

EXCESS PROFITS TAX ACT OF 1950

DECEMBER 22, 1950.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H. R. 9827]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9827) to provide revenue by imposing a corporate excess profits tax, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 66, 151, 201, 205, and 229.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 7, 8, 9, 10, 11, 13, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 68, 69, 70, 71, 72, 74, 76, 78, 79, 80, 81, 82, 83, 85, 88, 90, 91, 93, 94, 96, 97, 99, 100, 101, 102, 103, 105, 107, 108, 109, 110, 111, 113, 114, 115, 116, 117, 120, 121, 122, 123, 125, 126, 127, 128, 129, 130, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 146, 147, 148, 149, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 202, 203, 204, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, and 228 and agree to the same.

Amendment numbered 1:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *and beginning before July 1, 1953*, ; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

On page 1 of the Senate engrossed amendments, line 7, strike out "60 per centum" and insert: *62 per centum*; and the Senate agree to the same.

Amendment numbered 6:

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

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

"(c) *TAXABLE YEARS BEGINNING BEFORE JULY 1, 1953, AND ENDING AFTER JUNE 30, 1953.*—*In the case of a taxable year beginning before July 1, 1953, and ending after June 30, 1953, the tax imposed by subsection (a) shall be an amount equal to that portion of a tentative tax, determined under subsection (a), which the number of days in such taxable year before July 1, 1953, bears to the total number of days in such taxable year.*

And the Senate agree to the same.

Amendment numbered 12:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *and beginning before July 1, 1953*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with the following amendments:

On page 3 of the Senate engrossed amendments, lines 14 and 15, strike out "beginning before January 1, 1953, and ending after December 31, 1952" and insert the following: *beginning before July 1, 1953, and ending after June 30, 1953*

On page 3 of the Senate engrossed amendments, lines 18 and 19, strike out "January 1, 1953" and insert the following: *July 1, 1953*

And the Senate agree to the same.

Amendment numbered 16:

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

On page 4 of the Senate engrossed amendments, line 13, insert after "days" the following: *in the taxable year*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with the following amendments:

On page 7 of the Senate engrossed amendments, line 3, insert after "section 435" the following: *or is computed under section 436 (a) by use of the historical invested capital determined under section 458*

On page 8 of the Senate engrossed amendments, line 13, after "section 435" insert the following: *and is not computed under section 436 (a) by use of the historical invested capital determined under section 458*

And the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

On page 9 of the Senate engrossed amendments, line 14, insert after "reduced by" the following: *an amount equal to 75 per centum of;* and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

On page 13 of the Senate engrossed amendments, line 1, insert after "years" the following: *(not including deductions arising from the same extraordinary event which gave rise to the deduction for the taxable year);* and the Senate agree to the same.

Amendment numbered 67:

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

On page 26 of the House engrossed bill, line 10, insert after "taxpayer is" the following: *the amount;* and the Senate agree to the same.

Amendment numbered 73:

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

On page 19 of the Senate engrossed amendments strike out lines 7, 8, and 9; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with the following amendments:

On page 20 of the Senate engrossed amendments, line 1, strike out "May 1, 1946" and insert: *the beginning of its base period*

On page 20 of the Senate engrossed amendments strike out line 18 and all that follows through line 2 on page 21, and insert the following:

"(B) (i) *the taxpayer's net sales for the period beginning January 1, 1950, and ending June 30, 1950, when multiplied by 2, equals or exceeds 150 per centum of its average net sales for the calendar years 1946-1947; and*

"(ii) *40 per centum or more of the taxpayer's net sales for the calendar year 1950 is attributable to a product, or class of products (including any article in which such product or class of products is*

the principal component and including any article which is a component of such product or class of products), of a kind not generally available to the public at any time prior to January 1, 1946, and

On page 21 of the Senate engrossed amendments strike out line 18 and all that follows through line 6 on page 22.

And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with the following amendments:

On page 23 of the Senate engrossed amendments, line 17, strike out "By" and insert the following: *In the case of a taxpayer who is entitled to the benefits of this subsection only under paragraph (1) (B) and whose excess profits net income for the calendar year 1949 is not more than 25 per centum of its excess profits net income for the calendar year 1948, by*

On page 24 of the Senate engrossed amendments strike out lines 3 to 6, inclusive, and insert the following:

The average base period net income determined under this subsection shall be the amount ascertained under subparagraph (C), (D), or (F), whichever is the highest, except that in the case of a taxpayer described in subparagraph (G), its average base period net income determined under this subsection shall be the amount ascertained under subparagraph (C), (D), (F), or (G) (ii), whichever is the highest.

And the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

On page 25 of the Senate engrossed amendments strike out lines 1 to 16, both inclusive, and insert the following:

"(1) DEFINITION OF YEARLY BASE PERIOD CAPITAL.—For the purposes of this subsection, the yearly base period capital for any taxable year shall be the sum of the equity capital (as defined in section 437 (c)) at the beginning of such taxable year and an amount equal to 75 per centum of the daily borrowed capital (as defined in section 439 (b)) for the first day of such taxable year, reduced by the sum of—

"(A) the amount of inadmissible assets at the beginning of such taxable year, determined under section 440, minus 25 per centum of the excess, if any, of such amount over the amount of the equity capital (as defined in section 437 (c)) at the beginning of such taxable year,

"(B) 75 per centum of the amount of loans to members of a controlled group, determined under paragraph (4), and

"(C) 75 per centum of the amount of the adjustment for interest on borrowed capital, determined under paragraph (5).

And the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

On page 29 of the Senate engrossed amendments strike out lines 1 and 2 and insert the following: *excess of the amount determined under the preceding sentence over—*

“(A) unless subparagraph (B) is applicable, the amount of such increase in inadmissible assets;

“(B) if the amount of such increase in inadmissible assets is in excess of the net capital addition determined without regard to this sentence and without regard to paragraph (3) (C), the amount of such increase in inadmissible assets minus 25 per centum of such excess.

And the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

On page 29 of the Senate engrossed amendments strike out lines 7 and 8 and insert the following: *sentence over—*

“(A) unless subparagraph (B) is applicable, the amount of such decrease in inadmissible assets;

“(B) if the amount of such decrease in inadmissible assets is in excess of the net capital reduction determined without regard to this sentence and without regard to paragraph (4) (C) and (E), the amount of such decrease in inadmissible assets minus 25 per centum of such excess.

