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84TH CONGRESS, 2d Session | SENATE | REPORT No. 1941

AMENDING THE INTERNAL REVENUE CODES OF 1939 AND 1954

MAY 1, 1956.—Filed under authority of the order of the Senate of APRIL 30 (legislative day, APRIL 26), 1956, and ordered to be printed

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

REPORT

[To accompany H. R. 6143]

The Committee on Finance, to whom was referred the bill (H. R. 6143) to amend the Internal Revenue Code of 1939 to provide that for taxable years beginning after May 31, 1950, certain amounts received in consideration of the transfer of patent rights shall be considered capital gain regardless of the basis upon which such amounts are paid, having considered the same, report favorbaly thereon with amendment and recommend that the bill, as amended, do pass.

The amendments are as follows:

At the end of section 1 insert the following:

SEC. 2. CERTAIN CLAIMS AGAINST UNITED STATES.

(a) Section 106 of the Internal Revenue Code of 1939 (relating to claims against the United States involving acquisition of property) is hereby amended to read as follows:

"SEC. 106. CERTAIN CLAIMS AGAINST UNITED STATES.

"In the case of any amount (other than interest) received by a taxpayer from the United States with respect to a claim against the United States—

"(a) involving the acquisition of property and remaining unpaid for more than 15 years, or

"(b) arising under a contract for the construction of installations or facilities for any branch of the Armed Services of the United States and remaining unpaid for more than 5 years from the date such claim first accrued and paid prior to January 1, 1950,

the portion of the tax imposed by section 12 attributable to such amount (other than interest) shall not exceed 30 per

centum thereof. For purposes of section 291 (a), relating to additions to the tax for failure to file a return, the term 'reasonable cause' shall include the filing of a timely incomplete return under circumstances which led the taxpayer to believe that no tax was due on amounts received under a settlement with the United States."

(b) The amendment made by this section shall apply only with respect to taxable years ending after December 31, 1948.

SEC. 3. CERTAIN DISTRIBUTIONS IN KIND.

(a) Section 115 of the Internal Revenue Code of 1939 (relating to distributions by corporations) is hereby amended by adding at the end thereof the following new subsection:

"(n) CERTAIN DISTRIBUTIONS IN KIND.—

"(1) Notwithstanding any other provision of this section, a distribution of property by a corporation to its stockholders, with respect to its stock, shall be (except as provided in paragraph (2)) considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the earnings and profits of such corporation accumulated after February 28, 1913, and the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions, except those described in subparagraphs (A), (B), and (C) of paragraph (3), made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made. The preceding sentence shall not prevent the application of subsection (d) to any such distribution.

"(2) In the case of a personal holding company a distribution in property shall not be a dividend to the extent it exceeds the earnings and profits of such corporation accumulated after February 28, 1913, to the beginning of the taxable year, plus the higher of the earnings and profits of the taxable year or the Subchapter A net income of the taxable year, adjusted in accordance with paragraphs (1) through (3) of subsection (a), computed as of the end of the taxable year without reduction for any distributions made during the taxable year except those described in subparagraphs (A), (B), and (C) of paragraph (3), made during the taxable year.

"(3) This subsection shall apply to any distribution of property other than—

"(A) money,

"(B) inventory assets, as defined in section 312 (b) (2) of the Internal Revenue Code of 1954, or

"(C) distributions described in section 312 (j) of the Internal Revenue Code of 1954."

(b) The amendment made by this section to section 115 of the Internal Revenue Code of 1939 shall be effective as if it were a part of such section on the date of enactment of the Internal Revenue Code of 1939. No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendment made by this section.

SEC. 4. APPLICATION TO POULTRY OF TAX ON TRANSPORTATION OF PROPERTY.

(a) (1) Section 3475 of the Internal Revenue Code of 1939 (relating to the tax on the transportation of property) is amended by adding at the end thereof the following new subsection:

"(g) POULTRY.—The tax imposed by this section shall not apply to amounts paid for the transportation of poultry in continuous movement from the farm where the poultry was raised to a dressing plant, located within the local area of such farm, for processing."

