, of the Senate engrossed amendments, after "year", insert (*or if such fiscal year has closed on the date of the enact-*

ment of the Revenue Act of 1943, on or before the first day of the fourth month following the month in which such date of enactment falls);

On page 90 of the Senate engrossed amendments, beginning in line 20, strike out "actual costs of production and such other information as the Board may by regulations prescribe" and insert *such information as the Board may by regulations prescribe as necessary to carry out this section*;

On page 91 of the Senate engrossed amendments, beginning in line 4, strike out "required by the Board" and insert *which is determined by the Board to be necessary to carry out this section*; and the Senate agree to the same.

Amendment numbered 282:

That the House recede from its disagreement to the amendment of the Senate numbered 282, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, restore the matter proposed to be stricken out by the Senate amendment, and on page 120, lines 23 and 24, of the House bill, strike out "and (b)"; and the Senate agree to the same.

Amendment numbered 290:

That the House recede from its disagreement to the amendment of the Senate numbered 290, and agree to the same with an amendment as follows:

Strike out the matter appearing in lines 22 and 23 on page 94 of the Senate engrossed amendments, and the matter appearing in lines 1 and 2 on page 95 of the Senate engrossed amendments, and insert:

shall be—

"(*A*) *in the case of any contract or subcontract the performance of which requires more than twelve months, or in the case of any contract or subcontract with respect to which the powers of the Board are exercised separately pursuant to subsection* (*c*) (*1*) *rather than on a fiscal-year basis, the portion of the profits so derived which is determined by the Board to be equal to the same percentage of the total profits so derived as the percentage of completion of the contract prior to the termination date; and*

"(*B*) *in all other cases, the profits so derived which are received or accrued prior to the termination date; and*

And the Senate agree to the same.

Amendment numbered 295:

That the House recede from its disagreement to the amendment of the Senate numbered 295, and agree to the same with an amendment as follows:

On page 96, line 17, of the Senate engrossed amendments, strike out "(F)" and insert (*E*); and the Senate agree to the same.

Amendment numbered 296:

That the House recede from its disagreement to the amendment of the Senate numbered 296, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert (*F*); and the Senate agree to the same.

Amendment numbered 299:

That the House recede from its disagreement to the amendment of the Senate numbered 299, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert (*E*), *and* (*F*); and the Senate agree to the same.

Amendment numbered 301:

That the House recede from its disagreement to the amendment of the Senate numbered 301, and agree to the same with an amendment as follows:

On page 126 of the House bill, after the period in line 23, insert *Notwithstanding any other provisions of this section there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory. For the purposes of this paragraph the term 'excess inventory' means inventory of products, hereinbefore described in this paragraph, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this section by subsection (i) (1) (B) or (C), which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory shall (to the extent such portion does not exceed the excessive profits determined) be credited or refunded to the contractor or subcontractor, and in case the determination of excessive profits was made prior to the date of the enactment of the Revenue Act of 1943, such credit or refund shall be made notwithstanding such determination is embodied in an agreement with the contractor or subcontractor, but in either case such credit or refund shall be made only if the contractor or subcontractor, within ninety days after the date of the enactment of the Revenue Act of 1943, files a claim therefor with the Secretary concerned.*

And the Senate agree to the same.

Amendment numbered 309:

That the House recede from its disagreement to the amendment of the Senate numbered 309, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *The amendments made by subsection (b) shall be effective only with respect to the fiscal years ending after June 30, 1943, except that (1) the amendments inserting subsections (a) (4) (C), (a) (4) (D), (i) (1) (C), (i) (1) (D), (i) (1) (F), (i) (3), and (l) in section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, shall be effective as if such amendments and subsections had been a part of section 403 of such Act on the date of its enactment, and (2) the amendments adding subsection (d) and (e) (2) to section 403 of such Act shall be effective from the date of the enactment of this Act.*

And the Senate agree to the same.

Amendment numbered 310:

That the House recede from its disagreement to the amendment of the Senate numbered 310, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE VIII—REPRICING OF WAR CONTRACTS

SEC. 801. REPRICING OF WAR CONTRACTS.

(a) As used in this section the terms "Department", "Secretary" and "article" shall have the same meanings as in subsection (a) of the Renegotiation Act.

(b) When the Secretary of a Department deems that the price of any article or service of any kind, which is required by his Department or directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with his Department or of any subcontract thereunder, is unreasonable or unfair, the Secretary may require the person furnishing or offering to furnish such article or service to negotiate to fix a fair and reasonable price therefor. If such person refuses to agree to a price for such article or service which the Secretary considers fair and reasonable, the Secretary by order may fix the price payable to such person for furnishing such article or service after the effective date of the order, whether under existing agreements or otherwise. The order may prescribe the period during which the price so fixed shall be effective and such other terms and conditions as the Secretary deems appropriate.

(c) Any person aggrieved by an order fixing a price under this section may sue the United States in any appropriate court. In such suit, such person shall be entitled to recover from the United States the amount of any difference between (1) fair and just compensation for the articles and services furnished under the terms of the order and (2) the price fixed for such articles and services by the order; but if the prices so fixed by the order are found to exceed fair and just compensation for such articles and services, such person shall be liable to the United States in such suit for the amount of this excess. Any such suit shall be brought within six months after the order by the Secretary on which it is based, or after the expiration of the period or periods specified in such order, whichever last occurs. Such a suit shall not stay the order involved.

(d) Whenever any person wilfully refuses or wilfully fails to furnish any such articles or services at the price fixed by an order of the Secretary in accordance with this section, the President shall have power to take immediate possession of the plant or plants of such person and to operate them in accordance with section 9 of the Selective Training and Service Act of 1940, as amended.

(e) The authority and discretion herein conferred upon the Secretary of each Department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his Department, or in any other Department with the consent of the Secretary of that Department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.

(f) Every purchase order or agreement, or contract to make or furnish any article or service of any kind, which is required by a Department or

directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with such Department or of any subcontract thereunder, shall, if made thirty days or more after the date of the enactment of this Act, be deemed to contain a provision under which the person making or furnishing such article or service agrees that notwithstanding other provisions of the purchase order, agreement, or contract, he shall be entitled to receive for such article or service only the fair and just compensation provided for in subsection (c).

SEC. 802. EFFECTIVE DATE.

(a) Section 801 shall be effective from the date of the enactment of this Act.

(b) Section 801 shall not apply to any contract with a Department or any subcontract made after the date proclaimed by the President as the date of the termination of hostilities in the present war or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

And the Senate agree to the same.

Amendment numbered 311:

That the House recede from its disagreement to the amendment of the Senate numbered 311, and agree to the same with amendments as follows:

On page 105 of the Senate engrossed amendments, line 20, strike out "SEC. 902." and between lines 19 and 20 insert ***SEC. 902. APPROPRIATIONS TO THE TRUST FUND.***

Beginning in line 23, on page 105 of the Senate engrossed amendments, strike out "trust fund" and insert *Trust Fund*; and the Senate agree to the same.

R. L. DOUGHTON,
THOS. H. CULLEN,
JERE COOPER,
WESLEY E. DISNEY,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the part of the House.

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN W. BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, JR.,
A. H. VANDENBERG,
JAMES J. DAVIS,
Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3687) to provide revenue, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment changes the table of contents contained in the House bill. The House recedes with an amendment inserting a new table of contents.

Amendment No. 2: This is a clerical amendment; the Senate recedes.

Amendment No. 3: This is a clerical amendment; the House recedes.

Amendment No. 4: This amendment eliminates the provisions of the House bill increasing the normal tax rate to 10 percent and providing for a minimum tax of 3 percent of the net income in excess of certain credits against net income when such minimum tax would result in a greater amount of tax than the proposed 10 percent normal tax plus surtax. The House recedes.

Amendment No. 5: This amendment eliminates the provisions of the House bill relating to rates of surtax on individuals. The House recedes.

Amendment No. 6: This amendment eliminates the provisions of the House bill which change the table of alternative tax on individuals contained in section 400 of the code and amend section 404 of the code to deny to citizens of the United States entitled to the benefits of section 251 of the code the right to make a return under supplement T. The House recedes with amendments revising the tables under supplement T to make minor changes and to give effect to the repeal of the earned-income credit and to combine the Victory tax and the income tax and restoring the amendment to section 404 of the code contained in the House bill.

Amendment No. 7: This amendment eliminates the provisions of the House bill that repeal the Victory tax and that provide technical amendments necessitated by the repeal of the Victory tax. The House recedes.

Amendment No. 8: This amendment eliminates the provisions of the House bill relating to the amount and computation of the personal exemption and credit for dependents for the purposes of the minimum tax. The House recedes with a change in section number and the following further amendments which have the effect of substantially retaining certain provisions in the House bill:

Section 25 (b) (3) of the code (relating to change of status) is amended to provide that for the purposes of determining the amount of the personal exemption and credit for dependents, the status of the taxpayer shall be determined as of July 1 of the taxable year, unless the taxable year does not include July 1, in which case such status shall be determined as of the last day of the taxable year. This provision will have the effect described in the report of the Ways and

Means Committee relating to the corresponding provision in the House bill.

Section 47 (e) of the code, relating to reduction of personal exemption and credit for dependents in the case of a short taxable year, is also amended to provide that such reduction shall apply only to a short taxable year resulting from the closing of the taxable year in case of jeopardy.

Amendment No. 9: This amendment eliminates the provisions of the House bill altering the return requirements of individuals. The House recedes with a change in section number and the following further amendments having the effect of retaining certain provisions that were in the House bill:

A new subsection (f) is added to section 51 of the code, relating to the return requirements of individuals, to provide that for the purposes of the return requirements of individuals, including fiduciaries, the determination of whether an individual is married and living with husband or wife shall be made as of July 1 of the taxable year, unless the taxable year does not include July 1, in which case such determination shall be made as of the last day of the taxable year.

Section 51 (b) of the code, relating to joint returns, is amended to provide that no joint return may be made if husband and wife have different taxable years. Since the return of a decedent who dies prior to the last day of the taxable year is a return for a short period and thus differs from the taxable year of the surviving spouse, the latter may not include the income of the deceased spouse in a joint return even though death occurred after July 1 of the taxable year.

Amendment No. 10: This amendment provides that the rate of the Victory tax shall be 3 percent rather than 5 percent, repeals the credits against Victory tax, and effects certain technical amendments made necessary by these substantive changes. The House recedes with an amendment changing the section number and adding the Victory tax imposed by section 450 of the code to the computation to be made in the case of a taxable year beginning in 1943 and ending in 1944, under section 108 of the code. This latter change is necessitated by the action eliminating the repeal of the Victory tax. (See amendment No. 7.)

Amendments Nos. 11 and 12: These amendments are clerical. The House recedes with amendments changing section numbers.

Amendment No. 13: This amendment, for which there is no corresponding provision in the House bill, amends section 22 (b) of the code to exclude from gross income amounts received during the taxable year as mustering-out payments with respect to service in the military or naval forces of the United States. The House recedes with a change of section number.

Amendment No. 14: This amendment affords to taxpayers using the elective inventory method the benefit of the involuntary liquidation and replacement provisions of section 22 (d) (6) of the code with respect to liquidations occurring in 1941, and effects three minor technical corrections in the wording of the existing law. There is no corresponding provision in the House bill. The House recedes with a change in section number.

Amendment No. 15: This is a change in section number. The House recedes with a further change in section number.

Amendment No. 16: This amendment, for which there is no corresponding provision in the House bill, serves to clarify the effect of

the amendments made in 1942 relating to the deduction for worthless debts by restoring the language in the code prior to the Revenue Act of 1942, concerning deductions for partially worthless debts. The change made by the 1942 act with respect to totally worthless debts is not altered by this section. Inasmuch as the 1942 changes were made retroactive to taxable years beginning after December 31, 1938, the restoration of the law made by this section is likewise retroactive. The House recedes with a change in section number.

Amendment No. 17: This amendment, for which there is no corresponding provision in the House bill, adds a new section amending section 23 (q) of the code (relating to charitable and other contributions by corporations) by inserting "veteran rehabilitation service" after "scientific" in paragraph (2). The effect of this insertion will be to include contributions to or for the use of a corporation, trust, or community chest, fund, or foundation, organized and operated exclusively for veteran rehabilitation service among the charitable contributions for which a corporation may be allowed deductions.

This amendment further amends section 23 (q) by inserting after paragraph (2) a new paragraph (3) which adds another class of contributions to be considered in determining allowable deductions in the case of a corporation making charitable and other contributions within a taxable year. The new category consists of contributions to posts or organizations of war veterans, or auxiliary units of, or trusts or foundations for, any such posts or organizations, if such posts, organizations, units, trusts, or foundations are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual. The House recedes with a clerical amendment and a change in section number.

Amendment No. 18: This is a change in section number. The House recedes with a further change in section number.

Amendment No. 19: Section 26 (h) of the code provides that certain public utilities which pay dividends on their preferred stock during the taxable year shall have a credit against surtax net income in the amount of such dividend payments. This amendment provides that for the purposes of this credit the amount of dividends paid in a given taxable year shall not include any amount distributed in such year with respect to dividends unpaid and accumulated in any taxable year ending prior to October 1, 1942. It further provides that if any dividends in arrears are paid in the taxable year, such dividends will be presumed to have been paid with respect to the earliest year or years for which there are arrearages.

Section 26 (h) in defining preferred stock provides that such stock must have been issued prior to October 1, 1942. This amendment further provides that stock issued on or after October 1, 1942, shall be deemed to have been issued before that date for the purposes of the credit if it was issued by the same or another corporation in a transaction which is a reorganization within section 112 (g) (1), or which is a transaction to which section 112 (b) (9) is applicable, or which is a transaction subject to the provisions of supplement R of chapter 1 of the code, to refund or replace bonds or debentures issued prior to October 1, 1942, or to refund or replace other stock which is preferred stock within the meaning of section 26 (h) (2) (B). Such new stock, however, shall be considered to have been issued prior to October 1, 1942, only to the extent that the par or stated value does

not exceed the par, stated, or face value of the securities which such new stock is issued to refund or replace.

This amendment is applicable to taxable years beginning after December 31, 1943, but the changes in existing law with respect to the definition of preferred stock are applicable to any transaction occurring on or after October 1, 1942, whether or not before January 1, 1944. No credit, however, for dividends paid on stock which is deemed to have been issued prior to October 1, 1942, solely by reason of this amendment will be allowed for a taxable year beginning prior to January 1, 1944.

The House recedes with technical and clerical amendments, including a change in section number and a change of reference to insolvency reorganizations.

Amendments Nos. 20, 21, 22, 23, 24, 25, 26, 27, and 28: The House bill required annual returns to be filed by tax-exempt organizations with certain exceptions. The Senate amendments made minor technical changes and broadened the exemption given by the House bill to certain educational organizations by including those normally meeting the conditions of the exemption in the House bill. It also exempted certain additional organizations from the annual return requirement, including organizations exempt as fraternal beneficiary societies, orders, or associations under section 101 (3), certain organizations for the prevention of cruelty to children or animals exempt from tax under section 101 (6) and those owned by the United States or its agencies or instrumentalities and exempt under section 101 (15). The House recedes as to these amendments with a change in section number and with an amendment to amendment No. 27 specifically limiting the exemption of fraternal organizations to those exempt from taxation solely under section 101 (3).

Amendment No. 29: This amendment, for which there is no corresponding provision in the House bill, eliminates paragraphs (3), (4), and (5) of section 294 (a) of the code, relating to additions to the tax for failure to file a declaration, for failure to make a timely payment of estimated tax, and for underestimating the tax, and inserts at the end of section 294 a new subsection (d) relating to such additions. The new penalties for failure to file and for failure to pay are applicable unless, in either such case, the failure is shown to be due to reasonable cause and not due to willful neglect. The penalty for failure to make and file a timely declaration consists of an addition to the tax in the amount of 5 percent of each installment due but unpaid and in addition 1 percent of the installment for each month (except the first) or fraction thereof during which the installment remains unpaid. Such addition to the tax with respect to any installment due but unpaid shall not exceed 10 percent of the unpaid portion of such installment. For the purpose of determining the addition to the tax in case of failure to make and file a timely declaration each installment shall be considered to be an amount equal to the amount that would have been due and payable if a declaration showing an estimated tax in the amount of the correct tax had been timely filed, and one such installment shall be considered due on the 15th day of the last month of that quarter of the taxable year in which the declaration is required to be filed, and another such installment shall be considered due on the 15th day of the last month of each succeeding quarter of the taxable year.

The penalty for failure to pay installments of declared estimated tax is applicable to delinquency in payment only where the penalty

for failure to file is not applicable to the taxable year; namely, where a timely declaration of estimated tax is made and filed or the failure to so file has been shown to be due to reasonable cause. The penalty for nonpayment in such cases is based upon the declared amount, but otherwise is the same as the penalty for failure to file.

Paragraph (2) of subsection (d) retains the penalty provided in section 294 (a) (5) of existing law for substantial underestimate of estimated tax; with a limitation, however, designed to make such penalty inapplicable if taxpayers, under regulations prescribed by the Commissioner with the approval of the Secretary, make timely payment of estimated tax within or before each quarter in an amount at least as great as though computed under the law and at the rates applicable to the taxable year on the basis of the taxpayer's status at the time of filing the declaration, but otherwise on the basis of the facts relating to income and other matters shown on his return for the preceding taxable year. For the calendar year 1943 the quarters beginning prior to July 1, 1943, are excluded and, in the usual case, in order to receive the benefit of the relief provision, the declaration of estimated tax must have been filed on or before September 15, 1943, and at least one-half of the estimated tax must have been paid on or before September 15 and the remainder on or before December 15, 1943.

The House recedes with amendments to clarify and effectuate the policy of the Senate amendment.