And the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

On page 29, line 12, of the Senate engrossed amendments strike out “The” and insert in lieu thereof the following: *75 per centum of the*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with the following amendments:

On page 29, line 20, of the Senate engrossed amendments strike out “The” and insert in lieu thereof the following: *75 per centum of the*

On page 30, line 6, of the Senate engrossed amendments strike out “The” and insert in lieu thereof the following: *75 per centum of the*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

On page 33, lines 9 and 10, of the Senate engrossed amendments strike out “added to the daily capital reduction under” and insert the following: *referred to in*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of

the Senate numbered 98, and agree to the same with the following amendments:

On page 35 of the Senate engrossed amendments strike out lines 7 to 12, inclusive, and insert the following: *aggregate, divided by the number of days in such year, of the sum of the equity capital (determined under section 437 (c)) as of the beginning of each day of such taxable year and 75 per centum of the daily borrowed capital (determined under section 439 (b)) for each such day, (ii) the term 'assets' as used in section*

On page 36 of the Senate engrossed amendments, line 8, after "and" insert the following: *75 per centum of*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with the following amendments:

On page 37 of the Senate engrossed amendments beginning in line 22, strike out all after the period over to and including the period in line 3 on page 38.

On page 38 of the Senate engrossed amendments, line 12, insert after "(C)" the following: *75 per centum of*

And the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

On page 39 of the Senate engrossed amendments, line 12, strike out "which constitute" and insert the following: *used in computing*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

On page 40 of the Senate engrossed amendments strike out lines 22 and 23 and insert the following: *under the preceding sentence over—*

"(1) unless paragraph (2) is applicable, the amount of such increase in inadmissible assets;

"(2) if the amount of such increase in inadmissible assets is in excess of the net new capital addition determined without regard to this sentence and without regard to subsection (c) (3) and subsection (d) (3), the amount of such increase in inadmissible assets minus 25 per centum of such excess

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

On page 41 of the Senate engrossed amendments, line 8, strike out "The" and insert the following: *75 per centum of the*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

On page 42 of the Senate engrossed amendments, line 14, strike out "The" and insert the following: *75 per centum of the*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

On page 44 of the Senate engrossed amendments, lines 5, 9, 11, and 21, strike out "50" each place it occurs and insert the following: *66%*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with the following amendments:

On page 62 of the Senate engrossed amendments, line 8, strike out "445" and insert the following: *447*

On page 63 of the Senate engrossed amendments, strike out lines 11 to 24, both inclusive.

And the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with the following amendments:

On page 70 of the Senate engrossed amendments, line 16, strike out "subsection (d) (2)" and insert: *subsection (e)*

On page 71 of the Senate engrossed amendments, line 7, strike out "1949" and insert: *1948*

On page 71 of the Senate engrossed amendments, line 8, strike out "60" and insert: *63*

On page 71 of the Senate engrossed amendments, lines 9 and 10, strike out "1936 through 1949" and insert: *1938 through 1948*

On page 71 of the Senate engrossed amendments, line 13, strike out "1949" and insert: *1948*

On page 71 of the Senate engrossed amendments, line 14, strike out "4-year" and insert: *3-year*

On page 71 of the Senate engrossed amendments, line 15, strike out "1949" and insert: *1948*

On page 71 of the Senate engrossed amendments, line 18, strike out "4 years 1946 through 1949" and insert: *3 years 1946 through 1948*

On page 72 of the Senate engrossed amendments, line 1, strike out "1948, and 1949" and insert: *and 1948*

On page 72 of the Senate engrossed amendments, line 4, strike out "1936-1949" and insert: *1938-1948*

On page 72 of the Senate engrossed amendments, beginning in line 5 strike out "14-year period 1936 through 1949" and insert: *11-year period 1938 through 1948*

On page 72 of the Senate engrossed amendments strike out lines 8 and 9 and insert: *years 1938 through 1948 for the years 1946 through 1948.*

On page 72 of the Senate engrossed amendments, line 14, strike out "14-year period 1936 through 1949" and insert: *11-year period 1938 through 1948*

On page 72 of the Senate engrossed amendments, line 25, strike out "1936 through 1949" and insert: *1938 through 1948*

On page 74 of the Senate engrossed amendments, line 7, insert after "returns." the following:

For the purposes of this section, rates of return shall be determined after giving effect to renegotiation of contracts in accordance with renegotiation statistics published in the statistics compiled with respect to industry sub-groups.

And the Senate agree to the same.

Amendment numbered 144:

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

On page 75 of the Senate engrossed amendments, line 6, strike out "returns." and insert the following: *returns, computing all rates of return after giving effect to renegotiation of contracts in accordance with renegotiation statistics published in the statistics compiled with respect to industry classifications.*

And the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with the following amendments:

On page 83 of the Senate engrossed amendments, line 17, after "products" insert the following: *(including shale oil)*

On page 85 of the Senate engrossed amendments, line 14, insert after "dividends" the following: *or interest*

And the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

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

Amendment numbered 206:

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

On page 93 of the Senate engrossed amendments, line 15, after "plus" insert the following: *75 per centum of;* and the Senate agree to the same.

Amendment numbered 207:

That the House recede from its disagreement to the amendment of the Senate numbered 207, and agree to the same with the following amendments:

On page 113 of the Senate engrossed amendments, line 1, before the period insert the following: *and it shall combine with its net sales for that portion of the period prior to January 1, 1951, which preceded such transaction the net sales of such component corporations for that portion of such period*

On page 115 of the Senate engrossed amendments, at the end of line 18, insert the following: *and the net sales of the component corporation for the period prior to the date of the transaction,*

On page 115 of the Senate engrossed amendments, line 23, strike out "roll and gross receipts" and insert the following: *roll, gross receipts, and net sales*

On page 115 of the Senate engrossed amendments, line 25, strike out "payroll and gross receipts" and insert the following: *payroll, gross receipts, and net sales*

On page 116 of the Senate engrossed amendments, beginning with line 9, strike out all through line 6 on page 117 and insert the following:

"(3) Where any corporation, a party to a transaction described in section 461 (a), which had commenced business prior to the beginning of its base period (determined without reference to section 461 (d)), either was entitled at the time of the transaction to determine its average base period net income under section 435 (e) by reason of its having met the requirements of section 435 (e) (1) (B) or, where the transaction occurred prior to January 1, 1951, was furnishing at the time of the transaction a product or class of products of the type described in section 435 (e) (1) (B) (ii), the acquiring corporation shall be entitled to determine its average base period net income under section 435 (e) as provided in this subsection, substituting, for purposes of this paragraph, for the reference to the requirements of section 435 (e) (1) (A) (i), wherever it appears in paragraphs (1) and (2), a reference to the requirements stated in this paragraph, for the date July 1, 1950, wherever it appears in paragraph (1), the date January 1, 1951, and for the references, as they appear in paragraph (2), to transactions which occurred after the close of the base period of the component corporation and to transactions which occurred during the base period of the acquiring corporation, references to transactions which occurred after December 31, 1950 and to transactions which occurred prior to January 1, 1951, respectively.