(2) The amendment made by this subsection shall apply only with respect to amounts paid after November 30, 1942.

(b) (1) Section 4272 of the Internal Revenue Code of 1954 (relating to exemptions from the tax on the transportation of property) is amended by adding at the end thereof the following new subsection:

"(f) POULTRY.—The tax imposed by section 4271 shall not apply to amounts paid for the transportation of poultry in continuous movement from the farm where the poultry was raised to a dressing plant, located within the local area of such farm, for processing."

(2) The amendment made by this subsection shall apply only with respect to amounts paid after December 31, 1954, for transportation which begins after such date.

(c) No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendments made by this section.

SEC. 5. TRADE-MARK AND TRADE NAME EXPENDITURES.

(a) Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting after section 176 thereof the following new section:

"SEC. 177. TRADE-MARK AND TRADE NAME EXPENDITURES.

"(a) ELECTION TO AMORTIZE.—Trade-mark or trade name expenditures paid or incurred after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months after such expenditures are paid or incurred, as may be selected by the taxpayer.

"(b) TRADE-MARK AND TRADE NAME EXPENDITURES DEFINED.—The term 'trade-mark or trade name expenditures' means any expenditure which—

"(1) is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign) or defense of a trade-mark or trade name;

"(2) is chargeable to capital account; and

"(3) is not part of the consideration paid for a trade-mark, trade name, or business.

"(c) TIME FOR AND SCOPE OF ELECTION.—The election provided by subsection (a) shall be made within the time

prescribed by law for filing the return for the taxable year (including extensions thereof). The period so selected shall be adhered to in computing the taxable income of the taxpayer for the taxable year for which the election is made and all subsequent years."

(b) The table of sections of part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is hereby amended by inserting at the end thereof

"SEC. 177. Trade-mark and trade name expenditures."

(c) The amendments made by this section shall apply only with respect to taxable years beginning after December 31, 1955.

SEC. 6. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) Section 1033 of the Internal Revenue Code of 1954 (relating to involuntary conversions) is hereby amended by redesignating subsection (f) thereof as subsection (g) and by inserting after subsection (e) of such section the following new subsection:

"(f) LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.—The sale of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he followed his usual business practices shall be treated as an involuntary conversion to which this section applies if such livestock—

"(1) are held in an area—

"(A) in respect of which the President determines under the Act of September 30, 1950, as amended (42 U. S. C. SEC. 1855–1855g), that a major disaster exists because of drought, and

"(B) which is found eligible by the Secretary of Agriculture for emergency assistance under section 2 (d) of the Act of April 6, 1949, as amended (12 U. S. C. SEC. 1148a–2), or for relief under clause (2) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U. S. C. SEC. 1427), and

"(2) are sold (whether before or after such determination) by such taxpayer solely on account of such drought."

(b) The amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1955.

Amend the title so as to read:

An act to amend the Internal Revenue Codes of 1939 and 1954, and for other purposes.

SECTION 1. INCOME-TAX TREATMENT OF CERTAIN TRANSFERS OF PATENT RIGHTS

Section 1 of this bill, which was adopted by your committee without amendment, makes applicable the special rules providing capital-gains treatment for sales or exchanges of patents in section 1235 of the Internal Revenue Code of 1954 to taxable years beginning after May 31, 1950, by amending the Internal Revenue Code of 1939.

Prior to the enactment of the 1954 Code, there was no special provision relating to the sale or exchange of rights to a patent. The determination of what constituted a "sale" and what constituted a mere "license" was determined under general principles of law. The Tax Court held that certain agreements where the purchase price is conditioned on the use or profitability of the invention constituted a sale in *Edward C. Myers* (6 T. C. 258 (1946), Acq. 1946–1 C. B. 3, Non. Acq. 1950–1 C. B. 7). The general principle established by this decision was recently accepted (and the Internal Revenue Service's position rejected) in *United States* v. *Carruthers* (219 F. 2d 21 (9th Cir. 1955)). The Government's nonacquiescence in Myers raised a doubt concerning numerous existing and future contracts and was one of the reasons for the enactment of section 1235. This section provides that a transfer of all substantial rights to a patent (or an undivided interest therein) is to be considered as the sale or exchange of a capital asset held for more than 6 months whether or not payments are to be made periodically during the period of the transferee's use of the patent and whether or not the payments are contingent on the productivity, use, or disposition of the property transferred. The relief provided was limited to holders of the patent, defined as the individual whose efforts created the property transferred, i. e., the inventor, or an individual (other than an employer or a relative) who acquired his interest in the property in exchange for money paid to the creator prior to the actual reduction to practice of the invention.