Amendment No. 30 This amendment eliminates the provision of the House bill adding a new section to the code to limit the tax attributable to back pay received or accrued by an individual during the taxable year. The House recedes with a change in section number and with the following amendment:

There is added to section 107 of the code a new subsection (d), which expands the definition of "back pay" to include all compensation received ~~or~~ accrued during the taxable year by an employee for services performed prior to the taxable year for his employer, which would have been paid prior to the taxable year but for the occurrence of one of the following events: (1) Bankruptcy or receivership of the employer; (2) dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings; (3) if the employer is the United States, a State, a Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or (4) any other event determined to be similar in nature under regulations prescribed by the Commissioner with the approval of the Secretary. The term also includes retroactive wage or salary increases, received in respect of services performed in a prior taxable year, which have been ordered, recommended, or approved by any Federal or State agency. "Back pay" also covers payments arising out of an alleged violation by an employer of any State or Federal law (such as the National Labor Relations Act or the Fair Labor Standards Act of 1938) relating to labor standards or practices, to the extent such payments are determined to be attributable to a prior year. Any amount which is not includible in gross income under chapter 1 of the code shall not constitute back pay. Remuneration for personal services, including pensions, retirement pay, bonuses or commissions, which are paid in the current year in accordance with the usual practice or custom of the employer, are not "back pay", even though such amounts are

received in respect of services performed in a prior year (or prior years). The term refers only to remuneration, the payment of which has been deferred by reason of the unusual circumstances of the type specified in the definition.

The new subsection provides that if the amount of such back pay exceeds 15 percent of the gross income of the individual for the taxable year, the part of the tax for such year which is attributable to the inclusion of the back pay in gross income shall not exceed the sum of the increases in the taxes which would result from the inclusion of the respective portions of the back pay in gross income for the taxable years to which such portions are respectively attributable, as determined under regulations prescribed by the Commissioner with the approval of the Secretary.

Amendment No. 31: This amendment, for which there is no corresponding provision in the House bill, adds a provision (sec. 112 (b) (7)) to the nonrecognition of gain provisions of the code, under which, in certain complete liquidations of domestic corporations occurring within a calendar month of 1944, a limited portion of the gain is not recognized to certain qualified electing shareholders. The provision is similar to the provisions of section 112 (b) (7) of the Revenue Act of 1938, providing for a similar limited nonrecognition of gain to qualified electing shareholders of a domestic corporation completely liquidated within the month of December 1938. Section 113 (a) (18) of the code is amended to provide for the basis of property so distributed. The House recedes with a change in section number.

Amendment No. 32: This amendment, for which there is no corresponding provision in the House bill, contains provisions designed to cover the reorganization transactions of certain insolvent corporations (other than railroad corporations) and to resolve some of the doubts and uncertainties which result from existing law as construed in the Supreme Court decisions. Subsection (a) of the section inserted by this amendment adds to section 112 (b) of the code paragraph (10), which provides the rule with respect to nonrecognition of gain or loss upon the transfer of property of the reorganizing corporation in a taxable year commencing after December 31, 1933. It is provided that no gain or loss shall be recognized upon the transfer of the property in pursuance of an order of the court having jurisdiction of the corporation in a receivership, foreclosure, or similar proceeding or in a proceeding under section 77B or chapter X of the Bankruptcy Act, to a corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation. Where the consideration for the transfer consists of other property or money as well as stock or securities, this amendment, by making applicable section 112 (d) and (e) of the code, provides that gain is required to be recognized to the extent of the other property or money received, but no loss is recognized on the transaction. The amendment likewise makes applicable section 112 (k) of the code (relating to assumption of indebtedness). Thus the ordinary pattern of insolvency reorganizations in which the transferee corporation is required by the decree to provide cash or to assume liabilities for the payment of nonassenting creditors or reorganization expenses, or for the elimination of fractional shares is covered by the amendment through the operation of section 112 (d) or (e) and (k) in conjunction

with the new paragraph (10) which is added to section 112 (b). The definition of "reorganization" contained in section 112 (g) (1) of the code is specifically made inapplicable to a reorganization covered by the provisions of the new section 112 (b) (10). It is intended, however, that only an actual reorganization of a corporation will be covered as distinguished from a liquidation in a bankruptcy proceeding and sale of property to either new or old interests supplying new capital and discharging the obligations of the old corporation. In other words, the type of transaction which was held not to be a reorganization under section 112 (g) (1) in the *Mascot Stove Co. case* (120 F. (2d) 153) or in *Templeton Jewelers Inc. case* (126 F. (2d) 251) would likewise not be covered under these amendments. It is also intended that the business purpose test enunciated in *Gregory* v. *Helvering* (293 U. S. 465), shall likewise apply to transactions under these amendments. This amendment has no application to reorganizations consummated by adjustment of the capital or debt structure of the insolvent corporation without the transfer of its assets to another corporation.

In subsection (b) of the section inserted by this amendment corollary rules are provided with respect to the basis of property acquired on reorganization transactions described in section 112 (b) (10). Section 113 (a) (21) of the code, which relates to the basis of the property acquired by a street, suburban, or interurban electric railway corporation in a reorganization under section 77B of the Bankruptcy Act, as amended, is expanded and made applicable with respect to the basis of property acquired in reorganization transactions described in section 112 (b) (10). Section 113 (a) (21), as amended, provides that if the property is acquired by a corporation upon a transfer to which section 112 (b) (10) is applicable, the basis in the hands of the acquiring corporation shall be the same as it would be in the hands of the corporation whose property was so acquired, adjusted to reflect any gain recognized upon the acquisition where the receipt of other property or money would require the recognition of gain. It is specifically provided that section 270 of the National Bankruptcy Act shall not apply to reduce the basis by the amount of any indebtedness canceled in such proceeding.

Subsection (d) provides the effective dates of the amendments to existing law made by this amendment. Under this subsection the amendments relative to the recognition of gain or loss of the reorganizing corporation and the basis of its property in the hands of the successor corporation are made retroactive as if they were a part of the law back through the Revenue Act of 1934. Thus they become effective for taxable years beginning after December 31, 1933. For reasons of administration, however, it is provided that such amendments shall not operate to affect the tax liability for any taxable year beginning prior to January 1, 1940. Thus, for example, in the case of a corporation emerging from reorganization in 1936, although the amendments with respect to basis will have an indirect effect in that depreciation of assets for the taxable year 1940 and subsequent years will be computed as if the assets had been carried and depreciated at the transferor's basis throughout the intervening years, 1940 will be the first year under this amendment in which the transferor's basis, adjusted for theoretical depreciation sustained in intervening years, would properly constitute the basis for depreciation to the reorganized corporation to which this amendment applies.

Under this amendment it is contemplated that where the excess profits credit is determined under the invested capital method, the rule set forth in section 760 of the code will apply to the transferee corporation. In order that the transferee corporation should not be allowed the additional credit for new capital where the reorganization occurs after December 31, 1940, the amendment contains a provision which adds section 112 (b) (10) to the enumerated sections to which the new capital provisions do not apply.

The House recedes with amendments broadening the scope of the section to include provisions relative to the recognition of gain or loss and basis in the case of the securityholders participating in a reorganization governed by the provisions of the Senate amendments and making changes relative to the effective dates of the new provisions. These changes necessitate rearrangement of the several subsections of the section. Subsection (b) of the Senate amendment provided the rule relative to the basis of property acquired in a reorganization governed by the provisions of new section 112 (b) (10). This was accomplished through an amendment to section 113 (a) (21) of existing law. Under the conference amendment the basis provisions are incorporated in new section 113 (a) (22), and section 113 (a) (21) of existing law is left unchanged. This rearrangement was necessary in order to avoid a conflict relative to the effective dates of the two provisions. The conferees have added a clarifying amendment to insure that the basis determined under new section 113 (a) (22) shall not be subject to adjustment under the provisions of section 113 (b) (3) on account of indebtedness canceled in pursuance of the plan of reorganization.

The technical amendments found in subsection (c) of the Senate amendment are retained in subsection (d) of the conference amendments.

Under the Senate amendment the provisions of sections 112 (b) (10) (relating to the recognition of gain or loss on the reorganization) and 113 (a) (21) (relating to basis of property acquired on the reorganization) were made effective for taxable years beginning after December 31, 1933, with the proviso that the amendments should not be applied to affect any tax liability for any taxable year beginning prior to January 1, 1940. Under the conference amendment the effective date of the amendments is retained, but it is provided that the amendments shall not affect the tax liability for any taxable year beginning prior to January 1, 1943

Under the conference amendment subsection (b) of the section adds a new subsection (l) to section 112 of the code and provides that the effect shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1931. The new subsection provides for the nonrecognition of gain or loss to participating shareholders and creditors in a reorganization described in new section 112 (b) (10). Section 112 (l) provides that no gain or loss shall be recognized upon the exchange of stock or securities of the old corporation solely for stock or securities in the new corporation. In order to provide uniform treatment in all cases, regardless of the form of the particular transaction, the amendment provides that the relinquishment or extinguishment of the property or interest in the stock or securities of the old corporation in consideration for the acquisition of stock or securities in the new corporation is the exchange

which is to be considered the taxable event in a situation of this character. No antecedent or component transaction in connection with such relinquishment or extinguishment and subsequent acquisition is recognized as a taxable event under this amendment. Thus the reorganization may take the form of a transfer of the property of the old corporation to its bondholders upon surrender of the bonds, and a subsequent transfer of the property to the new corporation in exchange for stock of such corporation, or the bonds may be transferred to the new corporation in exchange for stock of such corporation, and subsequently surrendered by the latter in exchange for the property of the old corporation. In either event, the net effect to the participating security holders is an exchange of securities of the old corporation for securities of the new corporation and the transaction is so considered by subsection (l).

Subsection (d) amends section 112 (c) to provide that if in addition to the stock or securities permitted to be received without the recognition of gain in a transaction governed by subsection (l) the taxpayer receives other property or money, the gain if any shall be recognized to the extent of such other property or money. This amendment also amends section 112 (c) to provide for the nonrecognition of loss upon an exchange described in subsection (l) if in addition to the stock or securities referred to in subsection (l) the taxpayer receives other property or money upon such exchange.

An exception to the general rule is provided in those cases in which the exchange described in subsection (l) occurred in a taxable year beginning prior to January 1, 1943. For such cases the recognition or nonrecognition of gain or loss upon the exchange is made to depend (1) if the tax liability for such taxable year has been finally determined, upon the treatment accorded such transaction in such final determination, or (2) if the tax liability for such taxable year has not been finally determined, upon the position last maintained by the taxpayer relative to the recognition or nonrecognition of gain or loss upon such transaction.

For the purpose of the application of the exception provided in clause (A) of subsection (l) there is a final determination in any case in which further change in the tax liability for the taxable year is prevented by reason of a decision of a court or The Tax Court, or a closing agreement, or the expiration of the statutory period of limitation upon the making of a claim for refund, or the issuance of a statutory notice of deficiency. The fact that the taxable year may be reopened for the purpose of the application of a special statute of limitations as in the case of bad debts, or under a provision such as section 3801 or 734, does not prevent a determination from becoming final within the meaning of this section. The statute applies, however, only in the case of a determination which becomes final before the ninetieth day after the date of the enactment of the Revenue Act of 1943. This provision affords a reasonable time for the application of the new provision with respect to the recognition or nonrecognition of gain or loss on the transaction before a determination is deemed final.

Clause (B) of subsection (l) relates only to taxable years for which there has been no final determination within the meaning of clause (A). Under this clause the recognition or nonrecognition of gain or loss upon the exchange depends upon the latest treatment accorded such

exchange by the taxpayer prior to December 15, 1943. For such purpose the treatment accorded the exchange means the position formally maintained by the taxpayer relative to the recognition or nonrecognition of gain or loss in his return or amended return for the taxable year, in a claim for refund, in a proceeding before a court or the Board of Tax Appeals, or in some formal action taken in connection with a proposed determination of his tax liability for such taxable year.

Subsection (c) of this section, under the conference amendment, provides technical amendments making applicable section 113 (a) (6) of the Internal Revenue Code to determine the basis of property acquired by participating security holders upon a transaction governed by the provisions of new section 112 (l) of the code.

By subsection (e) provisions having the effect of the amendment adding section 112 (l) are deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1931.

Amendment No. 33: This amendment, for which there is no corresponding provision in the House bill, adds a new paragraph to section 113 (a) of the code to provide a rule which may apply at the election of the taxpayer to determine the invested capital and the basis of the assets of a corporation (other than a railroad corporation) following a bankruptcy or receivership reorganization under which the existing corporate entity is retained. The Senate recedes.

Amendment No. 34: This amendment, for which there is no corresponding provision in the House bill, adds to section 113 of the code a new paragraph to provide for the nonapplication of section 270 of the Bankruptcy Act, as amended, in the case of certain reorganizations occurring under section 77B of such act. The effect of the amendment is to prevent reduction of the basis of the assets of the reorganized corporation by the amount of the indebtedness canceled in the proceeding in those cases in which the reorganization is consummated by the adjustment of the capital or debt structure of the existing corporation, and the final judgment or decree in the reorganization proceeding was entered prior to September 22, 1938. Cases in which the reorganization is consummated by a transfer to another corporation of the assets of the corporation undergoing reorganization are not affected by the amendment. A provision having the effect of the amendment shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after December 31, 1935.

The House recedes with an amendment renumbering the section, technical amendments clarifying the language of the provision, and inserting the new provision as paragraph (4) of section 113 (b), relating to adjusted basis, instead of paragraph (23) of section 113 (a), relating to basis.

Amendment No. 35: This amendment, for which there is no corresponding provision in the House bill, permits an election by the taxpayer, upon certain conditions, to have gain not recognized upon sales or exchanges of radio broadcasting properties required by the Federal Communications Commission by order or as a condition to approval of certain applications. The House recedes with a change in section number and with amendments providing as follows:

In view of the fact that the Commission does not order or require any particular sale or exchange, it has been deemed more appropriate to provide that the election, subject to the other conditions imposed, shall be available upon certification by the Commission that the sale or exchange is necessary or appropriate to effectuate the policies of the Commission with respect to ownership or control of radio broadcasting stations. The subsection, however, is not thereby made applicable to cases of sales or exchanges made necessary not by reason of Commission policies as to ownership or control but as a result of other matters, such as operation of a broadcasting station either in a manner determined by the Commission to be not in the public interest or in violation of other Federal or State laws. The amendment as agreed to in conference also makes it clear that the property sold or exchanged or the property similar in service or use into which such property is converted may be stock, whether in a controlling amount or otherwise, in a corporation operating a radio broadcasting station, as well as broadcasting properties themselves. It has also been made clear that the election to treat the sale or exchange as an involuntary conversion under section 112 (f) and the election to reduce the basis of depreciable property remaining in the hands of the taxpayer are separate and distinct elections which may be exercised independently of each other. However, either election once made is binding as to the particular sale or exchange for the taxable year and all subsequent taxable years. An election to reduce the basis of property remaining in the hands of the taxpayer may not be made with respect to any portion of the proceeds of the sale or exchange used to establish a replacement fund pursuant to an election to have the benefits of section 112 (f) even though the entire amount of such fund is not subsequently expended in the acquisition of property similar or related in service or use to the property disposed of.

Amendment No. 36: This is a change in section number. The House recedes with a further change in section number.

Amendments Nos. 37, 38, 39, 41, 42, 45, and 46. These amendments made to section 114 of the House bill include talc and barite in the list of mines which are entitled to depletion at the rate of 15 percent of the gross income from the property (subject to other limitations in the code), and exclude talc and barite from the list of mines entitled to depletion based on discovery value. These amendments do not apply with respect to any taxable year beginning on or after the date of the termination of hostilities in the present war, as defined in subsection (e) of this section. The House recedes as to these amendments with a clerical amendment to amendment No. 37 changing the section heading.

Amendments Nos. 40, 48, and 50: These are clerical amendments. The House recedes as to these amendments with a clerical change in amendment No. 40.

Amendments Nos. 43, 44, and 51: Under section 114 of the House bill, potash mines and deposits were allowed percentage depletion in an amount equal to 23 percent of the gross income from the property (subject to other limitations in the code), and were excluded from the list of mines entitled to discovery value depletion; these provisions were not to be applicable to any taxable year beginning on or after the date of the termination of hostilities in the present war. These amendments provide that potash mines or deposits shall be allowed

depletion based upon 15 percent of the gross income from the property, instead of 23 percent, and remove the restriction contained in the House bill which would make inapplicable such allowance for taxable years beginning on or after the date of the termination of hostilities in the present war. It is contemplated that the regulations to be issued by the Commissioner will provide that potash salts in solution are deemed to be a natural deposit. The House recedes.

Amendments Nos. 47 and 49: For the purposes of section 114 (b) (4) of the code amendment No. 47 defines the term "gross income from the property" upon which is based the allowance for percentage depletion. Thus "gross income from the property" means gross income from "mining," and "mining" is considered to include the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products as well as the extraction of the ores or minerals from the ground. The costs of any process or service which does not constitute an ordinary treatment process is to be excluded in determining gross income from mining. Several specified processes have been listed as being included in the term "ordinary treatment processes." The principles set forth in this amendment are made expressly applicable to mining for the purposes of sections 731 and 735 of the code. Amendment No. 49 makes amendment No. 47 effective as if it were a part of the Internal Revenue Code and the Revenue Acts of 1938, 1936, 1934, and 1932 on the date of their respective enactments. The House recedes with amendments which strike out the next to the last sentence of the subparagraph added by amendment No. 47, which provided that the costs of any process or service which does not constitute an ordinary treatment process is to be excluded in determining gross income from mining, and with an amendment excluding electrolytic deposition, roasting, thermal or electric smelting and refining from the definition of "ordinary treatment processes" and which rephrase the retroactivity provisions in amendment No. 49.

Amendment No. 52: This amendment, for which there is no corresponding provision in the House bill, provides that, in computing percentage depletion under section 114 (b) (4) of the code in the case of potash (whether extracted from a mine or from a brine or other deposit), there shall be included in gross and net income from the property the income from other minerals or mineral salts extracted from such property. The Senate recedes.

Amendment No. 53: This amendment, for which there is no corresponding provision in the House bill, amends section 116 of the code (relating to exclusions from gross income) by adding at the end thereof subsection (j) which provides for the following three new classifications which are to be considered as exclusions from gross income: (1) In the case of a clerk or employee in the Foreign Service of the United States, amounts received as cost-of-living allowances under authority of section 3, as amended, of the act of February 23, 1931; (2) in the case of an ambassador, minister, diplomatic, consular, or Foreign Service officer, amounts received as post allowances under authority of section 12, as amended and renumbered, of the act of May 24, 1924; and (3) in the case of other civilian officers or employees of the Government of the United States stationed outside continental United States, amounts received as cost-of-living allowances in accordance with regulations approved by the President. The House recedes with a change in section number.