On page 141 of the Senate engrossed amendments, line 7, strike out "December 1, 1950" and insert the following: *December 31, 1950*

On page 146 of the Senate engrossed amendments, after the period in line 2, insert the following: *For purposes of sections 435 (g) (3) (B) and 435 (g) (4) (B) the equity capital of the acquiring corporation at the beginning of its taxable year in which the transaction occurred shall be computed as of the day following the transaction.*

And the Senate agree to the same.

Amendment numbered 230:

That the House recede from its disagreement to the amendment of the Senate numbered 230, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: 305; and the Senate agree to the same.

Amendment numbered 231:

That the House recede from its disagreement to the amendment of the Senate numbered 231, and agree to the same with the following amendments:

On page 169 of the Senate engrossed amendments, line 1, strike out "307" and insert: 306

On page 169 of the Senate engrossed amendments, line 3, strike out "Section" and insert: *Effective with respect to taxable years beginning after December 31, 1950, section*

On page 169 of the Senate engrossed amendments strike out line 17 and the word "any" in line 18 and insert: *amount. Any*

And the Senate agree to the same.

R. L. DOUGHTON,
JERE COOPER,
JOHN D. DINGELL,
WILBUR D. MILLS,
DANIEL A. REED,
ROY O. WOODRUFF,
RICHARD M. SIMPSON,

Managers on the Part of the House.

WALTER F. GEORGE,
TOM CONNALLY,
HARRY F. BYRD,
E. D. MILLIKIN,
ROBERT A. TAFT,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9827) to provide revenue by imposing a corporate excess profit tax, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment provides that the excess profits tax imposed by the bill shall not apply to taxable years beginning on or after January 1, 1953. The House recedes with an amendment providing that the tax shall not apply to taxable years beginning on or after July 1, 1953.

Amendments Nos. 2 and 3: These amendments are clerical. The House recedes.

Amendment No. 4: The House bill provided that the excess profits tax shall not exceed an amount which when added to the normal tax and surtax for the taxable year is equal to 67 percent of the corporation's surtax net income. The Senate amendment provides that the tax shall not exceed an amount equal to the excess of 60 percent of the excess profits net income for the taxable year over the normal tax and surtaxes which would be imposed for the taxable year if the tax base applicable to the normal tax and surtax were the amount of the excess profits net income. The House recedes with an amendment substituting 62 percent for the 60 percent provided in the Senate amendment.

Amendment No. 5: This amendment is clerical. The House recedes.

Amendment No. 6: The Senate amendment provided for computation of the tax in the case of a fiscal year beginning before January 1, 1953, and ending after December 31, 1952. The House recedes with an amendment conforming to the action taken on amendment No. 1.

Amendment No. 7: This amendment is clerical. The House recedes.

Amendment No. 8: This amendment strikes out the provision in the House bill which provided certain rules with respect to payment of the tax in the case of taxpayers claiming the benefit of certain relief provisions contained in the House bill. The rules to be applied in such case are contained in the provisions inserted by Senate amendment No. 144. The House recedes.

Amendment No. 9: This amendment provides a number of cross references. The House recedes.

Amendments Nos. 10 and 11: These amendments are clerical. The House recedes.

Amendment No. 12: This amendment provides that there shall be no unused excess profits credit for a taxable year beginning after the last taxable year for which the excess profits tax is imposed. The House recedes with an amendment conforming to the action taken on amendment No. 1.

Amendment No. 13: This amendment provides that the unused excess profits credit for any taxable year shall be computed without

regard to the deduction allowed for the year under section 23 (s) of the Internal Revenue Code, relating to net operating losses. The House recesses.

Amendment No. 14: This amendment provides for the computation of the unused excess profits credit for a taxable year beginning before January 1, 1953, and ending after December 31, 1952. The House recesses with an amendment conforming to the action taken on amendment No. 1.

Amendment No. 15: This is a technical amendment. The House recesses.

Amendment No. 16: This amendment provides, in effect, that there shall not be an unused excess profits credit carry-back for any period during which the taxpayer has distributed substantially all of its assets in liquidation or for any period during which the taxpayer has converted substantially all of its assets into assets not held in good faith for the purposes of the business. The House recesses.

Amendment No. 17: This amendment strikes the provision of the House bill which excluded, for purposes of computing excess profits net income for taxable years ending after June 30, 1950, certain gains and losses to which section 117 (j) of the Internal Revenue Code is applicable. Under the House bill, there would be excluded losses, as well as gains, from the voluntary sale of property used in the trade or business, but losses resulting from fire, theft, flood, and similar casualties would be allowed. The effect of the Senate amendment is to allow certain losses from the voluntary sale of business properties as ordinary losses, which the House provision would have disallowed. The House recesses. The conferees, however, have agreed that the treatment for excess profits tax purposes of section 117 (j) losses is a subject matter which must have further study.

Amendment No. 18: This amendment makes a clarifying change in the provision of the House bill dealing with exclusions of income attributable to the recovery of bad debts. The House recesses.

Amendment No. 19: This amendment provides for the amount of the adjustment to be made of the normal-tax net income in the case of an insurance company computing the excess profits credit based upon invested capital. The House recesses.

Amendments Nos. 20, 21, 22, 23, 24, 25, 26, and 27: These are clerical amendments. The House recesses.

Amendment No. 28: The House bill provided an adjustment, in computing excess profits net income, for the net operating loss adjustment. The Senate amendment (1) strikes out this provision of the House bill, (2) makes appropriate amendments in the adjustment to reflect the changes made by the Senate with respect to borrowed capital, and (3) provides, at the election of any taxpayer using the base period credit, for the carry forward to the years 1950 and 1951 of losses during the base period which have not otherwise been offset against the income of other years.

The House recesses with an amendment to allow any taxpayer computing invested capital by means of the historical credit also to carry forward to 1950 and 1951 losses during the base period which have not otherwise been offset in other years.

Amendment No. 29: The House bill provides that in the case of long-term leases, where the lessee is obligated to pay taxes imposed upon the lessor with respect to the rentals thereunder, such taxes

shall be excluded by the lessor, and shall not be deducted by the lessee, in computing excess profits net income. The Senate amendment provides that the term of a lease of railroad properties entered into prior to December 1, 1950, shall include the years for which such lease may be renewed or continued. The House recedes.