The rule enacted in section 1235 was applicable with respect to amounts received in any taxable year to which the 1954 Code applied, regardless of the year in which the transfer occurred. While this provision removed the previous uncertainty in the law for the inventors and other persons covered by the section, the Internal Revenue Service has announced (Revenue Ruling 1955–58) that it will adhere to its position for years beginning after May 31, 1950, and prior to the effective date of the 1954 Code. Thus, payments received from such transactions in these years would continue to be treated as ordinary income by the Internal Revenue Service rather than as capital gain to the transferor.

This bill adds a new subsection to section 117 of the 1939 Code which is substantially the same as section 1235 of the 1954 Code. This subsection is to apply to payments made, and amounts received, in years to which the 1939 Code applies, beginning after May 3, 1950.

When section 1235 was originally enacted, it was stated in the committee report that there was no intention of affecting the operation of existing law in those areas outside the scope of the section, and no inference was to be drawn from section 1235 as to what constituted a "sale or exchange" in the case of transfers not within the scope of the section. Similarly, no inference is to be drawn from the enactment of this bill.

SECTION 2. CERTAIN CLAIMS AGAINST UNITED STATES

Section 2 of this bill, which was added by your committee, amends section 106 of the 1939 Code (relating to claims against the United States involving acquisitions of property). Section 106 limits the surtax to 30 percent on amounts received from the United States on claims involving acquisitions of property. This amendment extends

the application of section 106 to payments received from the United States arising under a contract for the construction of installations or facilities for any branch of the armed services of the United States if such claims were unpaid for more than 5 years from the date such claim first accrued. The claims shall be considered to accrue from the time the work has been completed.

The amendment made by your committee in this section shall apply only to taxable years ending after December 31, 1948, and to claims paid prior to January 1, 1950.

SECTION 3. CORPORATE DISTRIBUTIONS OF PROPERTY TAXABLE AS DIVIDENDS

Section 3 of this bill, which was added by your committee, adds a new subsection (n) to section 115 of the 1939 Code (relating to distributions by corporations). This amendment provides a specific rule for corporate distributions to stockholders of property having a fair market value in excess of the corporate earnings and profits. Subsection (n), generally, limits the amount of a corporate distribution of property which is taxable as a dividend to the amount of the earnings and profits of the distributing corporation. Subsection (n) applies to corporate distributions to which the 1939 code applies with the same result achieved under the corporate distribution sections of the 1954 Code.

The general effect of this section is to overrule the decisions in *Commissioner* v. *Fannie Hirshon Trust* (213 F. 2d 523 (2d Cir., 1954)), and *Commissioner* v. *Estate of Ida S. Godley* (213 F. 2d 529 (3d Cir., 1954)). Under these decisions, corporate distributions of property are taxed as dividends to shareholders in amounts greater than the earnings and profits of the corporation available for dividend distribution. Your committee does not believe that this is the proper result in most cases. The only fair and equitable result is to limit the amount taxable as a dividend to no more than the earnings and profits of the corporation, except in certain special cases specifically described in this amendment.

Subsection (n) does no more than to conform the law to the general understanding of what it was prior to the Hirshon and Godley decisions. Such understanding was based on the decisions in *General Utilities and Operating Company* v. *Helvering* (296 U. S. 200, (1935)), *Commissioner* v. *Timken* (141 F. 2d 625 (C. C. A. 6, 1944)), and a series of Tax Court decisions. At the present time the Tax Court still does not follow the Hirshon and Godley decisions. Since the statute of limitations will, in most cases, prevent the assessment of deficiencies resulting from application of the Hirshon and Godley decisions, and since distributions made after the effective/date of the 1954 Code will not be affected by those decisions, your committee believes that it is inequitable, except in special cases, to apply the decisions in the limited areas which remain open.