Amendment No. 54: This amendment, for which there is no corresponding provision in the House bill, adds a new section to the bill limiting the definition of "capital assets" in section 117 (a) (1) of the code so as not to include stock or securities of any corporation subject to part I of the Interstate Commerce Act, when held by a corporation whose principal business is that of a common carrier by railroad or a corporation, the assets of which consist principally of stock in such corporations and which does not of itself operate a business other than that of a common carrier by railroad. The Senate recedes.

Amendment No. 55: Section 142 of the Revenue Act of 1942 added to the code section 112 (b) (9) (relating to nonrecognition of loss on certain railroad reorganizations) and section 113 (a) (20) (relating to basis of property acquired by railroad corporations in certain railroad reorganizations), applicable with respect to transactions occurring after December 31, 1939. By section 142 (d) of the Revenue Act of 1942, sections 112 (b) (9) and 113 (a) (20) were made applicable to taxable years beginning after December 31, 1939. Under this amendment, for which there is no corresponding provision in the House bill, sections 112 (b) (9) and 113 (a) (20), as added to the code by section 142 of the Revenue Act of 1942, are made applicable to transactions occurring after December 31, 1938, and section 142 (d) of the Revenue Act of 1942 is amended so as to make sections 112 (b) (9) and 113 (a) (20) applicable to taxable years beginning after December 31, 1938. The House recedes with a change in section number.

Amendment No. 56: This amendment, for which there is no corresponding provision in the House bill, adds a new subparagraph to section 710 (c) (3) to provide that if the basis of the property of a railroad corporation (as defined in section 77m of the National Bankruptcy Act, as amended) is prescribed by section 113 (a) (20), the acquiring corporation and the corporation whose property was acquired, within the meaning of section 113 (a) (20), shall be deemed to be the same taxpayer for the purposes of the unused excess profits credit adjustment. The Senate recedes.

Amendment No. 57: This amendment, for which there is no corresponding provision in the House bill, adds a new subsection (k) to section 117 of the code and amends section 117 (j). Section 117 (k) (1), as added by this amendment, provides that a taxpayer which has owned, or has had a contract right to cut, timber for a period of more than 6 months prior to the beginning of the taxable year may elect in his return for such year to treat the cutting of such timber during the year as a sale or exchange of such timber. If such election has been made, the timber shall be considered "property used in the trade or business" of the taxpayer for the purposes of section 117 (j), and gain or loss to the taxpayer shall be recognized in an amount equal to the difference between adjusted basis for depletion of such timber in the hands of the taxpayer and the fair market value of such timber as of the first day of the taxable year in which such timber is cut. Such fair market value shall thereafter be considered as the cost of such cut timber to the taxpayer for all purposes for which such cost is a necessary factor. An election made by a taxpayer under section 117 (k) (1) shall be applicable with respect to all timber owned by the taxpayer or which the taxpayer has a contract right to cut, and shall be binding upon the taxpayer for the taxable year for which the election was made and for all subsequent years unless the Commissioner, on a showing of undue hardship, permits the

taxpayer to revoke his election. Such revocation shall preclude any further election under section 117 (k) (1) except with the consent of the Commissioner.

Under section 117 (k) (2), as added by this amendment, if a taxpayer who has owned timber for more than 6 months disposes of such timber under any form or type of contract by virtue of which the owner retains an economic interest in such timber, the difference between the amount received for such timber and the adjusted basis for depletion of such timber in the hands of the owner shall be considered as though it were a gain or loss, as the case may be, upon the sale of such timber. Such timber shall be considered "property used in the trade or business" of the owner for the purposes of section 117 (j).

Section 117 (j) (1) of the code is amended by including within the definition of "property used in the trade or business", timber as provided in section 117 (k). It is further provided that the amendments made with respect to the disposal of timber by the owner thereof under section 117 (k) (2) of the code, and section 117 (j) of the code as expanded by this amendment to the extent that it relates to such disposal, shall be effective as if they were a part of the Internal Revenue Code and of each prior revenue law on the dates of their respective enactments.

The House recedes with a change in section number and with an amendment to section 117 (k) (1) to provide that the cutting of timber (for sale or for use in the taxpayer's trade or business) during a taxable year by the taxpayer who owns, or has a contract right to cut, such timber (providing that he has owned such timber or has held such contract right for a period of more than 6 months prior to the beginning of such year) shall be considered as a sale or exchange of such timber cut during such year, if the taxpayer so elects upon his return for such year, with an amendment striking out the references to section 117 (j) from sections 117 (k) (1) and (2), and with a further amendment to section 117 (j) (1) to provide that the term "property used in the trade or business" includes timber with respect to which section 117 (k) (1) or (2) is applicable. As the result of the amendment to section 117 (j) (1), timber as to which an election has been made under section 117 (k) (1) or which is described in section 117 (k) (2) shall be governed by the provisions of section 117 (j) for all taxable years to which such latter section is applicable. The amendment made with respect to section 117 (k) (2) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after February 28, 1913. The amendment made with respect to section 117 (j) (1) shall be effective as if it were made by section 151 of the Revenue Act of 1942.

Amendment No. 58: This amendment changes the section number and title; the House recedes with a further change in section number.

Amendments Nos. 59 and 60: These amendments change the section title; the House recedes.

Amendment No. 61: The House bill added a new section 129 to chapter 1 under which a deduction, credit, or allowance is disallowed (or allowed only in such part as is consistent with the prevention of the avoidance) in any case in which any person or persons acquire, on or after October 8, 1940, an interest in or control of a corporation or property, if the Commissioner finds that one of the principal purposes for which such acquisition was made or availed of is the avoidance

of Federal income or excess-profits taxes by securing the benefit of such deduction, credit, or other allowance.

As amended by the Senate bill, section 129 disallows a deduction credit or allowance (or allows only such part as is consistent with the prevention of the evasion or avoidance) in any case in which any person or persons acquire, on or after October 8, 1940, control (more than 50 percent) of a corporation, if the principal purpose for which such acquisition was made is evasion or avoidance of Federal income or excess-profits taxes by securing the benefit of a deduction, credit, or allowance which such person would not otherwise enjoy, then such deduction, credit, or other allowance shall not be allowed.

The House recedes with a change of section number and with a further amendment. Under the conference agreement, section 129 disallows a deduction, credit, or allowance (or allows only such part as is consistent with the prevention of the evasion or avoidance) in any case in which (1) any person or persons acquire on or after October 8, 1940, control of a corporation, or (2) any corporation acquires on or after October 8, 1940, directly or indirectly, property of another corporation (not controlled, directly or indirectly, immediately prior to such acquisition by such acquiring corporation or its stockholders) the basis of which property in the hands of the acquiring corporation is determined by reference to the basis in the hands of the transferor corporation, if the principal purpose for which such acquisition was made is evasion or avoidance of Federal income or excess profits taxes by securing the benefit of a deduction, credit, or allowance which such person would not otherwise enjoy. Under the conference agreement, "control" is specifically defined. The definition adds precision to the phrase "acquire, on or after October 8, 1940, * * * control" but does not change the primary meaning of "acquire" as used in the Senate amendment. Thus, if A, who, on October 7, 1940, and at all times thereafter, owns 40 percent of the stock of corporation X (having at such times only one class of stock outstanding), acquires on October 8, 1940, an additional 10 percent of such stock, an acquisition (within the meaning of such phrase) is made by A on October 8, 1940.

Under the conference agreement, the categories of tax evasion and tax avoidance selected for specific treatment under section 129 are those characterized either by the acquisition of control of a corporation, or by the acquisition of property (with a transferred basis) by one corporation from another not controlled immediately prior to such acquisition by such first corporation. As contrasted with the House bill, the conference agreement narrows the scope of the section, considered desirable in view of the extent to which the House provision overlapped the broad provisions of sections 45 of the code (control cases) and 141 of the code (affiliated cases), and of the principle of *Higgins* v. *Smith* (308 U. S. 473), and in order to emphasize the special function of the section, namely, to give tax enforcement agencies a clear basis for administration in those areas in which abuses are most apt to occur. The shifting within a controlled group of property or an enterprise in the attempt to preserve to the transferor, or the underlying interest, a deduction, credit, or allowance reasonably related to the property or enterprise once owned but since parted with, is governed by section 45, as is a similar shift designed to afford the new owner a deduction, credit, or allowance, having a reasonable relationship to the old owner but not with the new.

Section 128 as renumbered under the conference agreement is designed to make definite and clear that the evasion or avoidance arrangements within the section are legally ineffective, to insure that the small minority who have indulged in these schemes take nothing by their artifice, and to protect the overwhelming majority of taxpayers who have refused to participate in such transactions. The intent under the conference agreement is that the section shall not be construed as in any way abrogating, delimiting, or superseding, the full application of (1) the principle established by the Supreme Court in *Higgins* v. *Smith* (308 U. S. 473), and applied in the numerous cases cited in the reports of the House and Senate committees; (2) or of the requirements of sections 45, 141, and other provisions of the code specifically dealing with the prevention of evasion or avoidance.

Amendments Nos. 62 and 65: These Senate amendments inserted the phrase "evasion or" in order to conform the language to that of Senate amendment No. 61. The conference agreement as to Senate amendment No. 61 retains the phrase "evasion or" in view of the use of the term elsewhere in the code and in order to make clear that the result denoted in section 129 by "evasion or avoidance" is that which would be referred to in ordinary usage either as "evasion" or as "avoidance" (including cases not cognizable under the criminal or administrative penalty provisions of law); the House recedes.

Amendments Nos. 63, 64, and 66: These Senate amendments strike the phrase "or availed of" appearing in the House bill in order to conform the language to that used in Senate amendment No. 61, under which the determination of the purpose for which an acquisition was made necessarily requires a scrutiny of the entire circumstances in which the transaction or course of conduct occurs, in connection with the tax result claimed to arise therefrom. The House recedes.

Amendment No. 67: This Senate amendment restricted the retroactivity of section 122 of the Senate bill (renumbered sec. 128) to all acquisitions made with fraudulent intent to evade tax. In the House bill the section was applicable to all taxable years beginning after December 31, 1939. The House recedes with an amendment.

An acquisition made with fraudulent intent to evade tax is incapable of having the legal effect of giving the benefit of a deduction, credit, or allowance to any taxpayer. Section 128 (c) under the conference agreement makes section 128 applicable to taxable years beginning after December 31, 1943, and explicitly states:

> The determination of the law applicable to prior taxable years shall be made as if this section had not been enacted and without inferences drawn from the fact that the amendment made by this section is not expressly made applicable to prior taxable years.

The conference agreement contemplates, as respects taxable years beginning prior to January 1, 1944, that tax administration for such taxable years will proceed upon the basis that existing law is fully operative, and that in such administration the circumstance that specific categories of tax evasion or avoidance are selected for specific statutory treatment for taxable years beginning after December 31, 1943, may not be treated as abridging, restricting, or limiting the full application of any applicable law or rule of law (whether explicit or implicit in the code, or in judicial decisions, or whether as yet applied to particular situations or as yet decided). The conference agreement on section 128 (as renumbered) further contemplates that, as respects any taxable year (beginning before, on, or after January 1, 1944),

section 128 shall not be read as approving or validating by inference, implication, or otherwise, any tax avoidance or evasion device, action, or result (whether within or without the categories of sec. 128), or as diminishing in any manner the efficacy of any law or rule of law in the prevention of distortions or perversions.

Amendment No. 68: This amendment, for which there is no corresponding provision in the House bill, adds a new section 130 to the code, to limit in the case of individuals the amount of deductions attributable to a trade or business which are otherwise allowable in any given taxable year. If the deductions attributable to a trade or business carried on by an individual exceed the gross income from such business for each of 5 consecutive taxable years, regardless of the amount of such excess, the net income of such individual for each of such years is to be recomputed. In recomputing the net income for each of such years, deductions attributable to such trade or business shall be allowed only to the extent of $20,000 plus the gross income attributable to such trade or business. In making such recomputations, the net operating loss deduction provided in section 23 (s) of the code shall not be allowed. The House recedes with a change of section number and with an amendment revising the provisions of the new section 130 in the following particulars:

Under the Senate amendment, a recomputation is required if the deductions allowable to an individual and attributable to a trade or business carried on by him for 5 consecutive years have, in each year, exceeded the gross income therefrom. The conference amendment requires a recomputation only if such deductions, but not including taxes and interest, have in each of such years, exceeded by more than $50,000 the gross income derived from such trade or business.

The Senate provisions prescribe that in such recomputation of the net income of each of the 5 consecutive years the deductions shall be allowed only to the extent of $20,000 plus the gross income from the trade or business. The conference amendment raises this $20,000 figure to $50,000, and excludes from the deductions to be disallowed upon the recomputation the deductions otherwise allowable in respect of taxes and interest. On the basis of such recomputation of net income, the conference amendment provides for a redetermination of the tax imposed by this chapter. If for any such taxable year the assessment of a deficiency is prevented, except for the provisions of sections 3801 and 3807, by the operation of any law or rule of law other than section 3761, relating to compromises, any increase in the tax previously determined for such year shall be deemed a deficiency under this section. Notwithstanding any law or rule of law (other than section 3761), any amount deemed a deficiency under this section may be assessed as if on the date of the expiration of the time prescribed by law for the assessment of a deficiency for the fifth taxable year of the 5 consecutive taxable years, one year remained before the expiration of the period of limitation upon assessment for any of such years. However, in applying the provisions of section 130 to a taxable year open for assessment without regard to the limitation provisions of that section, the deficiency or overpayment will be the actual deficiency or overpayment.

The conference amendment provides that this new section shall be applicable to taxable years beginning after December 31, 1939, but shall not affect any tax liability for any taxable year beginning prior to January 1, 1944.

The amendment has no application to any occupation or activity which is not a trade or business regularly carried on by the taxpayer. The limitations placed upon the application of the provisions of the amendment are not to be used either directly or by implication as indicia in determining whether the occupation or activity is a trade or business or for the production of income.

Amendment No. 69: This amendment, for which there is no corresponding provision in the House bill, amends subsections (b) and (f) of section 131 of the code (which limit the credit allowed for taxes of foreign countries and possessions of the United States) to assure in all cases the technically correct formulas for relating the income of the taxpayer from foreign sources to the taxpayer's total income and for fixing the amount of taxes deemed to have been paid by a corporation on dividends received from its foreign subsidiary.

Existing formulas in 131 (b), in the case of corporate taxpayers, relate net income from a foreign country and from all foreign sources to normal-tax net income plus the credit for adjusted excess-profits net income under section 26 (c) of the code. The amendment effected by subsection (a) of this section would relate normal-tax net income from a foreign country and from all foreign sources to entire normal-tax net income. In determining normal-tax net income from such sources a portion of the credit under section 26 (c) is allocated to such income, determined by the relationship of the excess-profits net income from such sources to the entire excess profits net income. In the application of the provisions added to section 131 (b), as in the case of the related section 729 (d) providing for a credit for foreign tax against the chapter 2 E excess-profits tax, "entire excess-profits net income" will have to be determined in accordance with regulations, taking cognizance of problems presented by such sections as 721, 726, 731, and 736 (b) which affect the taxable excess-profits net income and the amount of the chapter 2 E tax against which the credit is taken under section 729 (d).

Subsection (b) of this amendment amends subsection (f) of section 131 to eliminate the proviso therein reading as follows:

* * * *Provided*, That the amount of the tax deemed to have been paid by such domestic corporation under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the normal-tax net income of the domestic corporation in which such dividends are included. * * *

This proviso has the effect of confining the credit for the tax deemed to have been paid by a parent corporation on dividends received from its foreign subsidiary to the chapter 1 tax and preventing such tax deemed to have been paid from being available, in part, as a credit against any chapter 2 E tax.

The amendments made by subsection (a) of this section will be effective for taxable years beginning after December 31, 1941; the amendment made by subsection (b) of this section will be effective for taxable years beginning after December 31, 1939.

The House recedes with a change in section number.

Amendment No. 70: This amendment, for which there is no corresponding provision in the House bill, amends section 141 (e) of the code to provide that certain types of corporations, which under existing law would be exempt from the excess-profits tax if they were not members of an affiliated group filing consolidated returns, shall not be includible corporations entitled to join in the filing of consolidated

returns (unless they have filed a required consent for any taxable year beginning after December 31, 1943, to be so included). Thus the exemption from excess-profits tax has been preserved to these corporations unless they elect otherwise by consenting to be treated as includible corporations. These corporations are personal-service corporations (sec. 725), personal-holding companies as defined in section 501 (sec. 727 (e)), certain domestic corporations satisfying the provisions of section 727 (g), and certain corporations subject to the provisions of title IV of the Civil Aeronautics Act of 1938 (sec. 727 (h)). The House recedes with a change in section number.

Amendment No. 71: This amendment, for which there is no corresponding provision in the House bill, reduces the rate of withholding at the source to 10 percent of the gross amount of the wages of nonresident alien individuals brought into the United States under the authority of the War Manpower Commission for temporary employment essential to the war effort. The House recedes with a change in section number.

Amendment No. 72: This amendment, for which there is no corresponding provision in the House bill, adds a new paragraph (4) to section 162 (d). Through application of section 162 (d) (2) and (3) (A) it is possible in some cases that the amount of the deductions allowed in computing the net income of an estate or trust, and required to be included in the net income of legatees, heirs, or beneficiaries, will exceed the net income of the estate or trust for its taxable year. Such excess deductions result in a form of double taxation which this amendment avoids, by providing that if the deductions allowed to an estate or trust solely by reason of section 162 (d) (2) and (3) (A) in respect of income payable to legatees, heirs, or beneficiaries exceed the net income of the estate or trust for such year, computed without such deductions, the amount of such excess shall not be included in computing the net income of such legatees, heirs, or beneficiaries. The floor amendment by the Senate to this section as reported out by the Senate Finance Committee merely clarified the language of the section without change as to substance or the applicability of the detailed discussion of section 127 contained in the Senate Finance Committee Report. The House recedes with a change in section number.

Amendments Nos. 73 and 74: These are clerical amendments. The House recedes with a further change in section number as to amendment No. 73.

Amendments Nos. 75, 76, 77, 78, and 79: The House bill added a new subsection (c) to section 167 of the code to provide that income shall not be taxable to the grantor under section 167 (a) of the code or any other provision of chapter 1 thereof merely because such income, under stated circumstances, may be applied or distributed for the support or maintenance of a beneficiary, such as the wife or child of the grantor, whom he is legally obligated to support, except to the extent that such income is actually so applied or distributed. Amendments Nos. 75, 76, and 77 are of a clarifying character, designed to carry out the original intention underlying new subsection (c). The House bill provided for the retroactive application of the amendments made thereby but forbade the allowance of refund or credit in those cases where such allowance was barred by any provision or rule of law. Amendments Nos. 78 and 79 authorize credit or refund notwithstand-

ing any provision or rule of law (with certain stated exceptions) which would otherwise prevent such credit or refund. The House recedes.

