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REVENUE ACT OF 1948

MARCH 16, 1948 (legislative day, MARCH 15), 1948.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 4790]

The Committee on Finance, to whom was referred the bill (H. R. 4790) to reduce individual tax payments, and for other purposes, having had the same under consideration, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

I. GENERAL STATEMENT

Your committee's bill is designed to provide a stimulus to labor, management, and venture capital; an adjustment for the increase in the cost of living; and the geographical equalization of the burden of the income, estate, and gift taxes.

The heavy individual income-tax rates now in effect constitute a serious restriction upon new investment, inhibit the incentives of management, and prevent the normal increase in productivity of labor. These rates impede the production which is so necessary in the immediate future in order to stabilize our economy and which in the long run is essential to an increase in the American standard of living. Your committee's bill is a step toward the development of a tax-rate schedule which is consistent with the maintenance of a healthy American economy.

Adjustment for the present high cost of living is made by an increase in exemptions under the individual income tax. This relief is heavily concentrated among taxpayers in the low-income brackets. Such taxpayers also receive preferential treatment in the percentage tax reductions made by this bill. Additional relief is granted to persons 65 and over and to the blind.

Equalization is provided for the tax burdens of married couples in common-law and community-property States. The bill corrects existing inequalities under the estate and gift taxes, as well as the individual income tax.

The reduction in tax liabilities provided by your committee's bill amounts to $4.8 billion in a year of full operation, or about $2 billion less than the House bill. This decrease was deemed advisable in order to place tax reduction on a more conservative basis, and to provide additional assurance of ample surpluses for debt reduction and contingencies in the current year and in years to come.

TABLE I.—*A comparison of the effective individual income-tax rates under present law, under the House bill, and the Senate Finance Committee bill*

Income after deductions but before exemptions	Single person, no dependents			Married person, no dependents, entire income earned by 1 spouse			Married person, 2 dependents, entire income earned by 1 spouse		
	Present law	H. R. 4790 (House bill)	H. R. 4790 (Finance Committee bill)	Present law	H. R. 4790 (House bill)	H. R. 4790 (Finance Committee bill)	Present law	H. R. 4790 (House bill)	H. R. 4790 (Finance Committee bill)
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
$500	------	------	------	------	------	------	------	------	------
$600	3. 17	------	------	------	------	------	------	------	------
$700	5. 43	1. 90	2. 37	------	------	------	------	------	------
$750	6. 33	2. 66	3. 32	------	------	------	------	------	------
$800	7. 12	3. 33	4. 15	------	------	------	------	------	------
$900	8. 44	4. 43	5. 53	------	------	------	------	------	------
$1,000	9. 50	5. 32	6. 64	------	------	------	------	------	------
$1,200	11. 08	6. 65	8. 30	3. 17	------	------	------	------	------
$1,500	12. 67	7. 98	9. 96	6. 33	2. 66	3. 32	------	------	------
$1,800	13. 72	9. 61	11. 07	8. 44	4. 43	5. 53	------	------	------
$2,000	14. 25	10. 64	11. 62	9. 50	5. 32	6. 64	------	------	------
$2,500	15. 20	11. 52	12. 62	11. 40	6. 92	8. 63	3. 80	0. 53	0. 66
$3,000	16. 15	12. 36	13. 65	12. 67	7. 98	9. 96	6. 33	2. 66	3. 32
$4,000	17. 34	13. 45	15. 08	14. 72	10. 64	11. 62	9. 50	5. 32	6. 64
$5,000	18. 43	14. 54	16. 21	15. 96	11. 55	12. 62	11. 78	7. 72	8. 63
$6,000	19. 47	15. 83	17. 33	17. 42	12. 36	13. 65	13. 30	9. 12	9. 96
$7,000	20. 49	16. 94	18. 32	18. 46	12. 99	14. 46	14. 93	10. 12	11. 15
$8,000	21. 49	18. 03	19. 33	19. 71	13. 45	15. 08	16. 15	10. 94	12. 17
$9,000	22. 48	19. 03	20. 27	20. 69	13. 82	15. 55	17. 52	11. 59	12. 97
$10,000	23. 47	20. 03	21. 24	21. 85	14. 55	16. 21	18. 62	12. 10	13. 61
$11,000	24. 44	20. 98	22. 15	22. 80	15. 24	16. 82	19. 86	12. 82	14. 32
$12,000	25. 41	21. 94	23. 09	23. 91	15. 83	17. 33	20. 90	13. 60	15. 04
$13,000	26. 42	22. 88	24. 03	24. 85	16. 32	17. 75	22. 07	14. 27	15. 64
$14,000	27. 45	23. 87	25. 01	25. 99	16. 94	18. 32	23. 07	14. 84	16. 10
$15,000	28. 47	24. 82	25. 96	26. 98	17. 52	18. 86	24. 26	15. 47	16. 75
$20,000	33. 23	29. 28	30. 44	31. 97	20. 03	21. 24	29. 45	18. 29	19. 44
$25,000	37. 45	33. 18	34. 40	36. 33	22. 36	23. 51	34. 09	20. 80	21. 90
$30,000	40. 88	36. 35	37. 62	39. 90	24. 82	25. 96	37. 94	23. 26	24. 35
$40,000	46. 06	41. 10	42. 47	45. 24	29. 28	30. 44	43. 60	27. 92	29. 05
$50,000	50. 27	44. 96	46. 40	49. 59	33. 18	34. 40	48. 22	31. 97	33. 16
$60,000	53. 75	48. 13	49. 64	53. 15	36. 35	37. 62	51. 96	35. 29	36. 53
$70,000	56. 63	50. 76	52. 33	56. 10	38. 91	40. 22	55. 05	37. 95	39. 24
$80,000	59. 16	53. 05	54. 68	58. 67	41. 11	42. 47	57. 71	40. 22	41. 56
$90,000	61. 43	55. 12	56. 80	60. 99	43. 12	44. 52	60. 10	42. 31	43. 69
$100,000	63. 54	57. 03	58. 76	63. 13	44. 96	46. 40	62. 30	44. 23	45. 64
$150,000	70. 54	63. 38	65. 44	70. 26	51. 97	53. 58	69. 69	51. 42	53. 01
$200,000	74. 28	66. 77	69. 39	74. 06	57. 03	58. 76	73. 63	56. 59	58. 30
$250,000	76. 71	68. 97	71. 93	76. 54	60. 84	62. 67	76. 19	60. 47	62. 29
$300,000	78. 33	70. 45	73. 63	78. 19	63. 38	65. 44	77. 90	63. 08	65. 12
$400,000	80. 36	72. 29	75. 76	80. 25	66. 77	69. 39	80. 04	66. 54	69. 14
$500,000	81. 58	73. 39	77. 00	81. 49	68. 97	71. 93	81. 32	68. 79	71. 74
$750,000	83. 20	74. 86	77. 00	83. 15	71. 92	75. 33	83. 03	71. 79	75. 20
$1,000,000	84. 01	75. 60	77. 00	83. 97	73. 39	77. 00	83. 88	73. 30	76. 93

Source: Staff of the Joint Committee on Internal Revenue Taxation.

II. Summary of Changes in Existing Law

H. R. 4790, as amended, is both a tax-reduction and tax-equalization bill. The tax-reduction features apply solely to the individual income tax. They include a general increase in exemptions, a reduction in all tax rates, but with the larger part of the relief in the lower-income brackets, and special exemptions for those over 65 and the blind. The tax-equalization features of the bill apply to the individual income tax and the estate and gift taxes. They are designed to produce uniform treatment for residents of common-law and community-property States.

A comparison of the effective individual income-tax rates under your committee's bill, under the bill as passed by the House and under present law is shown in table I. The changes in the rates and exemptions of the individual income tax under this bill are effective January 1, 1948. The changes in withholding rates will become effective on May 1, 1948. Overwithholding during the first 4 months of 1948, which is not offset by decreased payments on estimated taxes or final returns, will of course be refunded to the taxpayer. The changes in the estate and gift tax become law on the date of enactment of this bill. A brief description of the changes provided by your committee's bill is given below.

A. INDIVIDUAL INCOME TAXES

1. Personal and dependency exemptions are increased from $500 per capita to $600 per capita.

2. Percentage tax reductions ranging from 12.6 percent to 5 percent, according to the size of the income, are provided for all taxpayers. Table II compares these percentage reductions with those in the bill as passed by the House.

While the percentage reductions from present law tax are carried out to one decimal place in two instances, the reductions in tentative tax are in even percentages as far as the bulk of the taxpayers are concerned. Since these reductions are the percentages which appear on the tax form, your committee believed that it was important to have the reductions in tentative tax expressed as even percentages in the lower brackets. Moreover, your committee's reductions are made in a form which avoids the necessity of using the "notch" rate of $67 appearing in the House bill. This is accomplished by making the reduction in the lowest bracket available to all taxpayers with corresponding adjustment in the reductions allowed with respect to additional income. This change removes the only serious administrative problem raised by the Commissioner of Internal Revenue at your committee's hearings.

The percentage reductions in your committee's bill are as follows:

(*a*) Persons with incomes of $2,000 or less after deductions and exemptions [1] receive a 12.6-percent reduction in their tax.

(*b*) Persons with incomes of $2,000 to about $136,700 after deductions and exemptions receive a reduction of 12.6 percent of the tax on the first $2,000 of their net incomes after exemptions and a reduction of 7.4 percent of the balance of their tax.

[1] More accurately, surtax net incomes. For clearer understanding, however, the term "incomes after deductions and exemptions" will be used hereafter in this report.

(c) Persons with incomes in excess of about $136,700 receive a reduction of 12.6 percent of the tax on the first $2,000 of their incomes after deductions and exemptions, a reduction of 7.4 percent of the tax on the next $134,700, and a reduction of 5 percent of the balance of their tax.

TABLE II.—*Percentage reductions in individual income taxes provided under your committee's bill and under the bill as passed by the House*

Income after deductions and exemptions	Tentative tax [1]	Reductions in tentative tax [1]	Reductions in present law tax
A. REDUCTIONS UNDER YOUR COMMITTEE'S BILL			
$0 to $2,000	$0 to $400	17 percent	12.6 percent.
$2,000 to $136,719.10	$400 to $100,000	17 percent of the tentative tax on the first $2,000 of surtax net income plus 12 percent of the tentative tax on the excess.	12.6 percent of the present law tax on the first $2,000 of surtax net income, plus 7.4 percent of the present law tax on the excess.
$136,719.10 and over	$100,000 and over	17 percent of the tentative tax on the first $2,000 of surtax net income, plus 12 percent of the tentative tax on about the next $134,700 plus 9.75 percent of the tentative tax on the excess.	12.6 percent of the present law tax on the first $2,000 of surtax net income, 7.4 percent of the present law tax on about the next $134,700, plus 5 percent of the present law tax on the excess.
B. REDUCTIONS UNDER THE HOUSE BILL			
$0 to $1,000	$0 to $200	33.5 percent	30 percent.
$1,000 to $1,395.83	$200 to $279.17	$67	30 percent to 20 percent.
$1,395.83 to $4,000	$279.17 to $840	24 percent	20 percent.
$4,000 and over	$840 and over	24 percent of the tentative tax on the first $4,000 of surtax net income plus 14.5 percent of the tentative tax on the excess.	20 percent of the present law tax on the first $4,000 of surtax net income plus 10 percent of the present law tax on the excess.

[1] More correctly, tentative normal tax and surtax. The term "tentative" refers to the tax computation before the 5-percent reduction provided by present law or the percentage reductions provided under this bill.

3. Husbands and wives are permitted to split their income for tax purposes. Those who avail themselves of this opportunity file joint returns, divide their net income and exemptions by two, compute their tax on this basis, and multiply the result by two. Since in this change the maximum standard deduction for married couples is increased to $1,000, the maximum standard deduction for single persons is also increased to $1,000.[2]

4. An additional exemption is granted to taxpayers who are 65 or over. If both husband and wife have attained the age of 65, the $600 exemption is granted to each spouse.

[2] Present law provides that a standard deduction may be used by a taxpayer in lieu of itemizing his deductions. A taxpayer with an income before deductions or exemptions of less than $5,000 who uses the Supplement T tax table automatically is allowed a standard deduction equal to about 10 percent of his income. For an individual with income before deductions or exemptions is $5,000 or more a standard deduction of $500 is allowed. Your committee's bill will allow a married couple who files a joint return, or a single person, whose income before deductions or exemptions is between $5,000 and $10,000, a standard deduction equal to 10 percent of income. If the income before deductions or exemptions of such a person is $10,000 or more, he is allowed a standard deduction of $1,000.

5. An additional $600 exemption is granted to taxpayers who are blind. If both husband and wife are blind, the $600 exemption is granted to each spouse. A blind person 65 or over may claim this exemption in addition to that based on age.

B. ESTATE AND GIFT TAXES

1. The 1942 amendments to the estate and gift taxes which provided special rules in the case of community property are repealed for persons dying and as to gifts made after the date of the enactment of this bill. Generally, this restores the rule by which estate- and gift-tax liabilities are dependent upon the ownership of the property under State law. Thus, in community-property States, irrespective of which spouse dies first, only one-half of the community property is included in the gross estate. Similarly, a gift made out of community property is taxable one-half to the husband and one-half to the wife, since under State law each owns a one-half interest in the property.

2. Provision is made for estate- and gift-tax "splitting" of noncommunity property. This provision also will apply to persons dying after the date of the enactment of this bill, so that community property and noncommunity property may be placed on an equal basis at the same time. Under this provision property passing outright in a common-law State from a decedent to the surviving spouse is deducted from the decedent's gross estate up to a limit of 50 percent of the value of the decedent's gross estate less deductions for funeral expenses, debts, and other claims against the estate. In a similar fashion husbands and wives, in common-law States, may treat their gifts as being made one-half by each spouse. Residents of community-property States may also take advantage of the estate and gift-tax splitting provisions with respect to transfers of their separate property. The same splitting effect is achieved for community property by the repeal of the 1942 amendments.

C. CAPITAL GAINS TAX

Under your committee's bill property received by the surviving spouse as his interest in the community is given the same basis for gain or loss on a subsequent sale as it would have had if the interest had been acquired by bequest, devise, or inheritance from the decedent spouse. With the repeal of the 1942 amendments this means that the basis for calculating capital gain or loss will be the value as of the date of death, or the optional valuation date, for the entire community interest.

III. Summary of Estimated Revenue Effect of Tax Reduction

A. EFFECT OF BILL ON TAX LIABILITIES

Individual income-tax liabilities under your committee's bill are estimated at $16,884 million in a full year of operation, assuming a personal income level of $208 billion. This compares with liabilities of $14,999 million under the bill as passed by the House and $21,458 million under present law. Thus your committee's bill provides for a reduction of $4,574 million in the individual income-tax liabilities as compared with $6,459 million under the House bill. Under both your committee's bill and the House bill there is also a reduction of $199 million in estate- and gift-tax liabilities. Hence, the total reduction in liabilities under the committee's bill is $4,773 million as compared with $6,658 million under the House bill.

The effect of your committee's bill and the House bill on individual income-tax and estate- and gift-tax liabilities is summarized in table III, which follows:

TABLE III.—*Estimated tax liabilities under present law, under your committee's bill, and the House bill, assuming a personal income level of $208 billion*

[In millions of dollars]

	Present law	Finance Committee's bill	House bill
Individual income-tax liabilities	21, 458	16, 884	14, 999
Reduction in individual income-tax liabilities under H. R. 4790	--------	4, 574	6, 459
Estate- and gift-tax liabilities	820	621	621
Reduction in estate- and gift-tax liabilities under H. R. 4790	--------	199	199
Total reduction in tax liabilities under H. R. 4790	--------	4, 773	6, 658

Source: Staff of the Joint Committee on Internal Revenue Taxation.

B. DIFFERENCE BETWEEN LIABILITIES AND COLLECTIONS

A tax reduction expressed on a *liability* basis, such as the one shown in the above table, indicates the decrease in *obligations* incurred by taxpayers during a year. However, for the purpose of determining the effect of your committee's bill on the budget, it is necessary to present revenue estimates on a collection basis.

A tax reduction expressed on a *collection* basis indicates the actual loss in *receipts* of the Government in a specific year. Usually in the year in which a tax reduction is made, the effect of the reduction in liabilities is not reflected fully in the collections because of the lag in collections behind the incurring of the tax liability. Thus, although the tax reduction under your committee's bill is effective during half of the fiscal year 1948, only about 23 percent of the half-year reduction in liabilities is reflected in the collections during that year. Usually, in the year after the tax reduction the loss in collections exceeds the liability reduction. This is because the abnormal lag of collections behind liabilities in the year of the reduction is largely made up in the year after the reduction. In the second year after the reduction, the collections are about the same as the liabilities.

C. EFFECT OF BILL ON TAX COLLECTIONS

Table IV presents the effects of the tax reduction proposed by your committee and that contained in the House bill on collections during the fiscal years 1948 and 1949. A personal-income level of $208 billion in the calendar year 1948 has been assumed. On this basis, your committee's bill would reduce collections in the fiscal year 1948 by $558 million, and reduce collections and increase refunds in the fiscal

1949 by $5,100 million. On a similar basis the House bill would reduce collections in 1948 by $1,026 million and in 1949 by $6,963 million.

The revenue loss in the fiscal year 1949 is in excess of the estimated reduction in liabilities in both your committee's bill and the House bill, primarily because H. R. 4790 is being acted on after January 1, 1948, the date when the change in liabilities is effective. As a result there will be overwithholding of the income tax in the early months of this year, which in the fiscal year 1949 will decrease payments of estimated tax and payments with final returns, and will increase the tax refunds required.

TABLE IV.—*Effect on total receipts in the fiscal years 1948 and 1949 of your committee's bill and the House bill, assuming personal income of $208 billion in the calendar year 1948*

[In millions of dollars]

	Estimated receipts under—	Reduction in receipts under H. R. 4790—
A. For the fiscal year 1948:		
Present law	46, 344	----------
Finance Committee bill	45, 786	558
House bill	45, 318	1, 026
B. For the fiscal year 1949:		
Present law	47, 256	----------
Finance Committee bill	[1] 42, 156	[1] 5, 100
House bill	[1] 40, 293	[1] 6, 963

[1] This includes an allowance for additional refunds.

Source: Staff of the Joint Committee on Internal Revenue Taxation.

IV. The Fiscal Outlook in 1948 and 1949

A. INCOME ASSUMPTIONS USED IN CALCULATING REVENUE ESTIMATES

The personal income levels, expressed as annual rates, on which your committee based its revenue estimates for the fiscal years 1948 and 1949 are:

	Billions
First half of calendar year 1947 (actual)	$191
Second half of calendar year 1947 (actual)	203
First half of calendar year 1948 (assumed)	210
Second half of calendar year 1948 (assumed)	205
First half of calendar year 1949 (assumed)	195

The above figures produce an average of $197 billion for the calendar year 1947 and $208 billion for the calendar year 1948. The average for the fiscal year 1948 is $207 billion and for the fiscal year 1949 $200 billion. For the purpose of estimating revenues the calendar year averages are the more significant because a large portion of the collections in the fiscal year is based on liabilities incurred in the preceding calendar year. For instance, the bulk of the collections in the fiscal year 1949 arise from liabilities incurred in the calendar year 1948.

The half-year income levels assumed for 1948 and 1949 are the same as those appearing in the House report on H. R. 4790, with the exception of the assumption for the first half of the calendar year 1948.

This was adjusted downward by $2 billion to take into account the recent break in commodity prices. While this appears to represent a liberal allowance for the effects of these price declines, your committee would prefer to understate rather than overstate revenues in considering a tax-reduction bill. It was not necessary to change the House assumptions for the two remaining half-year periods, since liberal adjustments had already been made for a commodity price decline in these two half-year periods.

The assumption of a $210 billion personal income level for the first half of the calendar year 1948 is very conservative. Actual performance may well exceed this level. At the time the House report was prepared, a preliminary estimate for December indicated that personal income in that month was running at an annual rate of $206.5 billion. However, the correct figure for December turned out to be $210.4 billion; and the figure for January, which has just been made available, is $210.8 billion. Since both are slightly above your committee's assumption for the first half of the calendar year 1948, the latter is in fact only a projection of the current income level. It does not take into account any rise which may very well take place during the coming months. The figures of $205 billion for the second half of the calendar year 1948 and $195 billion for the first half of the calendar year 1949 are substantially below current levels. In fact, they assume a recession which it is hoped will not take place. All of these assumptions were purposely made on a conservative basis to demonstrate to even the most pessimistic that there is room in the budget for a tax cut.

The personal income level assumed in the President's budget presented in January was $200 billion for the calendar year 1948 and the first half of the calendar year 1949. Purported to be the "current" income level, it was in fact more than $10 billion below the levels of December 1947 and January 1948, and over $5 billion below the level in the fourth quarter of 1947. Only by going back to the third quarter of 1947 is it possible to find a "current" level in the neighborhood of $200 billion.

It is interesting to note that the Secretary of the Treasury in his statement before your committee no longer called $200 billion the "current" personal income level, but simply said that it would not seem "prudent" to estimate revenues on a higher level. It was not made clear, however, why it is "prudent" to assume an immediate drop in the personal income level of considerably more than $10 billion during the remaining 3 months of this half year. Your committee finds it most difficult to reconcile this drop in personal incomes, which the Treasury insists on assuming, with the administration's continuing demand for anti-inflationary legislation, and with the Secretary of Commerce's expressed rejection of the need for a stimulus to investment. In this connection it is appropriate to recall that last year the Secretary of the Treasury insisted on using a level of income payments which was some $8 billion below the then current level.

B. OUTLOOK IN FISCAL YEAR 1948

Table V shows the effect of H. R. 4790, as amended by your committee, upon the budget of the Federal Government in the fiscal year 1948, assuming the President's estimate of expenditures is increased in 1948 by a $3 billion budgetary expenditure to a trust fund in 1948 which will be available for expenditure for the European Recovery Program in 1949. This $3 billion transaction has already been approved by the Senate. Allowance has also been made for additional foreign aid expenditures not in the budget. Table V follows:

TABLE V.—*Effect of H. R. 4790, as amended by your committee, upon the budget in the fiscal year 1948, assuming a $3 billion expenditure in 1948 to a trust fund available for expenditure under the European Recovery Program in 1949* [1]

		In millions
Receipts under present law (staff estimates)		$46, 344
Expenditures:		
Budget total	$37, 728	
ERP trust fund expenditure	3, 000	
Additional foreign aid not in budget	34	
		40, 762
Surplus before tax reduction		5, 582
Tax reduction under your committee's bill		558
Surplus after tax reduction		5, 024

[1] The personal income level in the calendar year 1947 was $197 billion and in the first half of the calendar year 1948 is assumed to run at an annual rate of $210 billion.

Thus there will be a surplus of $5 billion in the fiscal year 1948 after the enactment of your committee's proposed tax reduction and taking into account the $3 billion trust fund expenditure and foreign-aid expenditures not in the budget. Your committee believes this leaves ample room for adequate debt retirement and contingencies in the current fiscal year.

Your committee's estimate of revenue collections in the current fiscal year of $46.3 billion exceeds the estimate in the President's budget by $1.1 billion almost entirely because of a difference in the assumption used as to the level of personal income in the first half of the calendar year 1948. The budget assumes that on an annual basis this will be $200 billion and your committee assumes it will remain at the current level of about $210 billion.

C. OUTLOOK IN FISCAL YEAR 1949

Table VI shows the effect of H. R. 4790, as amended by your committee, upon the budget of the Federal Government in the fiscal year 1949. A personal income level of $208 billion is assumed in the calendar year 1948. Two different assumptions are made as to congressional cuts in expenditures proposed by the President. Allowance has also been made for additional foreign-aid expenditures not in the budget. Table VI follows:

TABLE VI.—*Effect of H. R. 4790, as amended by your committee, upon the budget in the fiscal year 1949, under two assumptions as to the level of expenditures*

[On the basis of a personal income level of $208 billion in calendar year 1948]

		In millions
A. Assuming only the $3 billion reduction in budgetary expenditures in 1949 resulting from 1948 trust fund expenditures of this amount available for the ERP in 1949:		
Receipts under present law (staff estimates)		$47, 256
Expenditures:		
President's budget	$39, 669	
ERP trust fund expenditure in 1948	−3, 000	
Additional foreign aid not in budget	311	
		36, 980
Surplus before tax reduction		10, 276
Effect of your committee's bill		[1] 5, 100
Surplus after tax reduction		5, 176
B. Assuming the $3 billion reduction in budgetary expenditures in 1949 resulting from 1948 trust fund expenditures of this amount available for the ERP in 1949 and the $2.5 billion cut recommended by Congress:		
Receipts under present law (staff estimates)		$47, 256
Expenditures:		
President's budget	$39, 669	
ERP trust fund expenditure in 1948	−3, 000	
Recommended congressional cut	−2, 500	
Additional foreign aid not in budget	311	
		34, 480
Surplus before tax reduction		12, 776
Effect of your committee's bill		[1] 5, 100
Surplus after tax reduction		7, 676

[1] Includes refunds due to overwithholding in the fiscal year 1948.

Thus there will be a surplus of $5.2 billion under the minimum assumption as to expenditure reduction in the fiscal year 1949, or a surplus of $7.7 billion if the expenditure cut of $2.5 billion recommended by Congress is made. Your committee believes that on either basis there is ample room for adequate debt retirement and other contingencies.

Your committee's estimate of revenue collections in the fiscal year 1949 exceeds the estimate in the President's budget by $2.8 billion. This is due almost entirely to your committee's assumption of a personal income level of $208 billion in the calendar year 1948 while the budget assumed a level of $200 billion.

V. TAX REDUCTION AND BUSINESS PROSPECTS

This tax bill is being presented at a time when the future of business conditions is extremely difficult to predict. On the one hand, the administration appears to be firmly wedded to the conclusion that the economic problem of the year ahead is inflation. On the other hand, there is a growing body of opinion among business economists that there will be a down-turn around the middle of the current calendar year. Your committee has heard expert witnesses who reached this conclusion. However, it is worth noting that in each case it was pointed out that the down-turn would not be of major dimensions.

In order to place its revenue estimates on a conservative basis your committee has taken the more pessimistic alternative and assumed some decline during the last half of 1948 and the first half of 1949. This is not intended to be a forecast of the more likely course of events, but merely represents a desire to avoid the possibility of overstating the probable budget surplus.

On the other hand it may be argued that inflation will be the problem of the coming year and that some part of the $4.8 billion tax reduction provided by your committee's bill will have inflationary effects. However, it should be borne in mind that the relatively small size of the reduction leaves surpluses which are sufficient in amount to implement a policy of contracting credit through debt retirement should that prove desirable. Also the stimulus to productive effort provided by your committee's bill will act as a deterrent to inflationary pressures. Additional anti-inflationary effects will be secured by the expenditure reduction recommended by Congress.

From the point of view of the immediate effects of this debt retirement upon the economy, a better picture would be obtained if the Government's budgetary accounts were kept on a strictly cash basis. This is true because on such a basis receipts and expenditures which, from the point of view of the economy as a whole, are mere accounting entries, are eliminated. The President's budget shows receipts and expenditures on a cash basis for the fiscal years 1947, 1948, and 1949. The resulting cash surpluses are compared with the corresponding budgetary surpluses in table VII which follows:

TABLE VII.—*Comparison of cash and budgetary surpluses of the Federal Government as shown in the President's Budget*

[In billions of dollars]

Fiscal year	Surplus on cash basis	Budgetary surplus
1947	6.7	0.8
1948	7.7	7.5
1949	7.1	4.8

Source: Compiled from the Budget of the United States Government for the fiscal year ending June 30, 1949.

It is evident that the surpluses in 1947 and 1949 are very much larger when figured on a cash basis. The fact that the difference in 1948 is smaller is due to the cashing of terminal-leave bonds which increased the cash disbursements but not the budgetary expenditures. It is evident, therefore, that the immediate effects upon the economy of the debt retirement possible under your committee's bill would be very much greater than is indicated by an examination of the budgetary surplus alone. This is particularly true of the fiscal year 1949 when the redemption of terminal-leave bonds is a minor factor.

The large amount of debt retirement which can be made after provision for your committee's bill constitutes a desirable hedge against the possibility of continued inflationary pressure. It will place the fiscal and monetary authorities in a position where they can, if they wish, exert a sharp deflationary pressure upon the economy through properly managed debt retirement. As was pointed out at the hearings before your committee, the deflationary effects of debt retirement depend upon whose bonds are being retired. The least deflationary effect results from the purchase of securities held by individuals; a more deflationary effect is obtained from the purchase of securities held by commercial banks; the maximum effect is obtained when the securities are purchased from the Federal Reserve System.

During 1947 the administration's policy was to retire primarily debt held by commercial banks. While this is clearly deflationary in effect, the same result could have been achieved with a smaller debt reduction by shifting somewhat more of the purchases to securities held by the Federal Reserve System. The large amounts remaining for debt retirement in the fiscal years 1948 and 1949 after provision for your committee's bill, plus the possibility of concentrating a somewhat larger proportion of the purchases upon securities held by the Federal Reserve Banks, provide ample opportunity for increasing deflationary pressures should that policy prove desirable.

In addition to the large debt retirement possible after provision for your committee's bill, the stimulus which the tax cut applies to production must be listed among the factors tending to counteract inflationary pressures. Because of the importance of this subject, not only for the immediate future, but also for the long run, it is discussed at length in the next section of this report. It is sufficient here to express your committee's belief that increased production is the most satisfactory answer to high prices resulting from the pressure of pent-up demand on a limited supply. So far as this method of attacking inflation is available, its use is preferable to the arbitrary reduction of demand to fit a lower level of production. By decreasing tax rates in all income brackets, your committee's bill will increase the incentives of labor and management to produce, and the investors' willingness to assume business risks. The resulting increase in production will be a substantial offset against inflationary pressures.

Moreover, Congress has already expressed its intention of reducing the 1949 expenditures by $2.5 billion. Such a reduction in expenditures will also offset inflationary pressure.

If, however, the problem of the immediate future turns out to be not inflation but the avoidance of deflation, immediate tax reduction becomes imperative, and rapid debt retirement extremely dangerous. In the absence of the tax cut, as much as $15.9 billion to $18.4 billion might be available for debt retirement in the fiscal years 1948 and 1949. These amounts are so large that in the event of a downturn the deflationary effects would be extremely serious. Under your committee's bill the amount which might be available for debt retirement would be cut to between $10.2 billion and $12.7 billion. To a large extent the deflationary effect of debt retirement of this size can be offset if the persons in charge of debt management substitute for the purchase of bank-held securities the purchase of securities held by individuals. It would be much more difficult to offset the deflationary effects of a debt reduction of the size resulting from the continuance of the present tax law, even though the debt managers shifted as large a portion of the debt retirement as possible outside the banking system.

Should business begin to taper off, the effects of the tax reduction upon incentives to work and to invest would be extremely important, as would also the additional purchasing power generated by the increase in exemptions.

VI. Tax Reduction and Incentives

In the opinion of your committee production must be the ultimate answer both to the immediate problem of business stability and the long-run goal of achieving a higher standard of living. Increased production requires the wholehearted cooperation of all segments of our economy. To accomplish this goal the productivity of labor must be increased, the initiative of our business managers must be stimulated, and profits after taxes must be of sufficient size to attract investors into risk-taking enterprise. Your committee believes that the present high tax rates represent one of the chief obstructions to the achievement of this higher level of production.