Paragraph (1) of subsection (n) provides the general rule that the amount of a corporate distribution of property which is taxable as a dividend is limited to the corporation's earnings and profits accumulated after February 28, 1913, and the earnings and profits of the year of distribution. The corporate earnings and profits of the year of distribution are computed as of the close of the year without diminution

by reason of any distributions except distributions of money, inventory assets as defined in section 312 (b) (2) of the 1954 Code, or distributions of property by a corporation having a United States insured loan outstanding or committed as described in section 312 (j) of the 1954 Code. The general rule of this amendment does not apply to distributions of money, of "inventory assets" as defined in section 312 (b) (2) of the 1954 Code or to distributions of property by a corporation having a United States insured loan outstanding or committed as described in section 312 (j) of the 1954 Code. A special rule is provided in paragraph (2) for distributions of property made by personal holding companies.

An example will serve to illustrate the operation of the general rule in subsection (n): A corporation with accumulated and current earnings and profits of $25,000 distributes to its shareholders property having a cost to it of $20,000 and a fair market value of $100,000. Under section 115 (n), added by your committee, the amount taxable as a dividend to the shareholders of the corporation is limited to the earnings and profits of $25,000. The remaining $75,000, after the exhaustion of the shareholder's basis of his stock under section 115 (d), is taxed at capital-gains rates.

Paragraph (2) of this amendment applies to distributions of property by a personal holding company and provides that the amount of the distribution shall not be a dividend to the extent it exceeds the earnings the corporation accumulated after February 28, 1913, to the beginning of the taxable year, plus the higher of the earnings and profits of the taxable year or the subchapter A net income of the taxable year. Subchapter A net income is adjusted in accordance with paragraphs (1) through (3) of section 115 (a) of the 1939 code computed at the end of the taxable year without reduction for any distributions made during such year, except distributions of money, inventory assets as defined in section 312 (b) (2) of the 1954 Code, or distributions of property by a corporation having a United States insured loan outstanding or committed as described in section 312 (j) of the 1954 Code.

This amendment shall be effective as if it were enacted as part of the 1939 Code. No interest, however, shall be allowed or paid on any other payment if a refund or a credit of such overpayment would not be allowable but for this section.

SECTION 4. APPLICATION TO POULTRY OF TAX ON TRANSPORTATION OF PROPERTY

This section, which was added by your committee, provides that the tax on transportation of property imposed by the 1939 and 1954 Codes shall not apply to amounts paid for the transportation of poultry from the farm where the poultry was raised to a dressing plant for processing.

Poultry is ordinarily transported from the farm to the dressing plant by a person who contracts to transport the poultry. In many cases, no tax was collected on amounts paid on transportation of this type, but it is possible that under present law the Internal Revenue Service will now assess deficiencies on amounts paid in back years and require that the tax be collected on all amounts paid in the future. Under the provision adopted by your committee, amounts paid for the transportation of poultry would be exempt if the transportation proceeds

in continuous movement from the farm where the poultry was raised to a dressing station, located within the local area of the farm, for processing.

The exemption applies only if the transportation begins at the place where the poultry was raised and ends at the dressing plant where the poultry is to be processed, and the poultry must be in "continuous movement" from the farm to the dressing plant. Whether the poultry is in "continuous movement" will be determined by standards similar to those prescribed by the regulations issued under the 1939 Code (and generally applicable under the 1954 Code) in determining whether transportation of property intended for export is exempt. (See Regs. 113, secs. 143.30 and 143.31.)