Amendment No. 80: This section, for which there is no corresponding provision in the House bill, provides that mutual fire insurance companies exclusively issuing perpetual or refundable single premium policies, shall be taxed substantially as stock insurance companies other than life and mutual marine insurance companies under section 204 of the code instead of as at present under the provisions of section 207 of the code, applicable to mutual insurance companies other than life or marine. The House recedes with a change in section number.

Amendment No. 81: This amendment changes a section number. The House recedes with a further change of section number.

Amendment No. 82: This is a clerical amendment. The House recedes.

Amendment No. 83: This amendment eliminates the provision of the House bill relating to the effective date of the amendments made by part II of title I of the House bill, relating to withholding at source on wages. The House recedes.

Amendment No. 84: This amendment eliminates the provisions of the House bill relating to definitions affecting status for withholding of tax at source on wages. The House recedes.

Amendment No. 85: This amendment eliminates the provisions of the House bill amending section 1622 of the code, relating to income tax collected at source. The House recedes with a change in section number and a further amendment as follows:

Section 1622 (h) (1) of the code, relating to withholding-exemption certificates, is amended so as to permit an employer to give immediate effect only to changes of status occurring on or before July 1, of the calendar year. Where a withholding-exemption certificate is furnished on account of a change of status occurring after July 1, of the calendar year, such change shall not be given effect until the first payment of wages made on or after January 1 of the succeeding calendar year.

Amendment No. 86: This amendment, for which there is no corresponding provision in the House bill, is designed to correct a technical drafting error made in section 710 (a) (1) (B) of the code, as added by section 202 of the Revenue Act of 1942, whereby a public utility would become subject to the 80-percent income and excess-profits tax limitation and would have its excess-profits tax liability reduced by virtue of the credit for dividends paid on its preferred stock during the taxable year. The credit for dividends paid provided in section 26 (h) of the code, however, was intended as a credit only for purposes of the surtax. The amendment provides that for purposes of the 80-percent tax limitation corporation surtax net income shall be computed without regard to 80 percent of the credit for dividends paid provided in section 26 (h). This not only corrects the error but also provides that a public utility subject to the 80-percent tax limitation obtains the same benefit from the payment of dividends on its preferred stock as a public utility which is not subject to the 80-percent limitation. The House recedes.

Amendment No. 87: This is a clerical amendment. The House recedes.

Amendments Nos. 88, 89, 90, and 91: Under the House bill, the excess-profits credit based upon an invested capital over $10,000,000 but not over $200,000,000 was $700,000 plus 5 percent of the excess

over $10,000,000. Upon an invested capital over $200,000,000, the excess-profits credit was $10,200,000 plus 4 percent of the excess over $200,000,000. These amendments eliminate the separate provision of the House bill in the case of invested capital over $200,000,000, and provide that in the case of invested capital over $10,000,000, the excess-profits credit shall be $700,000 plus 5 percent of the excess over $10,000,000. The House recedes.

Amendment No. 92: This is a clerical amendment. The House recedes.

Amendments Nos. 93 and 94: These are technical amendments designed to permit the compilation by the Commissioner of cases in which relief under section 722 has been allowed, whether or not such cases relate to taxable years beginning after December 31, 1943. The House recedes.

Amendments Nos. 95 and 96: Under the House bill which included lessors within the scope of section 735 of the code, the term "lessor" was defined as a corporation which owns an economic interest in a mineral property or a timber block, and is paid in accordance with the number of mineral or timber units recovered from the mineral property or timber block by the producer to which such property or block is leased by the lessor. These amendments change the word "producer" to "person" and eliminate the requirement that such person must be the person to which the mineral property or timber block is leased by the lessor. Thus, individual lessees as well as sublessees are included within the purview of section 735 as respects lessors. The House recedes.

Amendments Nos. 97, 98, 99, 101, 103, 104, 106, and 107: Under the House bill, relief under section 735 was extended to natural-gas companies which were defined as corporations engaged in the withdrawal or transportation by pipe line of natural gas. In the case of a natural-gas company, any of the natural-gas property of which was in operation during the base period, the nontaxable income from exempt excess output for any taxable year was the amount equal to the excess output for such year multiplied by one-half of the unit net income for such year. The term "natural-gas property" was defined as the property of a natural-gas company used for the withdrawal, storage, and transportation by pipe line of natural gas, excluding any part of such property which is an emergency facility under section 124. In determining the excess output, which meant the excess of the natural-gas units for the taxable year over the normal output, the term "natural-gas unit" was defined as a unit of natural gas sold by a natural-gas company, and the term "normal output" was defined as the average annual natural-gas units sold in the taxable years beginning after December 31, 1935, and not beginning after December 31, 1939, of the person owning the natural-gas property (whether or not the taxpayer). The term "unit net income" in the case of a natural-gas property was defined to mean the amount ascertained by dividing the net income, computed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, from such property during the taxable year by the number of natural-gas units sold in such year.

The amendments added by the Senate extend relief to a natural-gas company only with respect to the income derived from the withdrawal of natural gas from natural-gas properties in which the natural-gas company owns an economic interest and do not extend such relief to

any income attributable to storage, transportation, or distribution of such gas. Thus, amendments Nos. 97 and 98 redefine the term "natural-gas company" to mean a corporation engaged in the withdrawal of natural gas from natural-gas property in which it owns an economic interest and which was in operation during the base period. Amendments Nos. 106 and 107 provide that in the case of a natural-gas company the nontaxable income from exempt excess output for any taxable year shall be an amount equal to the excess output for such year from natural-gas properties in which it owns an economic interest multiplied by one-half of the unit net income for such year. For purposes of determining the excess output the term "natural-gas unit," as redefined by amendment No. 99, means a unit of natural gas withdrawn from a natural-gas property, and the term "normal output," as redefined by amendment No. 101, means the average annual natural-gas units withdrawn in the base period (taxable years beginning after December 31, 1935, and not beginning after December 31, 1939) of the person owning the natural-gas property (whether or not the taxpayer). As redefined by amendment No. 103, the term "natural-gas property" means a gas well, the development and plant necessary for the withdrawal of natural gas therefrom, and so much of the surface of the land as is necessary for such withdrawal, excluding any part of such property which is an emergency facility under section 124. The definition of unit net income in respect of a natural-gas company, as changed by amendment No. 104, means the amount ascertained by dividing the net income, computed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, from the natural-gas property during the taxable year by the number of natural-gas units withdrawn from such property in such year. The Senate recedes.

Amendments Nos. 100 and 102: These amendments are technical amendments simplifying the use of the term "base period" in section 735 (a) (4), as amended. The Senate recedes.

Amendment No. 105: Under the House bill nontaxable income from exempt excess output from a coal mining or iron mining property or a timber block which was not in operation during the base period was an amount equal to one-sixth of the net income for such taxable year computed with the allowance for depletion from the coal or iron mining property or from the timber block, as the case may be. This amendment changes the allowance from one-sixth to one-half of such net income for the taxable year. The Senate recedes.

Amendment No. 108: The section of the House bill relating to nontaxable income of certain industries with depletable resources was made applicable to taxable years beginning after December 31, 1943, except that insofar as it related to lessors of mineral properties and timber blocks in operation during the base period and to natural-gas companies, it was applicable to taxable years beginning after December 31, 1941. The Senate amendment changes the applicability provisions to make all the amendments applicable with respect to taxable years beginning after December 31, 1941. The Senate recedes.

Amendment No. 109: Section 727 (h) of the code provides that a corporation subject to the provisions of title IV of the Civil Aeronautics Act of 1938 shall be exempt from the excess profits tax, if, after excluding from its gross income compensation received from the United States for the transportation of mail by aircraft, its adjusted

excess profits net income for such year is zero or less. This amendment, for which there is no corresponding provision in the House bill, provides that the exclusion of air-mail compensation shall also be made in determining the amount of the unused excess profits credit for such year available under section 710 (c) as an offset to adjusted excess profits net income in other taxable years. To the extent, however, that the unused excess profits credit adjustment is attributable to the exclusion of mail pay, such credit is available to the taxpayer solely for the purposes of applying section 727 (h); i. e., only if such unused excess profits credit adjustment coupled with the exclusion required for the current year, again produces a zero adjusted excess profits net income. This amendment is effective as of the date of the enactment of the Excess Profits Tax Act of 1940. The House recedes with technical amendments serving to clarify the language of the provision, and to provide that the amendment made shall be effective as if it were a part of the Excess Profits Tax Act of 1940 on the date of its enactment.

Amendment No. 110: This amendment, for which there is no corresponding provision in the House bill, changes, for the purposes of part III of subchapter E of chapter 2 of the code, the definition under existing law of the term "tax imposed under this subchapter" in the case of taxable years beginning in 1941 and ending after June 30, 1942. Under the amendment the term means, in the case of such taxable years, the portion of the tentative excess profits tax determined under section 710 (a) (3) (B) of the code. The House recedes.

Amendments Nos. 111, 112, 113, and 114: These amendments are clerical. The House recedes.

Amendments Nos. 115 and 116: These amendments are technical. The House recedes.

Amendment No. 117: The House bill provides that, in case of a credit or refund of an overpayment of excess profits tax for a taxable year for which a post-war credit is provided, bonds issued with respect to a taxable year prior to that for which the overpayment is made may be made available for adjustment. By striking out the words "or a previous taxable year", this amendment has the effect of limiting the bonds subject to adjustment in such case to the bonds issued with respect to the taxable year for which the overpayment is made. This change in the provision with respect to the adjustment of the bonds makes such provision conform in this regard to the provision with respect to the adjustment of the post-war credit. The House recedes.

Amendments Nos. 118 and 119: These are technical amendments. The House recedes.

Amendment No. 120: This is a clerical amendment. The House recedes.

Amendment No. 121: This amendment, for which there is no corresponding provision in the House bill, adds a new paragraph (2) to section 781 (d) of the code. Section 781 (d) relates to the limitation on the post-war credit with respect to the excess profits tax. Paragraph (2) prescribes a special rule for the computation of the limitation on the post-war credit for a taxable year beginning in 1941 and ending after June 30, 1942. The House recedes with an amendment which corrects a technical imperfection in the Senate amendment.

The portions of the tentative excess profits taxes determined under section 710 (a) (3) (A) and (B) of the code are the portions of the tentative taxes prior to the credit under section 729 (c) and (d) of the code for tax paid or accrued to a foreign country or possession of the United States and prior to the adjustment under section 734 of the code on account of position inconsistent with prior income tax liability. The credit under section 729 (c) and (d) and the adjustment under section 734 are applied against the sum of the portions of the tentative excess profits taxes finally determined under section 710 (a) (3). Therefore, Senate amendment No. 121 fails to prescribe the proper rule for computing the limitation on the post-war credit for a taxable year beginning in 1941 and ending after June 30, 1942, whenever a credit under section 729 (c) and (d) or an adjustment under section 734 is involved. This imperfection is corrected by the conference amendment. The amount of tax which would be payable to the United States under subchapter E of chapter 2 of the code if the portion of the tentative tax determined under section 710 (a) (3) (B) were reduced by 10 percent, as used in the conference amendment, means the sum of (1) the portion of the tentative tax determined under section 710 (a) (3) (A), and (2) 90 percent of the portion of the tentative tax determined under section 710 (a) (3) (B), after proper allowance is made for any allowable credits or adjustments, such as a credit under section 729 (c) and (d) or an adjustment under section 734.

Amendment No. 122: This is a clerical amendment. The House recedes.

Amendment No. 123: This is a technical amendment. The House recedes.

Amendment No. 124: This is a clerical amendment. The House recedes.

Amendment No. 125: The House bill provides that the amendments made by subsections (a), (b), (c), and (d) of section 250 shall be effective as if made by section 250 of the Revenue Act of 1942. This provision as changed by amendment No. 125 provides that the amendments made by subsections (b), (c), and (d) of section 250 of the Senate bill, and the amendments made by subsection (e) of section 250 of the Senate bill (except with respect to credits or refunds made on or prior to the date of the enactment of this act) shall be effective as if made by section 250 of the Revenue Act of 1942. Subsections (b), (c), (d), and (e) of the Senate bill correspond to subsections (a), (b), (c), and (d) of the House bill. The change made by this amendment with respect to credits or refunds made on or prior to the date of the enactment of this act is substantive. Under the Senate amendment, section 781 (b) of the code in force under existing law rather than such section as amended will be applicable with respect to those cases where an overpayment of excess profits tax, for a taxable year for which a post-war credit is provided, is credited or refunded on or prior to the date of the enactment of this act. The House recedes.

Amendment No. 126: This amendment provides that the amendment made by section 250 (a) of the Senate bill, and the amendment made by section 250 (f) of the Senate bill inserting a new paragraph (2) of section 781 (d) of the code, shall be applicable with respect to taxable years beginning in 1941 and ending after June 30, 1942. The House recedes with a technical amendment.

Amendments Nos. 127 and 128: These amendments are clerical. The House recedes.

Amendment No. 129: This amendment, for which there is no corresponding provision in the House bill, amends section 783 (b) (2) of the code, relating to one of the limitations on the credit against the excess profits tax for debt retirement in the case of taxable years beginning after September 1, 1942. Section 783 (b) (2), as amended, provides in effect that the credit for debt retirement with respect to the taxable year shall not exceed an amount equal to 40 percent of the amount by which (1) the amount of indebtedness as of September 1, 1942, or (2) the smallest amount of indebtedness as of the close of any preceding taxable year ending after September 1, 1942, whichever amount is the lesser, exceeds the amount of indebtedness as of the close of the taxable year. The amendment is made applicable with respect to taxable years beginning after December 31, 1942. The House recedes with an amendment.

The conference amendment clarifies the amendment to section 783 (b) (2) of the code by the use of more precise language. It further provides that the amendment to section 783 (b) (2) shall be applicable to taxable years beginning after September 1, 1942, instead of to taxable years beginning after December 31, 1942. The conference amendment also adds a new subsection (c) to this section of the bill. Section 783 (a) of the code makes the allowance of the credit for debt retirement conditioned upon an election to take such credit made by the taxpayer in its return for the taxable year with respect to which such credit is allowable. With respect to the election to take credit for debt retirement against the excess profits tax imposed for a taxable year ended prior to the date of the enactment of this act, this conference amendment makes a special exception to the general rule under section 783 (a) as to when the election to take the credit must be made. The exception applies only to an election to take such portion of the credit with respect to a taxable year ended prior to the date of the enactment of this act as is attributable to the change in the limitation under section 783 (b) (2) made by this section of the bill. The new subsection (c) provides that such election may be made within ninety days after the date of the enactment of this act.

Amendment No. 130: The House bill increased the tax applicable to jewelry, etc., sold at retail, from 10 percent to 20 percent of the price for which so sold. The amendment makes the increased rate inapplicable to watches selling at retail for not more than $65, and alarm clocks selling at retail for not more than $5. The House recedes.

Amendments Nos. 131, 132, 137, 143, 149, 166, and 167: The House bill amended section 3268 of the Internal Revenue Code, which imposes on every person who operates a bowling alley, billiard room, or pool room a special tax of $10 per year for each bowling alley, billiard table, or pool table, to increase the tax with respect to billiard and pool tables to $20 per table. The House bill also suspended the tax imposed by section 3268 with respect to bowling alleys and imposed a tax equivalent to 20 percent of all amounts paid for the privilege of bowling at any bowling alley. The amendments increase the tax for each bowling alley to $20 per year, eliminate the tax on amounts paid for the privilege of bowling, and provide that no tax shall be imposed with respect to a billiard table or a pool table in a hospital if no charge is made for the use of such table. The House recedes.

Amendments Nos. 133, 134, 135, 136, 138, and 145: The House bill increased the tax on the amount paid within the United States for each international telegraph, cable, or radio dispatch or message equal to 10 percent of the amount so paid to 15 percent of such amount. The amendments restore the existing rate of 10 percent. The House recedes as to these amendments with a clerical amendment to amendment No. 135.

Amendment No. 139: The House bill increased the tax applicable to amounts paid for admission to any place from 1 cent to 2 cents for each 10 cents or fraction thereof of such amounts. The amendment substitutes a tax of 1 cent for each 5 cents or major fraction thereof. The House recedes.

Amendment No. 140: The House bill increased the tax applicable with respect to amounts paid at cabarets, roof gardens, etc., from 5 to 30 percent of such amounts. The amendment reduces the rate to 20 percent. The Senate recedes.

Amendment No. 141: The House bill increased the rate of the tax on fur articles sold at retail equivalent to 10 percent of the price for which so sold to 25 percent of such price. The amendment reduces the rate to 20 percent. The House recedes.

Amendment No. 142: The House bill increased the tax on toilet preparations sold at retail equivalent to 10 percent of the price for which so sold to 25 percent. The amendment reduces the rate to 20 percent. The House recedes.

Amendment No. 144: The House bill increased the tax applicable with respect to electric light bulbs and tubes from 5 percent to 25 percent. The amendment reduces the rate to 15 percent. The House recedes with an amendment increasing the rate to 20 percent.

Amendment No. 146: The House bill increased the rate of tax equivalent to 15 percent of the amount paid for leased wires, etc., to 20 percent of the amount so paid. The amendment further increases the rate to 25 percent. The House recedes.

Amendment No. 147: The House bill increased the rate of the tax equivalent to 5 percent of the amount paid for wire and equipment service to 7 percent. The amendment further increases the rate to 8 percent. The House recedes.

Amendment No. 148: This amendment, for which there is no corresponding provision in the House bill, reduces to 15 percent the tax on luggage, etc., sold at retail, which, as imposed by the House bill, was equivalent to 25 percent of the price for which so sold. The House recedes with an amendment fixing the rate at 20 percent.

Amendment No. 150: This amendment eliminates the tax imposed by the House bill on the conducting of parimutuel or totalizator wagering on any racing or other sporting event equal to 5 percent of the total amount wagered and received into the parimutuel or totalizator pool, to be paid by the person conducting or having control thereof. The House recedes.

Amendment No. 151: This amendment makes a change of section number; and the House recedes.

