[Pursuant to the order of the House on Dec. 19, 1969 the following conference report was filed on Dec. 21, 1969]

91ST CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 91-782

TAX REFORM ACT OF 1969

DECEMBER 21, 1969.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 13270]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate 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:

SECTION 1. SHORT TITLE, ETC.

(*a*) *SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1969".*

(*b*) *TABLE OF CONTENTS.—*

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(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—TAX EXEMPT ORGANIZATIONS

Subtitle A—Private Foundations

SEC. 101. PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by redesignating parts II, III, and IV as parts III, IV, and V, respectively, and by inserting after part I the following new part:

"PART II—PRIVATE FOUNDATIONS

"SEC. 507. TERMINATION OF PRIVATE FOUNDATION STATUS.

"(a) GENERAL RULE.—Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

"(1) such organization notifies the Secretary or his delegate (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) of its intent to accomplish such termination, or

"(2)(A) with respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

"(B) the Secretary or his delegate notifies such organization that, by reason of subparagraph (A), such organization is liable for the tax imposed by subsection (c),

and either such organization pays the tax imposed by subsection (c) (or any portion not abated under subsection (g)) or the entire amount of such tax is abated under subsection (g).

"(b) SPECIAL RULES.—

"(1) TRANSFER TO, OR OPERATION AS, PUBLIC CHARITY.—The status as a private foundation of any organization, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, shall be terminated if—

"(A) such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution, or

"(B)(i) such organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) by the end of the 12-month period beginning with its first taxable year which begins

after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969,

"(ii) such organization notifies the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which regulations first prescribed under this subsection become final) that it is terminating its private foundation status, and

"(iii) such organization establishes to the satisfaction of the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) immediately after the expiration of such 12-month or 60-month period that such organization has complied with clause (i).

If an organization gives notice under subparagraph (B)(ii) of the commencement of a 60-month period and such organization fails to meet the requirements of paragraph (1), (2), or (3) of section 509(a) for the entire 60-month period, this part and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements.

"(2) TRANSFEREE FOUNDATIONS.—For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

"(c) IMPOSITION OF TAX.—There is hereby imposed on each organization which is referred to in subsection (a) a tax equal to the lower of—

"(1) the amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or

"(2) the value of the net assets of such foundation.

"(d) AGGREGATE TAX BENEFIT.—

"(1) IN GENERAL.—For purposes of subsection (c), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of—

"(A) the aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed, and

"(B) the aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)), and

"(C) interest on the increases in tax determined under subparagraphs (A) and (B) from the first date on which each

such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

"(2) SUBSTANTIAL CONTRIBUTOR.—

"(A) DEFINITION.—For purposes of paragraph (1), the term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term 'substantial contributor' also means the creator of the trust.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) each contribution or bequest shall be valued at fair market value on the date it was received,

"(ii) in the case of a foundation which is in existence on October 9, 1969, all contributions and bequests received on or before such date shall be treated (except for purposes of clause (i)) as if received on such date,

"(iii) an individual shall be treated as making all contributions and bequests made by his spouse, and

"(iv) any person who is a substantial contributor on any date shall remain a substantial contributor for all subsequent periods.

"(3) REGULATIONS.—For purposes of this section, the determination as to whether and to what extent there would have been any increase in tax shall be made in accordance with regulations prescribed by the Secretary or his delegate.

"(e) VALUE OF ASSETS.—For purposes of subsection (c), the value of the net assets shall be determined at whichever time such value is higher: (1) the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation, or (2) the date on which it ceases to be a private foundation.

"(f) LIABILITY IN CASE OF TRANSFERS OF ASSETS FROM PRIVATE FOUNDATION.—For purposes of determining liability for the tax imposed by subsection (c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation.