Under this provision, the exemption for poultry is limited to transportation from the farm to the dressing plant and it cannot apply in the case of transportation from, for example, the dressing plant to a distributor. Also, the exemption will apply only if the dressing plant is in the local area of the farm where the poultry was raised. A dressing plant is considered to be in the local area of the farm if the majority of the poultry from the farms in the vicinity is ordinarily transported to such dressing plant or to other dressing plants a similar distance from the farm on which the poultry was raised. A dressing plant may be considered to be in the same local area as the farm although the carrier crosses county or State boundaries.

The amendment made by subsection (a) applies to all transportation of the type described to which the transportation tax on property imposed under the 1939 Code applies. The amendment made by subsection (b) similarly applies to all transportation subject to the tax imposed by the 1954 Code. It is expected that very few refunds will be made pursuant to the changes made by this section, and, in any event, no interest will be allowed or paid in respect of any overpayment.

SECTION 5. AMENDMENT RELATING TO TRADEMARK AND TRADE NAME EXPENDITURES

Section 5 of this bill, which was added by your committee, adds a new section 177 to the 1954 Code. This amendment provides that certain expenditures paid or incurred by taxpayers in connection with trademark and trade names may, at the taxpayer's election, be treated as deferred expenses. If such election is made, the deferred expenses will be allowed in computing taxable income as a deduction ratably over a period of 60 months or more as selected by the taxpayer. Such period may commence at any time as the taxpayer shall designate after the expenditure is paid or incurred.

Under present law, expenditures paid or incurred by smaller companies in connection with trademarks and trade names, such as legal fees, are not deductible but must be capitalized. Moreover, such expenditures ordinarily are not amortizable over any period of time since the useful life of most trademarks and trade names is indefinite and not ascertainable. However, certain larger corporations are in a position to hire their own legal staffs to handle such matters. Because of difficulties of identification, these large corporations deduct, in some instances, compensation paid to their legal staffs for performing the same functions. Smaller companies, however, cannot afford

to maintain their own legal staffs but must acquire outside counsel to perform their legal work. By this amendment your committee intends to eliminate an existing hardship in the case of small companies.

The amendment made by your committee applies only to those expenditures paid or incurred directly in connection with the acquisition, protection, expansion, registration (Federal, State, or foreign) or defense of a trademark or trade name. Such trademark and trade name expenditures must be chargeable to a capital account. However, such expenditures must not be part of the consideration paid for the purchase of an existing trademark, trade name or business. Generally, your committee contemplates that section 177 will apply, for example, to such expenditures as legal fees.

The election under this amendment is to be made by the taxpayer within the time (including extensions) for filing the return under regulations prescribed by the Secretary or his delegate. The period over which trade-mark and trade name expenditures can be spread with respect to a particular trade-mark or trade name must be a continuous period and must be adhered to by the taxpayer in computing his taxable income for the taxable year in which the election is made and all subsequent years.

The amendment made by this section shall apply only to expenditures paid or incurred by the taxpayer after December 31, 1955, and shall apply only with respect to taxable years beginning after December 31, 1955.

SECTION 6. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT

Section 6 of this bill, which was added by your committee, addes a new subsection (f) to section 1033 of the 1954 Code. Such subsection (f) provides that the sale of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes is to be treated as an involuntary conversion within the meaning of section 1033 of the 1954 Code if certain conditions are met. First, such livestock must be located in an area in respect of which the President determines under the act of September 30, 1950 (42 U. S. C. sec. 1855–1855g), that a major disaster exists because of drought, and the area in which the livestock is held must also be found eligible by the Department of Agriculture for emergency assistance furnished under 12 United States Code section 1148a–2 or 7 United States Code section 1427. Although the livestock must be held in such area prior to sale, your committee does not intend by this condition to prevent a taxpayer from shipping his livestock out of the area solely for purposes of effectuating a sale. Second, the sale of such livestock, regardless of whether made before or after the President's determination, must have been made solely on account of the same drought to which such determination and the finding by the Department of Agriculture relate.

In case the taxpayer has sold some livestock solely on account of drought and the necessary determinations have been made, the sales of livestock will be treated as involuntary conversions only to the extent that the total number of head of, for example, dairy cows, sold by the taxpayer during his taxable year exceeds the number he would have sold if he had followed his usual business practices, that is, the number of dairy cows he would have been expected to sell if there had been no drought or other extraordinary circumstance.