Amendments Nos. 152 and 153: These amendments relate to the exemption granted by the House bill from increased excise tax with respect to an article covered by a lease, contract of sale, conditional sale or chattel mortgage, where delivery was made before the effective

date of title III of the Revenue Act of 1943. The amendment requires as a further condition to the exemption that a part of the consideration shall be paid before such date. The House recedes.

Amendments Nos. 154 and 155: These amendments change section numbers. The House recedes.

Amendment No. 156: This is a technical amendment. The House recedes.

Amendment No. 157: This amendment changes a section number. The House recedes.

Amendment No. 158: This is a technical amendment. The House recedes.

Amendments Nos. 159, 160, and 161: The House bill provided that the increase in the rate of tax with respect to billiard and pool tables shall be effective only with respect to the period beginning July 1, 1944. The amendments substitute a provision, covering bowling alleys, the tax on which was increased by another amendment, as well as billiard and pool tables, that the increase in the tax rate shall continue effective through June 30 next following the first day of the first month which begins 6 months or more after the date of termination of hostilities in the present war as defined in chapter 9A of the Internal Revenue Code added by the House bill. The House recedes.

Amendments Nos. 162, 163, and 164: These amendments deal with the time of application of increases in the rates of the taxes imposed by section 3465 (a) (2) and (3) of the Internal Revenue Code and relate such increases to the first day of the first month beginning after the effective date of title III of the Revenue Act of 1943, instead of the effective date of such title as provided by the House bill. The House recedes.

Amendment No. 165: This amendment adds a provision, for which there is no corresponding provision in the House bill, to exempt from the tax on amounts paid at cabarets, roof gardens, etc., any amount paid by himself or another for any patron or guest who is a member of the military or naval forces of the United States, or of any of the other United Nations, and is in uniform. The Senate recedes.

Amendments Nos. 168, 169, and 170: These amendments continue as to the American National Red Cross the exemptions, made inapplicable to the United States by the House bill, from taxes with respect to telegraph, telephone, radio, and cable facilities and the transportation of persons and property. The House recedes.

Amendment No. 171: This is a clerical amendment. The House recedes.

Amendments Nos. 172 and 179: The House bill terminated the tax exemption with respect to amounts paid for the transportation of property to or from the Government of the United States. These amendments continue the exemption with respect to amounts paid by or to the War Shipping Administration for the transportation of property by water from one point in the United States to another, except between points on the Great Lakes, for the period beginning December 1, 1943, and ending on the first day of the first month which begins 6 months or more after the date of the termination of hostilities in the present war. The House recedes.

Amendments Nos. 173 and 175: These are technical amendments. The House recedes.

Amendments Nos. 174, 176, and 178: The House bill terminated tax exemptions applicable with respect to certain articles sold by certain persons for the exclusive use of the United States but continued the exemptions as to articles sold pursuant to contracts entered into prior to the effective date of the amendments which terminated the exemptions. The amendments made to the House bill enlarge the provisions of the House bill relating to articles sold under contract to cover articles sold pursuant to any agreement or change order supplemental to such contract bearing the same Government contract number. The House recedes.

Amendment No. 177: This amendment corrects a clerical error. The House recedes.

Amendment No. 180: This amendment adds a new subsection, which provides that notwithstanding the termination of exemptions with respect to articles sold or services rendered to the United States, the Secretary of the Treasury may, under conditions stated, authorize exemptions from the taxes imposed by chapter 19, 29, or 30 of the code as to any particular articles or services to be purchased by the United States. The authorization to provide exemption does not include authorization of exemption from taxes such as those imposed by subchapter B of chapter 29, from which the United States has not been heretofore exempt; but other statutory or executive authority to grant such exemption is not impaired. The subsection is not applicable to any contract entered into on or after the first day of the first month which begins 6 months or more after the date of the termination of hostilities in the present war. The House recedes with a technical amendment.

Amendment No. 181: The House bill increased the rate of drawback of distilled spirits tax paid with respect to such spirits used in the production of certain nonbeverage products from $3.75 to $5 per proof gallon, this increased rate to be applicable for the period in which the war tax rates specified by code section 1650 are in effect. The amendment increases the $5 rate allowed by the House bill to $6. The House recedes.

Amendment No. 182. This is a technical amendment. The House recedes.

Amendment No. 183: This amendment adds to section 309 of the House bill another subsection designated (d). This additional subsection amends code section 3250 (l) (1), relating to eligibility for draw-back on fully tax-paid domestic distilled spirits used in the manufacture of certain nonbeverage products. The amendment dispenses with one of the present requirements of eligibility, i. e., that such products be "sold or otherwise transferred for use for other than beverage purposes." Under the amendment eligibility for the drawback is acquired as of the time the spirits are used in conformity with the statute. The House recedes.

Amendment No. 184: This amendment adds subsection (e) to section 309 of the House bill. This subsection provides that distilled spirits used prior to the effective date of title III in the production of certain nonbeverage products, and which are not covered by any claim filed in conformity with law prior to such effective date, shall be regarded as so used during the quarter in which such effective date occurs, and the claim filed by any person for such quarter shall include the draw-back claimed with respect to such distilled spirits, but no

claim shall be allowed which was barred by any provision of any prior law. The House recedes.

Amendment No. 185: This amendment eliminates the exemption allowed by the House bill of silver-plated flatware from the tax on jewelry, etc., sold at retail. The Senate recedes.

Amendment No. 186: This amendment exempts household type electric vacuum cleaners from the tax on electric, gas, and oil appliances sold by the manufacturer. The House recedes with an amendment renumbering the section.

Amendment No. 187: This amendment, for which there is no corresponding provision in the House bill, provides for refund, credit, or abatement of the tax on luggage sold by the manufacturer, producer, or importer, prior to the effective date of the section relating to the retailers' excise tax on luggage, and held on such effective date by a dealer for sale. The Senate recedes.

Amendment No. 188: This amendment eliminates the increase made in the House bill of the rate of postage on all mail matter of the third class by an amount equal to the rate provided by existing law. The House recedes.

Amendments Nos. 189, 190, 191, 192, 193, 194, 195, and 196, inclusive: These amendments change section numbers. The House recedes.

Amendment No. 197: This amendment strikes out section 501 of the House bill. The House recedes with an amendment adding a new subsection (k) to section 811 of the code and changing present subsection (k) to subsection (l). New subsection (k) provides that if the value of stock or securities in a corporation cannot be determined with reference to sales prices or bid and asked prices by reason of the absence of sales thereof and their not being listed on an exchange, the value of such stock or securities shall be determined by considering, in addition to all other relevant factors, the value as of the applicable valuation date of stock or securities in corporations engaged in the same or a similar line of business which are listed on an exchange. The effect of this subsection is to clarify the consideration by the Commissioner, along with other evidentiary factors, of the value of listed stock or securities in corporations engaged in the same or a similar line of business. The Commissioner retains his present authority under the law to determine the precise weight to be accorded all pertinent factors affecting value, depending on the facts of each case.

Amendment No. 198: This amendment strikes out section 502 of the House bill. The House recedes. (See amendment No. 199.)

Amendment No. 199: This amendment adds, in lieu of section 502 of the House bill, a new subsection (c) to section 1000 of the code and a new subsection (c) to section 501 of the Revenue Act of 1932, designed to prevent inequities in certain instances affected by the decisions of the United States Supreme Court in *Estate of Sanford* v. *Commissioner* (308 U. S. 39) and *Rasquin* v. *Humphreys* (308 U. S. 54) (November 6, 1939). The House recedes with three amendments:

The first provides that the present rule whereby gift tax is imposed upon the payment of income to a beneficiary or upon some other disposition of the income is not affected as long as the grantor retains a power over future income from the trust property. For example, if a grantor created a trust in 1930, reserving a power to change the beneficiaries and their proportionate interests with respect to principal and income, but without retaining a power to revest the property in himself, and terminates his reserved power in 1944, so that he is no

longer able to change the beneficiaries or their respective interests, the interim payment of income to any beneficiary or other surrender by the grantor of control over such income prior to such termination is nevertheless a taxable gift and to be treated accordingly. The same result follows if a similar trust was created while a gift-tax law was in effect and the grantor, prior to January 1, 1945, terminates the aforesaid reserved power, consenting to treat the original transfer in trust in the calendar year in which effected and for all periods thereafter as having been a transfer subject to gift tax. The second amendment, adding a new subsection (c) to the Senate provision, disallows interest on any overpayment resulting from the application of new section 1000 (c) of the code, or new section 501 (c) of the Revenue Act of 1932. The third amendment eliminates the final subsection of the Senate provision because it is unnecessary.

The conferees do not consider it necessary to insert any explicit provision relating to the relinquishment of such administrative powers as a power of investment or a power to vote stock constituting the principal of a trust, whether or not such powers are held in conjunction with a power to change the beneficiaries of the trust or to alter their respective interests, since a gift is completed, for purposes of the gift tax, upon the termination by the grantor of his power to recapture the trust property or otherwise modify the terms of the trust so as to make other disposition of the property (*Estate of Sanford* v. *Comm.*, 308 U. S. 39 (1939); *Smith* v. *Shaughnessy*, 318 U. S. 176 (1943); *Robinette* v. *Helvering*, 318 U. S. 184 (1943)).

Amendment No. 200: This amendment is clerical. The Senate recedes.

Amendment No. 201: This amendment eliminated the provision in the House bill authorizing the appropriation of sums necessary to pay those excise taxes with respect to which Government exemption has been terminated and which required certain reports to be filed pertaining to the tax paid for the transportation of persons on Government business. The House recedes.

Amendment No. 202: This amendment makes the special 7-year period of limitation for overpayments resulting from deductions for bad debts and worthless securities applicable with respect to taxable years beginning after December 31, 1937. The House recedes with a change in section number.

Amendment No. 203: This amendment, for which there is no corresponding provision in the House bill, extends, for estate and gift tax purposes, the time for effecting a tax-free release of a power of appointment created on or before October 21, 1942. The House recedes with a change in section number.

Amendment No. 204: This amendment provides for the repeal of section 6 (c) of the Current Tax Payment Act of 1943 (relating to additional increase in 1943 tax where income is substantially increased in comparison with income for base year), as well as section 6 (d) (4) of such act (relating to section 107 income attributed to base year), section 6 (d) (5) of such act (relating to partnership business formerly operated as corporation), and section 6 (e) (2) of such act (relating to extension of time for payment of increase in 1943 tax under section 6 (c) of such act). In addition the amendment effects technical amendments to section 6 (d) of such act (relating to rules for the application of subsections (a) and (b) of section 6 of such act). The House recedes with a change in section number.

Amendment No. 205: This amendment permits, from the effective date of the act and for the duration of the war and for 6 months thereafter, the importation free of duty of a lighter weight of newsprint paper than that permitted under the existing provision of paragraph 1772 of the Tariff Act of 1930. The amendment has no other effect on the existing law as to free-of-duty importation of standard newsprint paper as administered by the Treasury Department under the regulations promulgated by it than the particular changes in specifications set forth. The House recedes with an amendment as to the newsprint paper to be affected and a further amendment making the amendment applicable only so long after the effective date of the act as newspaper publishers continue to be limited by Federal law, regulations, or orders as to the amount of paper to be used by them in publication of their newspapers.

Amendment No. 206: This amendment, for which there is no corresponding provision in the House bill, amends, effective as of January 1, 1942, section 1830 of the Internal Revenue Code, which relates to tax-free exportation of playing cards, to permit tax-free shipment to a possession of the United States, and until the date on which the President proclaims that hostilities in the present war have terminated, tax-free removal of such cards for shipment to a Territory of the United States for the use of members of the military or naval forces of the United States. The House recedes with clerical amendments.

Amendment No. 207: This amendment, for which there is no corresponding provision in the House bill, effects an amendment to section 23 (k) (5) (B) of the code with respect to losses on securities in affiliated corporations. Under existing law a corporation is to be considered as an affiliate of the taxpayer for the purpose of the deduction involved only if more than 90 percent of the aggregate of its gross income for all taxable years has been from sources other than royalties, rents, dividends, interest, annuities, or gains from sales or exchanges of stock or securities. Two exceptions are made by the amendment: (1) Rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business are excluded from the term "rents"; and (2) interest received on the deferred purchase price of operating assets sold is excluded from the term "interest." The amendment is made effective with respect to all taxable years beginning after December 31, 1941, the effective date of the provision amended. The House recedes with an amendment effecting a similar change in section 23 (g) (4) (B) of the code.

Amendment No. 208: This amendment, for which no corresponding provision appeared in the House bill, makes so much of section 169 of the Revenue Act of 1942 which added paragraph (3) to section 322 (b) of the Internal Revenue Code and subsection (b) of section 169 retroactively applicable in certain cases to taxable years beginning prior to January 1, 1942.

Under section 276 (b) of the code, the taxpayer and the Commissioner may agree in writing to extend beyond the period prescribed in section 275 the time within which the Commissioner may make an assessment. Paragraph (3) of section 322 (b) in effect automatically extends the period in such case within which the taxpayer may file claim for credit or refund, or within which credit or refund may be allowed or made if no claim is filed. Such section likewise provides appropriate limitations on the amount of credit or refund which may be allowed or made in such case.

Section 169 (b) of the Revenue Act of 1942 amended section 322 (d) of the code in several particulars as to when credit or refund of an overpayment found by The Tax Court could be allowed or made. Such amendment permits an overpayment found by The Tax Court to be credited or refunded if The Tax Court determines as part of its decision that the amount to be credited or refunded was paid within 2 years of the time an agreement to extend the period of time within which an assessment might be made was executed by the taxpayer and the Commissioner, or within 3 years of the time such agreement was executed if such agreement was executed within 3 years of the time the return was filed by the taxpayer.

The above amendments were made applicable by section 101 of the Revenue Act of 1942 only to taxable years beginning after December 31, 1941. It has, however, been recognized that in numerous instances taxpayers have executed agreements extending the period of time within which assessments might be made with respect to taxable years beginning prior to January 1, 1942, and that there has been no similar extension of time within which a claim for credit or refund might be filed, or credit or refund allowed or made if no claim is filed. These amendments are, therefore, now made retroactively applicable to any taxable year beginning prior to January 1, 1942 if, and only if, on the date of the enactment of the Revenue Act of 1943, or on some future date, the Commissioner would be barred from making an assessment but for the fact that the taxpayer and the Commissioner have executed an agreement under the provisions of section 276 (b) of the code or corresponding provisions of prior revenue laws to extend beyond the period provided in section 275 of the code or corresponding provisions of prior revenue laws, the time within which the Commissioner may make an assessment.

The above amendments will not be applicable to any taxable year beginning prior to January 1, 1942, which was closed prior to the date of the enactment of the Revenue Act of 1943 in the sense that the Commissioner does not have the authority to make an assessment with respect to such year on such date or on some later date. The amendments likewise will not be applicable to any taxable year beginning prior to January 1, 1942, solely because the Commissioner has the authority to make the assessment with respect to such year on the date of the enactment of the Revenue Act of 1943, or on some later date, unless the Commissioner would be precluded from making such assessment but for the fact that an agreement of the type described above has been executed (whether before, on, or after the date of enactment of the Revenue Act of 1943) by the Commissioner and the taxpayer. The amendments will, however, be applicable to all taxable years beginning prior to January 1, 1942, if on the date of the enactment of the Revenue Act of 1943, or on some future date, the Commissioner would be barred from making an assessment with respect to such taxable year but for such an agreement. In such case the amendments will be applicable regardless of whether or not the Commissioner actually does make an assessment. The amendments will continue to be applicable to all taxable years beginning after December 31, 1941.

The House recedes with an amendment adding a new subsection (b) to provide that, notwithstanding any other period of limitation, if the transferee of a taxpayer has signed waivers extending the period within which the Commissioner might assess the liability with respect to the tax of the taxpayer for a taxable year beginning in 1936 against such

transferee and if The Tax Court of the United States finds that such transferee has made an overpayment with respect to the tax of the taxpayer for such taxable year, such overpayment shall, when the decision of The Tax Court becomes final, be credited or refunded to the transferee. The amount of the credit or refund is not to exceed the amount paid by the transferee with respect to the tax of the taxpayer for such taxable year within the 4 years immediately preceding the date the transferee signed such waivers.

Amendment No. 209: This amendment, for which no corresponding provision appeared in the House bill, changes section 602 of the code, relating to the definition of net income for the purposes of the declared value excess profits tax, so as to exclude therefrom the excess of the net long-term capital gain over the net short-term capital loss. The amendment is applicable to taxable years beginning after December 31, 1943. The House recedes.

Amendment No. 210: Sections 812 (d) and 861 (a) (3) of the code now provide that any interest falling into a bequest, legacy, devise, or transfer to charity by reason of an irrevocable disclaimer of such interest by another beneficiary is deductible from the gross estate as a part of such bequest, legacy, devise, or transfer to charity, if the disclaimer is made prior to the date prescribed for the filing of the estate-tax return. This amendment, for which there is no corresponding provision in the House bill, adds a special provision to the effect that in the case of a decedent dying on or before October 21, 1942, an otherwise valid disclaimer will be recognized if made prior to September 1, 1944. The House recedes.

Amendment No. 211: This amendment, for which there is no corresponding provision in the House bill, adds a new subsection (f) to section 151 of the Revenue Act of 1942, so as to make retroactive subsections (a) and (b) of such section (relating to the exclusion of certain real property from the definition of capital asset and to gains and losses from involuntary conversion and from the sale or exchange of certain property used in the trade or business) as if they were a part of the Internal Revenue Code and title I of the Revenue Act of 1938 on the date of their respective enactments. The Senate recedes.

Amendment No. 212: Under this amendment, for which there is no corresponding provision in the House bill, the provision of section 115 (a) which defines a dividend to include, in addition to a distribution out of earnings and profits, any distribution of a personal holding company is qualified so as to apply to any distribution of a personal holding company only to the extent of its subchapter A net income, whether or not the distribution would be a dividend as otherwise defined in that section. This amendment is to be effective for all taxable years beginning after December 31, 1941. The House recedes with clerical amendments and a change in section number.

Amendment No. 213: Section 514 of the bill, as passed by the Senate (renumbered 513), proposed to add a new section 3807 to the Internal Revenue Code, relating to the period of limitations in case of related taxes under chapters 1 and 2 of the code. The conference committee made changes in the wording of such section in order properly to carry out the intent of the section.