Amendment No. 30: This is a clerical amendment. The House recedes.

Amendment No. 31: This amendment makes a clarifying change in the provisions relating to the treatment of blocked income. The House recedes.

Amendment No. 32: This is a clerical amendment. The House recedes.

Amendments Nos. 33 and 34: These are conforming amendments to the treatment accorded borrowed capital under Senate Amendment No. 124. The House recedes with an additional conforming amendment.

Amendment No. 35: This amendment provides that, in computing excess profits net income, adjustment shall be made to exclude any payments made to a taxpayer by the United States or any agency or instrumentality thereof for the encouragement of exploration, development, or mining of critical and strategic minerals or metals for defense purposes. The House recedes.

Amendments Nos. 36 and 37: These are clerical amendments. The House recedes.

Amendments Nos. 38, 39, and 40: These are conforming amendments to Senate amendments Nos. 190 to 195. The House recedes.

Amendment No. 41: This is a clerical amendment. The House recedes.

Amendment No. 42: This amendment strikes out a provision of the House bill, the principle of which is set forth in section 441 (h), as added by Senate amendment No. 128.

Amendment No. 43: This is a clerical amendment. The House recedes.

Amendment No. 44: This amendment strikes out a provision of the House bill, the principle of which is set forth in section 441 (h), as added by Senate amendment 128.

Amendment No. 45: This is a clarifying amendment. The House recedes with an amendment relating to the treatment of abnormal deductions arising in different taxable years from the same extraordinary event (such as claims and awards arising in different taxable years from a single fire).

Amendment No. 46: This is a clarifying amendment. The House recedes.

Amendment No. 47. This is a technical amendment striking out as unnecessary a House provision. The principle expressed in this provision, of not treating as an abnormal deduction increased payrolls in the case of a growing corporation, is covered by other provisions of the same section of the bill with respect to all types of deductions which may be the cause or consequence of increased income. The House recedes.

Amendment No. 48: The House bill provides that in the case of long-term leases, where the lessee is obligated to pay taxes imposed upon the lessor with respect to the rentals thereunder, such taxes shall be excluded by the lessor, and shall not be deducted by the lessee, in

the computation of average base period net income. The Senate amendment provides that the term of a lease of railroad properties entered into prior to December 1, 1950, shall include the years for which such lease may be renewed or continued. The House recedes.

Amendment No. 49: This amendment provides that with respect to banks the deduction for FDIC assessments in the taxpayer's base period years will be reduced proportionally with the credit allowed, pursuant to Public Law 797 of the Eighty-first Congress, against the FDIC assessment in the excess profits tax year. The House recedes.

Amendment No. 50: This amendment adds to section 433 (b) of the bill as it passed the House a new paragraph (14) which provides, for purposes of computing average base period net income in the case of a life insurance company, that there be deducted from the normal-tax net income an amount equal to the excess of (1) the product of (A) the figure determined and proclaimed under section 202 (b) of the Internal Revenue Code and (B) the excess profits net income computed without regard to the paragraph, over (2) the adjustment for certain reserves provided in section 202 (c) of the code. This provision is comparable to section 433 (a) (1) (H) (applicable to excess profits tax taxable years) of the bill as it passed the House. The House recedes.

Amendment Nos. 51, 52, 53, 54, 55, and 56: These amendments are of a technical and clerical nature and the House recedes.

Amendment No. 57: This amendment relates to the action on amendment No. 219 (adding a new paragraph (8) to section 141 (e) of the code) and amendment No. 221 (adding a new subsection (j) to section 141 of the code) relating to the filing of consolidated returns. It provides that in the case of a regulated public utility which has made and filed a consent described in section 141 (e) (8) or (j) applicable to the taxable year, the excess profits credit is, for purposes of filing a consolidated return, to be determined in accordance with such consent. The House recedes.

Amendments Nos. 58, 59, 60, 61, 62, 63, and 64: These amendments are clerical or clarifying in nature. The House recedes.

Amendment No. 65: This amendment corresponds to amendment No. 29 and amendment No. 48. The House recedes.

Amendment No. 66: This amendment added a provision under which the excess profits credit based on income would be computed under section 713 (but without the benefit of subsection (f) or section 722) of the code for the last taxable year of the taxpayer beginning prior to January 1, 1946, if the amount so computed is greater than 85 percent of the average base period net income computed as provided in the bill. There was no comparable provision in the House bill. The Senate recedes.

Amendment No. 67: This is a technical conforming amendment. The House recedes with a clarifying amendment.

Amendments Nos. 68, 69, 70, 71, and 72: These are technical conforming amendments. The House recedes.

Amendment No. 73: This amendment provides for cross references. The House recedes with a conforming amendment.

Amendment No. 74: This is a technical drafting amendment. The House recedes.

Amendment No. 75: This amendment affects section 435 (e) which is to be added to the Code and which provides for an alternative average base period net income for growing corporations. Under the

House bill this provision was available only to corporations which commenced business before the beginning of the base period. The Senate amendment made the provision applicable if the taxpayer commenced business before May 1, 1946.

The House bill also made the growth provision available only if (1) the taxpayer had total assets of not more than \$20,000,000 at the beginning of its base period and if (2) the total payroll of the taxpayer for the last half of its base period was 130 percent or more of its total payroll for the first half of its base period or its gross receipts for the last half of its base period were 150 percent or more of its gross receipts for the first half of its base period.

The Senate amendment retains the above gross receipts and payrolls tests, and modifies the \$20,000,000 asset test by requiring that there be added to the assets of the taxpayer, for the purposes of this test, the assets of other affiliated corporations with which the taxpayer has the privilege of filing consolidated returns for its first excess profits tax taxable year under the new law.

The Senate amendment also added a second set of tests (as an alternative to the \$20,000,000 assets, payrolls and gross receipts tests) which if met qualify the taxpayer for relief under this section. These tests are based on growth as evidenced primarily by increased sales of a product or class of products of a kind not generally available to the public at any time prior to 1946. Television sets are an example of such a product. A product which is a modification of an old product, such as an improvement or change in style, is not a product of the type referred to. A product which was generally available prior to 1946, although not available at all times prior thereto, is also not intended to be covered.

The House recedes with amendments reinstating the requirement that the taxpayer must have commenced business prior to the beginning of its base period and reducing somewhat the qualifications for growth corporations based on sales of a new product.

Amendments Nos. 76 and 77: These amendments relate to the relief provided corporations which qualify as "growth" corporations.