A. PRODUCTION IN THE IMMEDIATE FUTURE

The Secretary of the Treasury in his testimony before your committee, both this year and last, stated his belief that industry was and is running at "virtual" capacity. Therefore, he could see no immediate need to remove the high tax rates which obstruct production. Despite his statement last year, the output of goods and services did increase in 1947. The recent Economic Report of the President estimates that 1947 production exceeded that of 1946 by nearly 5 percent. Moreover, the report sets up the objective of a further 3-percent rise in the output of goods and services of the nonagricultural parts of our economy in 1948. Thus it is apparent that the Secretary's opinion that we have reached a temporary limit in our productive effort is not well-founded.

Increases in productivity and the removal of bottlenecks in various industrial processes represent the two chief means of increasing production in the immediate future. Our experience after the First World War leads to the conclusion that a large increase in productivity can be expected in such postwar periods. After World War I productivity increased by more than 10 percent a year for a period of 3 years.[3] The absence of any such increase following World War II can be accounted for to a considerable extent by such obstructions as the present high tax rates. The absence of adequate monetary incentives is one of the important causes of the bottlenecks and the current low rate of increase in productivity. Your committee refuses to accept the conclusion that we have reached even a temporary limit to our productive effort, and believes that lower tax rates will be beneficial in stimulating production in the immediate future.

B. PRODUCTION IN THE LONG RUN AND THE SCARCITY OF RISK CAPITAL

The availablity of sufficient risk capital to meet the needs of business is a significant factor in increasing production in the immediate

[3] Basic Facts on Employment and Production, Senate Committee Print No. 4, 79th Cong., 1st sess., September 1, 1945, p. 6.

future, and the paramount consideration for the long run. Because your committee had received reports of shortages of such capital, it asked the Secretary of Commerce to testify on this subject at its recent hearings. The Secretary took the position that ample funds are available to meet current business needs, and found no evidence of a shortage of savings.

However, the Secretary's emphasis was on the over-all need for business funds, and not on the point with which your committee was primarily concerned, the availability of venture capital. The inadequate supply of this risk capital is abundantly shown by the Secretary's own statement. At the hearings the Secretary presented the 1946 and 1947 data which appear in table VIII and the 1947 data which appear in table IX. The remaining data shown in these tables were supplied by the Director of the Office of Business Economics of the Department of Commerce.

TABLE VIII.—*Changes in corporate securities outstanding and in their ownership, 1946 and 1947*

[Amounts in billion of dollars]

	1946		1947	
	Amount	Percent of net issues [1]	Amount	Percent of net issues [1]
Net issues [2] by industry group	2. 3	100. 0	4. 1	100. 0
Industrial and miscellaneous	2. 5	108. 7	2. 0	48. 8
Public utility (and telephone)	. 3	13. 0	2. 1	51. 2
Railroad	—. 5	−21. 7	0	0
Net issues [2] by type of security	2. 3	100. 0	4. 1	100. 0
Common stock	1. 0	43. 5	. 9	22. 0
Preferred stock	. 3	13. 0	. 4	9. 8
Bonds and notes	1. 0	43. 5	2. 8	68. 3
Net purchases [3] by various groups	2. 3	100. 0	4. 1	100. 0
Commercial banks	. 3	13. 0	. 2	4. 9
Mutual savings banks	. 2	8. 7	. 2	4. 9
Life insurance companies	2. 0	87. 0	3. 0	73. 2
Foreigners	—. 2	−8. 7	0	0
Domestic individuals, etc	0	0	. 7	17. 1

[1] Data do not add to totals because of rounding.
[2] New issues less retirements.
[3] Purchases less sales.

Source: Department of Commerce.

TABLE IX.—*Sources of corporate funds in 1941, 1946, and 1947* [1]

[Amounts in billions of dollars]

	1941 [2]		1946 [2]		1947	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Total investments	15. 3	[3] 100. 0	23. 6	[3] 100. 0	26. 7	[3] 100. 0
Retained profits	4. 7	30. 7	6. 5	27. 5	10. 1	37. 8
Depreciation, etc	4. 3	28. 1	4. 6	19. 5	4. 3	16. 1
Cash (on hand and in banks)	-. 8	-5. 2	. 3	1. 3	-1. 0	-3. 7
U. S. Government securities	-2. 0	-13. 1	6. 1	25. 8	1. 5	5. 6
Payables (trade)	2. 9	19. 0	3. 0	12. 7	1. 0	3. 7
Federal income-tax liabilities	4. 6	30. 1	-2. 5	-10. 6	2. 3	8. 6
Other current liabilities	. 1	. 7	. 0	. 0	. 7	2. 6
Net new issues	. 1	. 7	2. 3	9. 7	4. 1	15. 4
Bank loans	1. 4	9. 2	3. 3	14. 0	3. 7	13. 9

[1] All United States corporations, exclusive of banks and insurance companies.
[2] Data for these years are preliminary.
[3] Data do not add to totals because of rounding.

Source: Department of Commerce.

From these data and other evidence submitted by the Secretary at the hearings on this bill, the following facts emerge:

1. The amount of business investment financed by retained profits represented an unusually large proportion of the total in 1947. Specifically, retained profits were 37.8 percent of total investment in 1947 as compared to 27.5 percent in 1946 and 30.7 percent in 1941. It is believed that this heavy dependence on internal financing was not a matter of choice, but was forced on corporations by the difficulty of floating new security issues.

2. The important role played by undistributed profits in 1947 produced a subnormal relationship between dividends and corporate profits. A tabulation made from Department of Commerce data indicates that in 1947 dividends represented about 58 percent of total profits [4] as compared with the 65 to 80 percent customarily distributed. This, of course, has the effect of making new stock issues less attractive to prospective investors, which in turn accentuates the need for financing out of undistributed profits.

3. Of the new issues marketed in 1947, an unusually large proportion took the form of fixed-income securities rather than stock. In that year bonds and notes represented 68.3 percent of the total, as compared to 43.5 percent in 1946.

4. The amount of risk-bearing common stocks issued in 1947 was 10 percent less than in 1946. Table VIII shows that in terms of total new securities issued in 1947, common stock represented only 22.0 percent of the total as compared to 43.5 percent in 1946. This reduced emphasis on common stocks, together with the heavy reliance on debt financing, reflects the difficulty experienced by corporations in obtaining risk capital.

5. Life-insurance companies are taking a very large proportion of the new securities, while individuals, who must be the chief source of risk capital, are buying a relatively small proportion. The life-insurance

[4] In these computations profits have been adjusted for inventory revaluation.

companies and banks, which must place their funds in securities with a low degree of risk, accounted for 83 percent of the net purchases in 1947 and were the only net purchasers in 1946. On the other hand, domestic individual buyers accounted for none of the net purchases in 1946 and only 17.1 percent in 1947. This is still another indication that those buying securities today are for the most part seeking relatively riskless investments.

6. Net securities issued by the risk-taking industrials (primarily manufacturing) in 1947 dropped while safer net issues of the utilities increased substantially. In 1947 the industrials accounted for 48.8 percent of the total and utilities 51.2 percent. In 1946 the retirement of railroad securities more than offset the issues of other utilities. Therefore, the only net issues which occurred in that year were those of the industrial group.

If any further evidence is desired of the scarcity of venture capital attention need only be turned to the unprecedented existence of a sluggish stock market in a period of booming business. Here too there is a marked preference for securities with a low degree of risk. The average yield on new securities has been increasing for some time, and the spread between the rates paid on issues involving a greater degree of risk and those of the gilt-edged variety is now substantially larger than it was a year or so ago. This increasing premium which must be paid for risk capital is still another indication of its increasing scarcity.

C. THE EFFECT OF YOUR COMMITTEE'S BILL ON INCENTIVES

Your committee believes the present high individual income-tax rates deter increases in the productivity of labor, the breaking of bottlenecks by management, and the willingness of investors to assume risks. Clearly, this leads to the conclusion that the high wartime individual income-tax rates should be lowered substantially in order to stabilize business conditions now and to assure a rising standard of living for the American people in the years to come. Your committee's bill is a step in this direction.

The repressive effect of present tax rates can be shown by examining the amount of spendable income remaining after taxes for taxpayers at different income levels. For example, a married couple with two children having an income, after deductions but before exemptions, of $4,000 under present law has 90 percent of this income left after paying taxes. Under your committee's bill they would have 93 percent. If their income were $10,000, the same couple would have 81 percent left under present law, and 86 percent under your committee's bill. A married couple with two dependents having $30,000 of income retains only 62 percent of their income under present law, but 76 percent under H. R. 4790, as amended. If they had an income of $70,000 they would retain only 45 percent under present law but 61 percent under the proposed legislation.[5] Table X shows the spendable income left after taxes at various levels for a married couple with two dependents and the percent this is of income before taxes under both present law and your committee's bill. Tables XVIII-A, B, and C in part IX show the same information for taxpayers having a different exemption status.

[5] All examples assume the entire income was earned by one spouse and that the couple is resident in a common-law State.

TABLE X.—*Comparison of amount of spendable income after taxes under present law, under the House bill and the Finance Committee bill*

MARRIED PERSON—2 DEPENDENTS—ENTIRE INCOME EARNED BY 1 SPOUSE

Income after deductions but before exemptions	Amount of spendable income under—			Percent of income after tax to income before tax		
	Present law	House bill	Finance Committee bill	Present law	House bill	Finance Committee bill
				Percent	*Percent*	*Percent*
$2,000	$2, 000. 00	$2, 000. 00	$2, 000. 00	100. 00	100. 00	100. 00
$2,500	2, 405. 00	2, 486. 70	2, 483. 40	96. 20	99. 47	99. 34
$3,000	2, 810. 00	2, 920. 20	2, 900. 40	93. 66	97. 34	96. 68
$4,000	3, 620. 00	3, 787. 20	3, 734. 40	90. 50	94. 68	93. 36
$5,000	4, 411. 00	4, 614. 00	4, 568. 40	88. 22	92. 28	91. 37
$6,000	5, 202. 00	5, 452. 80	5, 402. 40	86. 70	90. 88	90. 04
$7,000	5, 955. 00	6, 291. 68	6, 219. 84	85. 07	89. 88	88. 85
$8,000	6, 708. 00	7, 124. 48	7, 026. 24	83. 85	89. 06	87. 83
$9,000	7, 423. 00	7, 957. 28	7, 832. 64	82. 48	88. 41	87. 03
$10,000	8, 138. 00	8, 790. 08	8, 639. 04	81. 38	87. 90	86. 39
$11,000	8, 815. 00	9, 589. 82	9, 424. 32	80. 14	87. 18	85. 68
$12,000	9, 492. 00	10, 367. 52	10, 195. 52	79. 10	86. 40	84. 96
$13,000	10, 131. 00	11, 145. 22	10, 966. 72	77. 93	85. 73	84. 36
$14,000	10, 770. 00	11, 922. 92	11, 737. 92	76. 93	85. 16	83. 84
$15,000	11, 361. 50	12, 680. 10	12, 488. 00	75. 74	84. 53	83. 25
$20,000	14, 110. 00	16, 342. 88	16, 111. 68	70. 55	81. 71	80. 56
$25,000	16, 478. 50	19, 800. 46	19, 524. 16	65. 91	79. 20	78. 10
$30,000	18, 619. 00	23, 022. 06	22, 693. 76	62. 06	76. 74	75. 65
$40,000	22, 558. 00	28, 832. 56	28, 381. 76	56. 40	72. 08	70. 95
$50,000	25, 889. 00	34, 013. 78	33, 422. 08	51. 78	68. 03	66. 84
$60,000	28, 821. 00	38, 825. 64	38, 082. 24	48. 04	64. 71	63. 47
$70,000	31, 468. 00	43, 432. 30	42, 531. 20	44. 95	62. 05	60. 76
$80,000	33, 830. 00	47, 820. 08	46, 754. 88	42. 29	59. 78	58. 44
$90,000	35, 907. 00	51, 920. 58	50, 682. 88	39. 90	57. 69	56. 31
$100,000	37, 699. 00	55, 774. 84	54, 357. 44	37. 70	55. 77	54. 36
$150,000	45, 462. 00	72, 871. 02	70, 491. 52	30. 31	48. 58	46. 99
$200,000	52, 731. 00	86, 827. 64	83, 394. 24	26. 37	43. 41	41. 70
$250,000	59, 525. 00	98, 821. 18	94, 276. 48	23. 81	39. 53	37. 71
$300,000	66, 300. 00	110, 773. 68	104, 632. 64	22. 10	36. 92	34. 88
$400,000	79, 850. 00	133, 844. 20	123, 429. 30	19. 96	33. 46	30. 86
$500,000	93, 400. 00	156, 059. 72	141, 323. 46	18. 68	31. 21	28. 26
$750,000	127, 275. 00	211, 547. 22	186, 004. 72	16. 97	28. 21	24. 80
$1,000,000	161, 150. 00	267, 034. 72	230, 685. 96	16. 12	26. 70	23. 07

Source: Staff of the Joint Committee on Internal Revenue Taxation.

To a large extent the repressive effect of the present tax rates is a product of the war period. It is often overlooked how much less a taxpayer has left after taxes at the present time than he would have under the prewar tax rates. The additional income which it is necessary to have today in order to produce the same income after taxes as in 1939 is very substantial. This is shown by the data presented in table XI. For example, a married individual with two children, having an income after deductions but before exemptions of $5,000 in 1939 must have an income of $5,684 today to have the same income left after taxes as he had in 1939. To match a $10,000 income in 1939 it is necessary to have a $12,257 income today. To match a $25,000 income in 1939 it is necessary to have an income of over $40,000 today, and a $50,000 income in 1939 represents the equivalent of an income of nearly $124,000 today. A taxpayer receiving a $100,000 income in 1939 must have an income of nearly $313,000 to have the same income left after taxes today, and an income of over $1,260,000 would be required today to have the same income after taxes as an income of $500,000 would have produced in 1939. These figures do not take into consideration the 70 percent rise in the cost of living since 1939.

These data demonstrate clearly the extent to which tax burdens increased during the war period. In reality the repressive effect of the present rates on incentives has only recently been tested under peacetime conditions. It is your committee's belief that the evidence indicates that these rates do not leave sufficient spendable income to induce investors to provide the venture capital needed for our economy today.

TABLE XI.—*Comparison of tax burdens in 1939 and 1947: Income after deductions but before exemptions required to give an equivalent income after taxes, in 1939 and 1947*

MARRIED COUPLE WITH 2 DEPENDENTS

1939 income before taxes	*1947 equivalent*	*1939 income before taxes*	*1947 equivalent*
$2,000	$2,000	$20,000	$29,720
$2,500	2,617	$25,000	40,334
$3,000	3,235	$40,000	81,696
$5,000	5,684	$50,000	123,573
$6,000	6,948	$75,000	228,391
$8,000	9,550	$100,000	312,568
$10,000	12,257	$500,000	1,260,384
$15,000	20,119	$1,000,000	2,183,867

Source: Staff of the Joint Committee on Internal Revenue Taxation.

Marginal tax rates, that is the tax rate paid on the top dollar of income, ordinarily indicate the incentive which exists under a given tax-rate schedule to earn additional income or to realize it through investments. Under H. R. 4790 as amended the marginal rates do not, however, show the entire increase in incentives brought about by the bill, since they do not indicate the effect of the "income splitting" provision. For example, assume that the husband earns the entire income of a family unit. Because of the "income splitting" provision the marginal rate which would apply in this case is the rate applying to an income of one-half the size of that earned by the husband. Despite the shortcomings of marginal rates in revealing the effect of your committee's bill on incentives, such rates are presented in table XII. This table shows that under your committee's bill there is a net decrease in the marginal rate all down the line, even though the effects of income splitting are not taken into account.

D. THE EFFECT OF THE PRESIDENT'S PROPOSAL ON INCENTIVES

The Secretary of the Treasury advised your committee to substitute for H. R. 4790 the President's tax program. This consisted of a $40 tax credit under the individual income tax and the reimposition of a modified version of the wartime excess profits tax. The effect of the adoption of the President's program upon incentives would be most unfortunate. Table XII indicates that the tax credit has practically no effect on marginal rates. Hence the effect of the credit on incentives is virtually zero.[6]

[6] Technically there is a decrease in the marginal tax rates under the President's proposal for incomes after deductions and exemptions up to the level of about $210 for single persons where the $40 tax credit become fully effective.

TABLE XII.—*Comparison of marginal rates under present law, the Senate Finance Committee bill, and the President's tax proposal*

Income after deductions and exemptions		Marginal rates			Percentage-point decrease in rates compared with present law	
Exceeding	Not exceeding	Present law	Finance Committee bill	President's proposal	Finance Committee bill	President's proposal
		Percent	*Percent*	*Percent*		
$0	$2,000	19.00	16.606	19.00	2.394	[2] 0
$2,000	$4,000	20.90	19.353	20.90	1.547	0
$4,000	$6,000	24.70	22.872	24.70	1.828	0
$6,000	$8,000	28.50	26.391	28.50	2.109	0
$8,000	$10,000	32.30	29.910	32.30	2.390	0
$10,000	$12,000	36.10	33.429	36.10	2.671	0
$12,000	$14,000	40.85	37.827	40.85	3.023	0
$14,000	$16,000	44.65	41.346	44.65	3.304	0
$16,000	$18,000	47.50	43.985	47.50	3.515	0
$18,000	$20,000	50.35	46.624	50.35	3.726	0
$20,000	$22,000	53.20	49.263	53.20	3.937	0
$22,000	$26,000	56.05	51.902	56.05	4.148	0
$26,000	$32,000	58.90	54.541	58.90	4.359	0
$32,000	$38,000	61.75	57.181	61.75	4.569	0
$38,000	$44,000	65.55	60.699	65.55	4.851	0
$44,000	$50,000	68.40	63.338	68.40	5.062	0
$50,000	$60,000	71.25	65.978	71.25	5.272	0
$60,000	$70,000	74.10	68.617	74.10	5.483	0
$70,000	$80,000	76.95	71.256	76.95	5.694	0
$80,000	$90,000	79.80	73.895	79.80	5.905	0
$90,000	$100,000	82.65	76.534	82.65	6.116	0
$100,000	$136,719.10	84.55	78.293	84.55	6.257	0
$136,719.10	$150,000.00	84.55	80.323	84.55	4.227	0
$150,000	$200,000	85.50	81.225	85.50	4.275	0
$200,000 and over [1]		86.45	82.128	86.45	4.322	0

[1] Tax is subject to the following maximum effective rate limitations: Under present law and the President's proposal, 85.5 percent; under your committee's bill, 77 percent.

[2] There is a decrease in the marginal tax rates under the President's proposed bill for net incomes after exemptions up to the level of about $210 where the $40 tax credit becomes fully effective for a single person.

Source: Staff of the Joint Committee on Internal Revenue Taxation.

The reason the President's proposed tax credit has practically no incentive effect is that once a tax of $40 is reached, there is no further reduction of the tax on any additional income. Thus a single individual having an income after deductions and exemptions of about $210 obtains the maximum relief. Irrespective of how much income he may earn in excess of that amount, there is no further tax reduction and thus no increase in incentive under this proposal.

It has been shown that the $40 tax credit proposed by the President has no positive effect on production and investment incentives. The reimposition of the excess-profits tax under the President's plan actually imposes new restrictions on productive effort and on the willingness of investors to assume business risks.

Even a well-drafted excess-profits tax cannot distinguish between profits which are the reward for unusual enterprise or the payment for a great risk, on one hand, and profits resulting from a monopoly position or unusual shortages, on the other. In this connection the former Secretary of the Treasury, Chief Justice Vinson, had the following to say at the hearings before your committee on the Revenue Act of 1945:

> The over-all impact which this tax is likely to have on business planning as well as business profits constitutes a serious threat to our postwar employment objectives. The testimony of businessmen is that they are unable to take the risk of full peacetime business expansion until this tax has been removed. That testimony comes not only from corporations subject to the excess-profits tax; indeed, it comes primarily from businessmen contemplating organization and expansion in competition with established corporations.

Unfortunately the excess-profits tax proposed by the President cannot qualify as a "well drafted" tax. It is nothing more than the old excess-profits tax dressed up with a 35-percent increase in the credits, and an increased specific exemption. The old discriminations which had to be borne during the war would still be there. New discriminations would appear because of the antiquity of the 1936–39 base which represents the primary measure of "excessive" profits. The report on the Revenue Act of 1945 of your committee had the following to say concerning the effect on risk-taking of using this base in the excess-profits tax:

> The longer the excess-profits tax is retained the less the income of 1936–39 base period is a proper measure of "excessive" profits. This base period will be a particularly poor measure of earnings in the postwar period when many corporations will be entering new fields of enterprise or expanding their businesses.

There are, of course, many firms which do not have any base-period experience at all. These will be driven to use the invested-capital base, which is less generous for most businesses, and are therefore apt to receive harsh treatment. A new firm in a business requiring an especially small amount of invested capital may find practically all of its profits above the exemption taxed as "excessive." The tendency of the tax to restrict competition was recognized by the late Carter Glass who, in the Annual Report of the Secretary of the Treasury for 1919, stated that the excess-profits tax "discourages new ventures and confirms old ventures in their monopolies."

Apart from the question of the merits of the particular excess-profits tax presented by the administration, the adoption of any such tax in times of peace is undesirable. A precedent for the peacetime use of this tax would be established, and its permanent retention would be a serious risk. This would be most unfortunate since the tax places a special penalty upon the relatively speculative business ventures which are essential to the material progress of our society. Even the adoption of such a tax for a short period would be likely to have a permanent effect on investment incentives. Businessmen in planning their investments could no longer feel confident that such a penalty tax might not subsequently be reimposed under peacetime conditions.

VII. Exemptions and the High Cost of Living

The cost of living has increased from 156 percent of the 1935–39 average last May, when your committee reported out H. R. 1, to 169 percent in January 1948, the latest figure available. This 13-point increase represents an 8-percent rise in the cost of living. Furthermore, there is evidence that income after taxes, although it has increased very considerably during the past 2 years, has not kept pace with the cost of living. On a per capita basis and in 1947 dollars, income after taxes has shrunk from an average of $1,285 in the first quarter of 1946 to $1,188 in the fourth quarter of 1947, a drop of nearly $100.

A. THE INCREASE IN GENERAL EXEMPTIONS

This increase in the cost of living is an important reason why your committee's bill provides a $100 per capita increase in exemptions from $500 to $600. As a result of this general increase in exemptions, about 6,000,000 persons will be exempted from taxation entirely. It should be remembered that the exemption increase is in addition to the reduction of 12.6 percent in the tax of the lowest taxable income group. Of the total reduction in tax liabilities, about 71 percent is received by taxpayers with incomes after deductions but before exemptions of less than $5,000.

B. THE SPECIAL EXEMPTION FOR PERSONS AGED 65 AND OVER

Like the tax-reduction bills of the last session, H. R. 4790 as amended provides an additional exemption for persons who have attained the age of 65 or over by the end of the taxable year. This provision will benefit 3,700,000 taxpayers and will remove 1,400,000 persons from the tax rolls.

As a result of the rise in the cost of living the need for a special exemption for persons over 65 is even more pressing now than in the spring of 1947. There is a very heavy concentration of small incomes among persons in this age group reflecting the fact that the group as a whole is handicapped in an economic, if not in a physical sense. Persons in this age group suffered with unusual severity as a result of the rise in the cost of living and the increase in taxes which occurred during the war, as well as the additional price increases of the immediate postwar period. Unlike younger persons, the bulk of those over 65 could not compensate for these changes in prices and taxes by accepting full-time jobs at prevailing high rates of wages.

C. THE SPECIAL EXEMPTION FOR THE BLIND

Your committee's bill also provides a special exemption of $600 for blind persons. Blind persons 65 or over may claim this exemption in addition to that based on age.

The special exemption of $600 for the blind is a substitute for a $500 deduction allowed under present law. Blind persons receive material benefits from this change. The amount allowed is, of course, larger and, in addition, the substitution of an exemption for a deduction in itself has some very real advantages. Because of this change blind persons do not forfeit the right to use the standard deduction as they do when they claim the special deduction under existing law. This is important because in most cases the itemized deductions of blind persons, other than the special deduction, will aggregate considerably less than the standard deduction. Moreover, an exemption can be taken into account in withholding, while a deduction cannot. Thus with an exemption, the relief provided will be effective throughout the year. Blind persons will not have to wait for a refund after the close of the year in order to obtain the relief which the law provides.

VIII. Equalization of Tax Burdens of Residents of Community-Property and Common-Law States

A major portion of this bill is devoted to the geographic equalization of income, estate, and gift taxes.

A. INCOME TAXES

Under existing law the treatment accorded families earning the same amount of income is very different if they happen to live in States using the community-property system or in States which use common law. Chiefly this is due to the fact that under the community-property system the earnings of a married couple are considered to be one-half the property of each. Income arising out of an accumulation which took place during the marriage is divided in the same manner, and in some community-property States the same division is made of income from assets which are the separate property of one of the spouses. No similar division takes place under common law. The earnings of the husband are his own and taxed to him. The income from his property is his income and is taxed as such.

Since the rates applied under the income tax are steeply progressive, the same family income divided in two halves by community property law will be taxed far less severely than in a common-law State where the whole income is apt to be taxed to one spouse. The difference is greatest when the entire earnings of the couple in the common-law State are received by one spouse, and when, under community-property law, none of the income is the "separate" income of either spouse. Table XIII compares the tax due under these assumptions in community-property and common-law States under present law for incomes of various sizes.

This table shows that the difference between the tax due in community-property and common-law States appears as soon as the income of the couple rises above the first tax bracket, i. e., as soon as the rates become progressive.[7] On a percentage basis the difference increases as the income grows larger. At $10,000 the couple in the common-law State pays a tax which is nearly 19 percent greater than that paid in the community-property State. At $25,000 the tax in the common-law State is about 41 percent larger. Thereafter, the percentage begins to decline as the marginal rate approaches the 85.5 percent maximum. However, even on an income of $150,000 the tax in the common-law State is more than 21 percent larger than that in the community-property State. At the opposite extreme is the case where in the common-law State incomes of the two spouses are approximately equal. Here, the results under common law and community property would be similar. However, in the great majority of cases the income of one spouse predominates.

One consequence of the substantial difference in the amount of tax due on similar incomes in community-property and common-law States has been an attempt to develop in the common-law States techniques which will divide the income of a married couple in approximately the same way that income is divided in the community-property States by the operation of State law. Chief among these devices are gifts, either outright or in trust, joint tenancies, and family

[7] Note that the table assumes that all of the income was earned by one spouse.

partnerships. Confusion has resulted from attempts to use trusts, tenancies, and partnerships for such purposes, and the present status of the law and regulations on these points is most unsatisfactory. A number of proposals for the revision of the income-tax treatment of trusts and family partnerships are under study. The difficulties which these problems present are impressive.

TABLE XIII.—*Difference in amount and percentage of income tax in community-property and common-law States under present law*

[For a married couple with no dependents]

Income after deductions, but before exemption	Tax payable in— Community-property States	Common-law States[1]	Excess of tax in common-law State over tax in community-property States	Percent by which tax in common-law States exceeds that in community-property States
				Percent
$1,000				
$1,200	$38.00	$38.00		
$1,500	95.00	95.00		
$2,000	190.00	190.00		
$2,500	285.00	285.00		
$3,000	380.00	380.00		
$4,000	570.00	589.00	$19.00	3.33
$5,000	760.00	798.00	38.00	5.00
$6,000	969.00	1,045.00	76.00	7.84
$7,000	1,178.00	1,292.00	114.00	9.68
$8,000	1,387.00	1,577.00	190.00	13.70
$9,000	1,596.00	1,862.00	266.00	16.67
$10,000	1,843.00	2,185.00	342.00	18.56
$15,000	3,154.00	4,047.00	893.00	28.31
$25,000	6,460.00	9,082.00	2,622.00	40.59
$50,000	18,724.50	24,795.00	6,070.50	32.42
$100,000	50,274.00	63,127.50	12,853.50	25.57
$150,000	86,953.50	105,383.50	18,430.00	21.20
$200,000	127,081.50	148,124.00	21,042.50	16.56
$250,000	169,337.50	191,339.50	22,002.00	12.99
$500,000	383,543.50	407,464.50	23,921.00	6.24
$750,000	599,668.50	623,589.50	23,921.00	3.99
$1,000,000	815,793.50	839,714.50	23,921.00	2.93

[1] Entire income reported by husband on joint return.

Source: Staff of the Joint Committee on Internal Revenue Taxation.

While the lack of geographical equalization in the treatment of the income of married couples has been recognized for a long time, circumstances have arisen recently which necessitate immediate action. For a good many years the income-tax advantages incident to the community-property system were confined to eight States.[8] In each of these community property antedated the enactment of the Federal income tax. In each, the use of this particular form of law could be traced to Spanish or French antecedents.

Recently, however, a number of States have shifted from the common-law to the community-property system. In these cases benefits under the Federal income tax which residents of the State would obtain under the community-property system were largely respon-

[8] Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington.

sible for the abandonment of common law. After one false start, Oklahoma joined the community-property group in 1945. Oregon, Michigan, Nebraska, and Pennsylvania were added to the list in 1947. However, the Pennsylvania law has since been found to be unconstitutional.

The geographical differences in the impact of the individual income tax resulting from the fact that 12 States use community property raises a serious problem, but the fact which makes action at the present session imperative is the potential rapid extension of community property to a large number of other common-law States. The adoption of community property has been advocated widely in spite of a growing awareness of the substantial differences between community property and common law which make a transition from one system to the other extremely difficult. It is now recognized that this transition will be a period of extreme confusion during which the courts, the administrative officials and the legislatures will be working out the detailed application of a new and strange system of property law. Nevertheless, many responsible State officials have reached the conclusion that the difference between the impact of the Federal income tax as it applies in community-property and common-law jurisdictions is so great that the use of community property cannot be avoided.

This is particularly true in common-law States lying adjacent to community-property jurisdictions. In such common-law States there is a lively fear that the tax advantages of community property will produce a migration of the relatively well-to-do taxpayers. This fear undoubtedly played a major role in the adoption of community property by Oklahoma and Oregon, and is an exceptionally strong factor in States like Arkansas. But even in cases where such migration is less likely, as in Michigan and Pennsylvania, the tax consequences of retaining the common law were sufficient to produce legislation.

Many States are waiting to see what Congress will do about the problem of geographical equalization. If the necessary action is not taken, there will be a flood of State legislation intended to produce the same results, but doing so in a manner which has most unfortunate consequences, not only for the taxpayers involved, but also for all the persons who must use or administer the property laws of the States which rush into the community-property system.

Your committee believes that the best answer to the problem of geographical equalization is the splitting of the combined income of the husband and wife. Income splitting is effected under H. R. 4790, as amended, by giving husbands and wives in all States the option to file joint returns. In these returns their combined net income and their combined exemptions are divided by 2. A tax is computed on this basis, and multiplied by 2.