"(g) ABATEMENT OF TAXES.—The Secretary or his delegate may abate the unpaid portion of the assessment of any tax imposed by subsection (c), or any liability in respect thereof, if—

"(1) the private foundation distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months, or

"(2) following the notification prescribed in section 6104(c) to the appropriate State officer, such State officer within one year notifies the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that corrective action has been initiated pursuant to State law to insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3) as may be ordered or approved by a court of competent jurisdiction, and upon completion

of the corrective action, the Secretary or his delegate receives certification from the appropriate State officer that such action has resulted in such preservation of assets.

"SEC. 508. SPECIAL RULES WITH RESPECT TO SECTION 501(c)(3) ORGANIZATIONS.

"(a) NEW ORGANIZATIONS MUST NOTIFY SECRETARY THAT THEY ARE APPLYING FOR RECOGNITION OF SECTION 501(c)(3) STATUS.—Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—

"(1) unless it has given notice to the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that it is applying for recognition of such status, or

"(2) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary or his delegate by regulations for giving notice under this subsection.

For purposes of paragraph (2), the time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

"(b) PRESUMPTION THAT ORGANIZATIONS ARE PRIVATE FOUNDATIONS.—Except as provided in subsection (c), any organization (including an organization in existence on October 9, 1969) which is described in section 501(c)(3) and which does not notify the Secretary or his delegate, at such time and in such manner as the Secretary or his delegate may by regulations prescribe, that it is not a private foundation shall be presumed to be a private foundation. The time prescribed for giving notice under this subsection shall not expire before the 90th day after the day on which regulations first prescribed under this subsection become final.

"(c) EXCEPTIONS.—

"(1) MANDATORY EXCEPTIONS.—Subsections (a) and (b) shall not apply to—

"(A) churches, their integrated auxiliaries, and conventions or associations of churches, or

"(B) any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000.

"(2) EXCEPTIONS BY REGULATIONS.—The Secretary or his delegate may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subsection (a) or (b) or both—

"(A) educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and

"(B) any other class of organizations with respect to which the Secretary or his delegate determines that full compliance with the provisions of subsections (a) and (b) is not necessary to the efficient administration of the provisions of this title relating to private foundations.

"(d) DISALLOWANCE OF CERTAIN CHARITABLE, ETC., DEDUCTIONS.—

"(1) GIFT OR BEQUEST TO ORGANIZATIONS SUBJECT TO SECTION 507(c) TAX.—No gift or bequest made to an organization upon which the tax provided by section 507(c) has been imposed shall be

allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

"(A) by any person after notification is made under section 507(a), or

"(B) by a substantial contributor (as defined in section 507(d)(2)) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under section 507(c) and any subsequent taxable year.

"(2) GIFT OR BEQUEST TO TAXABLE PRIVATE FOUNDATION, SECTION 4947 TRUST, ETC.—No gift or bequest made to an organization shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such gift or bequest is made—

"(A) to a private foundation or a trust described in section 4947 in a taxable year for which it fails to meet the requirements of subsection (e) (determined without regard to subsection (e)(2)(B) and (C)), or

"(B) to any organization in a period for which it is not treated as an organization described in section 501(c)(3) by reason of subsection (a).

"(3) EXCEPTION.—Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed by section 507(c) is abated by the Secretary or his delegate under section 507(g).

"(e) GOVERNING INSTRUMENTS.—

"(1) GENERAL RULE.—A private foundation shall not be exempt from taxation under section 501(a) unless its governing instrument includes provisions the effects of which are—

"(A) to require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under section 4942, and

"(B) to prohibit the foundation from engaging in any act of self-dealing (as defined in section 4941(d)), from retaining any excess business holdings (as defined in section 4943(c)), from making any investments in such manner as to subject the foundation to tax under section 4944, and from making any taxable expenditures (as defined in section 4945(d)).