The House bill provided that in the case of a corporation qualifying for relief under the growth provision, its average base period net income under this provision might be based on its income for the last 12 months of its base period or the average for the last 24 months of its base period, whichever is higher. Amendment No. 76 strikes out the provision for taking the higher of these two alternatives and amendment No. 77 provides for two additional alternatives, making four in all under this provision. The third alternative, as added by the Senate amendment, is based on the taxpayer's excess profits net income for the last 6 months of 1949 and 80 percent of the taxpayer's excess profits net income for the first 6 months of 1950 (or in the case of a taxpayer on a fiscal year basis, a weighted part of the taxpayer's excess profits net income for the first 6 months of 1950). The fourth alternative, as added by the Senate amendment, is based on the excess profits net income for the last 6 months of 1948 and the first 6 months of 1950 (weighted as above described).

The House recedes as to amendment No. 76 and also recedes as to amendment No. 77 with an amendment restricting the use of the fourth method as an alternative for computing average base period net income under this provision to only those corporations which

qualify as growth corporations under the provision relating to a new product and whose excess profits net income for 1949 is 25 percent or less than the excess profits net income for 1948.

Amendment No. 78: This amendment relates to the definition of "total assets" for the purposes of the growth provision test based on \$20,000,000 of total assets. Under the House bill only such assets were counted as were "used in the taxpayer's business". The Senate amendment substitutes for this expression the requirement that the assets be "held by such taxpayer for the purposes of the business." The House recedes.

Amendment No. 79: This amendment is made necessary by the provisions of Senate amendment No. 75 under which the \$20,000,000 asset test for purposes of the growth formula is to be determined with reference to the assets of an affiliated group. The House recedes.

Amendments Nos. 80, 81, 82, and 83: These are clerical amendments. The House recedes.

Amendment No. 84: Under the House bill, the base period capital addition was determined by treating borrowed capital in a manner similar to its treatment in determining the invested capital credit. This amendment strikes out the provisions of the House bill and substitutes provisions which, in the treatment of borrowed capital, correspond to the treatment of borrowed capital for the purpose of determining the net capital addition or reduction under the Senate bill. The House recedes with amendments conforming to the 75 percent limitation on the inclusion of borrowed capital (see amendment No. 124).

Amendments Nos. 85 to 95, inclusive: These amendments relate to the determination of the net capital addition or reduction applicable in determining the excess profits credit based on income. Amendments Nos. 85 and 91 are clerical amendments. Amendments Nos. 86, 87, 90, and 93 relate to the adjustment for an increase or decrease in inadmissible assets. Under the House bill, this adjustment was made on a daily basis. Under the Senate bill, amendment No. 95 provides rules for determining such increase or decrease for the taxable year, amendments 86 and 87 provide for the adjustment based on such determination, and amendments 90 and 93 strike out the provisions for a daily adjustment. Amendment 88 strikes out a provision in the House bill for the determination of the amount of property paid in as a capital addition, a similar rule being included in section 441 of the Senate bill (see amendment No. 128), and amendment 94 strikes out a cross-reference which appears in the provisions inserted by amendment No. 95. Amendments Nos. 89 and 92 provide for the inclusion of borrowed capital in determining the net capital addition or reduction. Amendments Nos. 92 and 95 also provide special rules in the case of an increase in inadmissible assets by, or loans to, a member of a controlled group. The House recedes with amendments necessary to reflect the inclusion of only 75 percent of the borrowed capital.

Amendment No. 96: This amendment is made necessary by amendments 85 to 95, inclusive, which include borrowed capital in determining net capital addition or reduction. Under the House bill, borrowed capital was not so included, but subsection (h) of section 435 provided special rules for additions and reductions in borrowed capital. Amendment No. 96 strikes out subsection (h), borrowed capital being included

under amendments 85 to 95 in computing net capital addition or reduction. The House recedes.

Amendment No. 97: This amendment provides the general rule for determining the excess profits credit based on invested capital. Under the House bill, the invested capital credit is the sum of the basic equity capital credit, the new capital credit, and the borrowed capital credit adjusted for inadmissible assets. The Senate bill provides that the invested capital credit shall be the sum of (1) the invested capital credit, reduced by the inadmissible asset adjustment, and (2) the new capital credit. These changes are made necessary by the change made in the treatment of borrowed capital and by the provision in section 437 (b) relating to the election of the historical invested capital method. The House recedes.

Amendment No. 98: This amendment provides rules for the computation of the excess profits credit based on invested capital in the case of foreign corporations engaged in a trade or business in the United States and corporations entitled to the benefits of section 251. The House recedes, with a clarifying amendment to section 436 (b) (1) (A) and technical amendments to section 436 (b) (1) (A) and 436 (b) (1) (B) to conform with the 75 per centum inclusion for borrowed capital.

Amendments Nos. 99, 100, 101, 102, and 103: These are technical amendments made necessary by amendment 104. Under these amendments, the rates for determining the invested capital credit apply to the invested capital determined for the taxpayer; under the House bill these rates applied only to the adjusted equity capital. The House recedes.

Amendment No. 104: This amendment relates to section 437 (b), which in the House bill defined adjusted equity capital. Under the House bill, the rates provided in section 437 (a) applied to the amount so determined under section 437 (b). Amendment No. 104 strikes out section 437 (b) of the House bill and inserts a new section 437 (b), paragraph (1) of which provides that the invested capital shall be, except in the case of a mutual insurance company (other than life or marine), the adjusted invested capital determined under paragraph (2) of section 437 (b), or at the election of the taxpayer in its return for the taxable year the historical invested capital determined under section 458 (see amendment No. 206), paragraph (2) of which provides that the adjusted invested capital is determined in a manner similar to that used in determining adjusted equity capital under section 437 (b) of the House bill, but with the addition thereto of the average borrowed capital for the taxable year, and paragraph (3) of which provides the manner for determining the invested capital in the case of a mutual insurance company (other than life or marine). The House recedes with an amendment providing for the inclusion, in determining adjusted invested capital, of only 75 percent of the average borrowed capital for the taxable year, and with an amendment conforming to the action on amendment No. 205.

Amendment No. 105: This amendment clarifies the provisions of section 437 (c) of the House bill, defining equity capital as the excess of the adjusted basis of the total assets held by the taxpayer over the total of its liabilities, by providing that such assets should include only those held in good faith for the purposes of the taxpayer's business. The purpose of this limitation is to disallow in computing

invested capital those assets which are not required in the business and which have the principal effect of reducing excess profits tax. Similar provisions are contained elsewhere in the bill with respect to the other determinations made in computing the excess profits credit. The House recedes.

Amendment No. 106: This amendment provides special rules for determining the equity capital of an insurance company (other than mutual and other than life or marine). The House recedes with a clarifying amendment.