Income splitting will produce the same result in common-law States which now obtains in a community-property State when the entire income of both spouses is community income. If, however, spouses in community-property States have separate income, they may split their income by electing to file a joint return. Under existing law, separate income in community-property States is taxed in full to the spouse who receives it. Thus, the type of solution embodied in H. R. 4790 as amended, benefits residents of both common-law and community-property States.

It is emphasized that the right of election to use or not to use the joint return prevails in both common-law and community-property States.

Geographical equalization in the taxation of married couples also requires an adjustment in the standard deduction and in the deduction for unusual medical expenses. Under existing law a taxpayer with adjusted gross income of over $5,000 may elect a standard deduction of $500 instead of itemizing his deductions. In community-property States the husband and wife will normally file separate returns. Hence each may be eligible for a $500 standard deduction and the couple may claim an aggregate deduction of $1,000. To make equal treatment available in common-law States, H. R. 4790, as amended, of necessity must provide that a couple with an income of more than $5,000, electing to split their income by filing a joint return is also eligible for a standard deduction of $1,000, or 10 percent of the adjusted gross income, whichever is lesser.

The fact that married couples in all States may receive a maximum standard deduction of $1,000 presents a problem of equalizing the treatment accorded married persons with single individuals. To provide equality of tax treatment it is necessary to raise the maximum standard deduction for single persons to $1,000. This is done under your committee's bill.

Under existing law a special deduction is allowed for medical expenditures to the extent that they exceed 5 percent of the taxpayer's adjusted gross income, but subject to a ceiling of $1,250 a year in the case of a taxpayer who claims only one exemption, and $2,500 if he claims more than one. If both parties to a marriage in a community-property State file separate returns, each spouse claiming one dependent, the ceiling on their medical deductions is $5,000. If only one claims a dependent, their maximum medical deduction is $3,750. Your committee's bill raises the ceiling for a married couple filing a joint return to $3,750 if they have one dependent, and $5,000 if they have two or more. This equalizes the treatment in common-law and community-property States.

Adoption of these income-splitting provisions will produce substantial geographical equalization in the impact of the tax on individual incomes. The impetuous enactment of community-property legislation by States that have long used the common law will be forestalled. The incentive for married couples in common-law States to attempt the reduction of their taxes by the division of their income through such devices as trusts, joint tenancies, and family partnerships will be reduced materially. Administrative difficulties stemming from the use of such devices will be diminished, and there will be less need for meticulous legislation on the income-tax treatment of trusts and family partnerships. In effect, these amendments represent the adoption of a new national system for ascertaining Federal income tax liability. The adoption of these amendments will extend substantial benefits to residents of both community-property and common-law States.

B. THE ESTATE AND GIFT TAXES

The basic differences between property rights in community-property and non-community-property States have also resulted in geographic inequalities in the effect of the estate and gift taxes. In community-property States husbands and wives have an undivided one-half interest in the community property. Prior to 1942, upon the death of a spouse his one-half interest in the community property, over which he had the power of testamentary disposition, was subject to the estate tax. Similarly, a gift of community property was taxable as though one-half of the value was the gift of the husband and one-half the gift of the wife. On the other hand, in common-law States neither spouse had an undivided interest in the property of the other spouse. Since both estate and gift taxes have sharply progressive rates, with large specific exemptions, the consequence was a substantially lower tax on transfers in community-property States than on transfers of similar size in common-law States, where the usual case was that practically all the wealth of the married couple was the property of the husband.

In 1942 the Congress attempted to provide more nearly equal results under the estate and gift taxes. The estate tax amendments of that year provide that the entire community property be included in the decedent's gross estate, except such portion as can be "shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse." Under this rule, the entire community property is taxable to the first spouse to die unless some portion of the community is economically attributable to the survivor. However, the 1942 amendments further provide that regardless of which spouse was responsible for the acquisition of the community, at least one-half of the value of the community, is includible in the decedent's gross estate. The basis for this rule is the fact that rights to at least one-half the community are transferred on the death of either spouse. The rule is necessary since the share of the spouse dying first may not be transferred to the surviving spouse and the community assets may not be economically attributable to the decedent spouse. In such a case if no tax were imposed, the property would avoid the estate tax for one generation.

Similarly the Revenue Act of 1942 amended the gift tax with respect to community property. All gifts of community property were made taxable to the husband, unless it could be established that the property transferred was economically attributable to the other spouse.

Unfortunately, a number of problems have arisen under the 1942 amendments. Most important of these is the fact that geographical equalization has not been realized in a typical situation. Furthermore, the problem of determining the economic contribution of the surviving spouse to the community has resulted in an extremely difficult problem of "tracing." Severe hardship also results where, because the entire community property is includible in his gross estate, the estate tax of the decedent is larger than the community property subject to his power of disposition. For example, if a decedent is economically responsible for the entire community this average tax rate on his estate may exceed 50 percent. However, only half of the community is subject to his power of disposition. Thus the share of the community already belonging to his spouse may be required to bear part of the tax although the spouse does not inherit any property under State law.

The most obvious instance of the failure to attain equalization results from the widespread use of life tenancies in the common-law States. In this situation the husband transfers or bequeaths to his wife a life estate, with remainder over to the children. At his death the whole of the estate is taxed, but at the wife's death there is no tax on the cessation of her life estate. On the other hand in a community-property State, the husband may not by his will dispose of his wife's interest in community property. If he bequeaths his one-half interest in the community to his wife for life with remainder over to the children, the entire community may be included in his gross estate, and on the death of the wife,[9] one-half the community is also included in her estate. Thus the common-law couple is subject only to a single transfer tax, whereas the community-property couple pays two transfer taxes, one on an estate of equal size and one on an estate of half the size of that passing in the common-law State.

The "tracing problem" arises under the 1942 amendments because of the need for identifying portions of the community contributed by each spouse. Establishing the fact that particular assets of the community are derived from "compensation for personal services actually rendered by the survivor * * *," is impossible in a great many situations. Under the 1942 amendments this tracing problem is of far larger dimensions in community-property States than in common-law jurisdictions, where it is limited primarily to joint tenancies, tenancies by the entirety, and joint bank accounts.

Your committee does not believe that a satisfactory solution to the problem of geographical equalization or the difficulties of tracing can be found under the 1942 amendments or amendments using a similar theoretical approach. Hence the repeal of these amendments is recommended, effective with respect to gifts made after the date of enactment of this bill and with respect to the estates of decedents dying after the date of such enactment. Your committee would be unwilling, however, merely to repeal the 1942 amendments. Repeal alone would reproduce the pre-1942 results which are even further from equalization than existing law.

With the repeal of the 1942 amendments your committee recommends estate and gift tax splitting which is similar in its effects to the splitting of the income tax provided for in this bill. It is recognized that complete equalization of the estate and gift taxes cannot be achieved because of the inherent differences between community property and noncommunity property. However, the new provisions will result in equality in the important situations.

Under the estate-tax provision of your committee's bill a decedent spouse is allowed a marital deduction from his gross estate in the amount of the value of all interests in property passing outright from the decedent to the surviving spouse by way of bequest, devise, transfer, right of survivorship in jointly held property, etc. The

[9] Assuming that the deduction for property previously taxed is not applicable.

deduction is limited to an amount not in excess of 50 percent of the adjusted gross estate.[10]

Under the gift-tax provisions of your committee's bill a donor spouse is allowed a deduction for every outright transfer by gift to his spouse, such deduction to be an amount equal to one-half of the value of the interest transferred. In the case of a transfer by gift by a married person to persons other than his spouse, the interest transferred may be considered as made one-half by each, if the spouses so elect.

Under both the estate and gift taxes the marital deduction does not apply to the decedent's or the donor's interest in community property. This exception was necessary because after the repeal of the 1942 amendments the surviving spouse in a community property State will receive one-half of the community property tax-free. Similarly a donor spouse will be taxable on only one-half the value of any gifts made out of the community property. Although the marital deduction does not apply to community property, it will apply, in general, to the separate property of a decedent or a donor in a community-property State.[11]

In the preceding paragraphs it has been stated that the interest in property must pass outright to the surviving or donee spouse to qualify for the marital deduction. This is intended to restrict the deduction to those cases where the decedent or donor passes to his spouse all of his interest in the property. This will equate the decedent in the common-law State with the decedent in the community-property State who cannot by his will effect in any way the surviving spouse's interest in the community property. Thus, a deduction will not be allowed under the amendments if the only interest given a spouse is in property in which the decedent or donor also gave an interest to someone else who may possess or enjoy the property after the donee spouse dies. However, if the only interest the husband has in the property is a terminable interest, such as a lease, and he gives his wife his entire interest in the property, then the deduction is permitted.

Among the exceptions to this rule is the recognition of one of the customary modes of transfer of property in common-law States. The deduction is applicable where the decedent or donor creates a trust, the income of which the beneficiary or donee spouse is entitled to for his life, with a taxable power of appointment over the corpus of such trust in the spouse. Thus the property subject to the taxable power of appointment will be includible in the gross estate of the beneficiary or donee spouse unless it has been dissipated in the interval.

For the purposes of the estate tax, the same principles underlying the marital deduction as to powers of appointment are also applicable to proceeds of insurance on the life of the decedent. The marital deduction may be obtained if under the terms of the policy the surviving spouse is entitled to receive such proceeds in annual or more frequent installments, with the right to designate her estate or other persons as the beneficiary of the unpaid balance of such proceeds.

[10] The adjusted gross estate is determined by subtracting from the gross estate the debts and charges provided for in section 812 (b) of the Internal Revenue Code.

[11] There is, however, in California some community property which is not recognized as such for the purposes of the Federal estate and gift taxes. This is property acquired in California before the passage of a California law in 1927 which gave the wife a vested interest in community assets. Under your committee's bill the marital deduction will be applicable to the decedent's or donor's interest in such property. It will be treated in the same manner as separate property.

Your committee has long had under study the revision of the present law as to powers of appointment. It is not intended that allowance of the martial deduction with respect to the creation of a power of appointment will preclude such future revision as may be considered advisable.

Adoption of these portions of your committee's bill will establish a new national system for ascertaining Federal estate and gift tax liabilities. This will extend substantial benefits to residents of both community-property and common-law States.

C. THE CAPITAL GAINS TAX

In order to give persons receiving community property the same basis for determining gain or loss on a sale of property after death as is given to the recipients of property passing under the common law, an amendment is being made to the capital gains provisions of the income tax. Under existing law property acquired "by bequest, devise, or inheritance" has as its basis for capital gains purposes the fair market value of the property at the time of the decedent's death or the fair market value at the optional valuation date. Your committee's bill provides that the surviving spouse in a common-law State may receive up to one-half of the estate of the decedent free of estate tax. Insofar as such property passes from the decedent to the surviving spouse "by bequest, devise, or inheritance," the surviving spouse will have as a basis the fair market value at the time of the decedent's death or the fair market value at the optional valuation date. On the other hand, under existing law the one-half interest of the surviving spouse in community property is not property received "by bequest, devise, or inheritance." As a result, under present law the surviving spouse in a community-property State must use as a basis for his share of the community assets the cost to the community. Your committee's bill provides that the surviving spouse's interest in community property shall be deemed to have been acquired "by bequest, devise, or inheritance" from the decedent, thus giving the assets a basis equal to the fair market value as of the date of the first spouse's death or the fair market value at the optional valuation date. This equalizes the taxes on capital gains in common-law and community-property States.

This provision is effective with respect to community property acquired by the surviving spouse from a decedent dying after the date of enactment of this act.

IX. Statistical Data Relating to Your Committee's Bill

The reduction in income-tax liabilities resulting from the various provisions of your committee's bill is shown in table XIV. This table is based on an assumed personal income of $208 billion. The percentage tax reductions account for 38 percent of the total, and the increase in exemptions for 42 percent. It should be borne in mind that a large part of the reduction of $550 million resulting from "income splitting" will occur whether or not your committee's bill is enacted. Quite a few of the States, including some of the largest, have indicated their intention to adopt community property if provision for income splitting is not made by the Federal Government.

TABLE XIV.—*Distribution of the tax reduction resulting from the various provisions of the House bill and the Finance Committee bill*

[Assuming personal income of $208 billion]

	Reduction, House bill		Reduction, Finance Committee bill	
	In millions of dollars	In percent of total	In millions of dollars	In percent of total
		Percent		*Percent*
Increase in the per capita exemption to $600	2,000.1	30.0	2,000.1	41.9
Additional exemption for persons over 65	163.8	2.5	163.8	3.4
Special provision for the blind	0.1	(1)	0.1	(1)
Allowing married couples to split their incomes	598.2	9.0	550.3	11.6
Increase in the standard deduction [2]	59.4	0.9	59.4	1.2
Percentage reductions	3,637.2	54.6	1,799.7	37.7
Decrease in income tax liabilities	6,458.9	97.0	4,573.5	95.8
Effect on estate and gift taxes	199.1	3.0	199.1	4.2
Total decrease in tax liabilities	6,658.0	100.0	4,772.6	100.0

[1] Less than 0.05 percent.
[2] This includes the reduction in tax liabilities for married couples as well as single individuals.

Source: Staff of the Joint Committee on Internal Revenue Taxation.

Table XV shows the estimated distribution among the various income classes of the change in tax liabilities from present law, under your committee's bill and under the House bill. It also shows the number of taxpayers under present law and under H. R. 4790; the number of taxpayers relieved of tax under H. R. 4790; the income after deductions but before exemptions; and the reduction in tax liability under the House bill and under your committee's bill. The table indicates that 71 percent of the reduction under your committee's bill goes to individuals with incomes after deductions but before exemptions of $5,000 or less.

TABLE XV.—*Estimated number of taxpayers, their income after deductions but before exemptions, and their tax liability under present law compared with that under the House bill and the Finance Committee bill, in a full year of operation (assuming personal income of $208 billion)*

Income class after deductions but before exemptions	Taxpayers under—		Taxpayers relieved of tax under H. R. 4790	Income after deductions but before exemptions	Tax liability under—[1]			Reduction in tax liability under—	
	Present law	H. R. 4790			Present law	House bill	Finance Committee bill	House bill	Finance Committee bill
(000)	Number of taxpayers in thousands, money amounts in millions								
Under $1	3,938.6	3,394.2	544.4	$3,241.9	$243.2	$99.8	$118.9	$143.4	$124.3
$1-$2	17,537.3	15,175.4	2,361.9	25,693.7	2,654.0	1,416.8	1,879.3	1,237.2	774.7
$2-$3	16,784.4	14,305.9	2,478.5	38,969.1	3,962.7	2,439.6	2,908.9	1,523.1	1,053.8
$3-$4	8,993.0	7,761.9	1,231.1	23,990.3	2,645.2	1,709.1	1,942.8	936.1	702.4
$4-$5	4,857.3	4,096.8	760.5	18,000.9	2,384.8	1,638.6	1,814.3	746.2	570.5
Total under $5	52,110.6	44,734.3	7,376.5	109,895.9	11,889.9	7,303.9	8,664.2	4,586.0	3,225.7

See footnotes at end of table, p. 31.

TABLE XV.—*Estimated number of taxpayers, their income after deductions but before exemptions, and their tax liability under present law compared with that under the House bill and the Finance Committee bill, in a full year of operation (assuming personal income of $208 billion)*—Continued

Income class after deductions but before exemptions	Taxpayers under—		Taxpayers relieved of tax under H. R. 4790	Income after deductions but before exemptions	Tax liability under—[1]			Reduction in tax liability under—	
	Present law	H. R. 4790			Present law	House bill	Finance Committee bill	House bill	Finance Committee bill
	Number of taxpayers in thousands, money amounts in millions								
(000)									
$5-$10	1,574.1	1,572.2	1.9	9,714.9	1,681.1	1,200.4	1,362.9	480.7	318.2
$10-$25	668.8	668.8	(2)	9,508.0	2,651.8	2,054.1	2,196.9	597.7	454.9
$25-$50	128.2	128.2	(2)	5,003.5	2,198.5	1,813.4	1,905.9	385.1	292.6
$50-$100	36.1	36.1	(2)	2,508.7	1,462.3	1,242.7	1,298.0	219.6	164.3
$100-$300	8.6	8.6	(2)	1,358.3	1,029.4	897.0	940.5	132.4	88.9
$300-$500	.8	.8	(2)	221.8	201.5	179.4	189.3	22.1	12.2
$500-$1,000	.4	.4	(2)	207.9	187.0	167.3	177.0	19.7	10.0
$1,000 and over	.1	.1	(2)	172.1	156.3	141.0	149.6	15.3	6.7
Total over $5	2,417.2	2,415.3	1.9	28,695.2	9,567.9	7,695.3	8,220.1	1,872.6	1,347.8
Grand total	54,527.9	47,149.6	7,378.4	138,591.1	21,457.5	14,998.6	16,884.0	6,458.9	4,573.5
PERCENTAGE DISTRIBUTION									
(000)									
$0-$1	7.22	7.20	7.38	2.34	1.13	0.67	0.70	2.22	2.72
$1-$2	32.16	32.19	32.02	18.54	12.37	9.44	11.13	19.16	16.94
$2-$3	30.78	30.34	33.58	28.12	18.47	16.27	17.22	23.58	23.04
$3-$4	16.49	16.46	16.69	17.31	12.33	11.39	11.51	14.49	15.36
$4-$5	8.91	8.69	10.30	11.99	11.11	10.93	10.75	11.55	12.47
$5-$10	2.88	3.33	.02	7.00	7.84	8.00	8.07	7.46	6.96
$10-$25	1.23	1.42	(3)	6.87	12.35	13.70	13.01	9.24	9.94
$25-$50	.24	.27	(3)	3.61	10.25	12.09	11.29	5.96	6.40
$50-$100	.06	.08	(3)	1.81	6.82	8.28	7.69	3.40	3.59
$100-$300	.01	.01	(3)	.98	4.79	5.98	5.57	2.05	1.94
$300-$500	(3)	(3)	(3)	.16	.94	1.20	1.12	.34	.27
$500-$1,000	(3)	(3)	(3)	.15	.87	1.11	1.05	.31	.22
$1,000 and over	(3)	(3)	(3)	.12	.73	.94	.89	.24	.15
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
PERCENTAGE DISTRIBUTION CUMULATED FROM LOWEST TO HIGHEST NET INCOME CLASS									
(000)									
Under $1	7.22	7.20	7.38	2.34	1.13	0.67	0.70	2.22	2.72
Under $2	39.38	39.39	39.40	20.88	13.50	10.11	11.83	21.38	19.66
Under $3	70.16	69.73	72.98	49.00	31.97	26.38	29.05	44.96	42.70
Under $4	86.65	86.19	89.67	66.31	44.30	37.77	40.56	59.45	58.06
Under $5	95.57	94.88	99.97	79.30	55.41	48.70	51.31	71.00	70.53
Under $10	98.45	98.21	99.99	86.30	63.25	56.70	59.38	78.46	77.49
Under $25	99.68	99.63	(3)	93.17	75.60	70.40	72.39	87.70	87.43
Under $50	99.92	99.90	(3)	96.78	85.85	82.49	83.68	93.66	93.83
Under $100	99.98	99.98	(3)	98.59	92.67	90.77	91.37	97.06	97.42
Under $300	99.99	99.99	(3)	99.57	97.46	96.75	96.94	99.11	99.36
Under $500	(3)	(3)	(3)	99.73	98.40	97.95	98.06	99.45	99.63
Under $1,000	(3)	(3)	(3)	99.88	99.27	99.06	99.11	99.76	99.85
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

[1] Includes normal tax, surtax, and alternative tax on net long-term capital gains.
[2] Less than 50.
[3] Increase less than 0.01 percent.

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

Source: Staff of the Joint Committee on Internal Revenue Taxation.

Table XVI presents the tax burdens for various income levels after deductions but before exemptions. It shows the amount of tax payable under present law, the House bill and your committee's bill. There are eight parts to table XVI showing the tax burdens under different assumptions as to marital status, number of dependents, and the distribution of income between the partners to the marriage. All parts of table XVI are calculated under the assumption that neither the taxpayer nor his spouse is over 65 years of age or blind.

Since individuals aged 65 and over receive an additional $600 exemption under both your committee's bill and the House bill, their tax burdens differ from those shown in table XVI. Table XVII (A) and (B) shows the tax burdens under existing law, the House bill and your committee's bill for a single person 65 years of age or over, and for a married couple with no dependents. Part B is calculated under the assumption that both spouses are over 65 and that all of the income is earned by one of them. The figures shown in table XVII also apply to blind persons under 65.

Table XVIII (A) and (B) shows the amount of spendable income remaining after tax under present law, the House bill and your committee's bill. The amount of spendable income remaining is shown by income classes after deductions but before exemptions and is also expressed as a percent of the income. Part A relates to a single person with no dependents and part B to a married person with no dependents (it being assumed that the entire income is earned by one spouse). Table X, which appears in section VI above, shows the effects of the House bill and your committee's bill on the spendable income of a married person with two dependents (the entire income being earned by one spouse).

TABLE XVI-A.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

SINGLE PERSON—NO DEPENDENTS

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$500							
$600	$19.00			$19.00	$19.00	100.00	100.00
$700	38.00	$13.30	$16.60	24.70	21.40	65.00	56.32
$750	47.50	19.95	24.90	27.55	22.60	58.00	47.58
$800	57.00	26.60	33.20	30.40	23.80	53.33	41.75
$900	76.00	39.90	49.80	36.10	26.20	47.50	34.47
$1,000	95.00	53.20	66.40	41.80	28.60	44.00	30.11
$1,200	133.00	79.80	99.60	53.20	33.40	40.00	25.11
$1,500	190.00	119.70	149.40	70.30	40.60	37.00	21.37
$1,800	247.00	173.00	199.20	74.00	47.80	29.96	19.35
$2,000	285.00	212.80	232.40	72.20	52.60	25.33	18.46
$2,500	380.00	288.80	315.40	91.20	64.60	24.00	17.00
$3,000	484.50	370.88	409.44	113.62	75.06	23.45	15.49
$4,000	693.50	538.08	603.04	155.42	90.46	22.41	13.04
$5,000	921.50	727.32	810.72	194.18	110.78	21.07	12.02
$6,000	1,168.50	949.62	1,039.52	218.88	128.98	18.73	11.04
$7,000	1,434.50	1,185.60	1,282.40	248.90	152.10	17.35	10.60
$8,000	1,719.50	1,442.10	1,546.40	277.40	173.10	16.13	10.07
$9,000	2,023.50	1,712.28	1,824.48	311.22	199.02	15.38	9.84
$10,000	2,346.50	2,002.98	2,123.68	343.52	222.82	14.64	9.50
$11,000	2,688.50	2,307.36	2,436.96	381.14	251.54	14.18	9.36
$12,000	3,049.50	2,632.26	2,771.36	417.24	278.14	13.68	9.12
$13,000	3,434.25	2,974.26	3,123.36	459.99	310.89	13.39	9.05
$14,000	3,842.75	3,341.91	3,501.76	500.84	340.99	13.03	8.87
$15,000	4,270.25	3,723.24	3,894.24	547.01	376.01	12.81	8.81
$20,000	6,645.25	5,855.61	6,088.96	789.64	556.29	11.88	8.37
$25,000	9,362.25	8,295.78	8,600.48	1,066.47	761.77	11.39	8.14
$30,000	12,264.50	10,905.24	11,286.24	1,359.26	978.26	11.08	7.98
$40,000	18,425.25	16,443.93	16,986.88	1,981.32	1,438.37	10.75	7.81
$50,000	25,137.00	22,481.94	23,201.44	2,655.06	1,935.56	10.56	7.70
$60,000	32,247.75	28,879.05	29,785.60	3,368.70	2,462.15	10.45	7.64
$70,000	39,643.50	35,532.66	36,633.76	4,110.84	3,009.74	10.37	7.59
$80,000	47,324.25	42,442.77	43,745.92	4,881.48	3,578.33	10.31	7.56
$90,000	55,290.00	49,609.38	51,122.08	5,680.62	4,167.92	10.27	7.54
$100,000	63,540.75	57,032.49	58,762.24	6,508.26	4,778.51	10.24	7.52
$150,000	105,806.25	95,069.73	98,165.61	10,736.52	7,640.64	10.15	7.22
$200,000	148,551.50	133,539.60	138,772.70	15,011.90	9,778.80	10.11	6.58
$250,000	191,771.75	172,436.97	179,831.03	19,334.78	11,940.72	10.08	6.23
$300,000	234,996.75	211,339.47	220,894.78	23,657.28	14,101.97	10.07	6.00
$400,000	321,446.75	289,144.47	303,022.28	32,302.28	18,424.47	10.05	5.73
$500,000	407,896.75	366,949.47	385,000.00	40,947.28	22,896.75	10.04	5.61
$750,000	624,021.75	561,401.97	577,500.00	62,559.78	46,521.75	10.03	7.46
$1,000,000	840,146.75	755,974.47	770,000.00	84,172.28	70,146.75	10.02	8.35

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI-B.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

SINGLE PERSON—ONE DEPENDENT

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$1,000							
$1,200	$38.00			$38.00	$38.00	100.00	100.00
$1,500	95.00	$39.90	$49.80	55.10	45.20	58.00	47.58
$1,800	152.00	79.80	99.60	72.20	52.40	47.50	34.47
$2,000	190.00	106.40	132.80	83.60	57.20	44.00	30.11
$2,500	285.00	193.00	215.80	92.00	69.20	32.28	24.28
$3,000	380.00	273.60	298.80	106.40	81.20	28.00	21.37
$4,000	589.00	437.76	486.88	151.24	102.12	25.68	17.34
$5,000	798.00	604.96	680.48	193.04	117.52	24.19	14.73
$6,000	1,045.00	816.24	902.24	228.76	142.76	21.89	13.66
$7,000	1,292.00	1,038.54	1,131.04	253.46	160.96	19.62	12.46
$8,000	1,577.00	1,288.20	1,388.00	288.80	189.00	18.31	11.98
$9,000	1,862.00	1,544.70	1,652.00	317.30	210.00	17.04	11.28
$10,000	2,185.00	1,828.56	1,944.16	356.44	240.84	16.31	11.02
$11,000	2,508.00	2,119.26	2,243.36	388.74	264.64	15.50	10.55
$12,000	2,869.00	2,437.32	2,570.72	431.68	298.28	15.05	10.40
$13,000	3,230.00	2,762.22	2,905.12	467.78	324.88	14.48	10.06
$14,000	3,638.50	3,121.32	3,274.72	517.18	363.78	14.22	10.00
$15,000	4,047.00	3,488.97	3,653.12	558.03	393.88	13.79	9.73
$20,000	6,393.50	5,583.72	5,809.12	809.78	584.38	12.67	9.14
$25,000	9,082.00	7,993.11	8,288.96	1,088.89	793.04	11.99	8.73
$30,000	11,970.00	10,587.18	10,958.88	1,382.82	1,011.12	11.55	8.45
$40,000	18,097.50	16,089.96	16,622.56	2,007.54	1,474.94	11.09	8.15
$50,000	24,795.00	22,112.58	22,821.28	2,682.42	1,973.72	10.82	7.96
$60,000	31,891.50	28,494.30	29,389.60	3,397.20	2,501.90	10.65	7.85
$70,000	39,273.00	35,132.52	36,221.92	4,140.48	3,051.08	10.54	7.77
$80,000	46,939.50	42,027.24	43,318.24	4,912.26	3,621.26	10.47	7.71
$90,000	54,891.00	49,178.46	50,678.56	5,712.54	4,212.44	10.41	7.67
$100,000	63,127.50	56,586.18	58,302.88	6,541.32	4,824.62	10.36	7.64
$150,000	105,383.50	94,613.16	97,683.68	10,770.34	7,699.82	10.22	7.31
$200,000	148,124.00	133,077.90	138,285.35	15,046.10	9,838.65	10.16	6.64
$250,000	191,339.50	171,970.14	179,338.27	19,369.36	12,001.23	10.12	6.27
$300,000	234,564.50	210,872.64	220,402.02	23,691.86	14,162.48	10.10	6.04
$400,000	321,014.50	288,677.64	302,529.52	32,336.86	18,484.98	10.07	5.76
$500,000	407,464.50	366,482.64	384,657.02	40,981.86	22,807.48	10.06	5.60
$750,000	623,589.50	560,995.14	577,500.00	62,594.36	46,089.50	10.04	7.39
$1,000,000	839,714.50	755,507.64	770,000.00	84,206.86	69,714.50	10.03	8.30

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI–C.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

MARRIED PERSON—NO DEPENDENTS—ENTIRE INCOME EARNED BY 1 SPOUSE

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$1,000	...	...	...	...	...	...	...
$1,200	$38.00	...	...	$38.00	$38.00	100.00	100.00
$1,500	95.00	$39.90	$49.80	55.10	45.20	58.00	47.58
$1,800	152.00	79.80	99.60	72.20	52.40	47.50	34.47
$2,000	190.00	106.40	132.80	83.60	57.20	44.00	30.11
$2,500	285.00	172.90	215.80	112.10	69.20	39.33	24.28
$3,000	380.00	239.40	298.80	140.60	81.20	37.00	21.37
$4,000	589.00	425.60	464.80	163.40	124.20	27.74	21.09
$5,000	798.00	577.60	630.80	220.40	167.20	27.62	20.95
$6,000	1,045.00	741.76	818.88	303.24	226.12	29.02	21.64
$7,000	1,292.00	908.96	1,012.48	383.04	279.52	29.65	21.63
$8,000	1,577.00	1,076.16	1,206.08	500.84	370.92	31.76	23.52
$9,000	1,862.00	1,243.36	1,399.68	618.64	462.32	33.22	24.83
$10,000	2,185.00	1,454.64	1,621.44	730.36	563.56	33.43	25.79
$11,000	2,508.00	1,676.94	1,850.24	831.06	657.76	33.14	26.23
$12,000	2,869.00	1,899.24	2,079.04	969.76	789.96	33.80	27.53
$13,000	3,230.00	2,121.54	2,307.84	1,108.46	922.16	34.32	28.55
$14,000	3,638.50	2,371.20	2,564.80	1,267.30	1,073.70	34.83	29.51
$15,000	4,047.00	2,627.70	2,828.80	1,419.30	1,218.20	35.07	30.10
$20,000	6,393.50	4,005.97	4,247.36	2,387.54	2,146.14	37.34	33.57
$25,000	9,082.00	5,589.42	5,877.12	3,492.58	3,204.88	38.46	35.29
$30,000	11,970.00	7,446.48	7,788.48	4,523.52	4,181.52	37.79	34.93
$40,000	18,097.50	11,711.22	12,177.92	6,386.28	5,919.58	35.29	32.71
$50,000	24,795.00	16,591.56	17,200.96	8,203.44	7,594.04	33.09	30.63
$60,000	31,891.50	21,810.48	22,572.48	10,081.02	9,319.02	31.61	29.22
$70,000	39,273.00	27,234.60	28,155.20	12,038.40	11,117.80	30.65	28.31
$80,000	46,939.50	32,887.86	33,973.76	14,051.64	12,965.74	29.94	27.62
$90,000	54,891.00	38,807.88	40,066.88	16,083.12	14,824.12	29.30	27.01
$100,000	63,127.50	44,963.88	46,402.88	18,163.62	16,724.62	28.77	26.49
$150,000	105,383.50	77,960.04	80,363.84	27,423.46	25,019.66	26.02	23.74
$200,000	148,124.00	114,064.98	117,524.48	34,059.02	30,599.52	22.99	20.66
$250,000	191,339.50	152,091.88	156,663.36	39,247.62	34,676.14	20.51	18.12
$300,000	234,564.50	190,139.46	196,331.22	44,425.04	38,233.28	18.94	16.30
$400,000	321,014.50	267,079.20	277,545.40	53,935.30	43,469.10	16.80	13.54
$500,000	407,464.50	344,873.94	359,662.06	62,590.56	47,802.44	15.36	11.73
$750,000	623,589.50	539,386.44	564,980.82	84,203.06	58,608.68	13.50	9.40
$1,000,000	839,714.50	733,898.94	770,000.00	105,815.56	69,714.50	12.60	8.30