"(2) SPECIAL RULES FOR EXISTING PRIVATE FOUNDATIONS.—In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

"(A) to any taxable year beginning before January 1, 1972,

"(B) to any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

"(C) to any period after the termination of any judicial proceeding described in subparagraph (B) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

"SEC. 509. PRIVATE FOUNDATION DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the term 'private foundation' means a domestic or foreign organization described in section 501(c)(3) other than—

"(1) an organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

"(2) an organization which—

"(A) normally receives more than one-third of its support in each taxable year from any combination of—

"(i) gifts, grants, contributions, or membership fees, and

"(ii) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year,

from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

"(B) normally receives not more than one-third of its support in each taxable year from gross investment income (as defined in subsection (e));

"(3) an organization which—

"(A) is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

"(B) is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and

"(C) is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

"(4) an organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in section 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

"(b) CONTINUATION OF PRIVATE FOUNDATION STATUS.—For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

"(c) STATUS OF ORGANIZATION AFTER TERMINATION OF PRIVATE FOUNDATION STATUS.—For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

"(d) DEFINITION OF SUPPORT.—For purposes of this part and chapter 42, the term 'support' includes (but is not limited to)—

"(1) gifts, grants, contributions, or membership fees,

"(2) gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

"(3) net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

"(4) gross investment income (as defined in subsection (e)),

"(5) tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

"(6) the value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

"(e) DEFINITION OF GROSS INVESTMENT INCOME.—For purposes of subsection (d), the term 'gross investment income' means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511."

(b) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 42.—PRIVATE FOUNDATIONS

"SEC. 4940. EXCISE TAX BASED ON INVESTMENT INCOME.

"(a) TAX-EXEMPT FOUNDATIONS.—There is hereby imposed on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to 4 percent of the net investment income of such foundation for the taxable year.

"(b) TAXABLE FOUNDATIONS.—There is hereby imposed on each private foundation which is not exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to—

"(1) the amount (if any) by which the sum of (A) the tax imposed under subsection (a) (computed as if such subsection applied to such private foundation for the taxable year), plus (B) the amount of the tax which would have been imposed under section 511 for the taxable year if such private foundation had been exempt from taxation under section 501(a), exceeds

"(2) the tax imposed under subtitle A on such private foundation for the taxable year.

"(c) NET INVESTMENT INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a), the net investment income is the amount by which (A) the sum of the gross investment income and the net capital gain exceeds (B) the deductions allowed by paragraph (3). Except to the extent inconsistent with the provisions of this section, net investment income shall be determined under the principles of subtitle A.

"(2) GROSS INVESTMENT INCOME.—For purposes of paragraph (1), the term 'gross investment income' means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511.

"(3) DEDUCTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred for the production or collection of gross investment income or for the management, conservation, or maintenance of property held for the production of such income, determined with the modifications set forth in subparagraph (B).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) The deduction provided by section 167 shall be allowed, but only on the basis of the straight line method of depreciation.

"(ii) The deduction for depletion provided by section 611 shall be allowed, but such deduction shall be determined without regard to section 613 (relating to percentage depletion).

"(4) CAPITAL GAINS AND LOSSES.—For purposes of paragraph (1) in determining net capital gain—

"(A) There shall be taken into account only gains and losses from the sale or other disposition of property used for the production of interest, dividends, rents, and royalties, and property used for the production of income included in computing the tax imposed by section 511 (except to the extent gain or loss from the sale or other disposition of such property is taken into account for purposes of such tax).

"(B) The basis for determining gain in the case of property held by the private foundation on December 31, 1969, and continuously thereafter to the date of its disposition shall be deemed to be not less than the fair market value of such property on December 31, 1969.

"(C) Losses from sales or other dispositions of property shall be allowed only to the extent of gains from such sales or other dispositions, and there shall be no capital loss carryovers.

"(5) TAX-EXEMPT INCOME.—For purposes of this section, net investment income shall be determined by applying section 103 (relating to interest on certain governmental obligations) and section 265 (relating to expenses and interest relating to tax-exempt income).

"SEC. 4941. TAXES ON SELF-DEALING.

"(a) INITIAL TAXES.—

"(1) ON SELF-DEALER.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and a private foundation. The rate of tax shall be equal to 5 percent of the amount

involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participates in the act of self-dealing. In the case of a government official (as defined in section 4946(c)), a tax shall be imposed by this paragraph only if such disqualified person participates in the act of self-dealing knowing that it is such an act.