Amendment No. 107: This amendment excludes from the definition of "liabilities" for purposes of determining equity capital of a bank, as defined in section 104, the reserves for bad debts. The House recedes.

Amendments Nos. 108 and 109: These are clerical amendments to conform to amendment No. 128. The House recedes.

Amendment No. 110: This is a clerical amendment. The House recedes.

Amendment No. 111: This amendment conforms to amendment No. 104, and provides that the new capital credit shall not be allowed in the case of a taxpayer using the historical invested capital determined under section 458 (see amendment No. 206), or in the case of a mutual insurance company (other than life or marine). The House recedes.

Amendment No. 112: This amendment relates to the determination of the net new capital addition under section 437 (b). Under the House bill, the daily capital reduction used in determining the net new capital addition was determined under section 437 (e) and there was no adjustment in such determination for any increase in inadmissible assets. The amendment by the Senate provides for such adjustment, and further provides that the daily capital reduction used for purposes of section 438 (b) shall be determined under section 438 (d) (see amendment No. 119). The House recedes with an amendment made necessary by the amendment to amendment No. 104 with respect to the inclusion of only 75 per centum of the average borrowed capital.

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

Amendment No. 115: This is a clerical amendment to conform to amendment No. 128. The House recedes.

Amendments Nos. 116 and 117: These are clerical amendments. The House recedes.

Amendment No. 118: This is a technical amendment to conform to the change in the treatment of borrowed capital provided by amendment No. 124. It further provides for treatment of excluded borrowed capital similar to that accorded excluded equity capital in determining the daily new capital reduction. The House recedes, with an amendment reducing the amount of the excess in the increase in daily borrowed capital to be taken into account to 75 per centum.

Amendment No. 119: This amendment inserts a new subsection (d) in section 438 to provide the rules for determining the daily capital reduction for purposes of section 438. The House recedes with an amendment conforming to the change to amendment No. 104 with respect to average borrowed capital.

Amendment No. 120: This amendment is a change in the designation of a subsection. The House recedes.

Amendment No. 121: This is a clerical amendment. The House recedes.

Amendment No. 122: This is a conforming amendment (see amendment No. 128). The House recedes.

Amendment No. 123: This is a conforming amendment made necessary by amendment No. 118, and provides, for borrowed capital, a definition of excluded borrowed capital. The House recedes.

Amendment No. 124: This amendment strikes out section 439 of the House bill, which related to the determination of the borrowed capital credit, and inserts a new section 439, relating to borrowed capital. Under the House bill, the borrowed capital credit generally was an amount equal to one-third of the amount of interest paid or incurred with respect to borrowed capital for the current taxable year, with certain maximum and minimum limitations and with certain special provisions relating to insurance companies. Under the Senate amendment, section 439 defines average borrowed capital for the taxable year and daily borrowed capital for any day. Under other Senate amendments, 100 percent of the indebtedness constituting borrowed capital is includible in the same manner as equity capital in computing the borrowed capital credit, and provision is made for the disallowance of the interest deduction attributable to such borrowed capital (see, for example, amendments Nos. 33 and 34, and 104). Under section 439 (b) (1) of the bill as amended by the Senate, the definition of borrowed capital includes only indebtedness incurred in good faith for the purposes of the business. The Senate amendment includes in borrowed capital the amount of the taxpayer's indebtedness to a bank which is evidenced by a bank loan agreement. It also contains special provisions for a 50 percent inclusion with respect to unearned premiums of insurance companies, certain reserves of life insurance companies, and certain reserves of face-amount certificate companies. In the case of the other Senate amendments with respect to borrowed capital, the House has, in general, receded with amendments providing for only a 75 percent inclusion with respect to borrowed capital. The House recedes with respect to Amendment No. 124, with amendments providing for an increase from 50 percent to 66 $\frac{2}{3}$ percent with respect to insurance company unearned premiums, life insurance company reserves, and face-amount certificate company reserves. The effect of these amendments is to retain as borrowed capital taken into account in computing the excess profits credit in such cases the original 50 percent amount (75 percent of 66 $\frac{2}{3}$ percent).

Amendment No. 125: This is a technical amendment. The House recedes.

Amendment No. 126: This is a clarifying amendment. The House recedes.

Amendment No. 127: Under the House bill, section 441 contained the provisions with respect to the computation of the invested capital credit in the case of foreign corporations and corporations entitled to the benefits of section 251. Under the Senate amendment, provisions with respect to such corporations are contained in section 436 (b) (see amendment No. 98). Amendment No. 127 strikes out section 441 of the House bill. The House recedes.

Amendment No. 128: This amendment is a new section containing definitions and rules applicable to section 435, relating to the excess profits credit based on income; section 437, relating to the invested capital credit; section 438, relating to the new capital credit; and section 440, relating to admissible and inadmissible assets. Subsection (a) provides a definition of equity capital as the equity capital defined in section 437 (c). Subsection (b) corresponds to a portion of section 437 (d) of the House bill, stricken by amendment No. 108. Subsection (c) is designed to prevent tax avoidance by including only money and property paid in good faith for the purposes of the taxpayer's business. Subsections (d), (e), (f), and (g), respectively, correspond to section 437 (g) of the House bill, stricken by amendment No. 109. Subsection (i) modifies the general rule for valuation of certain intangible assets, and subsection (j) provides a special rule for certain railroad properties acquired upon rejection of a lease. The House recedes.

Amendment No. 129: The House bill provided that in the case of certain abnormalities in net income during base period years, the year affected by a substantial abnormality might be reconstructed by applying to the taxpayer's net income in normal years in the base period the ratio of the industry rate of return for the abnormal years to the industry rate of return for the taxpayer's normal years. The Senate amendment (1) strikes out these provisions of the House bill and (2) provides, in general, for relief in the case of abnormalities by applying the industry rate of return for the period of abnormality to the taxpayer's total assets. In the event that no more than 12 months are affected by an abnormality (other than the period eliminated under section 435 (d)) a substitute excess profits net income is determined for the period of the abnormality by the use of the applicable industry rate of return. In the event that more than 12 months in the taxpayer's base period (other than the period eliminated under section 435 (d)) are affected by an abnormality, the average base period net income is determined by applying the base period rate of return for the 4 years 1946 through 1949 to the taxpayer's average assets during the base period. The provision is intended to be applicable only to periods in which the excess profits net income of the taxpayer is affected by an abnormality. The House recedes.