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI-D.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

MARRIED PERSON—NO DEPENDENTS—WITH INCOME DIVIDED AS FOLLOWS: 70 PERCENT AND 30 PERCENT

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$1,000							
$1,200	$38.00			$38.00	$38.00	100.00	100.00
$1,500	95.00	$39.90	$49.80	55.10	45.20	58.00	47.58
$1,800	152.00	79.80	99.60	72.20	52.40	47.50	34.47
$2,000	190.00	106.40	132.80	83.60	57.20	44.00	30.11
$2,500	285.00	172.90	215.80	112.10	69.20	39.33	24.28
$3,000	380.00	239.40	298.80	140.60	81.20	37.00	21.37
$4,000	575.70	425.60	464.80	150.10	110.90	26.07	19.26
$5,000	779.00	577.60	630.80	201.40	148.20	25.85	19.02
$6,000	982.30	741.76	818.88	240.54	163.42	24.49	16.64
$7,000	1,200.80	908.96	1,012.48	291.84	188.32	24.30	15.68
$8,000	1,430.70	1,076.16	1,206.08	354.54	224.62	24.78	15.70
$9,000	1,664.40	1,243.36	1,399.68	421.04	264.72	25.30	15.90
$10,000	1,919.00	1,454.64	1,621.44	464.36	297.56	24.20	15.51
$11,000	2,181.20	1,676.94	1,850.24	504.26	330.96	23.12	15.17
$12,000	2,443.40	1,899.24	2,079.04	544.16	364.36	22.27	14.91
$13,000	2,728.40	2,121.54	2,307.84	606.86	420.56	22.24	15.41
$14,000	3,017.20	2,371.20	2,564.80	646.00	452.40	21.41	14.99
$15,000	3,306.00	2,627.70	2,828.80	678.30	477.20	20.52	14.43
$20,000	5,011.25	4,005.96	4,247.36	1,005.29	763.89	20.06	15.23
$25,000	6,992.00	5,589.42	5,877.12	1,402.58	1,114.88	20.06	15.95
$30,000	9,186.50	7,446.48	7,788.48	1,740.02	1,398.02	18.94	15.22
$40,000	14,136.00	11,711.22	12,177.92	2,424.78	1,958.08	17.15	13.85
$50,000	19,551.00	16,591.56	17,200.96	2,959.44	2,350.04	15.14	12.02
$60,000	25,388.75	21,810.48	22,572.48	3,578.27	2,816.27	14.09	11.09
$70,000	31,616.00	27,234.60	28,155.20	4,381.40	3,460.80	13.86	10.95
$80,000	38,199.50	32,887.86	33,973.76	5,311.64	4,225.74	13.90	11.06
$90,000	44,954.00	38,807.88	40,066.88	6,146.12	4,887.12	13.67	10.87
$100,000	51,908.00	44,963.88	46,402.88	6,944.12	5,505.12	13.38	10.61
$150,000	89,475.75	77,960.04	80,363.84	11,515.71	9,111.91	12.87	10.18
$200,000	129,599.00	114,064.98	117,524.48	15,534.02	12,074.52	11.99	9.32
$250,000	170,653.25	152,091.88	156,663.36	18,561.37	13,989.89	10.88	8.20
$300,000	212,481.75	190,139.46	196,331.22	22,342.29	16,150.53	10.51	7.60
$400,000	298,148.00	267,079.20	277,545.40	31,068.80	20,602.60	10.42	6.91
$500,000	384,028.00	344,873.94	359,662.06	39,154.06	24,365.94	10.20	6.34
$750,000	599,668.50	539,386.44	564,980.82	60,282.06	34,687.68	10.05	5.78
$1,000,000	815,793.50	733,898.94	770,000.00	81,894.56	45,793.50	10.04	5.61

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI-E.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

MARRIED PERSON—NO DEPENDENTS—WITH INCOME DIVIDED AS FOLLOWS: 50 PERCENT AND 50 PERCENT

Income after deductions, but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percentage tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$1,000							
$1,200	$38.00			$38.00	$38.00	100.00	100.00
$1,500	95.00	$39.50	$49.80	55.10	45.20	58.00	47.58
$1,800	152.00	79.80	99.60	72.20	52.40	47.50	34.47
$2,000	190.00	106.40	132.80	83.60	57.20	44.00	30.11
$2,500	285.00	172.90	215.80	112.10	69.20	39.33	24.28
$3,000	380.00	239.40	298.80	140.60	81.20	37.00	21.37
$4,000	570.00	425.60	464.80	144.40	105.20	25.33	18.46
$5,000	760.00	577.60	630.80	182.40	129.20	24.00	17.00
$6,000	969.00	741.76	818.88	227.24	150.12	23.45	15.49
$7,000	1,178.00	908.96	1,012.48	269.04	165.52	22.84	14.05
$8,000	1,387.00	1,076.16	1,206.08	310.84	180.92	22.41	13.04
$9,000	1,596.00	1,243.36	1,399.68	352.64	196.32	22.10	12.30
$10,000	1,843.00	1,454.64	1,621.44	388.36	221.56	21.07	12.02
$11,000	2,090.00	1,676.94	1,850.24	413.06	239.76	19.76	11.47
$12,000	2,337.00	1,899.24	2,079.04	437.76	257.96	18.73	11.04
$13,000	2,584.00	2,121.54	2,307.84	462.46	276.16	17.90	10.69
$14,000	2,869.00	2,371.20	2,564.80	497.80	304.20	17.35	10.60
$15,000	3,154.00	2,627.70	2,828.80	526.30	325.20	16.69	10.31
$20,000	4,693.00	4,005.96	4,247.36	687.04	445.64	14.64	9.50
$25,000	6,460.00	5,589.42	5,877.12	870.58	582.88	13.48	9.02
$30,000	8,540.50	7,446.48	7,788.48	1,094.02	752.02	12.81	8.81
$40,000	13,290.50	11,711.22	12,177.92	1,579.28	1,112.58	11.88	8.37
$50,000	18,724.50	16,591.56	17,200.96	2,132.94	1,523.54	11.39	8.14
$60,000	24,529.00	21,810.48	22,572.48	2,718.52	1,956.52	11.08	7.98
$70,000	30,561.50	27,234.60	28,155.20	3,326.90	2,406.30	10.89	7.87
$80,000	36,850.50	32,887.86	33,973.76	3,962.64	2,876.74	10.75	7.81
$90,000	43,434.00	38,807.88	40,066.88	4,626.12	3,367.12	10.65	7.75
$100,000	50,274.00	44,963.88	46,402.88	5,310.12	8,871.12	10.56	7.70
$150,000	86,953.50	77,960.04	80,363.84	8,993.46	6,589.66	10.34	7.58
$200,000	127,081.50	114,064.98	117,524.48	13,016.52	9,557.02	10.24	7.52
$250,000	169,337.50	152,091.88	156,663.36	17,245.62	12,674.14	10.18	7.48
$300,000	211,612.50	190,139.46	196,331.22	21,473.04	15,281.28	10.15	7.22
$400,000	297,103.00	267,079.20	277,545.40	30,023.80	19,557.60	10.11	6.58
$500,000	383,543.50	344,873.94	359,662.06	38,669.56	23,881.44	10.08	6.23
$750,000	599,668.50	539,386.44	564,980.82	60,282.06	34,687.68	10.05	5.79
$1,000,000	815,793.50	733,898.94	770,000.00	81,894.56	45,793.50	10.04	5.61

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI–F.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill*

MARRIED PERSON—2 DEPENDENTS—ENTIRE INCOME EARNED BY 1 SPOUSE

Income after deductions, but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$2,000							
$2,500	$95.00	$13.30	$16.60	$81.70	$78.40	86.00	82.53
$3,000	190.00	79.80	99.60	110.20	90.40	58.00	47.58
$4,000	380.00	212.80	265.60	167.20	114.40	44.00	30.11
$5,000	589.00	386.00	431.60	203.00	157.40	34.47	26.72
$6,000	798.00	547.20	597.60	250.80	200.40	31.43	25.11
$7,000	1,045.00	708.32	780.16	336.68	264.84	32.22	25.34
$8,000	1,292.00	875.52	973.76	416.48	318.24	32.24	24.63
$9,000	1,577.00	1,042.72	1,167.36	534.28	409.64	33.88	25.98
$10,000	1,862.00	1,209.92	1,360.96	652.08	501.04	35.02	26.91
$11,000	2,185.00	1,410.18	1,575.68	774.82	609.32	35.46	27.89
$12,000	2,508.00	1,632.48	1,804.48	875.52	703.52	34.91	28.05
$13,000	2,869.00	1,854.78	2,033.28	1,014.22	835.72	35.35	29.13
$14,000	3,230.00	2,077.08	2,262.08	1,152.92	967.92	35.69	29.97
$15,000	3,638.50	2,319.90	2,512.00	1,318.60	1,126.50	36.24	30.96
$20,000	5,890.00	3,657.12	3,888.32	2,232.88	2,001.68	37.91	33.98
$25,000	8,521.50	5,199.54	5,475.84	3,321.96	3,045.66	38.98	35.74
$30,000	11,381.00	6,977.94	7,306.24	4,403.06	4,074.76	38.69	35.80
$40,000	17,442.60	11,167.44	11,618.24	6,274.56	5,823.76	35.97	33.39
$50,000	24,111.00	15,986.22	16,577.92	8,124.78	7,533.08	33.70	31.24
$60,000	31,179.00	21,174.36	21,917.76	10,004.64	9,261.24	32.09	29.70
$70,000	38,532.00	26,567.70	27,468.80	11,964.30	11,063.20	31.05	28.71
$80,000	46,170.00	32,179.92	33,245.12	13,990.08	12,924.88	30.30	27.99
$90,000	54,093.00	38,079.42	39,317.12	16,013.58	14,775.88	29.60	27.32
$100,000	62,301.00	44,225.16	45,642.56	18,075.84	16,658.44	29.01	26.74
$150,000	104,538.00	77,128.98	79,508.48	27,409.02	25,029.52	26.22	23.94
$200,000	147,269.00	113,172.36	116,605.76	34,096.64	30,663.24	23.15	20.82
$250,000	190,475.00	151,178.82	155,723.52	39,296.18	34,751.48	20.63	18.24
$300,000	233,700.00	189,226.32	195,367.36	44,473.68	38,332.64	19.03	16.40
$400,000	320,150.00	266,155.80	276,570.70	53,994.20	43,579.30	16.87	13.61
$500,000	406,600.00	343,940.28	358,676.54	62,659.72	47,923.46	15.41	11.79
$750,000	622,725.00	538,452.78	563,995.28	84,272.22	58,729.72	13.53	9.43
$1,000,000	838,850.00	732,965.28	769,314.04	105,884.72	69,535.96	12.62	8.29

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI-G.—*Comparison of individual income tax under present law, and under House bill, and the Finance Committee bill*

MARRIED PERSON—2 DEPENDENTS—WITH INCOME DIVIDED AS FOLLOWS: 70 PERCENT AND 30 PERCENT

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percentage tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$2,000							
$2,500	$95.00	$13.30	$16.60	$81.70	$78.40	86.00	82.53
$3,000	190.00	79.80	99.60	110.20	90.40	58.00	47.58
$4,000	380.00	212.80	265.60	167.20	114.40	44.00	30.11
$5,000	570.00	386.00	431.60	184.00	138.40	32.28	24.23
$6,000	773.30	547.20	597.60	226.10	175.70	29.24	22.72
$7,000	976.60	708.32	780.16	268.28	196.44	27.47	20.11
$8,000	1,183.70	875.52	973.76	308.18	209.94	26.04	17.74
$9,000	1,417.40	1,042.72	1,167.30	374.68	250.04	26.43	17.64
$10,000	1,653.00	1,209.92	1,360.96	443.08	292.04	26.80	17.67
$11,000	1,896.20	1,410.18	1,575.68	486.02	320.52	25.63	16.90
$12,000	2,158.40	1,632.48	1,804.48	525.92	353.92	24.37	16.40
$13,000	2,420.60	1,854.78	2,033.28	565.82	387.32	23.38	16.00
$14,000	2,694.20	2,077.08	2,262.08	617.12	432.12	22.91	16.04
$15,000	2,983.00	2,319.90	2,512.00	663.10	471.00	22.23	15.79
$20,000	4,602.75	3,657.12	3,888.32	945.63	714.43	20.54	15.52
$25,000	6,517.00	5,199.54	5,475.84	1,317.46	1,041.16	20.22	15.98
$30,000	8,668.75	6,977.94	7,306.24	1,690.81	1,362.51	19.50	15.72
$40,000	13,547.00	11,167.44	11,618.24	2,379.56	1,928.76	17.57	14.24
$50,000	18,933.50	15,986.22	16,577.92	2,947.28	2,355.58	15.57	12.44
$60,000	24,733.25	21,174.36	21,917.76	3,558.89	2,815.49	14.39	11.38
$70,000	30,932.00	26,567.70	27,468.80	4,364.30	3,463.20	14.11	11.20
$80,000	37,487.00	32,179.92	33,245.12	5,307.08	4,241.88	14.16	11.32
$90,000	44,213.00	38,079.42	39,317.12	6,133.58	4,895.88	13.87	11.07
$100,000	51,167.00	44,225.16	45,642.56	6,941.84	5,524.44	13.57	10.80
$150,000	88,630.25	77,128.98	79,508.48	11,501.27	9,121.77	12.98	10.29
$200,000	128,753.50	113,172.36	116,605.76	15,581.14	12,147.74	12.10	9.43
$250,000	169,798.25	151,178.82	155,723.52	18,619.43	14,074.73	10.97	8.29
$300,000	211,617.25	189,226.32	195,367.36	22,390.93	16,219.89	10.58	7.68
$400,000	297,283.50	266,155.80	276,570.70	31,127.70	20,712.80	10.47	6.97
$500,000	383,163.50	343,940.28	358,676.54	39,223.22	24,486.96	10.24	6.39
$750,000	598,804.00	538,452.78	563,995.28	60,351.22	34,808.72	10.08	5.81
$1,000,000	814,929.00	732,965.28	769,314.04	81,963.72	45,614.96	10.06	5.60

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVI-H.—*Comparison of individual income tax under present law, and under House bill, and the Finance Committee bill*

MARRIED PERSON—2 DEPENDENTS—WITH INCOME DIVIDED AS FOLLOWS: 50 PERCENT AND 50 PERCENT

Income after deductions but before exemptions	Amount of tax			Amount of tax reduction, H. R. 4790		Percent tax reduction, H. R. 4790	
	Present law	H. R. 4790		House bill	Finance Committee bill	House bill	Finance Committee bill
		House bill	Finance Committee bill				
						Percent	*Percent*
$2,000							
$2,500	$95.00	$13.30	$16.60	$81.70	$78.40	86.00	82.53
$3,000	190.00	79.80	99.60	110.20	90.40	58.00	47.58
$4,000	380.00	212.80	265.60	167.20	114.40	44.00	30.11
$5,000	570.00	386.00	431.60	184.00	138.40	32.28	24.28
$6,000	769.50	547.20	597.60	222.30	171.90	28.89	22.34
$7,000	969.00	708.32	780.16	260.08	188.84	26.90	19.49
$8,000	1,178.00	875.52	973.76	302.48	204.24	25.68	17.34
$9,000	1,387.00	1,012.72	1,167.36	344.28	219.64	24.82	15.84
$10,000	1,615.00	1,209.92	1,360.96	405.08	254.04	25.08	15.73
$11,000	1,843.00	1,410.18	1,575.68	432.82	267.32	23.48	14.50
$12,000	2,090.00	1,632.48	1,804.48	457.52	285.52	21.89	13.66
$13,000	2,337.00	1,854.78	2,033.28	482.22	303.72	20.63	13.00
$14,000	2,603.00	2,077.08	2,262.08	525.92	340.92	20.20	13.10
$15,000	2,869.00	2,319.90	2,512.00	549.10	357.00	19.14	12.44
$20,000	4,370.00	3,657.12	3,888.32	712.88	481.68	16.31	11.02
$25,000	6,099.00	5,199.54	5,475.84	899.46	623.16	14.75	10.22
$30,000	8,113.00	6,977.94	7,306.24	1,135.06	806.76	13.99	9.94
$40,000	12,787.00	11,167.44	11,618.24	1,619.56	1,168.76	12.67	9.14
$50,000	18,164.00	16,080.22	16,577.92	2,177.78	1,586.08	11.99	8.73
$60,000	23,940.00	21,174.36	21,917.76	2,765.64	2,022.24	11.55	8.45
$70,000	29,944.00	26,567.70	27,468.80	3,376.30	2,475.20	11.28	8.27
$80,000	36,195.00	32,179.92	33,245.12	4,015.08	2,949.88	11.09	8.15
$90,000	42,764.25	38,079.42	39,317.12	4,684.83	3,447.13	10.96	8.06
$100,000	49,590.00	44,225.16	45,642.56	5,364.84	3,947.44	10.82	7.96
$150,000	86,184.00	77,128.98	79,508.48	9,055.02	6,675.52	10.51	7.75
$200,000	126,255.00	113,172.36	116,605.76	13,082.64	9,649.24	10.36	7.64
$250,000	168,492.00	151,178.82	155,723.52	17,313.18	12,768.48	10.28	7.58
$300,000	210,767.00	189,226.32	195,367.36	21,540.68	15,399.64	10.22	7.31
$400,000	296,248.00	266,155.80	276,570.70	30,092.20	19,677.30	10.16	6.64
$500,000	382,679.00	343,940.28	358,676.54	38,738.72	24,002.46	10.12	6.27
$750,000	598,804.00	538,452.78	563,995.28	60,351.22	34,808.72	10.08	5.81
$1,000,000	814,929.00	732,965.28	769,314.04	81,963.72	45,614.96	10.06	5.60

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVII-A.—*Comparison of individual income tax under present law, under the House bill and the Finance Committee bill for persons 65 years of age and over*

SINGLE PERSON—NO DEPENDENTS

Income after deductions but before exemptions	Amount of tax			Tax reduction under—			
	Present law	H. R. 4790		Amount		Percent	
		House bill	Finance Committee bill	House bill	Finance Committee bill	House bill	Finance Committee bill
						Percent	*Percent*
$500	------	------	------	------	------	------	------
$600	$19.00	------	------	$10.00	$19.00	100.00	100.00
$700	38.00	------	------	38.00	38.00	100.00	100.00
$800	57.00	------	------	57.00	57.00	100.00	100.00
$900	76.00	------	------	76.00	76.00	100.00	100.00
$1,000	95.00	------	------	95.00	95.00	100.00	100.00
$1,200	133.00	------	------	133.00	133.00	100.00	100.00
$1,500	100.00	$30.90	$49.80	150.10	140.20	79.00	73.79
$1,800	247.00	79.80	99.60	167.20	147.40	67.69	59.68
$2,000	285.00	106.40	132.80	178.60	152.20	62.67	53.40
$2,500	380.00	193.00	215.80	187.00	164.20	49.21	43.21
$3,000	484.50	273.60	298.80	210.90	185.70	43.53	38.33
$4,000	693.50	437.76	486.88	255.74	206.62	36.88	29.79
$5,000	921.50	604.96	680.48	316.54	241.02	34.36	26.16
$6,000	1,168.50	816.24	902.24	352.26	266.26	30.15	22.79
$8,000	1,719.50	1,288.20	1,388.00	431.30	331.50	25.08	19.28
$10,000	2,346.50	1,828.56	1,944.16	517.94	402.34	22.07	17.15
$12,000	3,049.50	2,437.32	2,570.72	612.18	478.78	20.07	15.70
$15,000	4,270.25	3,488.97	3,653.12	781.28	617.13	18.30	14.45
$20,000	6,645.25	5,583.72	5,809.12	1,061.53	836.13	15.97	12.58
$25,000	9,362.25	7,993.11	8,288.96	1,369.14	1,073.29	14.62	11.46
$30,000	12,264.50	10,587.18	10,958.88	1,677.32	1,305.62	13.68	10.65
$50,000	25,137.00	22,112.58	22,821.28	3,024.42	2,315.72	12.03	9.21
$70,000	39,643.50	35,132.52	36,221.92	4,510.98	3,421.08	11.38	8.62
$100,000	63,540.75	56,586.18	58,302.88	6,954.57	5,237.87	10.95	8.24
$300,000	234,996.75	210,872.[illegible]	220,402.02	24,124.11	14,594.73	10.27	6.21
$500,000	407,896.75	366,482.64	384,657.02	41,414.11	23,239.73	10.15	5.70
$1,000,000	840,146.75	755,507.64	770,000.00	84,639.11	70,146.75	10.07	8.35

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVII-B.—*Comparison of individual income tax under present law, and under House bill and the Finance Committee bill for persons 65 years of age and over*

MARRIED PERSONS (BOTH OVER 65)—NO DEPENDENTS [1]

Income after deductions but before exemptions	Amount of tax			Tax reduction under—			
	Present law	H. R. 4790		Amount		Percent	
		House bill	Finance Committee bill	House bill	Finance Committee bill	House bill	Finance Committee bill
						Percent	*Percent*
$1,000							
$1,200	$38.00			$38.00	$38.00	100.00	100.00
$1,500	95.00			95.00	95.00	100.00	100.00
$1,800	152.00			152.00	152.00	100.00	100.00
$2,000	190.00			190.00	190.00	100.00	100.00
$2,500	285.00	$13.30	$16.60	271.70	268.40	95.33	94.18
$3,000	380.00	79.80	99.60	300.20	280.40	79.00	73.79
$4,000	589.00	212.80	265.60	376.20	323.40	63.87	54.91
$5,000	798.00	386.00	431.60	412.00	366.40	51.63	45.91
$6,000	1,045.00	547.20	597.60	497.80	447.46	47.64	42.81
$8,000	1,577.00	875.52	973.76	701.48	603.24	44.48	38.25
$10,000	2,185.00	1,209.92	1,360.96	975.08	824.04	44.63	37.71
$12,000	2,869.00	1,632.48	1,804.48	1,236.52	1,064.52	43.10	37.10
$15,000	4,047.00	2,319.90	2,512.00	1,727.10	1,535.00	42.68	37.93
$20,000	6,393.50	3,657.12	3,888.32	2,736.38	2,505.18	42.80	39.18
$25,000	9,082.00	5,199.54	5,475.84	3,882.46	3,606.16	42.75	39.71
$30,000	11,970.00	6,977.94	7,306.24	4,992.06	4,663.76	41.70	38.96
$50,000	24,795.00	15,986.22	16,577.92	8,808.78	8,217.08	35.53	33.14
$70,000	39,273.00	26,567.70	27,468.80	12,705.30	11,804.20	32.35	30.06
$100,000	63,127.50	44,225.16	45,642.56	18,902.34	17,484.94	29.94	27.70
$300,000	234,564.50	189,226.32	195,367.36	45,338.18	39,197.14	19.33	16.71
$500,000	407,464.50	343,940.28	358,676.54	63,624.22	48,787.96	15.59	11.97
$1,000,000	839,714.50	732,965.28	769,314.04	106,749.22	70,400.46	12.71	8.38

[1] Assumes all income earned by 1 spouse.

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVIII-A.—*Comparison of amount of spendable income after taxes under present law, and under the House bill, and the Finance Committee bill*

SINGLE PERSON—NO DEPENDENTS

Income after deductions but before exemptions	Amount of spendable income under—			Percent of income after tax to income before tax		
	Present law	House bill	Finance Committee bill	Present law	House bill	Finance Committee bill
				Percent	*Percent*	*Percent*
$500	$500.00	$500.00	$500.00	100.00	100.00	100.00
$600	581.00	600.00	600.00	96.83	100.00	100.00
$700	662.00	686.70	663.40	94.57	98.10	97.63
$750	702.50	730.05	725.10	93.67	97.34	96.68
$800	743.00	773.40	766.80	92.88	96.68	95.85
$900	824.00	860.10	850.20	91.56	95.57	94.47
$1,000	905.00	946.80	933.60	90.50	94.68	93.36
$1,200	1,067.00	1,120.20	1,100.40	88.92	93.35	91.70
$1,500	1,310.00	1,380.30	1,350.60	87.33	92.02	90.04
$1,800	1,553.00	1,627.00	1,600.80	86.28	90.39	88.93
$2,000	1,715.00	1,787.20	1,767.60	85.75	89.36	88.38
$2,500	2,120.00	2,211.20	2,184.60	84.80	88.45	87.38
$3,000	2,515.50	2,629.12	2,590.56	83.50	87.64	86.35
$4,000	3,306.50	3,461.92	3,396.96	82.66	86.55	84.92
$5,000	4,078.50	4,272.68	4,189.28	81.57	85.45	83.79
$6,000	4,831.50	5,050.38	4,960.48	80.53	84.17	82.67
$7,000	5,565.50	5,814.40	5,717.60	79.51	83.06	81.68
$8,000	6,280.50	6,557.90	6,453.60	78.51	81.97	80.67
$9,000	6,976.50	7,287.72	7,175.52	77.52	80.97	79.73
$10,000	7,653.50	7,997.02	7,876.32	76.54	79.97	78.76
$11,000	8,311.50	8,692.64	8,563.04	75.56	79.02	77.85
$12,000	8,950.50	9,367.74	9,228.64	74.59	78.06	76.91
$13,000	9,565.75	10,025.74	9,876.64	73.58	77.12	75.97
$14,000	10,157.25	10,658.09	10,498.24	72.55	76.13	74.99
$15,000	10,729.75	11,276.76	11,105.76	71.53	75.18	74.04
$20,000	13,354.75	14,144.39	13,911.04	66.77	70.72	69.56
$25,000	15,637.75	16,704.22	16,399.52	62.55	66.82	65.60
$30,000	17,735.50	19,094.76	18,713.76	59.12	63.65	62.38
$40,000	21,574.75	23,556.07	23,013.12	53.94	58.89	57.53
$50,000	24,863.00	27,518.06	26,798.56	49.73	55.04	53.60
$60,000	27,752.25	31,120.95	30,214.40	46.25	51.87	50.36
$70,000	30,356.50	34,467.34	33,366.24	43.37	49.24	47.67
$80,000	32,675.75	37,557.23	36,254.08	40.84	46.95	45.32
$90,000	34,710.00	40,390.62	38,877.92	38.57	44.88	43.20
$100,000	36,459.25	42,967.51	41,237.76	36.46	42.97	41.24
$150,000	44,193.75	54,930.27	31,834.39	29.46	36.62	34.56
$200,000	51,448.50	66,460.40	61,227.30	25.72	33.23	30.61
$250,000	58,228.25	77,563.03	70,168.97	22.09	31.03	28.07
$300,000	65,003.25	88,660.53	79,105.22	21.67	29.55	26.37
$400,000	78,553.25	110,855.53	96,977.72	19.64	27.71	24.24
$500,000	92,103.25	133,050.53	115,000.00	18.42	26.61	23.00
$750,000	125,978.25	188,538.03	172,500.00	16.80	25.14	23.00
$1,000,000	159,853.25	244,025.53	230,000.00	15.99	24.40	23.00

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVIII-B.—*Comparison of amount of spendable income after taxes under present law, and under the House bill, and the Finance Committee bill*

MARRIED PERSON—NO DEPENDENTS, ENTIRE INCOME OF 1 SPOUSE

Income after deductions but before exemptions	Amount of spendable income under—			Percent of income after tax to income before tax		
	Present law	House bill	Finance Committee bill	Present law	House bill	Finance Committee bill
				Percent	*Percent*	*Percent*
$1,000	$1,000.00	$1,000.00	$1,000.00	100.00	100.00	100.00
$1,200	1,162.00	1,200.00	1,200.00	96.83	100.00	100.00
$1,500	1,405.00	1,460.10	1,450.20	93.67	97.34	96.68
$1,800	1,648.00	1,720.20	1,700.40	91.56	95.57	94.47
$2,000	1,810.00	1,893.60	1,867.20	90.50	94.68	93.36
$2,500	2,215.00	2,327.10	2,284.20	88.60	93.08	91.37
$3,000	2,620.00	2,760.60	2,701.20	87.33	92.02	90.04
$4,000	3,411.00	3,574.40	3,535.20	85.28	89.36	88.38
$5,000	4,202.00	4,422.40	4,369.20	84.04	88.45	87.38
$6,000	4,955.00	5,258.24	5,181.12	82.58	87.64	86.35
$7,000	5,708.00	6,091.04	5,987.52	81.54	87.01	85.54
$8,000	6,423.00	6,923.84	6,793.92	80.29	86.55	84.92
$9,000	7,138.00	7,756.64	7,600.32	79.31	86.18	84.45
$10,000	7,815.00	8,545.36	8,378.56	78.15	85.45	83.79
$11,000	8,492.00	9,323.06	9,149.76	77.20	84.76	83.18
$12,000	9,131.00	10,100.76	9,920.96	76.09	84.17	82.67
$13,000	9,770.00	10,878.46	10,692.16	75.15	83.68	82.25
$14,000	10,361.50	11,628.80	11,435.20	74.01	83.06	81.68
$15,000	10,953.00	12,372.30	12,171.20	73.02	82.48	81.14
$20,000	13,606.50	15,994.04	15,752.64	68.03	79.97	78.76
$25,000	15,918.00	19,410.58	19,122.88	63.67	77.64	76.49
$30,000	18,030.00	22,553.52	22,211.52	60.10	75.18	74.04
$40,000	21,902.50	28,288.78	27,822.08	54.76	70.72	69.56
$50,000	25,205.00	33,408.44	32,799.04	50.41	66.82	65.60
$60,000	28,108.50	38,189.52	37,427.52	46.85	63.65	62.38
$70,000	30,727.00	42,765.40	41,844.80	43.90	61.09	59.78
$80,000	33,060.50	47,112.14	46,026.24	41.33	58.89	57.53
$90,000	35,109.00	51,192.12	49,933.12	39.01	56.88	55.48
$100,000	36,872.50	55,036.12	53,597.12	36.87	55.04	53.60
$150,000	44,616.50	72,039.96	69,636.16	29.74	48.03	46.42
$200,000	51,876.00	85,935.02	82,475.52	25.94	42.97	41.24
$250,000	58,660.50	97,908.12	93,336.64	23.46	39.16	37.33
$300,000	65,435.50	109,860.54	103,668.78	21.81	36.62	34.56
$400,000	78,985.50	132,920.80	122,454.60	19.75	33.23	30.61
$500,000	92,535.50	155,126.06	140,337.94	18.51	31.03	28.07
$750,000	126,410.50	210,613.56	185,019.18	16.85	28.08	24.67
$1,000,000	160,285.50	266,101.06	230,000.00	16.03	26.61	23.00

Source: Staff of the Joint Committee on Internal Revenue Taxation.