"(2) ON FOUNDATION MANAGER.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in an act of self-dealing between a disqualified person and a private foundation, knowing that it is such an act, a tax equal to 2½ percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the act of self-dealing.

"(b) ADDITIONAL TAXES.—

"(1) ON SELF-DEALER.—In any case in which an initial tax is imposed by subsection (a)(1) on an act of self-dealing by a disqualified person with a private foundation and the act is not corrected within the correction period, there is hereby imposed a tax equal to 200 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than a foundation manager acting only as such) who participated in the act of self-dealing.

"(2) ON FOUNDATION MANAGER.—In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(2) $10,000 LIMIT FOR MANAGEMENT.—With respect to any one act of self-dealing, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) SELF-DEALING.—

"(1) IN GENERAL.—For purposes of this section, the term 'self-dealing' means any direct or indirect—

"(A) sale or exchange, or leasing, of property between a private foundation and a disqualified person;

"(B) lending of money or other extension of credit between a private foundation and a disqualified person;

"(C) furnishing of goods, services, or facilities between a private foundation and a disqualified person;

"(D) payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;

"(E) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and

"(F) agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946(c)), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) the transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the foundation assumes or if it is subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of the transfer;

"(B) the lending of money by a disqualified person to a private foundation shall not be an act of self-dealing if the loan is without interest or other charge and if the proceeds of the loan are used exclusively for purposes specified in section 501(c)(3);

"(C) the furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for purposes specified in section 501(c)(3);

"(D) the furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such furnishing is made on a basis no more favorable than that on which such goods, services, or facilities are made available to the general public;

"(E) except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the private foundation shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive;

"(F) any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946(a)), pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, shall not be an act of self-dealing if all of the securities of the same class as that held by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value; and

"(G) in the case of a government official (as defined in section 4946(c)), paragraph (1) shall in addition not apply to—

"(i) prizes and awards which are subject to the provisions of section 74(b), if the recipients of such prizes and awards are selected from the general public,

"(ii) scholarships and fellowship grants which are subject to the provisions of section 117(a) and are to be used for study at an educational institution described in section 151(e)(4),

"(iii) any annuity or other payment (forming part of a stock-bonus, pension, or profit-sharing plan) by a trust which is a qualified trust under section 401,

"(iv) any annuity or other payment under a plan which meets the requirements of section 404(a)(2),

"(v) any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any such individual, if the aggregate value of such contributions, gifts, services, and facilities to, or made available to, such individual during any calendar year does not exceed $25,

"(vi) any payment made under chapter 41 of title 5, United States Code, or

"(vii) any payment or reimbursement of traveling expenses for travel solely from one point in the United States to another point in the United States, but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702(a) of title 5, United States Code, for like travel by employees of the United States.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on whichever of the following is the earlier: (A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or (B) the date on which correction of the act of self-dealing is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subsection (d)(2)(E), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"(A) in the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and

"(B) in the case of the taxes imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the private foundation in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"(4) CORRECTION PERIOD.—The term 'correction period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the act of self-dealing.

"SEC. 4942. TAXES ON FAILURE TO DISTRIBUTE INCOME.

"(a) INITIAL TAX.—There is hereby imposed on the undistributed income of a private foundation for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 15 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year. The tax imposed by this subsection shall not apply to the undistributed income of a private foundation—

"(1) for any taxable year for which it is an operating foundation (as defined in subsection (j)(3)), or

"(2) to the extent that the foundation failed to distribute any amount solely because of an incorrect valuation of assets under subsection (e), if—

"(A) the failure to value the assets properly was not willful and was due to reasonable cause,

"(B) such amount is distributed as qualifying distributions (within the meaning of subsection (g)) by the foundation during the allowable distribution period (as defined in subsection (j)(4)),

"(C) the foundation notifies the Secretary or his delegate that such amount has been distributed (within the meaning of subparagraph (B)) to correct such failure, and

"(D) such distribution is treated under subsection (h)(2) as made out of the undistributed income for the taxable year for which a tax would (except for this paragraph) have been imposed under this subsection.