All the taxes imposed under chapters 1 and 2 of the code are related in that they are based on income. The same items of income generally enter into the computations of the amount of income which is subject to the several taxes imposed under such chapters 1 and 2.

Some of these taxes are also related in the sense that one tax may be a deduction in computing the amount of income which is subject to one of the other taxes, or the amount of income subject to one of such taxes may be a credit against net income for purposes of one or more of such taxes. A change in one tax may produce results in a second tax in either or both of the following ways: (1) The amount of the first tax (or the amount of income subject to such tax) may be altered and, therefore, the proper deduction (or credit) in computing the second tax should be correspondingly changed; and (2) if the change in the first tax consists of an adjustment of an item which likewise entered into the computation of the income subject to the second tax, a corresponding adjustment should properly be made in the amount of the income subject to the second tax. Similarly, a determination that a corporation is liable for one of the taxes, may result in exemption from another, or vice versa. For example, a determination that a corporation is liable for a personal holding company tax should result in exemption from the excess profits tax.

Under the present provisions of law each tax imposed by chapters 1 and 2 is considered a separate tax, each with its own substantive and administrative provisions. Each such tax has its own period of limitations for assessing such tax and for allowing credit or refund for an overpayment of such tax. Such periods of limitation do not necessarily expire at the same time in the case of the several taxes. The result of such different periods of limitations is that appropriate adjustments in the second tax even when the first tax has been changed sometimes cannot be made. This, in some cases, results in preventing the Commissioner from assessing a deficiency and in others in preventing the taxpayer from receiving a credit or refund. The Commissioner might likewise be barred from making an assessment, or the taxpayer from receiving a credit or refund by some provision of law or rule of law other than that relating to the statute of limitations.

Section 3807, as added to the code by this amendment, in effect provides that if as a result of a determination in respect of a tax imposed by chapter 1 or 2 a deficiency is assessed, or a credit or refund of an overpayment is allowed, within the period of limitation properly applicable thereto, certain adjustments of the types described above may be made for the same taxable year in any other tax imposed by chapter 1 or 2; that is, (1) if the application of the law or facts which was the subject of such determination to any other tax imposed by chapter 1 or 2 would result in an increase or decrease in the amount of such other tax as previously determined, and (2) if at any time within 1 year from the time the deficiency was assessed, or credit or refund allowed, in respect of the first tax, the assessment of the deficiency, or the allowance of a credit or refund, in respect of such other tax is prevented (except for the provisions of section 3801 or 734 of the code) by the operation of any provision of law or rule of law (other than this section 3807 or section 3761 of the code relating to compromises), then the increase or decrease in such other tax shall be considered a deficiency or overpayment, as the case may be. Such increase may be assessed as a deficiency even though in fact there is no actual deficiency in respect of the given taxable year, or such decrease may be refunded even though in fact there is no overpayment. If an assessment or refund is permissible under the law during part of such 1-year period without regard to section 3807, any assessment

made, or refund allowed, during such part of the 1-year period must, of course, be the assessment of an actual deficiency or the refund of an actual overpayment.

In determining whether there is any such increase or decrease in the amount of tax previously determined, changes shall be made only in the items which were the subject of the determination in respect of the first tax and items which are affected thereby. Thus, if for the taxable year 1940 the taxpayer should be allowed a refund of income tax based upon the determination that too small an amount had been deducted for depreciation, the changes which could be made in the excess-profits tax under the provisions of this section would include not only the amount which should be properly deducted as depreciation in computing excess profits net income, but also other items such as the amount of any deduction, credit, allowance, or adjustment which is limited, directly or indirectly, to or by the amount of net income or net income from the property, and also the amount which should properly be deducted, in computing excess profits net income, in respect of the income tax imposed under chapter 1.

Such increase or decrease, if paid or refunded, shall not be recovered by any suit on the ground that there was no actual deficiency or overpayment. Any amount paid as a deficiency, or refunded as an overpayment, under the provisions of this section can be recovered by a claim for refund or suit for refund or suit for an erroneous refund only if such claim or suit is based upon an item which was the subject of the determination in respect of the first tax or an item affected thereby, or can be recovered in connection with a subsequent application of this section 3807.

Any increase or decrease determined as described above may be assessed, or credited or refunded, as if on the date the deficiency is assessed, or credit or refund allowed, in respect of the first tax, 1 year remained before the expiration of the period of limitation upon assessment or filing claim for refund of overpayment of the tax in respect of which such increase or decrease is determined. All provisions of law, e. g., the suspension of the running of the statute of limitations under the provisions of section 277 of the code in case a deficiency notice is sent to the taxpayer, not inconsistent with the provisions of this section will be applicable to the assessment of such increase or the refunding of such decrease. Such increase may be assessed, or decrease refunded, notwithstanding any provision of law, such as section 272 (f) of the code, or any rule of law (e. g., res judicata), other than section 3807 itself or section 3761, relating to compromises. Section 3807 may, of course, operate several times upon the same tax, and likewise may operate simultaneously on several taxes.

Section 3807 is to be applicable to affiliated groups which file consolidated returns, and is to operate whether the determination in respect of the first tax is in respect of the tax reported on the basis of a consolidated return, or in respect of a tax reported on the basis of a separate return. In the case of a member of an affiliated group, the words "any other tax of the taxpayer" is to include any other tax imposed by chapter 1 or 2 upon any other member of the group, whether such tax is reported on the basis of a consolidated return or on the basis of a separate return. Thus, if a deficiency is assessed, or a refund allowed, in respect of a tax reported on the basis of a consolidated return, adjustments may be made in respect of the other taxes of the affiliated group reported on the basis of a consolidated return

and also in respect of the taxes of all the members of such group not reported upon the basis of such a consolidated return. Similarly, if the deficiency or refund is in respect of a tax of a member of an affiliated group not reported on the basis of a consolidated return, adjustments may be made not only in other taxes of the given taxpayer, but also in any tax which such group reported upon the basis of a consolidated return. These adjustments may be made even though the several taxable periods involved are not the same if the taxable year for which the adjustments are made coincides in whole or in part with the taxable year for which the deficiency was assessed or a refund allowed.

Section 3807 is to apply to all taxable years beginning after December 31, 1939.

The application of section 3807 may be illustrated by the following examples:

(1) Corporation X on March 15, 1941, filed a return and paid a tax as a personal holding company for the calendar year 1940. The Commissioner within the proper period of limitations asserted a deficiency against corporation X in respect of the excess profits tax for such taxable year. On March 1, 1946, it was determined that corporation X was not a personal holding company and was therefore subject to excess profits tax. Corporation X paid such excess profits tax on March 1, 1946. Under the provisions of section 3807 corporation X may file a claim for refund of the personal holding company tax which it paid, or credit or refund may be allowed or made if no claim is filed, as if the period of limitation upon filing claim for credit or refund, or the allowing of credit or refund if no claim is filed, did not expire until March 1, 1947.

(2) Corporation X, which makes its tax returns upon the basis of the calendar year, joins an affiliated group on July 1, 1940. Such group likewise makes its returns on the basis of the calendar year. A consolidated excess profits tax return was filed for the group for the year 1940 on March 15, 1941. Likewise, corporation X filed an excess profits tax return for the short taxable year January 1, through June 30, 1940, and an income tax return for the calendar year 1940. Corporation X is allowed a refund of income tax attributable, e. g., to a casualty loss, on December 1, 1945. Proper adjustments, though barred under other provisions of law or rules of law, may be made under section 3807 in the consolidated excess profits tax return (1) to reflect such loss, (2) to reflect any other deductions, credits, allowances, or adjustments which are limited to or by net income or net income from the property, and (3) to reflect the proper deduction for corporation X's income tax in computing consolidated excess profits net income. Similarly, such adjustments may be made in corporation X's separate excess profits tax return for the short taxable year January 1, through June 30, 1940. Adjustments may likewise be made in the taxes of other members of the group which were reported on the basis of a separate return. Any adjustment to taxes of other members of the affiliated group reported on the basis of a separate return which flow from the adjustments made in the consolidated excess profits tax, or from adjustments made to corporation X's separate taxes, may likewise be made. All such adjustments may be made as if the period of limitation upon assessment or upon allowance of refunds, as the case may be, did not expire until December 1, 1946.

If the deficiency or refund had been assessed or allowed in respect of the tax reported on the basis of the consolidated return, appropriate adjustments could be made in any tax reported on the basis of a consolidated return, or in any tax of any member of such affiliated group reported on the basis of a separate return.

The House recedes with amendments.

Amendment No. 214: This amendment makes changes in the priorities applicable to payments authorized and directed to be made in respect of awards of the Mixed Claims Commission under the Settlement of War Claims Act of 1928, as amended, and authorizes and directs the Secretary of the Treasury to make certain deposits in the German Special Deposit Account created under the provisions of section 4 of the act of 1928, as amended. The Senate recedes.

Amendment No. 215: This amendment of the Senate adds a provision to section 6 (c) (1) of the Current Tax Payment Act of 1943, relating to extension of time for payment of the 25 percent increase in 1943 tax under such act, which would permit a taxpayer who elects to postpone the payment of one-half such increase, to pay each one-half of such increase in four equal quarterly installments. The Senate recedes.

Amendment No. 216: This is a clerical amendment, pursuant to amendment No. 217. The House recedes.

Amendment No. 217: This is a clerical amendment, in conformity with amendment No. 289, which eliminates the repricing provisions from the Renegotiation Act. The House recedes.

Amendment No. 218: This amendment eliminates a phrase which would cast doubt on the includibility in the term "excessive profits", as used in the Renegotiation Act, of any portion of the profits derived from patent license agreements. The House recedes.

Amendment No. 219: Under the House bill, the factor of contractor efficiency, required to be taken into consideration in determining excessive profits, contemplated particular regard, inter alia, to economy in the use of raw materials. This amendment removes the restriction upon the character of materials of which the economical use is to be of significance in this connection. The House recedes.

Amendment No. 220: This is a clerical amendment, consequent on amendment No. 221. The House recedes.

Amendment No. 221: Under the House bill, the factor of reasonableness of costs and profits, required to be taken into consideration in determining excessive profits, contemplated particular regard to volume of production and normal pre-war earnings. This amendment adds comparison of war- and peace-time products to those objects of particular regard in this connection. The House recedes.

Amendment No. 222: This amendment includes "problems in connection with reconversion" among the factors required to be taken into consideration in determining excessive profits. The Senate recedes.

Amendment No. 223: This amendment required that one of the factors to be taken into consideration in determining excessive profits shall be whether the profits remaining after the payment of estimated Federal income and excess profits taxes will be excessive. The Senate recedes.

Amendment No. 224: This is a clerical amendment, pursuant to amendments Nos. 222 and 223. The Senate recedes.

Amendment No. 225: This amendment requires the factors (other than those specifically mentioned in the preceding clauses of the subparagraph), consideration of which the public interest and fair and equitable dealing may require in the determination of excessive profits to be published in the regulations of the War Contracts Price Adjustment Board from time to time as adopted. The House recedes.

Amendments Nos. 226, 227, and 228: These are technical amendments, based on amendments Nos. 276 and 285. The Senate recedes.

Amendment No. 229: This amendment strikes out the provision of the House bill disallowing as an item of cost any commission, percentage, brokerage, or contingent fee paid or payable by a contractor to any person for or in connection with the soliciting or securing of a contract, unless such person is a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business. The House recedes.

Amendment No. 230: This amendment removes any qualification, by reason of any other provision of the Renegotiation Act, upon the allowance of Federal income and excess-profits-tax deductions and exclusions as items of cost in determining the profits derived from contracts and subcontracts. The House bill qualified the allowance with the phrase "except as otherwise provided in this paragraph." The House recedes.

Amendment No. 231: The deductions and exclusions for Federal income and excess profits tax purposes allowed by the House bill in determining profits derived from contracts and subcontracts are limited to those "of the character allowed" as deductions and exclusions under chapters 1 and 2E of the Internal Revenue Code. This amendment eliminates any restriction upon the allowance of Federal income and excess profits tax deductions and exclusions as items of cost that may be implied in the phrase, "of the character" and, for the purpose of the allowance, substitutes for the amount of such deductions and exclusions allowed the amount thereof estimated to be allowable. The House recedes.

Amendment No. 232: This amendment specifically includes carry-overs, carry-backs, and recomputed amortization deductions among the items of deductions and exclusions to be allowed as items of cost, to the extent allocable to contracts and subcontracts. Carry-overs and carry-backs of net operating losses and unused excess profits credits are provided for by sections 122 and 710, respectively, of the Internal Revenue Code. Recomputation of the amortization deduction is provided for by section 124 of the code. The House recedes with an amendment eliminating the reference to carry-overs and carry-backs.

The purpose of this amendment is to provide for a refund of excessive profits eliminated for a prior year, to the extent that a recomputation of the amortization under section 124 (d) of the Internal Revenue Code for such year exceeds the deduction allowed in renegotiation for that year. Where a renegotiation is made prior to the termination of the amortization period, no allowance will be made to the contractor or subcontractor in the renegotiation for additional amortization which may later be allowed to the contractor or subcontractor for Federal income and excess-profits tax purposes, as a result of a recomputation of the amortization period prior to the end of the 60-month period. However, after a recomputation of the amortization deduction by the Bureau of Internal Revenue, the contractor or subcontractor will then be entitled to a refund from the Department making the renegotiation.

This refund, however, will be of only that portion of the additional amortization which is allocable to performance in such prior year of renegotiable business. It cannot exceed the amount of the additional amortization deductions allowed for the year in respect of which the renegotiation was made, reduced by the amount of tax savings realized by the contractor or subcontractor by omitting from gross income that portion of the excessive profits which equals the amount of the additional amortization deductions.

For example, X Corporation has certificates of necessity covering emergency facilities with an aggregate cost of $500,000. $350,000 of such facilities are used exclusively in the performance of renegotiable contracts and subcontracts and $150,000 of such facilities are used exclusively in performing nonrenegotiable business. X Corporation has made a refund of excessive profits for the year 1943 in an amount in excess of $14,000. X Corporation has taken $100,000 as a deduction for amortization under section 124 (d) of the Internal Revenue Code in its tax returns for that year. As a result of recomputation of the amortization deduction pursuant to section 124 (d) of the code, the amortization deduction for the year 1943 is increased to $200,000. The operation of subparagraph (a) (4) (D) may be illustrated as follows:

1. Original amortization deduction	$100,000
2. Allocable to renegotiable business (70 percent) and allowed in renegotiation	70,000
3. Recomputed amortization deduction	200,000
4. Allocable to renegotiable business (70 percent)	140,000
5. Excess over amortization deduction originally allowed in renegotiation	70,000
6. Income and excess profits taxes assessable on such excess (80 percent rate assumed)	56,000
7. Net rebate pursuant to subparagraph (a) (4) (D)	14,000

A further purpose of subparagraph (a) (4) (C) is to create an exception from the effect of subparagraph (a) (4) (B) so that carry-overs and carry-backs which might constitute deductions for tax purposes shall not be required to be treated as items of cost or otherwise deductible in determining excessive profits in renegotiation.

Amendment No. 233: Under that part of the definition of "subcontract" contained in subsection (a) (5) (A) of the Renegotiation Act, as amended by the House bill, the term means any purchase order or agreement (other than a contract with a Department) to make or furnish, or to perform any part of the work required for the making or furnishing of, a contract item or a component article. For the purposes of the subparagraph, a contract item means any article, work, services, building, structure, improvement or facility contracted for by a Department; and a component article means any article which is to be incorporated in or as a part of a contract item. The amendment strikes out the entire text of the subparagraph and restores the language of existing law (the subject of settled administrative construction), which defines the term subcontract to mean any purchase order or agreement to perform all or any part of the work, or to make or furnish any article required for the performance of any other contract or subcontract. The House recedes with an amendment excluding office supplies from the articles within the purview of the definition. The specific exemption of subcontracts for

office supplies, however, is not to be construed as denying the exemption to subcontracts for similar articles which are now exempt under departmental regulations interpreting existing law.

Amendment No. 234: Subparagraph (A) of subsection (a) (7) of the Renegotiation Act, as amended by the House bill, prescribes as one of the criteria of a standard commercial article that it be not specially made to specifications furnished by a Department or by another contractor or subcontractor. The amendment strikes out the subparagraph. The House recedes.

Amendments Nos. 235, 236, 237, 238, and 239: These are clerical amendments, pursuant to amendment No. 234. The House recedes.

Amendment No. 240: This amendment limits the required insertion of the terms of the contractor's agreement specified in the subsection to contracts involving an estimated amount of more than $100,000. Under the concluding sentence of the subsection, however, contracts and subcontracts to which subsection (c) of the Renegotiation Act is applicable are considered as having been made subject to such subsection in the same manner and to the same extent as if such terms had been inserted. The House recedes. (See amendment No. 246.)

Amendment No. 241: This is a clerical amendment, in conformity with amendment No. 289, which eliminates the repricing provisions from the Renegotiation Act, as amended by the House bill; and, with amendment No. 310, which authorizes the Secretary of a Department to fix a fair and reasonable price by agreement or order. The House recedes.

Amendment No. 242: Under subsection (b) of the Renegotiation Act, as amended by the House bill, one of the terms of the provision required to be inserted in each contract subject to the act is that the contractor insert in each subcontract a provision under which the subcontractor agrees to terms similar to those to which the contractor is required by the subsection to agree. The amendment limits the required insertion to subcontracts involving an estimated amount of more than $100,000, if of the kind described in subsection (a) (5) (A), defining subcontracts generally, and to subcontracts involving an estimated amount of more than $25,000, if of the kind described in subsection (a) (5) (B), defining so-called war broker subcontracts. Under the concluding sentence of subsection (b), however, contracts and subcontracts to which subsection (c) is applicable are considered as having been made subject to subsection (c) in the same manner and to the same extent as if the provisions had been inserted. The House recedes. (See amendment No. 246.)

Amendments Nos. 243 and 244: These are clerical amendments, in conformity with amendment No. 289, which eliminates the repricing provisions from the Renegotiation Act, as amended by the House bill; and, with amendment No. 310, which authorizes the Secretary of a Department to fix a fair and reasonable price by agreement or order. The House recedes.