TABLE XVIII-C.—*Comparison of amount of spendable income after taxes under present law, and under House bill and the Finance Committee bill*

MARRIED PERSON—2 DEPENDENTS—ENTIRE INCOME EARNED BY 1 SPOUSE

Income after deductions but before exemptions	Amount of spendable income under—			Percent of income after tax to income before tax		
	Present law	House bill	Finance Committee bill	Present law	House bill	Finance Committee bill
				Percent	*Percent*	*Percent*
$2,000	$2,000.00	$2,000.00	$2,000.00	100.00	100.00	100.00
$2,500	2,405.00	2,486.70	2,483.40	96.20	99.47	99.34
$3,000	2,810.00	2,920.20	2,900.40	93.66	97.34	96.68
$4,000	3,620.00	3,787.20	3,734.40	90.50	94.68	93.36
$5,000	4,411.00	4,614.00	4,568.40	88.22	92.28	91.37
$6,000	5,202.00	5,452.80	5,402.40	86.70	90.88	90.04
$7,000	5,955.00	6,291.68	6,219.84	85.07	89.88	88.85
$8,000	6,708.00	7,124.48	7,026.24	83.85	89.06	87.83
$9,000	7,423.00	7,957.28	7,832.64	82.48	88.41	87.03
$10,000	8,138.00	8,790.08	8,639.04	81.38	87.90	86.39
$11,000	8,815.00	9,589.82	9,424.32	80.14	87.18	85.68
$12,000	9,492.00	10,367.52	10,195.52	79.10	86.40	84.96
$13,000	10,131.00	11,145.22	10,966.72	77.93	85.73	84.36
$14,000	10,770.00	11,922.92	11,737.92	76.93	85.16	83.84
$15,000	11,361.50	12,680.10	12,488.00	75.74	84.53	83.25
$20,000	14,110.00	16,342.88	16,111.68	70.55	81.71	80.56
$25,000	16,478.50	19,800.46	19,524.16	65.91	79.20	78.10
$30,000	18,619.00	23,022.06	22,693.76	62.06	76.74	75.65
$40,000	22,558.00	28,832.56	28,381.76	56.40	72.08	70.95
$50,000	25,889.00	34,013.78	33,422.08	51.78	68.03	66.84
$60,000	28,821.00	38,825.64	38,082.24	48.04	64.71	63.47
$70,000	31,468.00	43,432.30	42,531.20	44.95	62.05	60.76
$80,000	33,830.00	47,820.08	46,754.88	42.29	59.78	58.44
$90,000	35,907.00	51,920.58	50,682.88	39.90	57.69	56.31
$100,000	37,699.00	55,774.84	54,357.44	37.70	55.77	54.36
$150,000	45,462.00	72,871.02	70,491.52	30.31	48.58	46.99
$200,000	52,731.00	86,827.64	83,394.22	26.37	43.41	41.70
$250,000	59,525.00	98,821.18	94,276.48	23.81	39.53	37.71
$300,000	66,300.00	110,773.68	104,632.64	22.10	36.92	34.88
$400,000	79,850.00	133,844.20	123,429.30	19.96	33.46	30.86
$500,000	93,400.00	156,059.72	141,323.46	18.68	31.21	28.26
$750,000	127,275.00	211,547.22	186,004.72	16.97	28.21	24.80
$1,000,000	161,150.00	267,034.72	230,685.96	16.12	26.70	23.07

Source: Staff of the Joint Committee on Internal Revenue Taxation.

DETAILED DISCUSSION OF THE TECHNICAL PROVISIONS OF THE BILL

TITLE I.—INCOME TAX REDUCTION

SECTION 101. REDUCTION OF NORMAL TAX AND SURTAX

Under existing law, the income tax on individuals is determined by first computing a tentative tax at the rates specified in sections 11 and 12 of the Internal Revenue Code and then reducing the tentative taxes by 5 percent thereof. This section of the bill provides reductions in the normal tax and surtax on individuals by substituting a larger percentage reduction than 5 percent of the tentative taxes.

The percentage reduction plan under your committee bill differs in the amount of the reduction and in the width of the brackets as compared with the plan of the House bill. Under the bill as amended three brackets instead of four are provided. The first bracket is $400 of aggregate tentative normal tax and tentative surtax and the "notch" for aggregate tentative taxes between $200 and $279.17 under the House bill is eliminated. The reductions of the aggregate of the tentative normal tax and the tentative surtax provided in this section of the bill as amended are as follow:

(1) If the aggregate of the tentative tax is $400 or less, such aggregate is reduced by 17 percent thereof, a reduction of 12.6 percent of the tax after the 5-percent reduction under existing law;

(2) If the aggregate of the tentative taxes is in excess of $400 but not in excess of $100,000, the first $400 thereof, is reduced by 17 percent (a 12.6-percent reduction of such portion of the aggregate of the tentative taxes after the 5-percent reduction under existing law) and the amount of such aggregate in excess of $400 and not in excess of $100,000 is reduced by 12 percent, a 7.4-percent reduction of such portion after the 5-percent reduction under existing law;

(3) If the aggregate of the tentative taxes is in excess of $100,000, the first $100,000 thereof is reduced by 12.6 percent (a 7.4 percent reduction of such portion of the aggregate of the tentative taxes after the 5-percent reduction under existing law) and the amount of such aggregate in excess of $100,000 is reduced by 9.75 percent, a 5-percent reduction of such portion after the 5-percent reduction under existing law.

These reductions are provided in section 12 (c) of the code as amended by the bill; the existing provisions of section 12 (c) of the code are amended and set forth in section 12 (g) (2) of the code, as provided in section 104 of the bill.

Existing law (sec. 12 (g) of the code) provides, as an over-all limitation upon the combined normal tax and surtax in the case of individuals, that such combined tax shall not exceed 85½ percent of the net income of the taxpayer. The bill inserts such a limitation into section 12 (c) of the code, as amended, substituting 77 percent for the present percentage figure in order to conform with the reduction in tax above described.

SECTION 102. REDUCTION IN SUPPLEMENT T TAX

This section is a cross-reference to section 401 of the bill which amends section 400 of the code, relating to the tax under supplement T of individuals with adjusted gross incomes of less than $5,000. Reductions in such tax are provided under supplement T corresponding to the reductions provided by section 101 of the bill for taxpayers computing their tax under sections 11 and 12 of the code.

SECTION 103. INCOME OF HUSBAND AND WIFE

This section is a cross-reference to section 301 of the bill which provides for the determination of the combined normal tax and surtax in the case of a joint return of husband and wife (the so-called splitting of income provisions.)

SECTION 104. TECHNICAL AMENDMENTS

This section of the bill provides various technical amendments.

In view of the fact that there are certain provisions of the code, such as sections 105 and 106 which make it necessary to determine the surtax separately from the normal tax, section 12 (f) of the code, as amended by the bill, provides a special rule for making such computations. Under this rule the surtax shall be an amount which is the same proportion of the combined normal tax and surtax as the tentative surtax is of the aggregate of the tentative normal tax and tentative surtax.

SECTION 105. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE

This section provides that the amendments made by this title of the bill shall be applicable with respect to taxable years beginning after December 31, 1947. Special provision is made in section 601 of the bill for taxable years beginning in 1947 and ending in 1948.

TITLE II.—CREDITS AGAINST NET INCOME FOR NORMAL TAX AND SURTAX

SECTION 201. ADDITIONAL CREDITS AGAINST NET INCOME FOR NORMAL TAX AND SURTAX

This section amends section 25 (b) of the code relating to exemptions allowed as credits for both normal tax and surtax. The amendments deal with the following credits:

(A) The so-called personal exemption.
(B) Old-age exemption.
(C) Exemption for the blind.
(D) The exemption for each dependent.

Subparagraph (A) of section 25 (b) (1) of the code, as amended by this section of the bill, replaces subparagraphs (A) and (B) of section 25 (b) (1) of existing law. The existing law provides a personal exemption of $500 for the taxpayer and a personal exemption of $500 for the spouse of the taxpayer. The $500 exemption for the spouse of the taxpayer is allowed if a joint return is made by the taxpayer and his spouse under section 51 (in which case the aggregate exemption of the spouses is $1,000 under existing law) or a separate return is made by the taxpayer and his spouse has no gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer. Section 25 (b) (1) (A), as proposed to be amended, provides a personal exemption of $600 for the taxpayer. It also provides an additional exemption to the taxpayer of $600 for his spouse, if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. Your committee considered it unnecessary to provide specifically for the personal exemptions for husband and wife on a joint return since, in the case of a joint return there are two taxpayers (although under sec. 51 (b) of the code there is only one income for the two taxpayers on the joint return—i. e., their aggregate income). Inasmuch as section 25 (b) (1) (A) of the code, as amended in the bill, provides an exemption of $600 for the taxpayer, on a joint return two exemptions are allowed, one for each taxpayer spouse, just as under existing law. Thus, under the bill, on a joint return the aggregate of the personal exemption for the spouses shall be $1,200.

Section 25 (b) (1) (A), as amended by the bill, continues in clarified form the rule of existing law (sec. 25 (b) (1) (B) (ii)) under which the taxpayer is allowed the exemption for his spouse, if a separate return is made by the taxpayer, only if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. Thus, a taxpayer who makes his returns for a fiscal year ending June 30 may, under existing law and under section 25 (b) (1) (A), as amended, take an exemption for his spouse only if such spouse has no gross income for the calendar year in which begins the taxable year of the taxpayer beginning on July 1, and is not for such calendar year the dependent of another taxpayer.

Section 25 (b) (1) (B) of the code, as amended by this section of the bill, provides an additional exemption of $600 for the taxpayer if he has attained the age of 65 before the close of his taxable year. An additional exemption of $600 is allowed to the taxpayer for his spouse if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, the spouse has no gross income and is not the dependent of another taxpayer. If a husband and wife make a joint return an old-age exemption of $600 will be allowed as to each taxpayer spouse who has attained the age of 65 before the close of the taxable year for which the joint return is made. The exemption under section 25 (b) (1) (B) is in addition to the personal exemption under section 25 (b) (1) (A).

In determining the age of an individual for the purposes of the exemption for old age, the last day of the taxable year of the taxpayer is the controlling date. Thus, in the event of a separate return by a husband no additional exemption for old age may be claimed for his spouse unless such spouse has attained the age of 65 on or before the close of the taxable year of the husband. In no event shall the additional exemption for old-age be allowed on a separate return of the taxpayer with respect to a spouse who dies before attaining the age of 65 even though such spouse would have attained the age of 65 before the close of the taxable year of the taxpayer. For the purposes of the old-age exemption, an individual attains the age of 65 on the first moment of the day preceding his sixty-fifth birthday. Accordingly, an individual whose sixty-fifth birthday falls on January 1 in a given year attains the age of 65 on the last day of the calendar year immediately preceding.

Section 25 (b) (1) (C) of the code, as added by the bill, provides an additional exemption of $600 for the blind. This exemption will replace the special deduction for blind individuals now provided in section 23 (y) of the code. The present deduction is $500. The exemption provided for the blind under the bill is $600 for the taxpayer and $600 for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind. Under the bill as introduced the blind exemption was not allowed with respect to a person entitled to the old-age exemption. The committee amendments remove this limitation so that the exemption for the blind under section 25 (b) (1) (C) is allowed with respect to a blind person although he has attained the age of 65 (in addition to the old-age exemption with respect to such person). The blind exemption for the spouse of the taxpayer is allowed the taxpayer only if, for the calendar year in which the taxable year of the taxpayer begins, such spouse has no gross income and is not the dependent of another taxpayer. If a husband and wife make a joint return an exemption of $600 for the blind will be allowed as to each taxpayer spouse who is blind at the close of the taxable year for which the joint return is made.

The determination of whether the taxpayer is blind is made as of the close of his taxable year. The determination of whether the spouse of the taxpayer is blind (for the purpose of the taxpayer's taking the blind exemption with respect to such spouse when the taxpayer files a separate return) shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death. It should be noted that the date for determining whether an individual is blind differs from that prescribed in section 23 (y) which now provides the special deduction for blind individuals and which is repealed by section 202 (e) of the bill. Under section 23 (y) the status of an individual for the purpose of the blind deduction is determined as of July 1 of the taxable year unless the taxable year does not include July 1, in which case such status is determined as of the last day of the taxable year. The definition of an individual who is blind now contained in section 23 (y) of the code is retained for the purposes of the exemption under section 25 (b) (1) (C), with only a formal modification in the introductory clause.

Section 25 (b) (1) (D) of the code, as added by the bill, corresponds to section 25 (b) (1) (C), under existing law, and relates to the exemption for a dependent of the taxpayer. Section 25 (b) (1) (D) increases the exemption for each dependent from $500, under existing law, to $600, but continues to limit the exemption for dependents to dependents whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $500.

Section 25 (b) (2) of the code, as amended by this section of the bill, corresponds to section 25 (b) (2) of existing law and relates to the determination of marital status for the purposes of the credits provided with respect to a spouse in section 25 (b). Section 25 (b) (2) provides two rules. The first rule is that the determination of whether an individual is married is to be made as of the close of his taxable year, unless his spouse dies during the taxable year of such individual, in which case such determination shall be made as of the time of such death. This rule is, in substance, the same as that provided for in existing law for the purposes of section 25 (b). The second rule is that an individual legally separated (although not absolutely divorced) from his spouse under a decree of divorce or of separate maintenance shall not be considered as married. Similar rules for the determination of status are provided in section 23 (aa) (6) of the code (as added by sec. 302 (c) of the bill), relating to the standard deduction, and in section 51 (b) (5) of the code (as added by sec. 303 of the bill) relating to joint returns. A uniform construction of all these provisions is intended. The rule with respect to the marital status of an individual legally separated from his spouse under a decree of divorce or of separate maintenance is derived from a corresponding provision in section 22 (k) of the code, relating to the tax treatment of alimony and like payments.

The new exemptions provided in section 25 (b) (1) (B) and (C) of the code, as amended by section 201 of the bill, do not apply to a nonresident alien who is not a resident of a contiguous country, to a citizen of the United States who is entitled to the benefits of section 251 of the code relating to income from sources within possessions of the United States, or to a citizen of a possession of the United States (other than the Virgin Islands) not otherwise a citizen of the United States and not a resident of the United States.

SECTION 202. TECHNICAL AMENDMENTS

This section of the bill contains various technical amendments made necessary by the additional credits provided under section 25 (b) of the code by section 201 of the bill. Section 58 (a) of the code relating to the requirement of declaration of estimated tax is amended. Existing law requires a declaration of estimated tax if the taxpayer's gross income from wages subject to withholding may be expected to exceed $5,000, plus $500 for each exemption to which he is entitled, except his own exemption. The bill amends section 58 (a) (1) to give effect to the additional exemptions provided in the bill. Under the amendment a declaration will be required if the anticipated wages exceed $4,500, plus $600 for each exemption to which the taxpayer is entitled. Under existing law, a single person who has no dependents and is under 65 years of age and who derives his income solely from wages subject to withholding is required to file a declaration if his anticipated wages for the calendar year exceed $5,000. Under the amendment such a person is required to file a declaration if his anticipated wages for the calendar year exceed $5,100 ($4,500, plus

$600 for his own exemption). Under the amendment if the same individual is over the age of 65 the declaration would not be required unless his anticipated wages for the calendar year exceed $5,700 ($4,500, plus $600 for his own exemption plus $600 for his old-age exemption). Similarly under existing law, a single person under the age of 65 who has one dependent is not required to file a declaration unless his anticipated wages exceed $5,500 ($5,000, plus $500 for the dependent). Under the amendment, such a single person under the age of 65 with one dependent is not required to file a declaration unless his anticipated wages exceed $5,700 ($4,500 plus $600 for his own exemption plus $600 for his dependent).

Section 58 (a) (2) of the code requires a declaration of estimated tax in the case of an individual whose gross income from sources other than wages can reasonably be expected to exceed $100 for the taxable year and his gross income to be $500 or more. In accordance with the increase in exemptions for individuals provided in section 25 (b) (1) (A) of the bill, the amount of $500 under this requirement of an estimate is increased to $600.

Subsection (b) of section 202 of the bill provides technical amendments with respect to the withholding exemption necessary by reason of the additional credits provided in section 25 (b) of the code as amended by the bill. Section 1622 (h) (1) of the code, relating to withholding exemptions, is amended. The amendment continues the present provision for an exemption for the employee. The amendment adds in section 1622 (h) (1) (B) and (C) additional exemptions corresponding to the exemption under section 25 (b) (1) (B) (i), relating to old age, and the exemption under section 25 (b) (1) (C) (i), relating to the blind. Each such additional withholding exemption is allowed to the employee if on the basis of facts existing at the beginning of any day for which the exemptions are being determined there may reasonably be expected to be allowable to him the corresponding exemption under section 25 (b) for the taxable year under chapter 1 in respect of which amounts deducted and withheld in the calendar year in which such day falls are allowed as a credit. Section 1622 (h) (1) (D) corresponds to section 1622 (h) (1) (B) of existing law under the code. It provides that if the employee is married, the employee is entitled to any exemption to which his spouse is entitled, or would be entitled, if such spouse were an employee receiving wages, under subparagraph (A), (B), or (C) of section 1622 (h) (1), but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption. If both husband and wife are employees receiving wages subject to withholding and the wife is over the age of 65 and has in effect a withholding exemption certificate claiming only one exemption, then her husband may claim one exemption for her on his certificate.

Section 1622 (h) (1) (E) of the code, under the bill, relates to the withholding exemption for dependents and is the same, except for a clerical change, as section 1622 (h) (1) (C) of the code under existing law.

Paragraph 2 of section 202 (b) of the bill provides a special status-determination date for the purpose of giving effect to the increased exemptions provided under section 1622 (h) (1) with respect to withholding by employers. Under existing law (sec. 1622 (h) (3) (B)), a withholding exemption certificate furnished the employer in a case in which a previous such certificate is in effect takes effect with respect to the first payment of wages made on or after the first "status determination date" which occurs at least 30 days from the date on which such certificate is so furnished (unless the employer elects to make the certification effective at an earlier date after the furnishing of such certificate). Under existing law the "status determination date" is January 1 or July 1, of each year. In order to make the increased withholding exemptions provided for under the bill effective as soon as possible (consistent with the allowance of sufficient time to provide for the distribution of withholding exemption certificates and the filing thereof by employees) the bill provides in section 202 (b) (2) that for the purpose of section 1622 (h) (3) (B) the term "status determination date" includes also the ninetieth day after the date of enactment of the bill.

Section 202 (c) of the bill provides technical amendments relating to return requirements in order to conform to the increase in the individual exemption from $500 to $600. Section 51 (a) (1) of the code is amended to increase the amount of gross income for a taxable year necessary before a return is required from $500 to $600. Section 142 (a) of the code is amended to provide a corresponding increase where under existing law a fiduciary return is required to be filed where the gross income is $500 or over. Section 147 (a) of the code is amended to increase from $500 to $600 the minimum amount of payments which will make necessary the filing of an information return. Section 163 (a) (1) of the code is amended so as to increase the credit against net income of an estate (corresponding to the personal exemption) from $500 to $600.

SECTION 203. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE

The amendments made by this title of your committee bill are applicable with respect to taxable years beginning after December 31, 1947. A special rule with respect to taxable years beginning in 1947 and ending in 1948 is provided in section 601 of the bill.

TITLE III.—HUSBAND AND WIFE

PART I.—INCOME TAX

SECTION 301. SPLITTING OF INCOME

This section amends section 12 of the code relating to surtax on individuals, by adding a new subsection (d) which provides for computation of tax under the plan for the so-called income splitting between husband and wife. This subsection applies only if a joint return for the taxable year involved is made as provided under section 51 (b) of the code as amended by the bill. Under the provisions of section 12 (d), the combined normal tax and surtax under section 11 and section 12 (b) of the code in the case of the husband and wife making the joint return shall be twice the combined normal tax and surtax that would be determined if the net income and the applicable credits provided by section 25 of the code were reduced by one-half.

It is contemplated that under this provision the gross income and adjusted gross income of husband and wife on the joint return will be computed by the same method as under existing law (that is, in an aggregate amount), and that the deductions allowed and the net income will likewise be computed on an aggregate basis. Deductions limited to a percentage of the adjusted gross income, such as the deduction for charitable contributions under section 23 (o), will be allowed with reference to such aggregate adjusted gross income. Similarly, in the case of a joint return, losses of husband and wife from sales or exchanges of capital assets are combined and such combined losses are allowed under section 117 (d) (2) only to the extent of the combined gains of the spouses from such sales or exchanges, plus the net income or $1,000 whichever is smaller. The "net income" referred to in section 117 (d) (2) is the net income computed before reduction by one-half for the purposes of income splitting and is such net income computed without regard to gains and losses from sales or exchanges of capital assets. Although there are two taxpayers on a joint return, there is only one net income.

The method of computing, under section 12 (d), the tax of husband and wife, in the case of a joint return, is as follows:

First, the net income and applicable credits against net income are reduced by one-half. Second, the tentative normal tax and tentative surtax are determined as provided in section 11 and section 12 (b), by using the net income and applicable credits so reduced. Third, the tentative normal tax and tentative surtax so determined are aggregated and this aggregate tentative tax is then reduced as provided in section 12 (c). Fourth, this reduced aggregate, which is the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half, is then multiplied by two, to produce the tax imposed in the case of the joint return.

The limitation (very rarely applicable) under section 12 (c) of the combined normal tax and surtax to an amount not in excess of 77 percent of the net income is to be applied before the fourth step above, that is, the limitation is to be applied upon the combined normal tax and surtax determined under section 12 (c) as 77 percent of one-half of the net income (such one-half of the net income being the actual aggregate net income of the spouses reduced by one-half). After such limitation is applied, then the combined normal tax and surtax so limited is multiplied by two, as provided in section 12 (d).

The application of section 12 (d) is illustrated by the following example in which H is used to refer to the husband and W is used to refer to his wife with whom a joint return is filed for the calendar year 1948. H has a salary of $8,000 for 1948 and pays during 1948 local property taxes on his residence in the amount of $100 and medical expenses for himself and W in the amount of $700. W has income for 1948 from dividends of $2,000 and during 1948 makes gifts to charitable organizations (described in sec. 23 (o) of the code) in the amount of $1,600. H and W are not entitled to any exemptions other than the personal exemption of each. The tax on the joint return of H and W for 1948 is $1,244.80, determined as follows:

1. Salary		$8, 000. 00
2. Other income		2, 000. 00
3. Adjusted gross income		10, 000. 00
4. Deductions:		
(a) Charitable contributions (limited to 15 percent of adjusted gross income)	$1, 500	
(b) Taxes	100	
(c) Medical expenses (in excess of 5 percent of adjusted gross income (sec. 23 (x) of the code); excess of $700 over 5 percent of $10,000)	200	
		1, 800. 00
5. Net income		8, 200. 00
6. Net income reduced by one-half		4, 100. 00
7. Credits against net income under sec. 25 (2 personal exemptions under sec. 25 (b) (1) (A) of the code as amended in this bill)		1, 200. 00
8. Credits in item 7 reduced by one-half		600. 00
9. Net income reduced by one-half (item 6) minus credits reduced by one-half (item 8)		3, 500. 00
10. Tentative normal tax computed under sec. 11 of code on amount in item 9 (3 percent of $3,500)		105. 00
11. Tentative surtax computed under sec. 12 (b) of the code on amount in item 9 ($340 plus 19 percent of excess of $3,500 over $2,000)		625. 00
12. Aggregate of the tentative normal tax and tentative surtax		730. 00
13. Combined normal tax and surtax determined under sec. 12 (c) of the code ($730 reduced by $68 plus 12 percent of the excess of $730 over $400		622. 40
14. Twice the combined normal tax and surtax determined in item 13		1, 244. 80

If the alternative tax is computed under section 117 (c) (2) of the code, relating to the alternative tax where a taxpayer (other than a corporation) has a net long-term capital gain in excess of a net short-term capital loss, the partial tax shall be computed under sections 11 and 12 as stated above but without inclusion of such excess in net income, and the total tax shall be such partial tax plus 50 percent of such excess as provided in section 117 (c) (2).

If the husband and wife making a joint return elect to pay the tax under supplement T of the code, the tax on the joint return is computed as provided in section 400 of the code, as amended in title IV of this bill. These provisions are discussed hereinafter.

SECTION 302. STANDARD DEDUCTION

This section provides for amendments to section 23 (aa) of the code, relating to the standard deduction. Section 23 (aa) (1) (A) of the code is amended to increase the standard deduction where the adjusted gross income is $5,000 or more in case of a joint return by husband and wife and in the case of a return by an unmarried person. In such cases under the amendment the standard deduction shall be $1,000 or an amount equal to 10 percent of the adjusted gross income whichever is the lesser. The increase in the deduction does not apply in the case of a separate return by a married individual, in which case the maximum standard deduction remains at $500 as under existing law. In the case of a joint return, as under existing law, there is only one adjusted gross income and only one standard deduction. For example, if a husband has an income of $15,000 and the spouse has an income of $12,000 for the taxable year for which they file a joint return, and they have no deductions allowable for the purposes of computing adjusted gross income, the adjusted gross income is $27,000, and the standard deduction allowable on such return is $1,000 (and not $2,000).

Under subsections (b) and (c) of section 302 of the bill section 23 (aa) (4) of the code is separated into two paragraphs, namely (4) and (6). The new paragraph (4) requires both husband and wife to itemize their deductions, rather than to take the standard deduction, if one of them so itemizes. This is the same rule as contained in the first sentence of the present provisions of section 23 (aa) (4), except that under the existing law this rule applies only if the husband and wife are living together.

The new paragraph (6) contains provisions substantially the same as those contained in the last sentence of section 23 (aa) (4) of existing law relating to the determination of the status of individuals as husband and wife. Under this paragraph the determination of whether an individual is married is made, for the purpose of the allowance of the standard deduction, as of the close of his taxable year, unless his spouse dies during his taxable year, in which case the determination is made as of the time of such death. The new paragraph (6) also provides that for the purpose of the allowance of the standard deduction, an individual legally separated (although not absolutely divorced) from his spouse under a decree of divorce or separate maintenance shall not be considered married. This is the same test as is provided in section 22 (k) of the code, relating to alimony and like payments, where spouses are legally separated or divorced. This provision is also intended to apply the same test as is provided in section 51 (b) of the code, as proposed to be amended by section 303 of the bill, so that the determination of married individuals will be the same for the purpose of the standard deduction as for the purpose of eligibility to make a joint return.

SECTION 303. JOINT RETURNS OF HUSBAND AND WIFE

This section provides for an extensive revision of section 51 (b) of the code, relating to joint returns by husband and wife, to reflect changes necessary under the so-called split-income plan. As under existing law, a joint return may not be made by a husband and wife for a taxable year if a separate return has been filed by one of the spouses and the time for filing the return of such spouse has expired. Similarly, if a joint return was filed, separate returns may not be made by the spouses after the time for filing the return of either has expired. Under the bill, however, in certain circumstances, an executor may make a late separate return for a deceased spouse after the surviving spouse has made a timely joint return for himself and the deceased spouse. This exception to the above general rule is provided in section 51 (b) (4) of the code, as proposed to be added by this section of the bill, and is further discussed hereinafter.

Paragraph (1) of section 51 (b), as proposed to be amended, contains the existing general provisions which permit the making of a joint return and provides that on such return the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

Paragraph (2), of section 51 (b) as proposed to be amended, provides that no joint return may be made if either the husband or wife at any time during the taxable year is a nonresident alien. This provision is the same as that now contained in section 51 (b) of the code with the addition of the phrase "at any time." The addition is a clarification which represents the uniform construction of the existing law.

Paragraph (3) of section 51 (b) continues the existing provision that no joint return shall be made if the husband and wife have different taxable years but makes an important exception in the case of spouses whose taxable years begin on the same day and end on different days because of the death of either or both. Under section 47 (g) of the code the taxable year of a taxpayer closes as of the date of his death. The exception thus is intended to apply where, but for the death of either or both spouses, the taxable years of the spouses would be the same. In such a case, it is proposed to allow a joint return to be made with respect to the taxable year of each spouse. This provision is designed to prevent spouses being denied the privilege of making a joint return by reason of the death of one spouse during the taxable year. A joint return may not be made for a decedent spouse and the survivor for any taxable year of the survivor beginning after the death of the decedent spouse.

The provision allowing a joint return to be made for the taxable year in which the death of either or both spouses occurs is subject to two exceptions, in the case of each of which the general rule will continue to apply, namely, that the joint return cannot be made by the husband and wife because they have different taxable years. The first exception is that if the surviving spouse remarried before the close of his taxable year, he may not make a joint return with the first spouse who died during the taxable year. In such a case, however, the surviving spouse may make a joint return with his new spouse provided that the other requirements of section 51 (b) are met. The second exception is that the surviving spouse also may not make a joint return with the deceased spouse if the taxable year of either spouse is a fractional part of a year under section 47 (a) of the code, relating to change of accounting period. For example, if a husband and wife make their returns on the calendar year basis and the wife dies on March 1, 1948, and thereafter the husband receives permission to change his accounting period to a fiscal year beginning July 1, 1948, no joint return may be made for the short taxable year ending June 30, 1948. Similarly, if a husband and wife who make their returns on a calendar year basis receive permission to change to a fiscal year beginning July 1, 1948, and the wife dies on June 1, 1948, no joint return may be made for the fiscal year ending June 30, 1948.

Paragraph (4), of section 51 (b) as proposed to be amended, provides for the method of making a joint return after the death of a spouse. This paragraph applies not only in those cases in which the death of one spouse closes his taxable year but also in those cases in which one spouse dies after the close of his taxable year but before his return is filed. The general rule provided in such paragraph (4) is that, in the case of the death of one spouse, or of both spouses, the joint return with respect to the decedent may be made only by his executor or administrator. By this is meant the person or persons who are actually appointed executor or administrator and not merely a person who may be in charge of the property of the decedent. An exception is made from this general rule whereby, in the case of the death of one spouse, the joint return may be made by the surviving spouse with respect to both himself and the decedent if all the following conditions exist:

(A) No return has been made by the decedent for the taxable year in respect of which the joint return is made.

(B) No executor or administrator has been appointed at or before the time of the making of such joint return.

(C) No executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse.

These conditions are to be applied with respect to the return for each of the taxable years of the decedent for which a joint return may be made if more than one such taxable year is involved. Thus, in the case of husband and wife on the calendar-year basis, if the wife dies in January 1949 a joint return for the husband and wife for 1948 may be made if the conditions set forth above are satisfied with respect to such return. A joint return may also be made by the survivor for both himself and the deceased spouse for the calendar year 1949 if it is separately determined that the conditions set forth above are satisfied with respect to the return for such year. In determining whether an executor or administrator is appointed before the last date prescribed by law for filing the return of the surviving spouse, an extension of time for making the return is intended to be included.