The general provisions of section 1033 which are applicable to involuntary conversions of property will be applicable to conversions of livestock which occur because of drought. Thus, a taxpayer who suffers an involuntary conversion of livestock would be allowed, under subsection (f) of section 1033, the 1-year period provided in subsection (a) (3) (B) in which to make a replacement of such livestock. If, however, conditions at the expiration of this replacement period make replacement impracticable, the taxpayer may make an application to the Secretary or his delegate under subsection (a) (3) (B) (ii) for an extension of the replacement period. Similarly, the requirement of subsection (a) (3) (A), relating to the replacement of converted property with property "similar or related in service or use to the property so converted," is applicable to involuntary conversions of livestock. As presently interpreted by the courts, this test requires that the new property be functionally the same as the old. (See *Lynchburg National Bank and Trust Co.*, 20 TC 670, aff'd 208 F. (2d) 757.) Accordingly, the taxpayer who sustains an involuntary conversion of livestock must not only replace such livestock with livestock of a like kind (for example, horses with horses or hogs with hogs), but he must also hold the new livestock for the same useful purpose as he held the old. Thus, although dairy cows could be replaced by dairy cows, a taxpayer could not replace draft animals with breeding or dairy animals.

This section will apply only with respect to sales of livestock in taxable years beginning after December 31, 1955.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

The Internal Revenue Code of 1939

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SEC. 106. *CERTAIN* CLAIMS AGAINST UNITED STATES [INVOLVING ACQUISITION OF PROPERTY.]

[In the case of amounts (other than interest) received by a taxpayer from the United States with respect to a claim against the United States involving the acquisition of property and remaining unpaid for more than fifteen years, the portion of the tax imposed by section 12 attributable to such receipt shall not exceed 30 per centum of the amount (other than interest) so received.]

In the case of any amount (other than interest) received by a taxpayer from the United States with respect to a claim against the United States—

(a) involving the acquisition of property and remaining unpaid for more than 15 years, or

(b) arising under a contract for the construction of installations or facilities for any branch of the Armed Services of the

United States and remaining unpaid for more than 5 years from the date such claim first accrued and paid prior to January 1, 1950, the portion of the tax imposed by section 12 attributable to such amount (other than interest) shall not exceed 30 per centum thereof. For purposes of section 291 (a), relating to additions to the tax for failure to file a return, the term "reasonable cause" shall include the filing of a timely incomplete return under circumstances which led the taxpayer to believe that no tax was due on amounts received under a settlement with the United States.

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SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

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(n) *CERTAIN DISTRIBUTIONS IN KIND.—*

(1) Notwithstanding any other provision of this section, a distribution of property by a corporation to its stockholders, with respect to its stock, shall be (except as provided in paragraph (2))considered to be a distribution which is not a dividend (whether or not otherwise a dividend) to the extent that the fair market value of such property exceeds the earnings and profits of such corporation accumulated after February 28, 1913, and the earnings and profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions, except those described in subparagraphs (A), (B), and (C) of paragraph (3), made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made. The preceding sentence shall not prevent the application of subsection (d) to any such distribution.

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(2) In the case of a personal holding company a distribution in property shall not be a dividend to the extent it exceeds the earnings and profits of such corporation accumulated after February 28, 1913, to the beginning of the taxable year, plus the higher of the earnings and profits of the taxable year or the Subchapter A net income of the taxable year, adjusted in accordance with paragraphs (1) through (3) of subsection (a), computed as of the end of the taxable year without reduction for any distributions made during the taxable year except those described in subparagraphs (A), (B), and (C) of paragraph (3), made during the taxable year.

(3) This subsection shall apply to any distribution of property other than—

(A) money,

(B) inventory assets, as defined in section 312 (b) (2) of the Internal Revenue Code of 1954, or

(C) distributions described in section 312 (j) of the Internal Revenue Code of 1954.

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SEC. 117. CAPITAL GAINS AND LOSSES.