Amendment No. 130. The House bill provided that taxpayers which introduced a different product or service during the last 3 years of the base period might compute an alternative credit on the basis of the industry rate of return as applied to their assets. The Senate amendment (1) strikes out the provisions of the House bill and (2) substitutes provisions designed, in general, to provide similar relief. The application of the provisions has been clarified in order to permit a taxpayer who introduces more than one new product or service to aggregate the income from all such products or services for the purpose of qualifying under the section. Other changes have been made in the qualification requirements, in the method of computing average base period net income, and in provisions relating to capital additions and reductions. The House recedes.

Amendment No. 131: This amendment, for which there is no corresponding provision in the House bill, in general permits a taxpayer which has effected a substantial increase in its capacity for

production or operation during the last 36 months of the base period to compute an average base period net income by applying the industry base period rate of return to its assets as of the end of the base period. The House recedes with an amendment eliminating a provision relating to a change in operations and management.

Amendment No. 132: This is a clerical amendment. The House recedes.

Amendment No. 133. This is a technical amendment. The House recedes.

Amendment No. 134: This amendment strikes out certain provisions of section 444 of the House bill relating to the method of computing average base period net income for new corporations, and inserts new rules for the computation. The House recedes.

Amendments Nos. 135, 136, 137, 138, and 139: These are technical amendments to the provisions relating to rules for application of the new corporation section. The House recedes.

Amendment No. 140: This amendment, for which there is no corresponding provision in the House bill, provides that certain corporations, under certain circumstances, are not eligible for the benefits of the new corporation provision. The House recedes.

Amendment No. 141: This amendment adds cross-references. The House recedes.

Amendment No. 142: This amendment strikes out section 445 of the House bill, relating to industry base period rates of return, for which provision is made in Senate amendment No. 144. The House recedes.

Amendment No. 143: This amendment adds a new section providing relief for depressed industry subgroups. Under the Senate amendment a depressed industry subgroup is one in which the average rate of return on total assets during the years 1946 through 1949 is less than 60 percent of the average rate of return of the industry subgroup over the period 1936 through 1949. The Senate amendment would permit a taxpayer in such an industry subgroup to use an average base period net income computed by multiplying its average total assets during the base period by 80 percent of the depressed industry subgroup's average rate of return during the period 1936 through 1949. There was no corresponding provision in the House bill. The House recedes with amendments having the following effect. The comparative periods for determining whether the industry subgroup was depressed and the rate of return to be allowed in computing the average based period net income are limited to the periods 1938 through 1948 (instead of 1936 through 1949) and 1946 through 1948 (instead of 1946 through 1949). Under the Senate amendment the industry rate of return for the short period was required to be less than 60 percent of the rate of return for the long period. This is changed to 63 percent. A clarifying amendment is also made with respect to the effect of renegotiation in connection with the statistics to be used.

Amendment No. 144: This amendment replaces section 445 of the House bill, relating to industry rates of return and industry classifications. The amendment clarifies the method of rate determination and prescribes the industry classifications to be used in providing relief for abnormalities in the base period, change in product, increase in capacity, and new corporations. The industry classifications are the same (to the extent available statistical data will permit) as the

Standard Industrial classifications developed by the Bureau of the Budget. The classification of individual corporations is to be made in accordance with the specifications shown in the Standard Industrial Classification Manual (prepared by the Division of Statistical Standards, Bureau of the Budget). The amendment requires the taxpayer to make application with his return, or within a prescribed period, for the benefits of sections 442 to 446. The House recedes with an amendment with respect to the effect of renegotiation in connection with the statistics to be used.

Amendment No. 145: This amendment relates to the minimum excess profits credit for regulated public utilities. The amendment applies to all utilities covered by the House bill and also to regulated public utilities engaged in the furnishing or sale of (1) sewerage disposal services, (2) transportation by motor vehicle, and (3) transportation by common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission or Federal Maritime Board.

Under the House bill the percentage used in computing the credit for common carriers by railroad, and for common carriers by air, was 5 percent. Under the Senate amendment this was increased to 7 percent in the case of air carriers and 6 percent in the case of railroads. Under the House bill the percentage for telephone and telegraph companies was 6 percent, which is increased to 7 percent by the Senate amendment. The utilities added by the Senate amendment use the 6 percent rate.

Under the House bill adjusted equity capital was computed in the manner provided in section 437 (b) of the House bill. Under the Senate amendment, in certain cases where corporate books of account are maintained in accordance with systems of accounts prescribed by an appropriate regulatory body, the adjusted invested capital is the sum of the average outstanding common and preferred stock accounts and the capital surplus and earned surplus accounts as recorded on the corporate books of account.

The amendment also (1) made technical and clarifying changes, (2) expanded and clarified the definition of the term "regulated public utility", and (3) included provisions relating to consolidated returns of regulated public utilities.

The House recedes with clarifying amendments.

Amendments Nos. 146 and 147: These amendments change section numbers. The House recedes.

Amendment No. 148: This amendment conforms to amendment No. 152. The House recedes.

Amendment No. 149: This amendment includes "perlite" as a strategic mineral. The House recedes.

Amendment No. 150: This amendment includes molybdenum and beryllium as strategic minerals. The House recedes with an amendment limiting the inclusion to molybdenum.

Amendment No. 151: This amendment includes trona as a strategic mineral. The Senate recedes.

Amendment No. 152: The House bill extended the benefits of section 448 of the House bill (section 450 of the Senate bill) to corporations engaged in mining critical minerals as defined in subsection (b) (2). This amendment strikes out subsection (b) (2), and conforming changes are made by amendments Nos. 148 and 154. The House recedes.

Amendment No. 153: This is a clerical amendment. The House recedes.

Amendment No. 154: This amendment conforms to the change made by amendment No. 152. The House recedes.

Amendments Nos. 155, 156, and 157: These are clerical amendments. The House recedes.

Amendments Nos. 158 to 185, inclusive: These are amendments to section 451 of the House bill, relating to nontaxable income from certain mining and timber operations, and from natural gas properties. Amendment No. 158 changes the section number. Amendments Nos. 159, 160, 161, 162, 163, 164, 165, 166, 168, 169, 170, 179, 182, 183, and 185 are clarifying amendments. Under the House bill the taxable years beginning after December 31, 1945, and not ending after June 30, 1950, are referred to as the "base period" for the purposes of this section. Under these amendments, such period is referred to as the "normal period". Amendment No. 167 adds "shell" to the list of nonmetallic substances designated as "minerals" for the purposes of this section. Amendments Nos. 172, 173, 174, and 180 are clerical amendments. Amendment No. 171 permits a taxpayer with more than one mineral property to elect to treat its properties as one mineral property. Amendments Nos. 175, 176, 177, 178, and 181 apply to a metal or coal mining property the rule, applicable under the House bill in the case of a coal mining or iron mining property, for the determination by reference to unit net income of the nontaxable income from exempt excess output. Amendment No. 184 relates to nontaxable income from exempt excess output in the case of a property not in operation during the normal period. Under the House bill, such nontaxable income was one-sixth of the net income (computed with the allowance for depletion) in the case of a coal mining or iron mining property or from a timber block. Under the Senate amendment, it is one-third of such net income in the case of a metal or coal mining property or a timber block or a natural gas property, and a special rule is provided for considering certain metal mining properties as not having been in operation during the normal period. The House recedes.