The condition set forth in (A) above is designed to prevent a joint return being made by the survivor for himself and the deceased spouse where the deceased spouse had already made a separate return for the taxable year for which the joint return is sought to be made. Thus, if, in the case of a spouse who died in February 1949, such spouse had made prior to her death a separate return for 1948 (either on a Form W-2 or Form 1040) or had made a joint return with her spouse for 1948, the surviving spouse may not thereafter make a joint return for himself and the deceased spouse for 1948. If an executor or administrator has been appointed within the time provided in (B) and (C) of section 51 (b) (4), the surviving spouse cannot make a joint return for himself and the deceased spouse whether or not a separate return for the deceased spouse is made by such executor or administrator, for, at that time, the joint return, if one is to be made for the deceased spouse, must be made by the executor or administrator.

If the surviving spouse makes the joint return provided for above, and thereafter an executor or administrator of the decedent is appointed, the executor or administrator (in order to relieve the decedent's estate from joint and several liability for the whole tax, or for any other reason) may disaffirm such joint return. This disaffirmance, in order to be effective, must be made within 1 year after the last day prescribed by law for filing the return of the surviving spouse (including any extension thereof) and must be made in the form of a separate return for the taxable year of the decedent with respect to which the joint return was made. In the event of such proper disaffirmance, the return made by the survivor shall constitute his separate return, that is, the joint return made by him shall be treated as his return and the tax thereon shall be computed by excluding all items properly includible in the return of the deceased spouse. The separate return made by the executor or administrator shall constitute the return of the deceased spouse for the taxable year. The time allowed the executor or administrator to disaffirm the joint return by the making of a separate return is not intended to establish a new due date for the return of the deceased spouse. Accordingly, the provisions of sections 291 and 294 of the code relating to delinquent returns and delinquency in payment of tax will be applicable to such return made by the executor in disaffirmance of the joint return.

Paragraph (5), of section 51 (b) as amended in the bill, provides for the determination of status of individuals for the purpose of making joint returns. In accordance with the extension of the joint return privilege to cases in which a spouse died during the taxable year, the status determination of individuals as husband and wife in such a case is to be made as of the time of the death of such spouse. In this and in other respects the determination of status for the purposes of section 51 is the same as that provided under section 23 (aa) (6), as added by section 302 of the bill with respect to the allowance of the standard deduction, except that the determination of status applies under section 51 only where two individuals have taxable years beginning on the same day.

Paragraph (6), of section 51 (b), as amended in the bill, contains cross references to section 12 (d) of the code and to section 400 of the code.

SECTION 304. DEDUCTIONS FOR MEDICAL EXPENSES

This section amends section 23 (x) of the code, relating to deduction for medical expenses. Under existing law the maximum deduction is $1,250 for the taxable year if only one exemption is allowed under section 25 (b), and $2,500 if more than one exemption is allowed. Under the proposed amendment these limitations will still be applicable in the case of separate returns. The limitations will also be applicable in the case of joint returns where there are not more than two exemptions, but if, in the case of a joint return, there are three exemptions allowed, the maximum deduction shall be $3,750, and if, in the case of a joint return, there are four or more exemptions allowed, the maximum deduction shall be $5,000. The exemptions referred to do not include exemptions allowed under section 25 (b) (1) (B) or (C), relating to the exemptions for individuals who have attained the age of 65 and for blind individuals. As under existing law the deduction is allowed for medical expenses under section 23 (x) to the extent that such expenses exceed 5 percent of the adjusted gross income, or 5 percent of the aggregate adjusted gross income in the case of a joint return.

SECTION 305. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE

This section provides that the amendments made by this title of the bill, providing for "income splitting," shall be applicable with respect to taxable years beginning after December 31, 1947. The requirements of section 51 (b) of the code as amended by the bill with respect to the filing of a joint return are also made applicable to taxable years of both husband and wife beginning on the same day in 1947 if at least one such taxable year ends in 1948. Thus, a joint return by the husband and wife for a fiscal year beginning in 1947 and ending in 1948 cannot be made unless permitted by the provisions of section 51 (b) as amended by the bill. If a husband and wife, as of the close of their fiscal year beginning in 1947 and ending in 1948, are legally separated under a decree of separate maintenance, they cannot make a joint return for such fiscal year under the provisions of section 51 (b) as amended by the bill (although under existing law they could make a joint return). However, in the case of a husband and wife who have been making their returns on the basis of a fiscal year ending June 30, if the wife died before June 30, 1948, and after the beginning of their taxable years beginning July 1, 1947, a joint return may be made, under section 51 (b) as amended by the bill, for the deceased spouse and the survivor for the taxable year of each beginning July 1, 1947 (although under existing law a joint return could not be made in such a case).

PART II—ESTATE TAX

AND

PART III—GIFT TAX

The detailed discussion of these parts of title III will be found in a supplemental report to be filed later.

TITLE IV.—ADJUSTED GROSS INCOME OF LESS THAN $5,000

SECTION 401. INDIVIDUALS WITH ADJUSTED GROSS INCOMES OF LESS THAN $5,000

This section of the bill amends section 400 of the code, relating to the optional tax on individuals with adjusted gross incomes of less than $5,000. Under existing law, there is only one tax table for computing the tax in the case of such individuals. In the bill as passed by the House, two tables were provided, the first applicable only for the purpose of computing the tax on a separate return and the second applicable only for the purpose of computing the tax on a joint return of husband and wife under section 51 (b). The second table was provided to give effect to the "income-splitting" provisions of title III of the bill. Both tables gave effect to the reduction in tax and increased exemptions provided in titles I and II of the bill. The bill, as amended, provides the appropriate reductions in only one table, which combines the features of the two tables. The single table gives effect to "income-splitting" by double columns in the general area on the table where the tax on a joint return of husband and wife under section 51 (b) is different from that of any person on a separate return with the same number of exemptions.

The amendments made by this section of the bill are applicable with respect to taxable years beginning after December 31, 1947. Special provision is made in section 601 of the bill for taxable years beginning in 1947 and ending in 1948.

TITLE V.—REDUCTION IN WITHHOLDING ON TAX AT SOURCE ON WAGES

SECTION 501. PERCENTAGE METHOD

This section of the bill amends section 1622 (a) and (b) (1) of the Internal Revenue Code, relating to the percentage method of withholding, to reflect the reductions in tax provided in titles I and II of the bill. The bill, as amended, provides only one withholding rate (15 percent) instead of the graduated rates over three brackets as provided in the House bill.

SECTION 502. WAGE BRACKET WITHHOLDING

This section of the bill amends section 1622 (c) (1) of the code, relating to wage bracket withholding, by changing the tax tables contained in that section of the code in order to reflect the reduction in tax provided in titles I and II of the bill.

SECTION 503. EFFECTIVE DATE

This section provides that the amendments made by this title shall be applicable only with respect to wages paid on or after May 1, 1948, instead of April 1, as under the House bill.

TITLE VI.—FISCAL YEAR TAXPAYERS

SECTION 601. FISCAL YEAR TAXPAYERS

This section of the bill makes the usual special provision for computation of the tax in the case of taxpayers making returns on a fiscal year basis, in this case for fiscal years beginning in 1947 and ending in 1948.

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Calendar No. 1055

80th Congress, 2d Session | SENATE | Rept. 1013, Part 2

REVENUE ACT OF 1948

March 17 (legislative day, March 15), 1948.—Ordered to be printed

Mr. Millikin, from the Committee on Finance, submitted the following

SUPPLEMENTARY REPORT

[To accompany H. R. 4790]

On page 59 of Report No. 1013, to accompany the bill H. R. 4790, it was stated that a supplemental report would be filed later containing a detailed discussion of the provisions of Parts II and III of title III of the bill, relating to estate tax and gift tax. Accordingly, this supplemental report is now filed.

Part II—Estate Tax

SUBPART 1—REPEAL OF 1942 COMMUNITY PROPERTY AMENDMENTS

SECTION 351. ESTATE TAX—TRANSFERS OF COMMUNITY PROPERTY IN CONTEMPLATION OF DEATH, ETC.

This section, which is unchanged from the bill as passed by the House, repeals, effective with respect to estates of decedents dying after the date of enactment of this bill, section 811 (d) (5) of the code, relating to transfers during life of community property includible in the gross estate under section 811 (c) or (d) of the Internal Revenue Code (such as transfers in contemplation of death, etc.). The extent to which any such transfer of community property is includible in the gross estate of the transferor is determined under the law at the date of his death (that is, with respect to decedents dying after the date of the enactment of this bill, without regard to section 811 (d) (5)).

SECTION 352. ESTATE TAX—JOINT AND COMMUNITY INTERESTS

This section, which is unchanged from the bill as passed by the House, repeals, effective with respect to estates of decedents dying after the date of enactment of this bill, section 811 (e) (2) of the

Internal Revenue Code, relating to the inclusion of community property in the gross estate of the decedent. In the case of decedents dying after the date of enactment of this bill, the extent to which community property held by the decedent and his spouse at the death of the decedent is to be included in his gross estate will be determined without regard to section 811 (e) (2). Clerical amendments are also made by this section to reinstate the form of section 811 (e) prior to the enactment of the Revenue Act of 1942.

SECTION 353. ESTATE TAX—PROCEEDS OF LIFE INSURANCE

This section, which is unchanged from the bill as passed by the House, repeals, effective with respect to estates of decedents dying after the date of enactment of this bill, section 811 (g) (4) of the code, relating to community property in the case of life insurance. Since section 811 (g) was completely rewritten in the Revenue Act of 1942, the repeal prospectively of section 811 (g) (4) makes applicable to decedents dying after the date of enactment of this bill the rules of section 811 (g) which would be applicable had paragraph (4) never been contained in section 811 (g).

SUBPART 2—MARITAL DEDUCTION FOR BEQUESTS, ETC., TO SPOUSE

SECTION 361. MARITAL DEDUCTION

This section amends section 812 of the code, relating to deductions in computing the net estate of a citizen or resident of the United States, by adding a new subsection, designated (e), providing for a so-called marital deduction, applicable with respect to estates of decedents dying after the date of enactment of the bill. The deduction is not allowed in computing the net estate of a nonresident not a citizen of the United States. In general, under this new subsection a deduction is allowed for an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse but the aggregate amount of such deductions is limited to 50 percent of the value of the adjusted gross estate. There are, however, certain important qualifications and limitations, which are discussed below.

SECTION 812 (e) (1), (3), AND (4). INTEREST IN PROPERTY PASSING FROM THE DECEDENT TO HIS SURVIVING SPOUSE

Subparagraph (A) of section 812 (e) (1) is the basic rule under which the marital deduction is allowed. Under this rule a deduction is allowed for an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that such interest is included in determining the value of the decedent's gross estate.

The concept of the passing of an interest in property from the decedent as used in section 812 (e) is expressed in the definition in paragraph (3) of section 812 (e). Such paragraph (3) defines as so passing, interests which commonly would be considered as passing from the decedent, namely, interests bequeathed, devised, or transferred by the decedent or inherited from the decedent, or the dower or curtesy interest (or statutory interest in lieu thereof) of the decedent's surviving spouse. The interest of a surviving wife in property held as community property under the law of California in effect prior to July 29, 1927, is an interest which under the definition in section 812 (e) (3) is considered as passing to her from the decedent. In addition, under subparagraph (E) of section 812 (e) (3) there is treated as an interest passing from the decedent to his surviving spouse the interest held at the time of the decedent's death by the decedent and his spouse in a joint tenancy, tenancy by the entirety, a joint bank account, or any other coownership with right of survivorship to which section 811 (e) of the code applies. Under subparagraph (F) of section 812 (e) (3) an interest is considered as passing to any person from the decedent if the decedent had a power (whether or not exercisable alone) to appoint such interest and if he appoints or has appointed such interest to such person, or if such person takes such interest in default upon the release or nonexercise of such power. Under subparagraph (G) of section 812 (e) (3) an interest is considered as passing from the decedent to the person entitled to receive the proceeds of insurance upon the life of the decedent regardless of whether the decedent had previously assigned the policy or paid the premiums by way of gift.

The definition of an interest passing from the decedent is broad enough to cover all the interests included in determining the value of the decedent's gross estate under the various subsections of section 811 of the code. The definition also applies in the application of all of the provisions of section 812 (e) (in addition to its application in paragraph (1) (A)), and because of such application, as will be explained later, may cover interests other than those included in determining the value of the decedent's gross estate.

An interest in property does not pass to the surviving spouse from the decedent within the definition in section 812 (e) (3) by reason of a claim against the estate, or any indebtedness, in favor of the surviving spouse for which a deduction is allowed by section 812 (b). Neither the payments made in satisfaction of such a claim or debt nor the amounts expended in accordance with the local law for support of such surviving spouse during the settlement of the estate pass to such surviving spouse from the decedent within the meaning of section 812 (e) (3).

While the deduction is allowed under subparagraph (A) with respect to any interest in property, certain exceptions are provided under the other subparagraphs of section 812 (e) (1) which are explained hereinafter. Generally, a power of appointment is not an "interest in property." Accordingly, no deduction is allowed with respect to a power to appoint given to a surviving spouse, except as provided in the special rules in subparagraphs (F) and (G) of section 812 (e) (1), in the case of certain trust and insurance proceeds where the surviving spouse is given a power to appoint.

In order to give rise to the marital deduction with respect to any interest passing to the surviving spouse, the value of such interest must be included in determining the value of the decedent's gross estate. Thus, if the surviving spouse inherits foreign real estate from the decedent (not included in the value of the gross estate under section 811) or acquired property of the decedent by a transfer during the decedent's life for a full and adequate consideration in money or money's worth, no deduction will result from such interests passing to the spouse.

The terms "interest" and "property," as used in section 812 (e) have separate and distinct meanings. The term "property" is used in a comprehensive sense and includes all objects or rights which are susceptible of ownership. The term "interest" refers to the extent of ownership, that is, to the estate or the quality and quantum of ownership by the surviving spouse or other person, of particular property. For example, if the surviving spouse is specifically devised an estate for her life in a farm, the "interest" passing to her is the life estate, and the "property" in which such interest exists is the farm. Generally the property in which any person is considered as having an interest is the property out of which, or the proceeds of which, such interest may be satisfied. Thus, in the case of a bequest, devise, or transfer of an interest which may be satisfied out of, or with the proceeds of, any property of the decedent's general estate or of a trust, the interest so bequeathed, devised, or transferred is an interest in any and all of such property. If the decedent's general estate or the trust consists of assets which are themselves interests in property (such as leases), the interest so bequeathed, devised, or transferred is an interest in such property.

The amount of the marital deduction is determined by the value at the date of the decedent's death of the interest in property which passes or has passed to the surviving spouse, unless the value of the gross estate is determined under the optional valuation rule in section 811 (j) of the code, in which case the value is determined as of such date with adjustment as is provided in section 811 (j). (See sec. 364 of the bill for an amendment to sec. 811 (j) applicable in valuing any interest in property with respect to which a marital deduction is allowed.) Subparagraph (C) of section 812 (e) (1), which is discussed subsequently, contains a special rule reducing the amount of the marital deduction in certain cases where the interest passing to the surviving spouse is an interest in unidentified assets.

The following example illustrates the determination of the marital deduction under section 812 (e) (1) (A): The decedent's will directs the executor to sell certain described real estate and with the proceeds thereof to purchase stock of the X corporation and to turn such stock over to the widow. The value of the real estate at the decedent's death was $10,000 but it was sold by the executor prior to 1 year after the decedent's death for $12,000. The stock was purchased for $12,000 but had a fair market value of $8,000 at the death of the decedent. If the gross estate is valued at the date of the decedent's death, the marital deduction is $10,000 (the value of the real estate at the time of death) since such value was the value of the interest included in determining the value of the gross estate. If the value of the gross estate is determined under the optional valuation rule of section 811 (j), the marital deduction is $12,000, the value of the real estate at the time of the sale within the 1-year period.

If the surviving spouse takes under the decedent's will, the interest passing to her is determined from the will. In this connection proper regard should be given to interpretations of the will rendered by a court in a bona fide adversary proceeding. If as a result of a controversy involving a bequest or devise to the surviving spouse, such spouse assigns or surrenders an interest in property pursuant to a compromise agreement in settlement of such controversy, the amount so assigned or surrendered is not deductible as an interest passing to such spouse. Moreover, any interest received by the surviving spouse under a settlement which does not reflect her rights under the local law does not pass to the surviving spouse from the decedent. However, if the surviving spouse elects to take her share of the decedent's estate under the local law instead of taking an interest under the will, the interest she takes under the local law is by the definition in section 812 (e) (3) considered as passing from the decedent to the surviving spouse. The failure of a widow to elect to take under the local law is not considered to any extent as a purchase by her of the interest she takes under the will.

Paragraph (4) of section 812 (e) provides a special rule in the case of a disclaimer of an interest passing from the decedent. This paragraph was not in the bill as passed by the House. A disclaimer is a complete and unqualified refusal to accept the rights to which one is entitled. If a person uses these rights for his own purposes as by receiving a consideration for his formal disclaimer he has not refused the right to which he was entitled. There can be no disclaimer after an acceptance of such rights, expressly or impliedly.

In general, for the purpose of section 812 (e), an interest disclaimed by the surviving spouse is not considered to pass to her, but an interest disclaimed by a person other than the surviving spouse is considered to pass to such person in the same manner as if the disclaimer had not been made. For example, if the surviving spouse disclaims a bequest of the decedent to her and the property falls into the residue passing to other persons, no marital deduction is permitted with respect to such property. The property is considered as passing from the decedent to the residuary legatees. If, in such a case, however, the surviving spouse is the residuary legatee, the interest which she so disclaimed is considered as passing to her from the decedent (as a result of the disclaimer) for the purposes of the marital deduction.

If an interest in property is received by the surviving spouse as a result of a disclaimer made by any other person, such interest is not considered as passing to the surviving spouse from the decedent. Thus, if a bequest of an interest in property to a person other than the surviving spouse is disclaimed and such interest falls into the residue of the estate bequeathed to the surviving spouse such interest is not considered as passing to the surviving spouse from the decedent for the purpose of determining the marital deduction. Another example is a case in which there is included in the value of the gross estate property with respect to which the decedent has a power of appointment and in which the surviving spouse is the taker in default of a valid appointment. If the decedent's appointee disclaims any interest under the attempted appointment and the property is received by the surviving spouse, no marital deduction results because under section 812 (e) (4) the property is considered as passing from the decedent to the appointee as if the disclaimer had not been made.

If during the lifetime of the decedent he attempted to make a gift of property to a person who, however, refused any interest in the property so that no gift in fact was made, and, thereafter, the decedent by his will bequeathed the property to his surviving spouse, a marital deduction is not prohibited by the disclaimer provisions of section

812 (e) (4). Whether or not the renunciation of a will and the election of a surviving spouse to take under the intestate law is considered as a disclaimer, only the interest taken by the surviving spouse under the law is considered to pass to her from the decedent.

Subparagraph (E) of section 812 (e) (1) specifically provides for the application in determining the value of any interest in property passing to the surviving spouse of rules which are generally applicable in determining the net value of any gift or bequest. Clause (i) of such subparagraph requires that there shall be taken into account the effect which the amount of any estate, succession, legacy, or inheritance tax may have upon the net value of any interest in property passing to a surviving spouse. This provision is designed to prevent any implication that such taxes should not be taken into account where such taxes and the marital deduction are mutually interdependent. This provision is substantially the same as that provided in section 812 (d) of the code, relating to bequests, etc., to charity. The rule applies where the burden of a death tax falls upon the surviving spouse or the property in which an interest passes to the surviving spouse.

Clause (ii) of such subparagraph (E) directs that in determining the value of any interest passing from the decedent to the surviving spouse, incumbrances or obligations shall be taken into account in the same manner as if the value of a gift to the spouse of the interest passing were being determined. This is a clarification which was not expressed in the bill as passed by the House. If the decedent by his will leaves to his surviving spouse real estate subject to a mortgage (whether or not such mortgage was a personal liability of the decedent) the value of the interest passing to the surviving spouse does not under this section include the mortgage. If, however, the decedent by his will directs the executor to pay off the mortgage, such payment constitutes an additional interest passing to the surviving spouse. If the decedent bequeaths certain property to his surviving spouse subject, however, to her agreement, or a charge on the property, for payment of $1,000 to X, the value of the bequest (and, accordingly, the value of the interest passing to the surviving spouse) is the value, reduced by $1,000, of such property.

The interest passing to the surviving spouse from the decedent is only such interest as the decedent can give. If the decedent by his will leaves the residue of his estate to the surviving spouse and she pays, or if the estate income is used to pay, claims against the estate so as to increase the residue, such increase in the residue is acquired by purchase and not by bequest. Accordingly, the value of any such additional part of the residue passing to the surviving spouse cannot be included in the amount of the marital deduction.

In case there is included in the decedent's gross estate a reversionary or remainder interest in property and the executor elects, as provided in section 925 of the code, to postpone the payment of the part of the estate tax attributable to such interest, in determining such part it is contemplated that proper effect shall be given to any marital deduction allowed.

The status of an individual as the decedent's surviving spouse is determined at the time of the decedent's death. A legal separation which has not (at the time of the decedent's death) terminated the marriage does not affect such status for the purposes of section 812 (e)

(1). A transfer by the decedent during his lifetime to an individual to whom he was not married at the time of the transfer but to whom he is married at the time of his death and who survives him is a transfer by the decedent to his surviving spouse. If an interest in property passes from the decedent to a person who was his spouse but is not married to him at the time of his death, the interest is not considered as passing to the decedent's surviving spouse even though such person survives the decedent.

SECTION 812 (e) (1) (B) AND (C)—NATURE OF INTEREST PASSING; TERMINABLE INTEREST RULE

Subparagraph (B) of section 812 (e) (1) disallows the marital deduction with respect to certain terminable interests. Where, upon the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur, the interest passing to the surviving spouse will terminate or fail, the marital deduction will be disallowed under such subparagraph (B) if the conditions of clauses (i) and (ii), or of clause (iii) of such subparagraph are met. It is not necessary under such subparagraph (B) that the contingency or event must occur or fail to occur in order to make the interest terminable. Thus a terminable interest under such subparagraph includes an interest bequeathed to the surviving spouse as long as she resides in Washington, D. C. On the other hand, it includes interests which will in all events terminate, such as an estate for the life of the surviving spouse.

Subparagraph (B) is intended to be all encompassing with respect to various kinds of contingencies and conditions. Thus, it is immaterial whether the interest passing to the surviving spouse is considered as a vested interest subject to divestment or as a contingent interest. Subparagraph (B) applies whether the terms of the instrument or the theory of their application are conceived as creating a future interest which may fail to ripen or vest or as creating a present interest which may terminate. The occurrence of a contingency includes the ending of a condition. Thus, an interest given to the surviving spouse as long as she remains unmarried is a terminable interest.

However, the interest of the surviving spouse is not considered a terminable interest merely because her possession or enjoyment may be affected by events not provided for by the terms of the bequest. Thus, a fee-simple interest is not a terminable interest merely because the physical possession and enjoyment of the property by the surviving spouse will terminate at her death. Nor is such an interest, or any other interest, considered as a terminable interest merely because the surviving spouse may lose it by a fire or earthquake or it may be taken by condemnation or for nonpayment of taxes. An interest in property is not a terminable interest merely because it may be consumed. Thus, a bequest of $50,000 or of a herd of 50 cattle is not a bequest of a terminable interest.

On the other hand, an interest may be a terminable interest under subparagraph (B) of section 812 (e), even though such interest is the entire property. Thus, if the property in which the surviving spouse has an interest, or all of the interest, is terminable, the interest of the surviving spouse is a terminable interest. Examples of such terminable interests are patents, copyrights, and annuity contracts.

As previously stated, it is necessary for the purposes of section 812 (e) (1) to distinguish between an interest in property and the property in which such interest is an interest. Thus if the decedent devises Blackacre to his wife for life with remainder to X, then X has an interest in the property (Blackacre) in which the surviving spouse has an interest. If the principal value of Blackacre was a coal mine which may be expected to be exhausted during the surviving spouse's life, nevertheless both the surviving spouse and X have an interest in the property, which is Blackacre. If the decedent devises Blackacre to his son in fee but subject to a charge on the rents of Blackacre in favor of his surviving spouse for her life, the surviving spouse and the son have an interest in the same property (Blackacre). In the case of a trust or fund, the income beneficiaries and the persons who may receive any part of the corpus have an interest in the property represented by the assets of the trust or fund as of the date of the decedent's death.

On the other hand, subparagraph (B) does not apply merely because another person has an interest in property in which the surviving spouse has an interest. There is no need to apply such subparagraph unless the interest passing to the surviving spouse is a terminable interest. Thus, if the decedent by his will devises Blackacre to X for life with the remainder to his surviving spouse, subparagraph (B) is not applicable inasmuch as the interest passing to the surviving spouse is not a terminable interest. Similarly, if the decedent by his will devises Blackacre to his wife and son as tenants in common, the marital deduction is allowed, since the surviving spouse's interest is not a terminable interest.

Clause (i) of subparagraph (B) applies only if an interest in the property (in which the surviving spouse's terminable interest is an interest) passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to any person other than such surviving spouse or her estate. It is not necessary, however, for the interest so passing to another person to pass at the same time as the interest passing to the surviving spouse. An interest which passes to the estate of the surviving spouse will not cause the disallowance of the deduction, but an interest which passes from the decedent to the heirs of such spouse by purchase, where the State law does not give effect to the rule in Shelley's case, is an interest passing to persons other than the surviving spouse for the purposes of clauses (i) and (ii).

Clause (ii) of subparagraph (B) applies only if, by reason of the passing of an interest described in clause (i), such other person (or his heirs or assigns) may possess or enjoy any part of the property after the termination or failure of the terminable interest passing to the surviving spouse in the same property. The term "possess or enjoy any part of such property" is intended to be broadly construed. It is immaterial under this provision whether such other person possessed or enjoyed any part of the property prior to the termination of the interest of the surviving spouse. Thus, as long as such other person may possess or enjoy any part of the property after the termination of the surviving spouse's interest, clause (ii) applies even though such possession or enjoyment is a continuation from a time prior to such termination.

It should be noted that both clauses, (i) and (ii), use some form of the term "passing," which is intended to have the technical meaning given to it by the definition in paragraph (3) of section 812 (e). As used in such clauses, however, the term "passing" is not confined to the passing of an interest included in determining the value of the decedent's gross estate.

Under subparagraph (C) of section 812 (e) (3), the dower or curtesy interest of the surviving spouse (or statutory interest in lieu thereof) is defined as an interest passing from the decedent. If such interest is a terminable interest, such as a life estate, the marital deduction would nevertheless be disallowed under subparagraph (B) of section 812 (e) (1).

Under the definition in subparagraph (F) of section 812 (e) (3), if the decedent exercises a taxable power of appointment over only a portion of the property subject to the power, all interests in the property subject to the power are nevertheless considered as passing from the decedent. Thus, if the decedent has a taxable power of appointment (under sec. 811 (f) of the code) over property, which, to the extent not appointed, is to pass to X, and the decedent by his will appoints only a life estate to his wife, an interest in the same property is nevertheless considered as passing from the decedent to X. The definition of "passing," however, extends to any case in which the decedent possessed a power to appoint (even though not a taxable power of appointment) and extends to exercises and releases of any such power during life. An example is a case in which a decedent in 1940 was given a power of appointment over Blackacre exercisable only in favor of his surviving spouse, his children, and the children of X (a stranger, not the creator of the power); to the extent not appointed Blackacre was to go to Y. The decedent in 1941 released his power except with respect to the power to appoint the income from Blackacre for 20 years; and at his death the decedent appointed such income interest to his surviving spouse. The power at the time of the partial release was not a taxable power. However, under the definition of "passing," an interest in Blackacre passed (upon the release in 1941) from the decedent to Y and accordingly the interest appointed to the surviving spouse does not qualify for a deduction under the terminable interest provisions.

The application of clauses (i) and (ii) is further illustrated by the following examples:

Example (1).—The decedent owned the entire interest in Blackacre. He transferred Blackacre by gift to his son but retained a lease for 20 years. At his death the decedent bequeathed the lease to his surviving spouse. No marital deduction is allowed because the interest passing to the surviving spouse is a terminable interest in Blackacre in which an interest also passed from the decedent to his son who can possess or enjoy the property after the expiration of the lease. The facts of this case may be varied, but as long as an interest in Blackacre passed at any time by gift from the decedent to a person other than the surviving spouse, and the lease (whether retained or reacquired by the decedent) was bequeathed or transferred from the decedent to the surviving spouse no marital deduction will be allowed with respect to such lease. If, however, the decedent had sold Blackacre to any person for an adequate and full consideration in money or money's worth and retained or purchased a 20-year lease in Blackacre which he subsequently bequeathed to the surviving spouse, the marital deduction with respect to the lease passing to the surviving spouse is not disallowed under subparagraph (B).

Example (2).—The decedent by his will devised Blackacre to his wife and daughter as joint tenants. Both the wife and daughter have terminable interests in the same property, Blackacre. The daughter may (if she survives the wife) possess or enjoy such property after the termination of the wife's interest. Accordingly, no marital deduction is allowed with respect to the interest passing to the surviving spouse. It is immaterial that the daughter may not possess or enjoy all of Blackacre in the event of a severance of the joint interest. It is sufficient under clause (ii) that any part of the property may (by any possibility) be possessed or enjoyed by the daughter after the termination or failure of the wife's interest. Similarly, if the property were bequeathed in trust for the joint benefit of the wife and daughter with the corpus passing to the survivor, no marital deduction would be allowed. The daughter, by surviving the spouse, may possess or enjoy the property after the termination of the spouse's interest.

In determining whether an interest in property is a terminable interest and whether the conditions of clauses (i) and (ii) are met, the situation is viewed as at the date of the decedent's death, although effect must be given to interests which have passed prior to the decedent's death. Thus, if the decedent transferred Blackacre, in contemplation of death to his wife, Mary, for her life with remainder to X if surviving Mary, if not, to Mary's estate, and X dies prior to the decedent's death and while Mary is still living, the interest passing to Mary (the surviving spouse) is, viewed at the time of the decedent's death, not disqualified for deduction under subparagraph (B). Another example is a case where the decedent during his lifetime transferred property by gift in contemplation of death to his wife for her life and then to her children and where, prior to the decedent's death, the children by sale or gift transferred the remainder interest to the surviving spouse. In this case the only interest passing to the surviving spouse from the decedent is a terminable interest in property in which an interest passed to the children. Viewed as of the date of the decedent's death, no person other than the surviving spouse (or her estate) may possess or enjoy the property. However, such spouse is an assignee of other persons (the children) to whom an interest passed and accordingly the marital deduction is disallowed under clause (ii) of subparagraph (B).

The election of the executor to determine the value of the gross estate as of a date subsequent to the decedent's death, as provided in section 811 (j) of the code, does not extend to such later date the time for determining the character of the interest passing to the surviving spouse and its deductibility under subparagraph (B). Section 811 (j) relates only to valuation and applies only with respect to interests at the date of the decedent's death. For example, in the case of a gift, in contemplation of death, of a life estate to the surviving spouse with remainder to the survivor of such spouse and X, the marital deduction is not allowed for any interest passing to such spouse, even though X dies within 12 months after the decedent's death and the executor elects to use section 811 (j).