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a private foundation for any taxable year, if any portion of such income remains undistributed at the close of the correction period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

"(c) UNDISTRIBUTED INCOME.—For purposes of this section, the term 'undistributed income' means, with respect to any private foundation for any taxable year as of any time, the amount by which—

"(1) the distributable amount for such taxable year, exceeds

"(2) the qualifying distributions made before such time out of such distributable amount.

"(d) DISTRIBUTABLE AMOUNT.—For purposes of this section, the term 'distributable amount' means, with respect to any foundation for any taxable year, an amount equal to—

"(1) the minimum investment return or the adjusted net income (whichever is higher), reduced by

"(2) the sum of the taxes imposed on such private foundation for the taxable year under subtitle A and section 4940.

"(e) MINIMUM INVESTMENT RETURN.—

"(1) IN GENERAL.—For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is the amount determined by multiplying—

"(A) the excess of (i) the aggregate fair market value of all assets of the foundation other than those being used (or held for use) directly in carrying out the foundation's exempt purpose over (ii) the acquisition indebtedness with respect to such assets (determined under section 514(c)(1), but without regard to the taxable year in which the indebtedness was incurred), by

"(B) the applicable percentage for such year, determined under paragraph (3).

"(2) VALUATION.—For purposes of paragraph (1)(A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary or his delegate shall by regulations prescribe.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(B), the applicable percentage for taxable years beginning in 1970 is 6 percent. The applicable percentage for any taxable year beginning after 1970 shall be determined and published by the Secretary or his delegate and shall bear a relationship to 6 percent which the Secretary or his delegate determines to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1969.

"(4) TRANSITIONAL RULES.—

"For special rules applicable to organizations created before May 27, 1969, see section 101(l)(3) of the Tax Reform Act of 1969.

"(f) ADJUSTED NET INCOME.—

"(1) DEFINED.—For purposes of subsection (d), the term 'adjusted net income' means the excess (if any) of—

"(A) the gross income for the taxable year (determined with the income modifications provided by paragraph (2)), over

"(B) the sum of the deductions (determined with the deduction modifications provided by paragraph (3)) which would be allowed to a corporation subject to the tax imposed by section 11 for the taxable year.

"(2) INCOME MODIFICATIONS.—The income modifications referred to in paragraph (1)(A) are as follows:

"(A) section 103 (relating to interest on certain governmental obligations) shall not apply,

"(B) capital gains and losses from the sale or other disposition of property shall be taken into account only in an amount equal to any net short-term capital gain for the taxable year; and

"(C) there shall be taken into account—

"(i) amounts received or accrued as repayments of amounts which were taken into account as a qualifying distribution within the meaning of subsection (g)(1)(A) for any taxable year;

"(ii) notwithstanding subparagraph (B), amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account as a qualifying distribution (within the meaning of subsection (g)(1)(B)) for any taxable year; and

"(iii) any amount set aside under subsection (g)(2) to the extent it is determined that such amount is not necessary for the purposes for which it was set aside.

"(3) DEDUCTION MODIFICATIONS.—The deduction modifications referred to in paragraph (1)(B) are as follows:

"(A) no deduction shall be allowed other than all the ordinary and necessary expenses paid or incurred for the production or collection of gross income or for the management, conservation, or maintenance of property held for the production of such income and the allowances for depreciation and depletion determined under section 4940(c)(3)(B), and

"(B) section 265 (relating to expenses and interest relating to tax-exempt interest) shall not apply.

"(4) TRANSITIONAL RULE.—For purposes of paragraph (2)(B), the basis (for purposes of determining gain) of property held by a private foundation on December 31, 1969, and continuously thereafter to the date of its disposition, shall be deemed to be not less than the fair market value of such property on December 31, 1969.