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(q) *TRANSFER OF PATENT RIGHTS.—*

(1) GENERAL RULE.—A transfer (other than by gift, inheritance, or devise) of property consisting of all substantial rights to a patent, or an undivided interest therein which includes a part of all such rights, by any holder shall be considered the sale or exchange of a

capital asset held for more than 6 months, regardless of whether or not payments in consideration of such transfer are—

(A) payable periodically over a period generally coterminous with the transferee's use of the patent, or

(B) contingent on the productivity, use, or disposition of the property transferred.

(2) "HOLDER" DEFINED.—For purposes of this subsection, the term "holder" means—

(A) any individual whose efforts created such property, or

(B) any other individual who has acquired his interest in such property in exchange for consideration in money or money's worth paid to such creator prior to actual reduction to practice of the invention covered by the patent, if such individual is neither—

(i) the employer of such creator, nor

(ii) related to such creator (within the meaning of paragraph (3)),

(3) EXCEPTIONS.—This subsection shall not apply to any transfer described in paragraph (1)—

(A) by a nonresident alien individual, or

(B) between an individual and any related person.

For purposes of this paragraph, the term "related person" means a person, other than a brother or sister (whether of the whole or half blood), with respect to whom a loss resulting from the transfer would be disallowed under section 24 (b).

(4) APPLICABILITY.—This subsection shall apply with respect to any amount received, or payment made, pursuant to a transfer described in paragraph (1) in any taxable year beginning after May 31, 1950, regardless of the taxable year in which such transfer occurred.

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SEC. 3475. TRANSPORTATION OF PROPERTY.

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(g) POULTRY.—The tax imposed by this section shall not apply to amounts paid for the transportation of poultry in continuous movement from the farm where the poultry was raised to a dressing plant, located within the local area of such farm, for processing.

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The Internal Revenue Code of 1954

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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SEC. 177. TRADE-MARK AND TRADE NAME EXPENDITURES.

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SEC. 177. TRADE-MARK AND TRADE NAME EXPENDITURES.

(a) ELECTION TO AMORTIZE.—Trade-mark or trade name expenditures paid or incurred after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months after such expenditures are paid or incurred, as may be selected by the taxpayer.

(b) TRADE-MARK AND TRADE NAME EXPENDITURES DEFINED.—The term "trade-mark or trade name expenditures" means any expenditure which—

(1) is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign) or defense of a trade-mark or trade name;

(2) is chargeable to capital account; and

(3) is not part of the consideration paid for a trade-mark, trade name or business.

(c) TIME FOR AND SCOPE OF ELECTION.—The election provided by subsection (a) shall be made within the time prescribed by law for filing the return for the taxable year (including extensions thereof). The period so selected shall be adhered to in computing the taxable income of the taxpayer for the taxable year for which the election is made and all subsequent years."

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Subchapter O—Gain or Loss on Disposition of Property

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SEC. 1033. INVOLUNTARY CONVERSIONS.

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(e) LIVESTOCK DESTROYED BY DISEASE.—* * *

(f) LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.—The sale of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he followed his usual business practices shall be treated as an involuntary conversion to which this section applies if such livestock—

(I) are held in an area—

(A) in respect of which the President determines under the Act of September 30, 1950, as amended (42 U. S. C. sec. 1855–1855g), that a major disaster exists because of drought, and

(B) which is found eligible by the Secretary of Agriculture for emergency assistance under section 2 (d) of the Act of April 6, 1949, as amended (12 U. S. C. sec. 1148a–2), or for relief under clause (2) of the fifth sentence of section 407 of the Agricultural Act of 1949, as amended (7 U. S. C. sec. 1427), and

(2) are sold (whether before or after such determination) by such taxpayer solely on account of such drought.

[(f)] (g) CROSS REFERENCES.—

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation

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PART II—PROPERTY.

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SEC. 4271. IMPOSITION OF TAX.

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(f) POULTRY.—The tax imposed by section 4271 shall not apply to amounts paid for the transportation of poultry in continuous movement from the farm where the poultry was raised to a dressing plant, located within the local area of such farm, for processing.

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