The deduction is determined with respect to interests which the decedent specifically directed the surviving spouse to have out of estate assets or is determined with respect to the interest of the surviving spouse in the property represented by assets in the general estate out of which, or the proceeds of which, the interest passing to her may be satisfied. Therefore, except as provided in clause (iii) of subparagraph (B), conversions of property after the decedent's death are immaterial to the deduction. The following examples serve to illustrate this point:

Example (1).—The decedent by his will bequeathed a life estate to his surviving spouse, with remainder to his son, in certain property and thereafter the surviving spouse made a valid sale of her life estate for cash. The marital deduction is disallowed under subparagraph (B) because the interest passing from the decedent was the life estate with remainder to the son in the same property. The result would be the same if the executor gave cash to the surviving spouse instead of the life estate.

Example (2).—The decedent by his will devised Blackacre to his wife for life, remainder to his son. The son transferred his remainder interest by gift to the surviving spouse, and by merger of the surviving spouse's interests, she held the fee in the property. No marital deduction is allowed in this case with respect to any part of the property, for the life estate is a terminable interest with respect to which no marital deduction is allowed under subparagraph (B). The remainder interest did not pass to the surviving spouse from the decedent.

If the decedent by his will bequeaths a terminable interest for which a deduction is not allowed and the surviving spouse takes in accordance with the will, the marital deduction is not allowed even though under the local law the interest which such spouse could have taken against the will was a fee interest for which a deduction would be allowed. Any theory that the interest which she could have taken under the local law did pass to her in such a case and was used by her to purchase the interest under the will is contrary to the intended application of this section.

Where, under a bequest, etc., a future interest may pass to someone other than the surviving spouse, but it is not possible at the time of the decedent's death to ascertain the particular person or persons to whom such interest will pass, a new sentence added at the end of section 812 (e) (3) makes it certain that such future interest shall, for the purposes of clauses (i) and (ii) of subparagraph (B), be considered as passing to a person other than the surviving spouse. Accordingly under such provision an interest is considered to pass to a person other than the surviving spouse and such other person is considered as a person who may possess or enjoy the property after the termination or failure of the surviving spouse's interest. This provision, however, is not applicable to an interest which the surviving spouse may appoint if, by application of subparagraph (F) or (G), such interest is considered as passing to such spouse. The following examples illustrate the application of the special provision relating to such future interests:

Example (1).—The decedent by his will devised Blackacre to his wife for life and then to such of his grandchildren as survive the wife but if no grandchildren survive the wife then to the estate of the surviving spouse. No marital deduction is allowable with respect to either the life estate or the contingent remainder to the surviving spouse's estate. An interest in the property is considered to pass to the grandchildren, and some of them may possess or enjoy Blackacre upon the death of the spouse. It is immaterial that the grandchildren are not in being at the time of the death of the decedent.

Example (2).—The decedent by his will devised Blackacre to his surviving spouse for life and then to such of the surviving spouse's heirs as B appoints, in default of appointment, however, to X. An interest is considered to pass from the decedent to persons other than the surviving spouse. In this case X or the appointees of B may possess or enjoy Blackacre after the death of the spouse.

Clause (ii) of subparagraph (B) applies if any person (other than the surviving spouse) or his heirs or assigns may by any possible circumstances under the terms of the bequest possess or enjoy any part of the property in which the surviving spouse's interest is an interest. Thus, in example (1), set forth immediately above, persons other than the surviving spouse (or her estate) may possess or enjoy the property after her death. This concept, of course, does not extend to the possession or enjoyment which persons may obtain by purchase or gift from the surviving spouse, inasmuch as an interest so obtained does not pass from the decedent. Except as provided in subparagraphs (F) and (G), however, if the surviving spouse is given an interest in property and a power to appoint any part of such interest, the possible appointees and takers in default of appointment are considered as persons to whom an interest passed from the decedent.

In the case of certain property which is terminable, a marital deduction may be allowed, even though clause (i) applies, as long as clause (ii) does not apply. Thus, if the decedent bequeaths all the interest he ever had in a patent to his wife and daughter as tenants in common, the marital deduction is allowed with respect to the interest of the wife in the patent. If, however, the patent were bequeathed to them for their joint lives and then to the survivor, the marital deduction would not be allowed.

The same principles apply in the case of insurance proceeds and annuity contracts as illustrated by the following examples:

Example (1).—The entire proceeds of an insurance policy on the life of the decedent are payable to the surviving spouse and the value of such proceeds is included in determining the value of the gross estate. A marital deduction is allowed with respect to the value of the proceeds because no person other than the surviving spouse has an interest in the proceeds. The result will be the same whether such proceeds are payable in a lump sum; are payable in installments to the surviving spouse, her heirs, or assigns, for a term; or are payable to the surviving spouse for her life with no refund of the undistributed proceeds or with such a refund to her estate. It is also immaterial whether any such mode of payment is determined by an option exercised by the decedent or exercised by the surviving spouse.

Example (2).—The decedent during his lifetime purchased an annuity contract under which the annuity was payable during his life and then to his spouse during her life if she survived him. The value of the interest of the decedent's surviving spouse in such contract at the death of the decedent is included in determining the value of his gross estate. A martial deduction is allowed with respect to the value of such interest so passing to the decedent's surviving spouse inasmuch as no other person has an interest in the contract. If upon the death of the surviving spouse the annuity payments were to continue for a term to her estate, or the undistributed portion thereof was to be paid to her estate, the deduction is nevertheless allowable with respect to such entire interest. If, however, upon the death of the surviving spouse, the payments are to continue to another person (not through her estate) or the undistributed fund is to be paid to such other person, no marital deduction is allowable inasmuch as an interest passed from the decedent to such other person.

A marital deduction is also disallowed for the interest passing to the surviving spouse as an income beneficiary or annuitant under a trust in which other persons have an interest, except as provided in subparagraph (F) of section 812 (e) (1).

Clause (iii) disallows the marital deduction in cases where pursuant to the decedent's direction terminable interests are to be acquired for the surviving spouse. Thus, under this provision, if the decedent directs the executor of his estate to purchase an annuity contract for the decedent's surviving spouse for a term of years or for her life, no marital deduction is allowed for the interest so passing to the surviving spouse. In such a case it is immaterial whether or not other persons have, under clauses (i) and (ii), an interest in the contract. It is also immaterial whether the decedent (in addition to directing the purchase of the annuity contract) designated or did not designate the assets to be used for the purchase. Clause (iii) also applies to the acquisition by a trustee, at the direction of the decedent, of a terminable interest for the surviving spouse.

The last sentence of subparagraph (B) contains a special provision with respect to terminable property. Under this provision, an interest is not to be considered a terminable interest merely because it is the ownership of a bond, note, or similar contractual obligation, the discharge of which would not have the effect of an annuity for life or for a term. This provision does not prevent the operation of subparagraph (B) upon a partial interest (such as a life estate) of the surviving spouse in bonds or notes, with respect to which the marital deduction may be disallowed under clauses (i) and (ii). This provision however has special application in cases under clause (iii). An example of a case in which the interest of the surviving spouse in a note is not taken out of the category of a terminable interest by reason of the last sentence of subparagraph (B), is a case in which the executor is directed to lend money to a trust and acquire its note for the surviving spouse with terms providing for the payment of principal and interest to the surviving spouse in equal installments over a term of years.

If the decedent directs his executor or trustee to purchase bonds or notes for the surviving spouse, the marital deduction is not disallowed under clause (iii), unless the decedent directs the purchase of bonds or notes the discharge of which has the effect of an annuity. However, the marital deduction in such case may also be disallowed if the surviving spouse's interest in such bonds or notes is not the complete interest and clauses (i) and (ii) are applicable by reason of an interest passing to another person.

Subparagraph (C) contains a special rule, which was not in the bill as it passed the House, with respect to the surviving spouse's interest in unidentified assets. This rule is addressed generally to situations in which the surviving spouse is a pecuniary or residuary legatee or is a beneficiary of a trust created by the decedent during life or by will, or is the heir of an intestate decedent. In such cases there has passed to the surviving spouse an interest in property represented by all the assets included in the decedent's general estate (which does not include assets named by the decedent to pass under specific bequests) or included in the trust. However, under the rule of subparagraph (C), if any such asset (in the general estate or trust) would, if specifically passing to the surviving spouse, not be deductible, the value of such asset shall be applied in reduction of the amount otherwise deductible for the general or residuary bequest or transfer in trust.

The application of subparagraph (C) is illustrated by the following examples:

Example (1).—The decedent bequeaths $50,000 to his surviving spouse. The general estate includes a term for years (valued at $60,000 in determining the value of the decedent's gross estate) in Blackacre—an interest retained by the decedent after a gift of Blackacre to his song. Accordingly, the marital deduction with respect to the bequest of $50,000 is reduced to zero. It is immaterial whether the surviving spouse actually receives the term for years.

Example (2).—The decedent during his life created a trust reserving the income for himself (and his estate). The trust was to terminate upon the death of the survivor of himself and his wife, at which time the corpus was to be paid to his children. The decedent died with his wife surviving and the income interest fell into the residue of his estate. The decedent bequeathed one-half of the residue to his surviving spouse. The amount of the marital deduction for the value of one-half of the residue is to be decreased by the value at the time of the decedent's death of such income interest in the trust (and for any other terminable interest included in such residue for which a marital deduction would not be allowed if specifically bequeathed or devised to the decedent's surviving spouse).

Subparagraph (C) applies to trusts in which the surviving spouse has the remainder interest and trusts under subparagraph (F) in which the surviving spouse has a power to appoint the corpus. In such cases the marital deduction with respect to the value of the corpus is reduced as provided in subparagraph (C). In the case of a trust created during the decedent's lifetime, subparagraph (C) applies to the trust assets as of the date of the decedent's death.

In determining the assets out of which the interest passing to the surviving spouse may be satisfied, such assets are determined prior to payment of any general claims, but without including named property specifically bequeathed or devised.

The disclaimer provisions of paragraph (4) of section 812 (e) are also applicable in conjunction with the terminable interest rule of section 812 (e) (1) (B), as illustrated by the following example:

Example.—The decedent devises Blackacre to his surviving spouse for life and remainder to his son. The son disclaims the devise to him and the remainder interest falls into the residue of the estate which is also bequeathed to the surviving spouse. No marital deduction is allowed because under section 812 (e) (4) the remainder interest is considered as passing to the son as if the disclaimer had not been made.

Although section 812 (e) (4) must be applied in determining an interest passing to the surviving spouse and other persons, subparagraph (C) of section 812 (e) (1) may reduce the amount of the marital deduction allowed after application of such paragraph (4).

SECTION 812 (e) (1) (D), (E), (F) AND (G)—EXCEPTIONS TO THE TERMINABLE INTEREST RULE

Subparagraph (D) of section 812 (e) (1) provides an exception to the terminable interest rule under subparagraph (B) of such section. This exception is for the purpose of allowing the marital deduction in certain cases where there is a contingency with respect to the interest passing to the surviving spouse under a common-disaster clause or similar clause in the decedent's will. Under the rule in the bill as it passed the House, a marital deduction is allowed with respect to an interest which does pass to the surviving spouse even though such interest would have terminated or failed upon the death of such spouse, as long as such termination or failure could have resulted only if such death had occurred within a period not exceeding 6 months after the decedent's death. This provision is amended in your committee bill so as to extend the application of the rule to cases in which the death of the surviving spouse would cause a termination or failure of her interest only if it occurred as a result of a common disaster resulting in the death of the decedent and the surviving spouse. Your committee bill makes subparagraph (D) applicable also in cases in which death either within the 6-month period or as the result of a common disaster would alone deprive the surviving spouse of her interest. In all such cases, subparagraph (D) applies only if such spouse does not in fact die within such period or as a result of such common disaster, as the case may be.

An example of the application of subparagraph (D) is a case in which the decedent's will provides that all his property shall pass to his spouse if she survives him by 3 months; but if she does not survive him such property shall pass to the X charity. In this case the interest of the surviving spouse will terminate or fail only if she dies within 3 months following the date of the decedent's death. If in fact she does not die before the expiration of such period (and accordingly the property passes to her under the terms of the decedent's will) the marital deduction is allowable. It should be noted in this case that a contingent interest in the property passed to the X charity and, but for the provisions of subparagraph (D) of section 812 (e) (1), the marital deduction would be disallowed under subparagraph (B) of section 812 (e) (1).

If the decedent's will provides that the property otherwise bequeathed or devised under his will to his surviving spouse shall pass to other named persons if such spouse dies as a result of a common disaster in which he meets his death, and if at the moment of his death the possibility exists that such spouse will die as a result of such a common disaster, then subparagraph (D) is applicable. In such a case the deduction will be allowed if under the local law the surviving spouse does take the property, whether because it is determined that in fact she did not or could not die in the disaster in which the decedent met his death or whether under the local law it is presumed that death more than 6 months after the decedent's death cannot result from the disaster in which the decedent met his death. If no possibility exists at the moment of the decedent's death that his surviving spouse will die as a result of a common disaster, the mere fact that there is a clause in his will which would prevent the passing of an interest in property to her if she did so die does not make her interest terminable.

If a clause in the decedent's will provides that the property bequeathed or devised to his spouse shall not pass to her if it cannot be determined whether she survived him (whether or not they meet their deaths in a common disaster) such clause does not make the interest of the surviving spouse terminable if she in fact survives.

The rule of such subparagraph (D) does not apply to an ordinary life estate, such as under a devise of Blackacre to the wife for her life with remainder to X. While it is true that death of the wife within the 6-month period will cause a termination or failure of her interest, it is also true that her death at any time will also cause such termination or failure and accordingly the case does not meet the test of clause (i) of subparagraph (D).

Subparagraph (F) of section 812 (e) (1) also provides an exception to the terminable interest provisions of subparagraph (B) of such section. This exception is for the purpose of allowing the marital deduction in the case of certain trusts where the surviving spouse has a power of appointment. The other provisions of section 812 (e) (1) are still applicable generally to interests passing to the surviving spouse in trust. For example, if the decedent by a transfer in contemplation of death creates a trust providing for all the income thereof to be paid to his spouse for 10 years and upon the end of such 10-year period or the prior death of the spouse the trust is to terminate and the corpus is to be paid to his spouse or her estate, the marital deduction is allowable, even though at the time of death the trust is still in effect. In this case, although the interest of the spouse in the trust for 10 years is a terminable interest, no person other than the surviving spouse has an interest in the trust. The value of the spouse's interest in the corpus is includible in the marital deduction under subparagraph (A) of section 812 (e) (1) inasmuch as it is not a terminable interest.

The provisions of subparagraph (F) of section 812 (e) (1) under the bill as it passed the House have been expanded in your committee bill. These provisions have the effect of allowing a marital deduction with respect to the value of property transferred in trust by or at the direction of the decedent where the surviving spouse, by reason of her right to the income and a power of appointment, is the virtual owner of the property. This provision is designed to allow the marital deduction for such cases where the value of the property over which the surviving spouse has a power of appointment will (if not consumed) be subject to either the estate tax or the gift tax in the case of such surviving spouse.

In order for the interest in property transferred in trust to qualify for a marital deduction under subparagraph (F), the following conditions must be met:

(1) The trust must be created by a transfer of property by the decedent during his lifetime or by his direction under his will.

(2) Under the terms of the trust the surviving spouse must be entitled for her life to all the income from the corpus of the trust. The term "income" is used here in the same sense as it is used in section 162

of the code, relating to income of estates and trusts. It is not necessary that the trust shall terminate upon the death of the surviving spouse. The trust may terminate at an earlier date by reason of the exercise of a power of appointment by the surviving spouse in favor of any person or by reason of the appointment by any person of the corpus of the trust to the surviving spouse. The requirement that the surviving spouse be entitled for life to all the income from the corpus refers only to the income from the corpus as long as the trust is in existence. If any person other than the surviving spouse is entitled to any part of the income from the corpus of the trust during the life of such surviving spouse (other than income derived by such person from any part of the corpus appointed by the surviving spouse), the trust does not qualify.

(3) The surviving spouse must be entitled to the income from the corpus of the trust annually, or at more frequent intervals. This requirement disqualifies any trust the income of which is required to be accumulated or may, in the discretion of the trustee, be accumulated.

(4) The surviving spouse must have power to appoint the entire corpus free of trust, and such power must be exercisable in favor of such surviving spouse or in favor of her estate. A "power to appoint" the corpus includes any power which in substance and effect is such a power regardless of the nomenclature used in creating the power and local property-law connotations. If the power is exercisable only at death, the trust is not disqualified merely because the surviving spouse also has the power to invade only part of the corpus during her lifetime. It is also immaterial if, in addition to the power to appoint the entire corpus free of trust, the surviving spouse has a lesser power, such as to appoint any part of the corpus in trust for the benefit of others. However, the surviving spouse must have power to appoint the entire corpus to herself, or if she does not have such a power she must have power to appoint the entire corpus to her estate. If one such power is her only power, the requirement is met. She may also have any combination of additional powers.

(5) If any person other than the surviving spouse had a power to appoint any part of the corpus, such power must be exercisable only in favor of the surviving spouse.

(6) The power possessed by the surviving spouse to appoint the entire corpus free of trust must be exercisable alone and in all events. Nevertheless, the trust is not disqualified merely because the power is exercisable only during life or only by will. An example of a power which does not meet the requirements is a power which (unless sooner exercised or released) will terminate on January 1, 1950, or on the date of death of the surviving spouse, whichever occurs first. An example of a testamentary power not exercisable in all events is a power exercisable by will only if the surviving spouse does not remarry. If the surviving spouse has a power to appoint the corpus of a trust created during the decedent's life, the power must be exercisable, when viewed as of the date of the decedent's death, in all events. The trust does not qualify under subparagraph (F) if the surviving spouse's power to appoint the corpus free of trust is exercisable only in conjunction with, or with the consent of, another person. Either the power possessed by the surviving spouse to appoint during life or her power to appoint at death must meet both tests of being exercis-

able alone and in all events. If one such power meets the requirements, the limitations or conditions on any other power are immaterial. If the surviving spouse has only the power to invade corpus for her own benefit but such power is exercisable only in conjunction with, or with the consent of another person, the trust does not qualify.

If all the tests of subparagraph (F) are met, then the interest in property transferred upon the creation of the trust shall, for the purpose of the marital deduction, be considered as passing to the surviving spouse, and no part of the interest so passing shall be considered as passing to any person other than the surviving spouse. For example, in the case of a trust to which subparagraph (F) applies, if the corpus of the trust, upon the failure of the surviving spouse to exercise the power of appointment, is to pass to the decedent's children, the entire interest in such corpus is nevertheless considered to pass to the surviving spouse, and no part of the interest in trust is considered as passing to any other person.

Even though a trust meets all the tests of subparagraph (F), the provisions of subparagraph (B) (i) and (ii) may disallow the marital deduction where the trust corpus consists, in whole or in part, of terminable interests. Thus, if the decedent made a gift of Blackacre to X, reserving a term for 20 years, and thereafter created a trust (qualifying under subparagraph (F)) over such term in Blackacre, a marital deduction is not allowed. Similarly, subparagraph (C) may reduce the marital deduction otherwise allowable under subparagraph (F) in cases where the decedent merely directs the creation of a trust, the corpus of which may consist of a terminable interest in the decedent's general estate.

The disclaimer provisions of paragraph (4) o' section 812 (e) apply to the disclaimer by the surviving spouse of any interest in property which, under subparagraph (F) or (G) of section 812 (e) (1), is considered as passing from the decedent to such spouse.

Subparagraph (G) of section 812 (e) (1), which was not contained in the bill as passed by the House, also provides an exception to the terminable interest provisions of subparagraph (B) of section 812 (e) (1). This exception is for the purpose of allowing the marital deduction in the case of proceeds of life insurance upon the life of the decedent where the surviving spouse is entitled to installments of the proceeds and has the same type of power possessed by the surviving spouse in the case of a trust to which subparagraph (F) applies. Subparagraph (G) applies only if the proceeds of the insurance are receivable in installments, commencing within 1 year after the decedent's death. The amounts payable to the surviving spouse must be installments which have the effect of reducing during her lifetime the aggregate proceeds of the policy available for future payments.

SECTION 812 (e) (1) (H) AND (2)—LIMITATION OF 50 PERCENT OF THE ADJUSTED GROSS ESTATE

Subparagraph (H) of section 812 (e) (1) provides that the aggregate amount of the deductions (computed without regard to such subparagraph (H)) shall not exceed 50 percent of the value of the adjusted gross estate. The term "adjusted gross estate" is a new concept in the estate tax and is defined in paragraph (2) of section 812 (e). Its use is confined solely to the computation of the 50-percent limitation.

Subparagraph (A) of section 812 (e) (2) provides the general rule for computation of the adjusted gross estate. This general rule is the only rule which will be applicable in most cases, for it applies except where the decedent and the surviving spouse at any time held property as community property. Under this general rule the adjusted gross estate is computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed under section 812 (b) of the code. The value of the gross estate referred to in this rule is the value at the date of the decedent's death or, if the value of the gross estate for the purpose of the tax is determined under the optional valuation rule of section 811 (j), the value so determined.

Under such subparagraph (A), if the value of the decedent's gross estate is $100,000 and the aggregate amount of deductions allowed under section 812 (b) is $10,000. the aggregate deduction under section 812 (e) is limited to 50 percent of $90,000. If the aggregate value of the interests passing to the surviving spouse for which deductions are allowed under section 812 (e) (1) (A) does not exceed $45,000, the entire value of the interests so passing is deductible in computing the net estate. If the aggregate value of such interests exceeds $45,000, the aggregate amount of deductions under section 812 (e) is limited to $45,000. In this and other similar cases by reason of the specific exemption allowed in computing the net estate, no estate tax may be payable. However, it should be noted that wherever the gross estate exceeds the exemption of $60,000 provided in section 935 (c) of the code, an estate tax return must be filed.

Subparagraph (B) of section 812 (e) (2) provides a special rule for computing the adjusted gross estate in cases involving community property. This rule applies only if the decedent and his surviving spouse at any time held property as community property under the law of any State, Territory, or possession of the United States, or of any foreign country. The general effect of this special rule is to compute the adjusted gross estate by subtracting from the value of the gross estate the value of community property included in the gross estate and the deductions under section 812 (b) which are not allocated to such community property. The property, the value of which is to be subtracted, is specified in clauses (i), (ii), and (iii), relating, respectively, to community property held at death, community property transferred during life, and insurance on the life of the decedent purchased out of community property. If premiums or other consideration paid for insurance on the life of the decedent were paid in part out of property "held as such community property" by the decedent and his surviving spouse and in part out of other property, the amount receivable as such insurance purchased with such community property is such portion of the total amount receivable as the amount of such community property so paid bears to the total amount of the premiums or other consideration paid. The amount to be subtracted on account of deductions under section 812 (b) is to be computed by a mathematical calculation as provided in clause (iv).

In this connection, it may be pointed out that section 812 (e) (1) applies to an interest in community property (and in property formerly held as community property) and a marital deduction may be allowed with respect to such an interest. However, by means of the 50-percent limitation, the deduction may be reduced or eliminated. Thus if a decedent's gross estate includes separate property in addition to his interest in community property, the marital deduction is allowable to the extent of the value of the separate property reduced (as provided in clause (iv) of such subparagraph (B)) by a portion of the deductions under section 812 (b). If the value of a decedent's gross estate is $300,000 consisting of $200,000 for his interest in separate property (which is not for the purpose of section 812 (e) (2) (B) considered as community property) and $100,000 for his interest in community property, and the decedent by his will bequeaths $100,000 to his surviving spouse, a marital deduction is allowed in an amount not in excess of 50 percent of the balance of $200,000 remaining after subtracting the amount computed under clause (iv) for deductions. It is immaterial whether the decedent bequeaths his interest in separate property or community property to the surviving spouse. However, if the only property included in determining the value of the decedent's gross estate is the value of his interest in community property, no marital deduction will be allowed because the adjusted gross estate will be zero.

The property "held as such community property," referred to in clauses (i), (ii), and (iii) of subparagraph (B) is community property with certain exclusions and additions. By reason of the next to the last sentence of subparagraph (B), such community property does not include property held as community property where the interests of the spouses are determined under the law of California in effect prior to July 29, 1927. Such community property also does not include property merely because it was once held as community property by the decedent and a person who is not the decedent's surviving spouse.

However, under subparagraph (C) there is included in the category of property "held as such community property" certain separate property acquired by the decedent as a result of a conversion of community property (not excluded under the rules previously stated). If the decedent and his surviving spouse at any time held property as community property, it will be necessary to establish such part of the value of any separate property included in the gross estate which is not to be considered "held as such community property." However, only conversions of community property to separate property in the calendar year 1942 and such conversions after the date of enactment of the bill come within the rule. The separate property acquired by the decedent in such a conversion and any property at any time acquired after such conversion by the decedent in exchange for such separate property (by one exchange or a series of exchanges) is considered as "held as such community property." This rule applies to partitions and other conversions of community property, including conversions to a joint tenancy, tenancy by the entirety or any other form of coownership, whether the partition or other conversion is effected by one transaction or a series of transactions. Thus, if in 1949 a husband transfers to his spouse all of his interest in Blackacre held by them as community property and such spouse at the same time (or any other time under an arrangement designed to effect a partition) transfers all of her interest in other community property to her husband, subparagraph (C), upon the death of one spouse, is applicable to the separate property so acquired by the decedent. If in such a case, the value of the separate property each spouse so acquired by such transaction (or series of transactions) is equal at the time of their acquisition, the entire separate property so acquired by the decedent is considered as "held as such community property."

Subparagraph (C) (ii) has a special rule applicable to cases where the value (at the time of the conversion) of the separate property so acquired by the decedent exceeded the value (at such time) of the separate property so acquired by the decedent's spouse. In such a case, only that part of such separate property (acquired by the decedent by such conversion) which is equal to such value of the separate property so acquired by such spouse is considered as "held as such community property." The portion of such separate property so considered is not merely an amount equal to the value of the spouse's separate property but is a fractional part of the property, and the same fractional part of every property acquired by the decedent in exchange (by one exchange or a series of exchanges) for such separate property is to be considered "held as such community property." If the decedent's spouse transfers to the decedent during his lifetime all her interest in community property and such property is included in determining the value of the decedent's gross estate, then no part of the value of such property is considered "held as such community property" and no part of such value is to be subtracted from the value of the gross estate in computing the value of the adjusted gross estate.

The following example will illustrate the application of clause (ii). Blackacre and 100 shares of stock were held by H and W, his spouse, as community property, and in 1942 H received the shares of stock as his separate property and W received Blackacre as her separate property. At the time of the conversion, the shares of stock were worth \$100,000, and Blackacre was worth \$30,000. Thereafter H sold the shares of stock and invested the proceeds in Whiteacre, which he owned at the time of his death in 1949. Only 30 percent of Whiteacre is considered as property "held as such community property," for upon application of clause (ii) such 30 percent is obtained in dividing \$30,000 (value of property received by W) by \$100,000 (value of property received by the decedent at the time of the conversion).

Separate property considered under subparagraph (C) as property "held as such community property" is considered so held for the purposes of clauses (i), (ii), and (iii) and the application of the amount subtracted under such clauses in the ratio in clause (iv). This rule for treating certain separate property as community property, however, does not apply to separate property (and separate property acquired in exchange therefor) acquired by a conversion to separate property of community property where the interests of the spouses in such community property is determined under the California law in effect prior to July 29, 1927. On the other hand, the rule does apply (subject to the limitations as to time and the portion of property considered "held as such community property") to separate property acquired by conversion of any other community property held by the decedent and his surviving spouse, no matter how or from whom such other community property was obtained.

SECTION 362. PROPERTY PREVIOUSLY TAXED

The principal amendment made by this section generally disallows with respect to property passing between spouses the deduction under section 812 (c) of the code for property previously taxed. The deduction will not be allowed with respect to property received by a decedent (for whose estate the deduction under sec. 812 (c) is being computed) from a prior decedent who died after the date of enactment of the bill or from a donor by gift after such enactment, if such prior decedent at the time of death, or donor at the time of the gift, was the spouse of the decedent.

The deduction with respect to any property is disallowed if such property is disqualified under (A), (B), or (C) of the first new paragraph added to section 812 (c). A deduction is not prohibited under (B) with respect to property received from the decedent's spouse by a gift made prior to the enactment of the bill. However, the deduction with respect to such property will not be allowed if the property is disqualified as property received from a prior decedent under (A), regardless of whether an estate tax was paid by the estate of the prior decedent. Thus in the case of such a gift the deduction will not be allowed with respect to such property if it is required to be included in the donor's gross estate, where such donor died after the enactment of the bill and prior to the decedent's death, and such donor at the time of the donor's death was the spouse of the subsequent decedent.

The deduction under section 812 (c) is disallowed under this amendment regardless of whether a marital deduction was allowed under section 812 (e) in computing the net estate of the prior decedent or under section 1004 (a) (3) in computing the net gifts of the donor. The amendment is not applicable under section 861 (a) (2) in computing the deduction for property previously taxed in the case of estates of nonresidents not citizens of the United States.

The disqualification (for the deduction) extends to property acquired by the decedent in exchange (which includes a series of exchanges) for property disqualified under (A), (B), or (C) of the first new paragraph added to section 812 (c). Where property is held at the time of the prior decedent's death in joint ownership with right of survivorship, the interest of the surviving spouse is considered received from such prior decedent to the extent of the part of such property included in determining the value of the prior decedent's gross estate. If property is given by a third party to a husband and wife as joint tenants and upon the death of the husband one-half of such property is included in determining the value of his gross estate, then one-half of such property is received by the surviving spouse from the husband and one-half is received from the donor.

Another provision added in your committee bill identifies the donor in the case of a gift to the decedent where such gift is, by reason of the provisions of section 1000 (f) of the code (as added by sec. 374 of this bill), considered made one-half by a husband and one-half by his wife. The gift-tax rule under section 1000 (f) is to be applied and each spouse is considered as the donor to the extent of one-half the gift. Thus, a gift from an individual of $50,000 to the decedent will be considered for purposes of section 812 (c) as a gift of $25,000 from such individual and of $25,000 from his spouse if the gift is so considered for gift-tax purposes. In such a case, if the husband paid a gift tax with respect to any part of the $25,000 considered as a gift by him but gift tax was not paid with respect to the $25,000 considered as a gift by his spouse (by reason of the $30,000 exemption under the gift tax), the deduction under section 812 (c) is allowed only with respect to the $25,000 gift (or property acquired in exchange therefor) from the husband.

Another amendment to section 812 (c) of the code provides that the deduction otherwise allowable for property previously taxed (as in the case of property received from a person not the decedent's spouse) is to be reduced by a proportionate part of the amount of the marital deduction allowed under section 812 (e) in computing the decedent's net estate. This reduction is consistent with the reduction under existing law on account of the deductions for claims, etc., under section 812 (b) and bequests to charity under section 812 (d).

SECTION 363. CREDIT FOR GIFT TAX

This section, which was not contained in the bill as it passed the House, amends sections 813 (a) (2) and 936 (b) of the code, relating to the credit against the estate tax for certain gift taxes paid with respect to property included in determining the value of the gross estate of the decedent. These amendments give effect in computing the credit for the gift tax to the estate- and gift-tax provisions for a marital deduction under sections 812 (e) and 1004 (a) (3) of the code, as added by the bill, and to the gift-tax provisions for splitting of gifts of spouses to third parties under section 1000 (f) of the code, as added by the bill.