Amendment No. 245: Under subsection (b) of the Renegotiation Act, as amended by the House bill, one of the terms of the provision required to be inserted in each contract subject to the act is that the contractor insert in each subcontract a provision under which the subcontractor agrees to insert in each of his subcontracts provisions

corresponding to those to which he himself as required by paragraph (3) of the subsection to agree. The amendment limits the required insertion to subcontracts involving an estimated amount of more than $100,000 if of the kind described in subsection (a) (5) (A), defining subcontracts generally, and to subcontracts involving an estimated amount of more than $25,000, if of the kind described in subsection (a) (5) (B), defining so-called war-broker contracts. Under the concluding sentence of subsection (b), however, contracts and subcontracts to which subsection (c) is applicable are considered as having been made subject to subsection (c) in the same manner and to the same extent as if the provisions had been inserted. The House recedes. (See amendment No. 246.)

Amendments Nos. 246, 247, and 248: The last sentence of subsection (c) of the Renegotiation Act, as amended by the House bill, provides that whether or not the provisions required by the subsection are inserted in a contract or subcontract to which the subsection is applicable, such contract or subcontract, as the case may be, shall be considered as having been made subject to the subsection in the same manner and to the same extent as if such provisions had been inserted. Amendment No. 246 is a technical amendment, involving a change of reference to the applicable subsection; amendment No. 247 is a clarifying amendment, describing the provisions in reference as specified in, rather than required by, the provisions of subsection (b); and amendment No. 248 is a clerical amendment, pursuant to amendment No. 246. The House recedes.

Amendment No. 249: Under the House bill, agreements between the War Contracts Price Adjustment Board and a contractor or subcontractor may be made with respect to the elimination of excessive profits realized or likely to be realized. The amendment strikes out the phrase "realized or likely to be realized" and substitutes "received or accrued." The House recedes with an amendment providing that any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued; and with a further amendment of which the effect is to restrict the issuance and entry of an order determining the amount of excessive profits to cases in which an agreement is not reached with respect to the elimination of excessive profits received or accrued.

Amendment No. 250: This is a clerical amendment, in conformity with amendment No. 276. The Senate recedes.

Amendment No. 251: The House bill requires the War Contracts Price Adjustment Board to exercise its powers with respect to fiscal years. This amendment permits such exercise with respect to such other periods as may be fixed by mutual agreement between the Board and the contractor or subcontractor. The purpose of the amendment is to effect an equitable result in cases of the renegotiation of long-term contracts. The House recedes.

Amendment No. 252: Under the House bill, the statement of the determination of excessive profits required to be furnished to the contractor or subcontractor by the War Contracts Price Adjustment Board is not to be used in The Tax Court of the United States in connection with its determination of excessive profits. In lieu of this prohibition, the amendment prohibits the use of such a statement in the Court of Claims as proof of the facts or conclusions stated therein. The House recedes with a technical amendment, consistent with its

action on amendments Nos. 276 and 285, substituting The Tax Court of the United States for the Court of Claims.

Amendment No. 253: This is a technical amendment, pursuant to amendments Nos. 276 and 285. The Senate recedes.

Amendments Nos. 254, 255, 256, and 258: These amendments eliminate words which, by reason of the last sentence of the paragraph, are surplusage. The House recedes.

Amendment No. 257: This is a clarifying amendment. The House recedes.

Amendment No. 259: This is a clerical amendment, pursuant to amendment No. 289, which eliminates from the Renegotiation Act the substantive provisions of subsection (f). The House recedes.

Amendment No. 260: This amendment limits coverage into the Treasury as miscellaneous receipts to money recovered from amounts previously expended from appropriations from the Treasury by way of repayment or suit under subsection (c). The House recedes with an amendment limiting the application of the provision to money recovered in respect of amounts paid to the contractor from appropriations from the Treasury, and of which the purpose is to prevent the depletion of certain revolving funds at the disposal of some of the contracting departments by the payment of recoveries into the Treasury.

Amendment No. 261: The House bill required the Secretary, upon the withholding of excessive profits or the crediting of excessive profits against amounts otherwise due a contractor, to transfer to the Treasury from appropriations of his Department to the credit of miscellaneous receipts an amount equal to the amount so withheld or credited by him. In lieu of such a transfer, the requirement of the amendment is that the Secretary certify the amount withheld or credited to the Treasury, the appropriations of his Department to be correspondingly reduced; and the amount of such reductions is to be transferred to the surplus fund of the Treasury. This amendment conforms the procedure to govern the disposition of excessive profits withheld or credited to the existing general accounting and bookkeeping procedure of the Treasury Department. The House recedes.

Amendment No. 262: The House bill required the Secretary of a contracting Department, in determining the amount of any excessive profits to be eliminated, to allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code. Under the amendment this credit is allowed in eliminating, but not in determining, excessive profits. The House recedes.

Amendment No. 263: This is a clarifying amendment, fixing the period after which no proceeding to determine the amount of excessive profits shall be commenced. The House recedes.

Amendments Nos. 264, 265, and 266: These are clerical amendments, pursuant to amendment No. 268. The House recedes.

Amendment No. 267. This amendment has the effect of limiting the agreements provided for under paragraph (4) of subsection (c) to the elimination of, and the discharge of any liability for, excessive profits received or accrued on or before the date of making such agreements. The House recedes, in conformity with its receding with an amendment from its disagreement to amendment No. 249.

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Amendment No. 268: Under subsection (c) (5) (A) of the Renegotiation Act, as amended by the House bill, every contractor and subcontractor holding contracts or subcontracts to which the provisions of the subsection are applicable is required to file with the War Contracts Price Adjustment Board, at such time or times and in such form and detail as the Board may by regulations prescribe, statements of actual costs of production and such other financial statements as the Board may by regulations prescribe. Any person wilfully failing to furnish any statement required of him under the subsection, or knowingly furnishing any such statement containing information which is false or misleading in any material respect, shall upon conviction thereof be punished by a fine of not more than $10,000 or imprisonment for not more than 2 years or both.

The amendment requires that a financial statement setting forth the actual costs of production and such other information as the Board may by regulations prescribe be filed with the Board on or before the first day of the fourth month following the close of the fiscal year. The amendment also requires that in addition to this statement any information, records, or data required by the Board of the contractor or subcontractor shall be furnished at such time or times and in such form and detail as the Board may by regulations prescribe. The penalty relating to the statement is extended to the information, records, or data required under the subsection.

The House recedes with an amendment providing that, if the contractor's or subcontractor's fiscal year has closed on the date of the enactment of the bill, the statement shall be filed on or before the first day of the fourth month following the month of enactment; with an amendment restricting the data to be set forth in the financial statement to such information as the Board may by regulations prescribe as necessary to carry out the Renegotiation Act; and with an amendment likewise limiting the information, records, or data to be furnished the Board to such as is determined by the Board to be necessary to carry out the act.

Amendment No. 269: This amendment provides that the War Contracts Price Adjustment Board shall consist of six members; the House bill provides for five members. The House recedes.

Amendment No. 270: This is a clerical amendment. The House recedes.

Amendment No. 271: This amendment provides that one of the members of the War Contracts Price Adjustment Board shall be an officer or employee of the War Production Board and shall be appointed by the Chairman of the War Production Board. The House recedes.

Amendment No. 272: In conformity with amendment No. 269, this amendment provides that four members of the War Contracts Price Adjustment Board shall constitute a quorum. The House recedes.

Amendment No. 273: The House bill permits the delegation by the War Contracts Price Adjustment Board to the Secretary of a Department of any power, function, or duty except the power, function, and duty to review orders determining excessive profits. The amendment strikes out this exception. The House recedes.

Amendment No. 274: Under the House bill, any contractor or subcontractor aggrieved by an order of an officer, agency, or division of the War Contracts Price Adjustment Board is entitled, upon request

therefor made within such time as the Board may by regulations prescribe, to a review thereof by the Board. The Board is also authorized by the House bill to review any determination by any of its officers, agencies, or divisions on its own motion, and to provide by regulations that in the absence of a request for review of an order of such an officer, agency, or division within the time so prescribed such an order shall be deemed the order of the Board.

The amendment authorizes the Board to review any determination by any such officer, agency, or division on its own motion or in its discretion at the request of any contractor or subcontractor aggrieved thereby. It also provides that unless the Board upon its own motion initiates a review of such determination within 60 days from the date thereof, or at the request of the contractor or subcontractor made within 60 days from the determination date initiates a review thereof within 60 days from the date of such request, such determination is to be deemed the determination of the Board.

The House recedes.

Amendment No. 275: This is a clerical amendment, pursuant to amendment No. 289, which eliminates from the Renegotiation Act the substantive provisions of subsection (f). The House recedes.

Amendment No. 276: This amendment substitutes the Court of Claims for The Tax Court of the United States as the forum with which petitions for redetermination of excessive profits may be filed. The Senate recedes.

Amendments Nos. 277, 278, 280, and 281: These are technical amendments, in conformity with amendment No. 289, which eliminates the repricing provisions from the Renegotiation Act, as amended by the House bill; and with amendment No. 310, which authorizes the Secretary of a Department to fix a fair and reasonable price by agreement or order. The House recedes.

Amendment No. 279: This is a technical amendment, in conformity with amendment No. 276. The Senate recedes.

Amendment No. 282: Subsection (e) (1) of the Renegotiation Act, as amended by the House bill, confers upon The Tax Court of the United States the powers and duties necessary for the purposes of the subsection and provides for the payment of fees and mileage of witnesses and for the expenses of taking depositions.

The amendment strikes out these provisions and inserts in their stead a provision authorizing the Court of Claims to prescribe such rules of practice and procedure as it deems necessary to the exercise of its powers under the subsection. The amendment further provides that the court shall prepare and furnish the contractor or subcontractor, at his request, with a statement of any determination made with respect to the amount of excessive profits, of the facts used as a basis therefor, and of its reasons for such determination.

The House recedes with an amendment restoring the provisions of the House bill, except for the reference to section 1117 (b) of the Internal Revenue Code, imposing upon The Tax Court and each of its divisions the duty to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion and requiring such report to be in writing.

Amendment No. 283: This is a clerical amendment, pursuant to amendment No. 289, which eliminates from the Renegotiation Act the substantive provisions of subsection (f). The House recedes.

Amendment No. 284: Under the House bill, any contractor or subcontractor (other than a subcontractor described in subsec. (a) (5) (B)) aggrieved by a determination of the Secretary made prior to the date of the enactment of the bill with respect to a fiscal year ending before July 1, 1943, as to the existence of excessive profits, is entitled to a court review of such determination, whether or not he has agreed to it. The amendment limits the review of such determinations to those which have not been agreed to by the contractor or subcontractor. The House recedes.

Amendments Nos. 285 and 286: These amendments substitute the Court of Claims for The Tax Court of the United States as the forum with which petitions for redetermination provided for under the paragraph may be filed. The Senate recedes.

Amendment No. 287: The House bill provides that upon the filing of a petition as provided in paragraph 2 of subsection (e), the court of review shall have the same jurisdiction, powers, and duties, and the proceeding shall be subject to the same provisions, as in the case of a petition filed with the court under paragraph (1), except that the amendments made to the Renegotiation Act by the bill (other than the amendment inserting par. (2)) shall not apply. Under the amendment, the amendments made by the bill which are not applicable as of April 28, 1942, or to fiscal years ending before July 1, 1943, shall not apply in the case of petitions filed under paragraph (2). The House recedes.

Amendment No. 288: This is a technical amendment, consequent on amendment No. 284. The House recedes.

Amendment No. 289: This amendment strikes out the text of subsection (f) of the Renegotiation Act, as amended by the House bill, relating to repricing, and inserts in lieu thereof a cross-reference to title VIII of the bill, a title added by amendment No. 310, to govern the repricing of war contracts. The House recedes.

Amendment No. 290: Under subsection (h) of the Renegotiation Act, as amended by the House bill, the act does not apply to any contract or subcontract made after the date proclaimed by the President as the date of the termination of hostilities in the present war, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

The Senate amendment strikes out the text of the subsection and inserts in lieu thereof a provision making the act apply only with respect to profits from contracts and subcontracts which are attributable to performance prior to the termination date. Such profits are defined, for the purposes of the subsection, as those determined by the Board to be equal to the same percentage of the total thereof as the percentage of completion of the contract or subcontract prior to the termination date. The termination date, for the purposes of the subsection, is defined to mean December 31, 1944; or, if the President not later than December 1, 1944, finds, and by proclamation declares, that competitive conditions have not been restored, such date not later than June 30, 1945, as may be specified in the proclamation; or, if the President not later than June 30, 1945, finds, and by proclamation declares, that competitive conditions have been restored as of any date within 6 months prior to the issuance of such proclamation, the date as of which the President in such proclamation declares that competitive conditions have been restored. In no

event, however, is the termination date to be later than that provided in the House bill.

The House recedes with an amendment redefining profits attributable to performance prior to the termination date as those, in the case of any contract or subcontract the performance of which requires more than 12 months, or with respect to which the powers of the Board are exercised separately pursuant to subsection (c) (1) rather than on a fiscal-year basis, the portion of the profits so derived which is determined by the Board to be equal to the same percentage of the total profits so derived as the percentage of completion of the contract prior to the termination date; and, in all other cases, the profits so derived which are received or accrued prior to the termination date.

Amendment No. 291: This amendment eliminates the exemption from the provisions of the Renegotiation Act of contracts and subcontracts for canned, bottled, or packed fruits or vegetables (or their juices) which are customarily canned, bottled, or packed in the season in which they are harvested. The House recedes.

Amendment No. 292: This amendment exempts from the provisions of the Renegotiation Act contracts and subcontracts for canned, bottled, packed, or processed dairy products or any products of which the principal ingredient is a dairy product. The Senate recedes.

Amendment No. 293: This amendment specifically includes natural resins in the term agricultural commodity as defined in the subparagraph. The House recedes.

Amendment No. 294: This amendment exempts from the provisions of the Renegotiation Act any contract or subcontract for durable machinery, tools, or equipment (having a useful life of more than 10 years) used in processing an article made or furnished under a contract or subcontract but which is not incorporated in or as a part of such article. The Senate recedes.

Amendment No. 295: This amendment exempts from the provisions of the Renegotiation Act any contract awarded as a result of competitive bidding for the construction of any building, structure, improvement, or facility. The House recedes with a clerical amendment relettering the subparagraph.

Amendment No. 296: This is a clerical amendment. The House recedes with a clerical amendment relettering the subparagrah.

Amendment No. 297: Under the provisions of subsection (i) (1) (G) of the Renegotiation Act, as amended by the House bill, any subcontract directly or indirectly under a contract or subcontract exempted from the provisions of the act, or to which the act does not apply by reason of subsection (i) (1) thereof, is exempt; this amendment limits the exemption of such subcontracts under subsection (i) (1) (G) to those which are directly or indirectly under contracts or subcontracts to which the Renegotiation Act does not apply by reason of subsection (i) (1). The House recedes.

Amendment No. 298: This is a clerical amendment. The House recedes.

Amendment No. 299: This amendment extends the authority of the War Contracts Price Adjustment Board to interpret and apply the exemptions provided for in subparagraphs (A), (B), (C), and (E) of subsection (i) (1) to the exemptions provided for in the subparagraphs added by amendments Nos. 294 and 295. The House recedes with a clerical amendment consequent on the Senate receding from its amendment No. 294.

Amendment No. 300: To insure equitable treatment of contractors or subcontractors producing minerals, oil or gas, or timber, and who process, refine, or treat such products to or beyond the first form or state suitable for industrial use, the House bill required the Board to prescribe such regulations as may be necessary to give the contractors or subcontractors a cost allowance substantially equivalent to the amount which would have been realized by him if he had sold such products in their first form or state. The Senate amendment substitutes the word "and" for the word "or" in the House bill phrase "to or beyond." The Senate recedes, in view of the action taken by the House on amendment No. 301.

Amendment No. 301: Subsection (i) (1) (B) exempts from renegotiation any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber which has not been processed, refined, or treated beyond the first form or state suitable for industrial use. This provision is identical with subsection (i) (1) (ii) of the existing law.

Subsection (i) (1) (C) of the bill grants a similar exemption to any contract or subcontract for an agricultural commodity in its raw or natural state, or, if it is not customarily sold or does not have an established market in such state, in the first form or state in which it is customarily sold or in which it has an established market.

In order to place an integrated producer who acquires raw materials below this exemption line, or produces them initially, and processes them up to and beyond such line, on a parity with the producer who sells at the exempted form or state, the administrative agencies, by interpretation, have followed the practice of allowing such integrated producers a fair amount of cost for their raw materials at this exemption line.

Subsection (i) (3) incorporates this administrative interpretation into the bill; thus, approving and continuing the rule established by administrative practice. For clarity, this provision is made retroactive as if it had been a part of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, on the date of its enactment (April 28, 1942).

The House recedes with an amendment relating to long inventories which is declaratory of existing law. The profits realized by a contractor or subcontractor by reason of the increment in value of his excess inventory of the materials described in subsections (i) (1) (B) or (i) (1) (C), in the form or state in which contracts therefor are exempted under such subsections, to the extent that such profits are applicable to contracts with the departments or subcontracts, shall be excluded from consideration in determining excessive profits. The test as to whether or not any contractor or subcontractor has an excess inventory of such materials turns upon whether or not the contractor or subcontractor has in inventory quantities of such materials in excess of the amount reasonably necessary to fulfill existing contracts or orders. The method of determining the portion of the profits applicable to contracts with the departments or subcontracts realized by reason of the increment in value of an excess inventory and the method of excluding such portion of such profits from renegotiation will be set out in regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the excess inventory (to the extent it does not exceed the excessive profits determined) shall be credited or refunded

to the contractor or subcontractor. Where the determination of the excessive profits was made prior to the date of the Revenue Act of 1943, such credit or refund shall be made whether or not the determination is embodied in an agreement with the contractor or subcontractor. In all such cases the credit or refund will be made only if the contractor or subcontractor within 90 days after the date of the enactment of the Revenue Act of 1943, files claim therefor with the secretary concerned.

The following example will show how the amendment operates. A has, through the purchase of long cotton, 600,000 pounds of cotton on hand on a particular date, which has a book cost of 10 cents a pound. On this date, A has future orders which will consume only 100,000 pounds of such cotton. A thus has a long position of 500,000 pounds of cotton. The next contract that A takes is for Government goods and requires the use of 500,000 pounds of such cotton. On the day A takes the Government contract, the current market price of such cotton is 15 cents a pound. In such a situation A has placed himself in a position to realize an inventory profit of $25,000. This inventory profit, if realized, is not a manufacturing profit but is in the nature of an investment or speculative profit which could be realized. It has no relationship to the profits to be derived from the Government contract, and, therefore, represents a profit from an excess inventory, which is excluded from renegotiation under the amendment.