Amendment No. 186: This is a clerical amendment. The House recedes.

Amendment No. 187: This is a clarifying amendment. The House recedes.

Amendment No. 188: This amendment exempts from the excess profits tax any corporation subject to certain provisions of the Civil Aeronautics Act of 1938 if, after excluding from gross income the amount of certain compensation for the transportation of mail by aircraft, its adjusted excess profits net income for the year is zero or less. The House recedes.

Amendment No. 189: This is a clerical amendment. The House recedes.

Amendments Nos. 190, 191, 192, and 193: These amendments extend the scope of section 455 (a) (section 453 (a) of the House bill) so as to permit dealers in installment sales obligations the same election with respect to reporting income on the accrual basis for excess profits tax purposes as is afforded other taxpayers computing income on the installment basis. The House recedes.

Amendments Nos. 194, 195, 196, 197, 198, 199, and 200: These are clerical amendments. The House recedes.

Amendment No. 201: This amendment relates to classes of abnormal income attributable to other taxable years. The Senate recedes.

Amendments Nos. 202, 203, and 204: These are clerical amendments. The House recedes.

Amendment No. 205: This amendment provides for adjustments in the determination of excess profits credits with respect to deposits under the Merchant Marine Act of 1936. The Senate recedes.

Amendment No. 206: This amendment makes available a historical invested capital credit similar to that provided for under the World War II excess profits tax law. Section 458 (a), (b), and (c) corresponds to sections 715, 716, and 717, respectively. Section 458 (d), providing for the addition to equity invested capital, corresponds to section 718 (a) of prior law and section 458 (e), describing the reductions in equity invested capital, is the counterpart of section 718 (b). Rules for the application of the section, comparable to section 718 (c) of prior law, are set forth in section 458 (f). The House recedes, with an amendment reducing the daily borrowed capital to 75 percent in conformity with the amendment to section 437 (b) (2).

Amendment No. 207: This amendment substitutes a new Part II for Part II (of subchapter D of chapter I of the Internal Revenue Code) contained in the House bill, dealing with excess profits credit based on income in connection with certain exchanges. The Senate amendment revises the provisions of the House part, with additions made necessary by other Senate amendments. The Senate amendment also makes a number of technical and clarifying changes. The House recedes with technical and clarifying amendments.

Amendments Nos. 208, 209, and 210: These are technical amendments. The House recedes.

Amendment No. 211: This amendment adds to the bill two new sections (sections 471 and 472) relating to exchanges and to the invested capital adjustment at the time of tax-free intercorporate liquidations, respectively. These sections relate to the historical invested capital provisions, and correspond to the provisions of Supplement C of Chapter 2E of the Code. The House recedes.

Amendment No. 212: This amendment adds a new title II—"Increase in corporation surtax"—to the bill. This title increases the rate of surtax upon the corporation surtax net income of corporations for taxable years beginning on or after July 1, 1950, from 20 to 22 percent, and makes the necessary conforming changes in the law with respect to mutual insurance companies other than life or marine, regulated investment companies, business income of certain tax-exempt organizations, and the credits of corporations. Section 203 of title II amends section 108 (f) (2) (relating to fiscal year taxpayers) to make it clear that the increased surtax rate has no effect in the case of taxpayers with taxable years beginning before July 1, 1950, and ending after June 30, 1950. The House recedes.

Amendments Nos. 213, 214, 215, 216, and 217: These are clerical amendments. The House recedes.

Amendment No. 218: Under the House bill personal service corporations and certain corporations (otherwise exempt from the excess profits tax imposed by the bill) which were members of an affiliated group of corporations filing a consolidated return under section 141 were included within the definition of the term "includible corporation" if such corporations made and filed consents, for the taxable year

or any prior taxable years beginning after December 31, 1943, to be treated as includible corporations. This amendment changes the reference to taxable years beginning after December 31, 1943, to taxable years ending after June 30, 1950. The effect of the amendment is to permit such corporations to make a new election as to whether they will be members of an affiliated group for taxable years ending after June 30, 1950. The House recesses.

Amendments Nos. 219 and 221: These amendments relate to the inclusion of regulated public utilities in an affiliated group of corporations making a consolidated return for a taxable year in lieu of separate returns.

Amendment No. 219 adds to section 141 (e) a new paragraph (8) which provides that the term "includible corporation" does not include regulated public utilities entitled to compute their excess profits credit under section 448 except such a utility which has made and filed a consent to compute its excess profits credit without regard to section 448.

Amendment No. 221 adds to section 141 a new subsection (j) which, despite the provisions of the paragraph added by amendment No. 219, permits two or more regulated public utilities to be considered as includible corporations for the purposes of the application of subsection (d) (relating to definition of "affiliated group") to such regulated public utilities alone if each such regulated public utility has made and filed a consent to compute its excess profits credit under section 448 only.

A consent under section 441 (e) (8) or (j) is to be made and filed at such time and in such manner as may be prescribed by the Secretary and is to be applicable to the taxable year for which filed and to each consecutive subsequent taxable year for which a consolidated return is filed.

The House recesses.

Amendments Nos. 220, 222, 223, 224, 225, 226, 227, and 228: These are clerical amendments. The House recesses.

Amendment No. 229: This amendment relates to the amortization of emergency facilities. The Senate recesses.

Amendment No. 230: This is a clerical amendment. The House recesses with a clerical amendment.

Amendment No. 231: This amendment relates to the same subject as amendment No. 35, namely payments made by the United States for the encouragement of exploration, development, or mining, of strategic or critical minerals for defense purposes, but amends section 22 (b) of the code so as to exclude such payments from normal tax net income and surtax net income. The House recesses with a clerical amendment and with an amendment making this provision applicable to taxable years beginning after December 31, 1950.

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WILBUR D. MILLS,
DANIEL A. REED,
ROY O. WOODRUFF,
RICHARD M. SIMPSON,

Managers on the Part of the House.