The credit for the gift tax provided in section 813 (a) (2) is subject to two limitations: The first limitation is that now contained in subparagraph (B) of such section, and the second limitation is that now contained in subparagraph (A) of such section. The first limitation is continued, except for clarifying changes in language, in clause (i) of a new subparagraph (D). Under this limitation, the credit for gift tax paid with respect to any gift is the amount which bears the same ratio to the total tax paid for the year in which the gift was made as the amount of such gift bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year. Clause (ii) of the new subparagraph (D) is a new provision which is applicable for the purpose of the rule contained in subparagraph (D) (i). Under this clause (ii), the amount of the gift which is used in the ratio for determining the total tax paid attributable to a gift does not include the amount of the annual exclusion ($3,000 under existing law) allowed with respect to such gift. The amount of the gift also does not include the amount allowed with respect to such gift as a charitable deduction or as a marital deduction. Thus, for the purpose of the computation under new subparagraph (D), if the only gift of the donor to his spouse during a calendar year and after the enactment of the Revenue Act of 1948, was $10,000 the amount of such gift for the purpose of the computation under subparagraph (D) is $2,000, that is, the $10,000 reduced by the $3,000 annual exclusion and further reduced by the $5,000 marital deduction. The provisions of clause (ii), to the extent that they eliminate from the amount of the gift the annual exclusion and the charitable deduction represent existing law.

The second limitation on the amount of the credit for gift tax is continued in subparagraph (A) of section 813 (a) (2) with certain qualifications. In general, under existing law this provision limits the credit to (1) an amount which bears the same ratio to (2) the basic estate tax as (3) the value of so much of the property which constitutes the gift as is included in the gross estate bears to (4) the value of the entire gross estate. The only change in such subparagraph (A) itself is the elimination from (4), the value of the entire gross estate, of the aggregate amount of the deductions allowed under section 812 (d) and (e) (relating respectively to the charitable deduction and the marital deduction). The effect of this provision is to make the amount in (4) smaller and accordingly, to allow, generally, a larger credit for the gift tax where this limitation is applicable than would be allowed if this change were not made.

The amount in (3), the value of so much of the property which constitutes the gift as is included in the gross estate, in the ratio stated in subparagraph (A) is to be reduced as provided in new subparagraph (B). The value (which is the value at the time of the gift or at the time of the death, whichever is lower) is to be reduced first by such amount as will properly reflect the amount of such gift which was excluded on account of the annual exclusion in determining the total amount of gifts made during the year in which the gift was made. This reduction has long been prescribed by Treasury regulations and represents existing law.

The amount in item (3) in the ratio is also to be reduced if a marital deduction with respect to the gift is allowed under section 812 (e). If the 50-percent limitation on the deduction under 812 (e) is not applicable (because the aggregate deductions for the value of the interests passing to the surviving spouse does not exceed 50 percent of the adjusted gross estate), then the amount in item (3) is zero and consequently no credit for the gift tax with respect to such gift is allowed. If however, the 50 percent limitation is applicable, then the amount by which the value in item (3) is to be reduced with respect to each gift for which there is a marital deduction under section 812 (e) (1) (without regard to subpar. (H) thereof) is to be determined by the ratio in clause (ii) of subparagraph (B) of section 813 (a) (2). The amount of the reduction in such case is an amount which bears the same ratio to such value in item (3) (before this reduction but after the reduction for the annual exclusion under clause (i)) as the aggregate amount of the marital deductions under section 812 (e) (after the 50 percent limitation) bears to the aggregate amount of such marital deductions computed without regard to such 50-percent limitation.

The reduction of the value to be used in the ratio where an estate-tax marital deduction is allowed with respect to the gift is illustrated by a case in which property with a value of $103,000 (at the time of the gift and at death) is transferred in fee by the decedent by gift in 1949 in contemplation of death to his spouse and included in the decedent's gross estate. If, in addition, bequests to the surviving spouse for which marital deductions are allowable under section 812 (e) (1) (A) were made in an amount equal to $297,000, and the value of the adjusted gross is $600,000, the aggregate amount of deductions permitted under section 812 (e) is $300,000. In such a case, the value of so much of the property which constituted the gift as is included in the gross estate, before reduction of such value as provided in new subparagraph (B) of section 813 (a) (2), is $103,000. It should be noted that this amount is the value of the property without regard to any marital deduction which may have been allowed for gift-tax purposes with respect to the gift to the spouse. The amount of $103,000 is, however, reduced (assuming this was the first or only gift by the decedent during the year to his spouse) by $3,000 on account of the exclusion under the gift tax (the value of the property not having changed), as provided in clause (i). The balance of $100,000 is further reduced, as provided in clause (ii), by the portion of such amount for which a marital deduction is allowed. This portion is $75,000, which is that part of $100,000 which $300,000 (the total amount deducted under sec. 812 (e)) bears to $400,000 (the aggregate marital deductions without regard to the 50-percent limitation).

The gift referred to in clause (ii) with respect to which a marital deduction is allowed is not intended to include gifts of property which, solely by reason of being brought into the gross estate (such as a gift in contemplation of death which is not itself deductible under sec. 812 (e)), increased the adjusted gross estate and hence the aggregate amount of deductions under section 812 (e).

If a so-called charitable deduction is allowed with respect to a gift, the amount in item (3) is to be reduced so as to not allow any credit for the gift tax with respect to such gift. A case in which this provision would be applicable is the following: The decedent during his life transferred in contemplation of death property in trust to pay the income to X for his life and, upon the death of X, to terminate the trust and distribute the corpus to the Y foundation. The Y foundation at the time of the gift, did not qualify as a charitable institution for which a deduction was allowable under section 1004 (a) (2) for the purpose of the gift tax but at the time of the decedent's death did qualify as a charitable institution under section 812 (d) for which a deduction in computing the net estate is allowable. In such a case, in applying the limitation in subparagraph (A) for the purpose of determining the credit with respect to the gift to the Y foundation, the amount in item (3) of the ratio will be reduced to zero.

In applying clauses (ii) and (iii) of subparagraph (B) "such gift" referred to therein, for which a marital deduction or charitable deduction is allowed, as the case may be, is the gift to the surviving spouse or the gift to the charity and does not include a gift to any other person even though such person and the surviving spouse (or the charity) received an interest in property under the same deed of gift. Thus, in the example given in the preceding paragraph of the transfer to X for life and then to the Y foundation, there are two gifts, one to X and the other to Y; and the amount of "such value" to be reduced as provided in clause (iii) is the value which would be included in item (3) of the ratio with respect to the gift to Y.

Under the provisions of the bill the computation of credit for gift tax (under both limitations) is required separately with respect to each gift and the law is intended to operate on the basis of such separate computation.

In the case of a gift to a spouse of an interest as sole joint tenant with the donor or as a tenant by the entirety, a marital deduction equal to one-half of the value of such interest is allowed in computing net gifts by reason of the provisions of section 1004 (a) (3) (C) of the code (as added by sec. 372 of the bill). In such a case, in computing the credit for the gift tax under the limitation in new subparagraph (D) of section 813 (a) (2), the amount of the gift used in the ratio under such limitation does not include the amount of the marital deduction allowed under section 1004 (a) (3) with respect to the gift. In computing the credit for the gift tax under the limitation in subparagraph (A) of section 813 (a) (2), the value of so much of the property which constituted the gift as is included in the gross estate is (before reduction of such value as provided in subparagraph (B)) the value, at the time of the gift or at the time of the death, whichever is lower, of the interest given as joint tenant or as tenant by the entirety.

The limitations on the credit in the case of a gift of a joint interest is illustrated by a case in which a donor in 1949 purchases Blackacre, having a value of $206,000, for himself and his spouse as joint tenants. He thereby makes a gift of $103,000 for which a gift-tax marital deduction of $51,500 is allowed. The amount of the gift for the purposes of the credit for gift tax paid with respect to such gift, computed under new subparagraph (D), is $48,500 (that is, $103,000 reduced by the $3,000 exclusion and $51,500 marital deduction). Assuming that the value of Blackacre remained unchanged at the donor's death, $206,000 is included in his gross estate with respect to Blackacre and a marital deduction is allowed in the amount of $206,000 under section 812 (e) (1) (A) (before application of the 50-percent limitation). However, the value to be used in the ratio for computing the limitation under subparagraph (A) (before reduction under subparagraph (B)) is $103,000, which was the value of the interest transferred by gift. Assume the decedent's adjusted gross estate (including the value of the joint tenancy) was $1,000,000, of which $594,000 (in addition to the survivorship interest) passed to his surviving spouse. The aggregate amount of marital deductions, therefore, is limited to $500,000. In such case, the credit for the gift tax paid, determined under the limitation in subparagraph (A), is that portion of the estate tax used in the ratio which $37,500 bears to $500,000 (the gross estate reduced by the marital deductions allowed). The amount $37,500 is obtained by reducing $103,000 first by the $3,000 exclusion and by reducing the balance, $100,000, by $62,500, that is, that portion of $100,000 which $500,000 (the aggregate amount of marital deductions allowed under section 812 (e)) bears to $800,000 (the aggregate marital deductions under section 812 (e) computed without the 50-percent limitation).

A new subparagraph (C) is added to section 813 (a) (1) for determining the credit for the gift tax in the case of gifts which, for purposes of the gift tax (under sec. 1000 (f) of the code, as added by sec. 374 of the bill) are considered made one-half by the decedent and one-half by his spouse. The principal effect of this provision is to allow the estate of a decedent who was the actual donor of the gift a gift-tax credit with respect to the entire gift.

It is contemplated under this provision that the credit will be computed with respect to both halves of the gift. Thus, with respect to the half considered a gift by the decedent for gift tax purposes, the credit is computed as provided in new subparagraph (D) for the proportionate part of the gift tax of the decedent paid with respect to such half. A credit is also allowed such decedent's estate for the proportionate part of the gift tax of his spouse paid with respect to the half considered as a gift made by her, also computed by applying new subparagraph (D). In determining the limitation in subparagraph (A) with respect to the portion of the estate tax attributable to the gift actually made by the decedent, such limitation is applied with respect to the combined value of the two halves of such gift, the value of each half being first separately reduced as provided in subparagraph (B).

In the case of property held by the decedent and his spouse jointly a gift of such property by them results, if section 1000 (f) of the code is made applicable by a proper consent, in a gift by each spouse of one-half of his undivided interest and of one-half of his spouse's undivided interest. In such a case, the decedent is entitled to a credit for the gift tax paid with respect to his interest in the property which can be included in the value of his gross estate. Therefore, the credit is allowed in the case of such a decedent for the gift tax paid with respect to the half of his interest considered a gift by him and for the other half of his interest considered a gift by his spouse.

Thus, if a husband and wife each contribute $20,000 to purchase Blackacre (having a value of $40,000) as joint tenants, and convey Blackacre by gift to their son, and section 1000 (f) of the code is made applicable, each is considered as having made a gift of $20,000. Each spouse has given $10,000 of his half interest in Blackacre, and $10,000 of his spouse's half interest in Blackacre. Assuming $20,000 is included in the husband's gross estate by reason of the transfer, his estate is entitled to credit for the gift tax paid for the gift of $10,000 considered made by him of half of his interest in Blackacre and for the gift of $10,000 considered made by his spouse out of the other half of the decedent's interest in Blackacre. The credit with respect to such $10,000 gift considered made by his spouse is computed under new subparagraph (D) as applied to the gift tax of such spouse. Thus, if by reason of the exemption allowed in computing net gifts, no gift tax is paid with respect to the gift by the spouse of the decedent, the decedent's estate is entitled to a credit only with respect to the gift tax paid with respect to his gift of $10,000 out of his half interest in Blackacre, even though he also pays a gift tax with respect to the $10,000 gift considered made by him out of his spouse's half interest. The effect of the provision, therefore, is to allow the decedent's estate a credit upon the average gift-tax rate as between the spouses with respect to the gift of the jointly held property. If an exemption or an exclusion is allowed, with respect to the transfer of the joint property by gift, in computing net gifts of a spouse, the amount so allowed shall be considered allowed one-half with respect to the gift made by such spouse out of his interest in the property and one-half with respect to the gift considered made by such spouse out of the other spouse's interest in the property.

Amendments corresponding to those made in section 813 (a) (1) are also made in section 936 (b), relating to the credit against the additional estate tax for gift taxes paid.

The amendments made by this section are applicable with respect to estates of decedents dying after the date of enactment of the bill. These amendments are applicable in computing the credit against the estate tax in the case of estates of nonresidents not citizens of the United States (although the amendments with respect to gifts for which a marital deduction is allowed will have limited effect because such deduction is not allowed in the case of a nonresident alien donor and a nonresident alien decedent).

SECTION 364. OPTIONAL VALUATION

The amendment made by this section to section 811 (j) of the code, relating to the optional method of determining the value of the gross estate, is made necessary by section 361 of the bill providing for a marital deduction in computing the net estate.

This amendment extends to the valuation of an interest in property for which a marital deduction is allowed substantially the same rule as is applicable under existing law in determining under the optional valuation method the value of any charitable bequest for which a deduction is allowed under section 812 (d) of the code.

SECTION 365. LIABILITY OF LIFE-INSURANCE BENEFICIARIES, ETC.

Section 826 (c) and (d) of existing law provides a rule of apportionment with respect to the contribution on account of estate tax paid which the executor may collect from the beneficiaries of insurance policies on the decedent's life and from the recipients of property over which the decedent had a power of appointment. This section of the bill, which was not contained in the bill as it passed the House, is designed to give proper effect, in apportioning any liability under section 826 (c) or (d) in the case of the decedent's surviving spouse, to the marital deduction allowed under section 812 (e) of the code (as added by sec. 361 of the bill) with respect to such insurance proceeds or property (subject to the power) which passed to her.

If the aggregate amount of marital deductions under section 812 (e) is allowed (without limitation under section 812 (e) (1) (H) to 50 percent of the adjusted gross estate) section 826 (c) and section 826 (d) do not apply to such insurance proceeds or property (subject to the power) for which a marital deduction is allowed. If the 50-percent limitation is applicable, an order of priority is established by the amendment for determining the portion of the insurance proceeds or property (subject to the power) receivable by the surviving spouse for which the marital deduction was allowed. In such a case, the marital deduction is considered allowed first with respect to the insurance proceeds to the extent of the amount of such proceeds so receivable, and second (the balance of the marital deduction) is considered allowed with respect to the property (subject to the power) to the extent of the value of such property. The amendments, however, do not change the apportionment under existing law in the case of insurance proceeds or property (subject to the power) receivable by the surviving spouse (or any other person) for which no marital deduction is allowed.

SECTION 366. BASIS OF SURVIVING SPOUSE'S INTEREST IN COMMUNITY PROPERTY

This section, not contained in the House bill, amends section 113 (a) (5) of the code, relating to the basis for determining gain or loss for income tax purposes. The amendment prescribes for the surviving spouse, after the death of the decedent, a new basis for her portion of the property held, at the time of such death, by the decedent and his spouse as community property. Under existing law, the surviving spouse's basis for such property is the same after the death of the decedent as before. Under the amendment, the surviving spouse is regarded, after such death, as acquiring such portion of the community property by devise, bequest, or inheritance, with the same basis as if so acquired from the decedent. Except in the case of certain foreign personal holding company stock, this basis is the fair market value of the property at the time of the decedent's death, or in case the executor of the decedent's estate elects the optional valuation date under section 811 (j), such value at such date.

The amendment applies only if at least one-half of the whole of the community interest in such property was includible in determining the value of the decedent's gross estate under section 811. Thus a husband will not have a new basis for his part of the community property upon the death of his wife in those situations in which her interest in their community property is not subject to the estate tax because of the limited nature of her interest, as is the case with community property under the law of Nevada and New Mexico, and certain community property, under the law of California, acquired by the community prior to April 16, 1923.

The amendment applies only with respect to community property where the decedent died after the date of the enactment of the bill.

Part III—Gift Tax

SECTION 371. GIFTS OF COMMUNITY PROPERTY

Section 1000 (d) of the Internal Revenue Code provides a special rule for treatment of transfers of community property by gift. This section of the bill, which is the same as section 354 of the bill passed by the House, provides that section 1000 (d) shall be applicable only to gifts made after the calendar year 1942 (when the gift-tax provisions of the Revenue Act of 1942 first became effective) and on or before the date of enactment of this bill. Thus, in the case of a gift of community property after the date of enactment of this bill the extent to which the gift is that of the husband and wife shall be determined without regard to section 1000 (d) of the code. However, for the purpose of the computation of tax under section 1001 of the code, section 1000 (d) shall be applicable in determining net gifts with respect to gifts of community property made after the calendar year 1942 and on or before the date of the enactment of this bill. The net gifts for such period are included in the net gifts for preceding calendar years, to which are added the net gifts made for a current calendar year in order to determine the rate at which the net gifts for the current calendar year will be taxed. The above application of section 1000 (d) is limited to the purposes of the gift tax and does not apply in determining the extent to which transfers of community property are transfers by the decedent under the estate tax.

SECTION 372. MARITAL DEDUCTIONS

This section adds a new paragraph (3) to section 1004 (a) of the code so as to provide a marital deduction in computing net gifts of citizens and residents of the United States. This gift tax marital deduction corresponds to the estate tax marital deduction provided under section 812 (e) of the code, as added by section 361 of the bill. The provisions of section 1004 (a) (3) are intended to be construed in the same manner as the corresponding estate tax provisions.

The marital deduction with respect to any gift is allowed only for gifts after the date of enactment of the bill. It is not allowed in the case of gifts by nonresident aliens, but is allowed in the case of a gift by a citizen or resident to his nonresident alien spouse.

The general rule for the gift-tax marital deduction is set forth in subparagraph (A) of section 1004 (a) (3). Under this rule, the marital deduction is an amount equal to one-half the value of any gift of an interest in property to a donee who at the time of the gift is the donor's spouse. This general rule corresponds to the general rule under section 812 (e) (1) (A) in the case of the estate tax marital deduction. It should be noted, however, that the gift tax.marital deduction is limited to half the value of the gift of an interest in property; while the corresponding estate-tax deduction is allowed for the entire value of an interest in property passing, but a limitation of 50 percent of the value of the adjusted gross estate is placed on the aggregate amount of marital deductions under the estate tax.

The marital deduction allowed under section 1004 (a) (3) is determined with respect to each gift to a spouse. The marital deduction with respect to any gift is determined without regard to the annual exclusion ($3,000 under existing law) allowed in computing the total amount of gifts to the donee spouse. Thus, if, after the enactment of the bill, the first gift (in the calendar year) of a donor to his spouse is $10,000, there will be allowed an exclusion of $3,000 and a marital deduction of $5,000 (one-half of $10,000). A limitation on the total marital deductions allowed for each year to the total amount of the gifts for which such deductions are allowable is provided by an amendment made by section 373 of the bill to section 1004 (c) of the code.

The deduction is allowed only with respect to a gift to a donee who at the time of the gift is the donor's spouse. Thus no marital deduction is allowed with respect to a gift to an individual who was not the donor's spouse at the time of the gift even though such individual was the donor's spouse some other time during the calendar year for which the gift was made or any other time.

The general rule of subparagraph (A) is subject to the exceptions provided in the subsequent subparagraphs of section 1004 (a) (3). Subparagraph (B) contains an exception with respect to life estates and other terminable interests generally corresponding to the provisions of section 812 (e) (1) (B). Clause (i) of subparagraph (B) corresponds to the provisions of clauses (i) and (ii) of section 812 (e) (1) (B) in disallowing the marital deduction with respect to terminable interests in property in which the donor also transfers or has transferred an interest to a person other than his spouse or her estate.

In addition, clause (i) of section 1004 (a) (3) (B) disallows a marital deduction in the case of a gift of a terminable interest if the donor retains in himself an interest in the property and if by reason of such retention the donor (or his heirs or assigns) may possess or enjoy any part of such property after the termination or failure of the interest transferred to the donee spouse. The same concepts are applicable in determining whether the donor has retained an interest in the property in which he gives an interest to his spouse as are applicable in the case of a transfer by him of an interest to any other person. For example, if a donor purchases an annuity contract payable to his wife for her life with refund of any undistributed portion of the fund to the donor or his estate, no marital deduction is allowed. If the donor purchases an annuity contract providing for payments to be made first to the donor for his life and then to his spouse for her life, if surviving the donor, and for no refund of any unpaid portion of the fund, no marital deduction is allowed; for the donor may, if he survives his spouse, possess or enjoy his retained interest after the failure of her interest. If the contract provides for a refund to the spouse's estate of any unpaid portion of the fund, a marital deduction is not allowed; for the right to any refund may terminate prior to the donor's death.

Special rules are also provided in subparagraph (B) in cases in which the donor has or retains a power to appoint an interest in property. For the purposes of clause (i), an exercise or release at any time by the donor, either alone or in conjunction with any person of a power to appoint an interest in property, even though not otherwise a transfer, is considered as a transfer by the donor. This rule is applicable, for example, in a case in which the donor was the sole beneficiary of the income from a trust and had the power to appoint the corpus of the trust upon its termination. If the donor released his power to appoint (his spouse not being the taker in default of appointment) and assigned his entire income interest to his spouse, the marital deduction is not allowed with respect to the gift to the spouse. The release of the power is considered a transfer by the donor to the taker in default. It is immaterial whether the power so released is a power of appointment within the definition in section 1000 (c) of the code or whether such release was for gift tax purposes (other than clause (i)) considered a transfer, or whether the power was released any time before or at the same time as the gift to the spouse. A release of a power includes the failure to exercise a power to the extent such failure has the effect of terminating the power.

Clause (ii) of section 1004 (a) (3) (B) has a special rule for treating a power to appoint possessed by the donor immediately after the gift to his spouse as an interest in property retained by the donor. Thus, if the donor has a power of appointment over Blackacre and appoints a life estate in Blackacre to his spouse, retaining the power to appoint the remainder interest, a marital deduction is not allowed with respect to the gift to his spouse. The retained power need not be a taxable power of appointment under section 1000 (c) in order to disqualify the interest given to his spouse for the marital deduction.

The donor is considered as having immediately after the transfer to his spouse a retained power to appoint even though such power to appoint cannot be exercised until after the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur. Under this provision the donor is considered as having immediately a power to appoint where he has a power the exercise of which can be made effectively only in the future. Thus, if the donor is entitled to the income of a trust for 10 years with power to appoint the corpus after such period, a gift of the income interest to his spouse does not qualify for a marital deduction. If a husband gives the entire interest in property to his spouse and, by what is in effect a part of the transaction, she gives him a power to appoint any interest in such property, the marital deduction is not allowed with respect to the gift by the husband.

Subparagraph (C) of section 1004 (a) (3) corresponds to subparagraph (C) of section 812 (e) (1) under the estate tax. This provision has particular application under the gift tax to gifts in trust under which the donor's spouse has the remainder interest or the trust income and a power to appoint to herself or her estate. In such cases this provision has the effect of reducing the marital deduction on account of the value of assets transferred by the donor in trust for which a marital deduction would not be allowed if such assets were transferred by gift from the donor to such spouse.

Subparagraph (D) of section 1004 (a) (3) takes out of the rule for terminable interests a gift by a donor to his spouse as joint tenant with the donor or as tenant by the entirety, and permits a marital deduction. If the spouse is not the sole joint tenant with the donor, the rules of subparagraph (B) operate to disallow entirely the deduction for the gift to the spouse of an interest in the joint tenancy.

Subparagraph (E) of section 1004 (a) (3) also contains an exception from the terminable interest rule, applicable in the case of certain gifts in trust with a power of appointment in the donee spouse. This provision corresponds to section 812 (e) (1) (F), with respect to the estate tax marital deduction.

Subparagraph (F) of section 1004 (a) (3) disallows the marital deduction in the case of gifts of the donor's interest in community property and of his interest in certain separate property which is, for the purposes of this provision, considered as community property. The rules in this subparagraph for determining such separate property which is considered as community property correspond generally to similar provisions contained in section 812 (e) (2) (B) and (C) with respect to the estate tax marital deduction. The community property referred to is property held as community property with the person who is the donor's spouse at the time of the gift. Thus the rule is not applicable with respect to separate property which never was held as community property with the donee spouse although it may have been held as community property with a former spouse of the donor.

The gift tax amendments providing for a marital deduction do not contain any provision corresponding to the disclaimer provisions under the estate tax marital deduction (sec. 812 (e) (4) of the code, as added by sec. 361 of the bill). Such provisions are unnecessary under the gift tax for the reason that if any person disclaims or refuses an attempted gift a transfer by gift is not considered made.

SECTION 373. TECHNICAL AMENDMENT

This section amends section 1004 (c) of the code, relating to the extent of deductions allowed in computing net gifts. The amendment has the effect of limiting the marital deduction with respect to gifts to a spouse in any calendar year to the amount of such gifts included for the purposes of computing net gifts. Thus if the only gift by a donor to his spouse during a calendar year is $5,000, an exclusion of $3,000 is allowed so that the amount included in net gifts is $2,000. A marital deduction is allowed in the amount of $2,500 by section 1004 (a) (3) but limited by section 1004 (c) to $2,000. Section 1004 (c) applies only to the total deductions allowed under any one paragraph of section 1004 in computing net gifts. Its operation is illustrated by the following case: A donor transferred $4,000 by gift to his spouse in January 1949 and $4,000 by gift to her in July 1949 and made no other gifts to her during the year. The marital deductions allowed under section 1004 (a) (3) in such a case (without regard to sec. 1004 (c)) total $4,000 (that is two deductions of $2,000 each). Since only one $3,000 annual exclusion is allowed for the gifts to the donee spouse, the extent to which the two gifts (total $8,000) are included in the amount of gifts for the purpose of determining net gifts is $5,000. Accordingly, since the total marital deductions ($4,000) do not exceed $5,000, the marital deductions are allowed in full.

SECTION 374. GIFT BY HUSBAND OR WIFE TO THIRD PARTY

This section amends section 1000 of the Code, relating to the imposition of the gift tax, by adding a new subsection, designated (f), providing for the so-called "splitting" between spouses of gifts made to third parties. Subparagraph (A) of section 1000 (f) (1) provides the general rule whereby a gift by one spouse to any person other than his spouse is considered (if consent has been signified as hereinafter explained) as made one-half by him and one-half by his spouse. This rule applies only to gifts made after the enactment of the bill and only if at the time of the gift each spouse is a citizen or resident of the United States. An individual is considered as the spouse of another individual for the purpose of this rule only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar year. Thus, if an individual who is not married makes a gift to X and later in the same calendar year marries Y, the gift to X cannot be considered as a gift made one-half by such individual and one-half by Y in their gift-tax returns for the calendar year in which the gift was made.

A provision is added in your committee bill which applies in the case of a gift of an interest in property over which the donor creates in his spouse a power of appointment, as defined in section 1000 (c) of the code. An example of a case to which this provision applies is a case in which a husband creates a trust, the income of which is to be accumulated, and provides that his spouse shall have a testamentary power of appointment exercisable in favor of any person, but in the event of a failure to exercise such power the property shall pass free of the trust to X. In such a case, no part of the interest subject to the spouse's power of appointment may for the purposes of section 1000 (f) of the code be considered as a gift to a third party.

The splitting of gifts made by either spouse to third parties is not mandatory but is permitted only if both spouses consent. The consent if made with respect to any gift during the calendar year applies with respect to all gifts made to third parties during such calendar year. A consent signified with respect to gifts made in a calendar year is effective with respect to such gifts in computing the gift tax for all future calendar years in which such gifts enter into the base for computing the tax for such future years.

The consent if made with respect to any gift during the year applies to all gifts to third parties during the calendar year made out of community property, or property held by the spouses as joint tenants or as tenants by the entirety. In such a case each spouse is considered to have made a gift of one-half of his interest in the joint property given and one-half of his spouse's interest in the joint property given. A consent signified does not have the effect of "splitting" any gift to the donor's spouse, even though no marital deduction is allowed under section 1004 (a) (3) for such gift.

The consent which is signified is effective to split the gifts of a spouse only for the purpose of the gift tax except as expressly provided elsewhere. Thus a consent signified for gift tax purposes does not affect the basis for income tax purposes under section 113 (a) (2) of the code of the third party donee with respect to the property given. Section 812 (c) of the code is amended by section 362 of the bill to provide special rules giving effect to such "splitting" of gifts in determining for the purposes of the estate tax the deduction for property previously taxed under the gift tax. Section 813 (a) (2) of the code is amended by section 363 of the bill to permit the decedent's estate a credit for gift-tax paid with respect to property included in the decedent's gross estate but considered for gift tax purposes as given one-half by his spouse.

Paragraphs (2) and (3) of section 1000 (f) provide special rules relating to the time and manner of signifying the consent and the revocation of a consent. These rules are modifications of corresponding provisions in the bill as passed by the House. A consent and the revocation of a consent shall be signified in such manner as is provided under regulations prescribed by the Commissioner with the approval of the Secretary. The time within which such consent or revocation may be signified, however, is subject to certain special rules. Inasmuch as the Commissioner is authorized to provide by regulations the manner in which the consent may be signified, the Commissioner may require the consent to be signified on the returns of the spouses.

Under subparagraph (B) of section 1000 (f) (2) the consent may be signified at any time after the close of the calendar year in which the gift was made, subject to limitations of time beyond which the consent may not be signified. The general rule is that the consent may not be signified after the 15th day of March following the close of the calendar year in which the gift was made. An exception to this rule is made in cases where before such date no return was filed for such year by either spouse. In such cases the consent may not be signified after a return for such year is filed by either spouse. Under this rule if an extension of time is obtained for both spouses for filing their returns for the calendar year in which the gift was made, the consent may be signified at any time on or before the day the return of the spouse first to file is filed. A limitation on the exception is provided in cases in which a notice of deficiency with respect to the tax for the year in which the gift was made is, before both spouses have signified the consent, sent to either spouse in accordance with section 1012 (a) of the Code. In such cases the consent cannot be signified after the deficiency notice is mailed.

The right to revoke a consent previously signified with respect to a calendar year is subject to the time limitations prescribed in paragraph (3) of section 1000 (f). The first limitation is that a consent signified on or before the 15th day of March following the close of the calendar year in which the gift was made cannot be revoked after such 15th day. The second limitation is that a consent signified after such 15th day cannot be revoked. Thus if the spouses obtain an extension of time for filing their returns to a date after March 15 and file the consent after March 15, such consent cannot be revoked regardless of when the returns are filed.

Paragraph (4) of section 1000 (f) provides that if the consent is signified with respect to a gift in any calendar year the liability with respect to the entire tax imposed by chapter 4 of the code of each spouse for such year shall be joint and several. The consent referred to in this provision is a consent which is validly signified and not revoked. It is not contemplated under this provision that where one spouse pays the entire tax liability of both spouses any gift tax will result by reason of payment of the liability of the other spouse. The provision for joint and several liability applies with respect to the entire tax of each spouse for the calendar year and applies, therefore, with respect to gifts made between the spouses and also applies with respect to gifts of community property and property held in other forms of coownership.