The same situation might also apply in the case of a tobacco and cigarette manufacturer. Suppose for example, when the tobacco markets opened in the fall of 1942 A had on hand 20,000,000 pounds of tobacco of the 1940 crop, 20,000,000 pounds for the 1941 crops, and A then went into the market and bought some 20,000,000 pounds of 1942 grown tobacco, although his existing orders would not cause him to expect to manufacture more than 20,000,000 pounds into cigarettes. He thus has an excess inventory of 40,000,000 pounds of tobacco, and his case would fall within the amendment.

Amendment No. 302: Subsection (i) (4) of the Renegotiation Act, as amended by the House bill, authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt from some or all of the provisions of the act any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, normal competitive conditions affecting the sale of such article exist. Under the Senate amendment, any such contract or subcontract is exempt if, in the opinion of the Board, competitive conditions affecting the sale of the article are such as will reasonably protect the Government against excessive prices. The House recedes.

Amendment No. 303: This is a technical amendment, of which the effect is not to restrict the contracts or subcontracts exempt under the subparagraph to those not otherwise exempt. The House recedes.

Amendment No. 304: This amendment strikes subsection (j) from the Renegotiation Act as amended by the House bill. The Senate recedes.

Amendments Nos. 305 and 306: These are clerical amendments relettering subsections, pursuant to amendment No. 304. The Senate recedes.

Amendment No. 307: This amendment, for which there is no corresponding provision in the House bill, serves to clarify the application of section 3806 of the code to credits for income taxes of

individuals for taxable years affected by the provisions of the Current Tax Payment Act of 1943 canceling the income-tax liability of individuals for one taxable year. The House recedes.

Amendment No. 308: This is a clerical amendment renumbering the paragraph, pursuant to amendment No. 307. The House recedes.

Amendment No. 309: This amendment relates to the effective dates of various provisions. The House recedes with amendments.

Amendment No. 310: The existing law empowers the Departments to renegotiate contract and subcontract prices to eliminate excessive profits likely to be realized and to reduce such prices under the statute. The House bill confers similar authority on the Departments. Under it, the Secretary is authorized to refix prices by agreement or order subject to appeal to the courts.

In the interest of clarity, your committee proposes that the repricing authority be separated entirely from the renegotiation provisions. Under the Senate amendment, the Secretary of a Department is given full power to adjust prices for articles and services supplied by contractors with his Department or subcontractors thereunder. If this cannot be done by agreement the Secretary may do so by order. The contractor is protected, however, by an express right to sue the United States to obtain fair and just compensation for the articles or services supplied. The Department will pay to the contractor the full amount of the price fixed by an order and, if the contractor thinks the price thus fixed unfair, he may bring suit against the Government to recover the difference in the amount paid and the amount which he believes should have been paid. Any new price fixed under this section applies only to deliveries after the date of the order. Thus, these price adjustments are prospective only and do not involve recapture. Consequently this authority will not overlap the over-all renegotiation for the purpose of recapture of past profits. The provisions as to repricing become effective as to deliveries made after the date of enactment of this bill, and terminates with the termination of hostilities.

The House recedes with the following amendments:

(1) The provision giving the President authority to seize the contractor's or subcontractor's plant for refusal to furnish the articles at the price fixed by the Secretary is retained, but the criminal penalty, which would impose a jail sentence upon the contractor or subcontractor for refusal to comply, is removed.

(2) Subsection (f) provides that every purchase order, agreement, or contract described in subsection (a), made 30 days or more after the date of the enactment of the act is to be deemed to contain a provision under which the person furnishing the articles or services in question agrees that notwithstanding other provisions of the purchase order, agreement, or contract, he will be entitled to receive only fair and just compensation. This provision recognizes the principle, applied in many cases by the Supreme Court, that the laws in force at the time and place of making a contract, and which affect its validity, performance, and enforcement, enter into and form a part of it as if they were expressly referred to and incorporated in its terms (*Von Hoffman* v. *Quincy*, 4 Wall. 535, 550; *Walker* v. *Whitehead*, 16 Wall. 314, 317; *Edwards* v. *Kearzey*, 96 U. S. 595, 601; *Northern Pacific Ry. Co.* v. *Wall*, 241 U. S. 87, 91; *Southern Surety Co.* v. *Oklahoma*, 241 U. S. 582, 587).

Amendment No. 311: This amendment adds sections 901 and 902 to the House bill.

Section 901 postpones the increase in the rates of the taxes imposed by the Federal Insurance Contributions Act by providing that in the case of each such tax the 1-percent rate shall remain in force through the calendar year 1944, and that the 2-percent rate shall apply to wages paid and received during the calendar year 1945.

Section 902 amends section 201 (a) of title II of the Social Security Act, as amended. The existing section 201 (a) creates the Federal Old-Age and Survivors Insurance Trust Fund and provides that the fund shall, in addition to other items, consist of such amounts as may be appropriated to the trust fund. Amounts equivalent to 100 percent of the taxes (including interest, penalties, and additions to the taxes) received under the Federal Insurance Contributions Act are, under existing law, permanently appropriated to the trust fund. The amendment to section 201 (a) authorizes appropriations to the trust fund of such additional sums as may be required to finance the benefits and payments provided under title II of the Social Security Act, as amended.

The House recedes with clerical amendments.

R. L. DOUGHTON,
THOS. H. CULLEN,
JERE COOPER,
WESLEY E. DISNEY,
HAROLD KNUTSON,
DANIEL A. REED,
ROY O. WOODRUFF,
Managers on the part of the House.

APPENDIX

TABLE 1.—*Estimated tax liability under the revenue bill of 1948 (H. R. 3687) as agreed to in conference, as compared with the tax liability under the present law, for a full year of operation* [1]

[In millions of dollars]

General and special accounts and net postal revenue	Yield of present law	Yield of H. R. 3687	Increase (+) or decrease (−) of H. R. 3687 yield over yield of present law
1. Internal revenue:			
(1) Income and excess-profits taxes:			
Corporation:			
Income [2]	4,734.6	4,667.6	−67.0
Excess-profits tax	10,888.8	11,521.8	633.0
Declared value excess-profits tax	105.6	105.0	−.6
Total corporation (gross)	15,729.0	16,294.4	565.4
Less post-war credit	1,088.9	1,152.2	63.3
Total corporation (net)	14,640.1	15,142.2	502.1
Individual:			
Net income tax	14,105.5	14,830.4	724.9
Victory tax (net)	3,491.8	3,431.8	−60.0
Total individual	17,597.3	18,262.2	[3] 664.9
Total income and excess-profits taxes	32,237.4	33,404.4	1,167.0
(2) Miscellaneous internal revenue:			
Capital stock, estate, and gift taxes:			
Capital stock tax	365.0	365.0	.....
Estate tax	522.4	522.4	.....
Gift tax	40.2	40.2	.....
Total capital stock, estate, and gift taxes	927.6	927.6	.....
Taxes on commodities and services:			
Liquor taxes:			
Distilled spirits (domestic and imported) (excise tax) [2] [4]	735.2	1,101.2	366.0
Fermented malt liquors [2]	501.0	574.0	70.0
Rectification tax [2]	11.5	11.5	.....
Wines (domestic and imported) (excise tax) [2]	36.6	54.6	18.0
Special taxes in connection with liquor occupations	11.0	11.0	.....
Container stamps	9.4	9.4	.....
Floor-stocks taxes	.6	.6	.....
All other	1.6	1.6	.....
Total liquor taxes	1,309.9	1,763.9	454.0
Tobacco taxes:			
Cigarettes (small) [2]	892.8	892.8	.....
Tobacco (chewing and smoking) [2]	45.0	45.0	.....
Cigars (large) [2]	31.7	31.7	.....
Snuff	7.0	7.0	.....
Cigarette papers and tubes	1.3	1.3	.....
All other [2]	.1	.1	.....
Total tobacco taxes	977.9	977.9	.....

See footnotes at end of table.

TABLE 1.—*Estimated tax liability under the revenue bill of 1943 (H. R. 3687) as agreed to in conference, as compared with the tax liability under the present law, for a full year of operation*—Continued

[In millions of dollars]

General and special accounts and net postal revenue	Yield of present law	Yield of H. R. 3687	Increase (+) or decrease (−) of H. R. 3687 yield over yield of present law
1. Internal Revenue—Continued.			
(2) Miscellaneous internal revenue—Continued.			
Stamp taxes:			
Issues of securities, bond transfers, and deeds of conveyance	25.0	25.0	.....
Stock transfers	19.0	19.0	.....
Playing cards [2]	7.5	7.5	.....
Silver bullion sales or transfers	([5])	.....	.....
Total stamp taxes	51.6	51.6	.....
Manufacturers' excise taxes:			
Gasoline	251.1	251.1	.....
Lubricating oils	54.3	54.3	.....
Passenger automobiles and motorcycles	.9	.9	.....
Automobile trucks, busses, and trailers	3.5	3.5	.....
Parts and accessories for automobiles	25.0	25.0	.....
Tires and inner tubes	40.0	40.0	.....
Electrical energy	48.5	48.5	.....
Electric, gas, and oil appliances	3.6	3.6	.....
Electric light bulbs and tubes	5.0	20.0	15.0
Radio receiving sets, phonograph records, and musical instruments	3.5	3.5	.....
Refrigerators, refrigerating apparatus, and air-conditioners	1.1	1.1	.....
Business and store machines	2.8	2.8	.....
Photographic apparatus	11.9	11.9	.....
Matches	10.5	10.5	.....
Luggage [6]	5.0	.....	−5.0
Sporting goods	2.0	2.0	.....
Firearms, shells, pistols, and revolvers	.8	.8	.....
Total manufacturers' excise taxes	469.5	479.5	10.0
Retailers' excise taxes:			
Jewelry, etc	89.2	161.3	72.1
Furs	38.2	74.7	36.5
Toilet preparations	35.0	69.3	34.3
Luggage,[6] handbags, wallets, etc	.....	46.7	46.7
Total retailers' excise taxes	162.4	352.0	189.6
Miscellaneous taxes:			
Telephone, telegraph, radio, and cable facilities, leased wires, etc	121.2	171.1	49.9
Telephone bill, local service	97.8	146.7	48.9
Transportation of oil by pipe line	14.5	14.5	.....
Transportation of persons	141.8	216.8	75.0
Transportation of property	170.3	170.3	.....
General admissions, etc	163.5	289.0	125.5
Cabarets, etc	19.4	110.7	91.3
Club dues and initiation fees	6.2	11.3	5.1
Leases of safe-deposit boxes	6.5	6.5	.....
Use of motor vehicles and boats	115.5	115.5	.....
Coconut and other vegetable oils processed [3]	2.0	2.0	.....
Oleomargarine, etc., including special taxes and adulterated butter	3.1	3.1	.....
Sugar tax	61.0	61.0	.....
Coin-operated amusement and gaming devices	12.2	12.2	.....
Bowling alleys and billiard and pool tables	1.8	3.8	2.0
All other, including repealed taxes [7]	1.2	1.2	.....
Total miscellaneous taxes	938.0	1,335.7	397.7
Total taxes on commodities and services	3,909.3	4,960.6	1,051.3
Total miscellaneous internal revenue	4,836.9	5,888.2	1,051.3

See footnotes at end of table.

TABLE 1.—*Estimated tax liability under the revenue bill of 1943 (H. R. 3687) as agreed to in conference, as compared with the tax liability under the present law, for a full year of operation*—Continued

[In millions of dollars]

General and special accounts and net postal revenue	Yield of present law	Yield of H. R. 3687	Increase (+) or decrease (−) of H. R. 3687 yield over yield of present law
1. Internal revenue—Continued.			
(3) Employment taxes:			
Employment by other than carriers:			
Federal Insurance Contributions Act	2,599.0	1,399.0	−1,200.0
Federal Unemployment Tax Act	207.0	207.0	----------
Total	2,806.0	1,606.0	−1,200.0
Taxes on carriers and their employees (chap. 9, subchap. B of the Internal Revenue Code)	262.7	262.7	----------
Total employment taxes	3,068.7	1,868.7	−1,200.0
Total internal revenue	40,143.0	41,161.3	1,018.3
2. Railroad unemployment insurance contributions	12.1	12.1	----------
3. Customs	400.0	400.0	----------
4. Miscellaneous receipts [5]	577.5	577.5	----------
Total yield, general and special accounts [6]	41,132.6	42,150.9	1,018.3
5. Net postal revenue: [7]			
First class:			
Local delivery letters	25.9	69.9	44.0
Other than local delivery letters	140.2	140.2	----------
Air mail, domestic	−3.1	7.9	11.0
Second class	−86.0	−86.0	----------
Third class	−24.0	−24.0	----------
Fourth class	−17.9	−13.4	4.5
Special services:			
Registry	−8.3	−3.8	4.5
Insurance	−1.5	5.0	6.5
Collect on delivery	−4.5	0.9	5.4
Special delivery	−0.6	−0.6	----------
Money order	−6.7	14.3	21.0
Other	−22.1	−22.1	----------
Total net postal revenue	−8.6	88.3	96.9
Total yield, general and special accounts, and net postal revenue	41,124.0	42,239.2	1,115.2
Net appropriation to Federal old-age and survivors insurance trust fund	−2,599.0	−1,399.0	1,200.0
Net yield, general and special accounts, and net postal revenue	38,525.0	40,840.2	2,315.2

[1] Estimates of the yield of H. R. 3687 and of present law are at levels of income and business activity estimated for the calendar year 1944, and do not take into consideration nonrecurring changes in revenue, or those caused by the termination of governmental excise tax exemptions which are completely offset by changes in expenditure.

[2] Collections for credit to trust funds are not included.

[3] Excludes a nonrecurring loss of $195 millions over calendar years 1943-48 owing to the repeal of certain provisions of the Current Tax Payment Act of 1943 (so-called second windfall tax).

[4] These estimates are after allowances for draw-backs of $23.7 millions under H. R. 3687, and $14.8 millions under present law.

[5] Less than $50,000.

[6] The tax on luggage has been changed from a manufacturers' excise to a retailers' excise tax.

[7] Includes collections from taxes on narcotics, taxes under the National Firearms Act, and the tax on hydraulic mining, all of which are effective currently. In addition, includes collections from repealed taxes not reinstated by the Revenue Act of 1941; and collections from the following excise taxes repealed by the Revenue Act of 1942: rubber articles, electric signs, optical equipment, and washing machines.

[8] Excludes postal surplus, if any, shown separately below.

[9] Excess of revenue over expenditure; based upon the Cost Ascertainment Report for the Fiscal Year 1942, of the Post Office Department; nonpostal services excluded.

NOTE.—Figures are rounded and will not necessarily add to totals.

Staff of Joint Committee on Internal Revenue Taxation, February 4, 1944.

TABLE 2.—*Comparison of excise taxes and postal rates under present law, and under the revenue bill of 1943 (H. R. 3687) as agreed to in conference*

Article or service	Present law	H. R. 3687	Estimated additional revenue [1]
1. Distilled spirits	$6 per gallon	$9 per gallon	[2] $366.0
(Draw-back on nonbeverage alcohol.)	$3.75 per gallon	$6 per gallon	([3])
2. Beer	$7 per barrel	$8 per barrel	70.0
3. Wine:			
(a) Still:			
Under 14 percent alcohol.	10 cents per gallon	15 cents per gallon	18.0
14 to 21 percent alcohol.	40 cents per gallon	60 cents per gallon	
Over 21 percent alcohol.	$1 per gallon	$2 per gallon	
(b) Sparkling	10 cents per half pint	15 cents per half pint	
(c) Other	5 cents per half pint	10 cents per half pint	
4. General admissions, lease of boxes or seats, etc.	1 cent per 10 cents or fraction thereof.	1 cent per 5 cents or major fraction thereof.	125.5
	11 percent of charge	20 percent of charge	
5. Cabarets	5 percent of charge	30 percent of charge	91.3
6. Club dues and initiation fees	11 percent of charge	20 percent of charge	5.1
7. Bowling alleys, billiard parlors	$10 per alley	$20 per alley	2.0
	$10 per table	$20 per table	
8. Transportation of persons	10 percent of charge	15 percent of charge	75.0
9. Communications:			
(a) Toll service	20 percent of charge	25 percent of charge	49.9
(b) Telegraph, etc.: Domestic.	15 percent of charge	do	
(c) Leased wires, etc	do	do	
(d) Wire and equipment services.	5 percent of charge	8 percent of charge	
10. Local telephone service	10 percent of charge	15 percent of charge	48.9
11. Jewelry	10 percent of retail price	20 percent of retail price; except watches retailing for not more than $65 and alarm clocks retailing for not more than $5, 10 percent; silverplated flatware exempted.	72.1
12. Furs and fur-trimmed articles	do	20 percent of retail price	36.5
13. Luggage, handbags, wallets, etc.	10 percent of manufacturers' sales price on luggage only.	do	41.7
14. Toilet preparations	10 percent of retail price	do	34.3
15. Electric-light bulbs and tubes	5 percent of manufacturers' sales price.	20 percent of manufacturers' sales price.	15.0
Additional revenue from excises.			1,051.3
POSTAL RATES			
(a) First class, local	2 cents per ounce	3 cents per ounce	$44.0
(b) Air mail	6 cents per ounce	8 cents per ounce	11.0
(c) Fourth class	Various	Present law rate increased by 3 percent, or 1 cent, whichever is greater.	4.5
(d) Registered mail	15 cents to $1 per article	20 cents to $1.35 per article	4.5
(e) Insured mail	5 to 35 cents per article	10 to 70 cents per article	6.5
(f) C. O. D. mail	12 to 45 cents per article	24 to 90 cents per article	5.4
(g) Money orders	6 to 22 cents per article	10 to 37 cents per article	21.0
Additional revenue from postal rates.			96.9
Additional revenue from excise taxes and postal rates.			1,148.2

[1] Estimated change in budget position of the United States for a full year of operation at levels of business for the calendar year 1944. In millions of dollars.

[2] Estimated additional net revenue yield after allowance for increased draw-back on nonbeverage alcohol of $8,900,000.

[3] Revenue effect included immediately above.

Staff of Joint Committee on Internal Revenue Taxation, February 4, 1944.

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