"(g) QUALIFYING DISTRIBUTIONS DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualifying distribution' means—

"(A) any amount (including administrative expenses) paid to accomplish one or more purposes described in section 170(c)(2)(B), other than any contribution to (i) an organization controlled (directly or indirectly) by the foundation or one or more disqualified persons (as defined in section 4946) with respect to the foundation, except as provided in paragraph (3), or (ii) a private foundation which is not an operating foundation (as defined in subsection (j)(3)), except as provided in paragraph (3), or

"(B) any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes described in section 170(c)(2)(B).

"(2) CERTAIN SET-ASIDES.—Subject to such terms and conditions as may be prescribed by the Secretary or his delegate, an amount set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary or his delegate that—

"(A) the amount will be paid for the specific project within 5 years, and

"(B) the project is one which can be better accomplished by such set-aside than by immediate payment of funds.

For good cause shown, the period for paying the amount set aside may be extended by the Secretary or his delegate.

"(3) CERTAIN CONTRIBUTIONS TO SECTION 501(c)(3) ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' includes a contribution to a section 501(c)(3) organization described in paragraph (1)(A)(i) or (ii) if—

"(A) not later than the close of the first taxable year after its taxable year in which such contribution is received, such organization makes a distribution equal to the amount of such contribution and such distribution is a qualifying distribution

(within the meaning of paragraph (1) or (2), without regard to this paragraph) which is treated under subsection (h) as a distribution out of corpus (or would be so treated if such section 501(c)(3) organization were a private foundation which is not an operating foundation), and

"(B) the private foundation making the contribution obtains adequate records or other sufficient evidence from such organization showing that the qualifying distribution described in subparagraph (A) has been made by such organization.

"(h) TREATMENT OF QUALIFYING DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

"(A) first out of the undistributed income of the immediately preceding taxable year (if the private foundation was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof,

"(B) second out of the undistributed income for the taxable year to the extent thereof, and

"(C) then out of corpus.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

"(2) CORRECTION OF DEFICIENT DISTRIBUTIONS FOR PRIOR TAXABLE YEARS, ETC.—In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the foundation may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year or out of corpus. The election shall be made by the foundation at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

"(i) ADJUSTMENT OF DISTRIBUTABLE AMOUNT WHERE DISTRIBUTIONS DURING PRIOR YEARS HAVE EXCEEDED INCOME.—

"(1) IN GENERAL.—If, for the taxable years in the adjustment period for which an organization is a private foundation—

"(A) the aggregate qualifying distributions treated (under subsection (h)) as made out of the undistributed income for such taxable year or as made out of corpus (except to the extent subsection (g)(3) with respect to the recipient private foundation or section 170(b)(1)(E)(ii) applies) during such taxable years, exceed

"(B) the distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (h)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

"(2) TAXABLE YEARS IN ADJUSTMENT PERIOD.—For purposes of paragraph (1), with respect to any taxable year of a private foundation the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1969, and immediately preceding the taxable year.

"(j) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period

beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212.

"(2) CORRECTION PERIOD.—The term 'correction period' means, with respect to any private foundation for any taxable year, the period beginning with the first day of the taxable year and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (b)) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

"(3) OPERATING FOUNDATION.—For purposes of this section, the term 'operating foundation' means any organization—

"(A) which makes qualifying distributions (within the meaning of paragraph (1) or (2) of subsection (g)) directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated equal to substantially all of its adjusted net income (as defined in subsection (f)); and

"(B)(i) substantially more than half of the assets of which are devoted directly to such activities or to functionally related businesses (as defined in paragraph (5)), or to both, or are stock of a corporation which is controlled by the foundation and substantially all of the assets of which are so devoted,

"(ii) which normally makes qualifying distributions (within the meaning of paragraph (1) or (2) of subsection (g)) directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated in an amount not less than two-thirds of its minimum investment return (as defined in subsection (e)), or

"(iii) substantially all of the support (other than gross investment income as defined in section 509(e)) of which is normally received from the general public and from 5 or more exempt organizations which are not described in section 4946 (a)(1)(H) with respect to each other or the recipient foundation; not more than 25 percent of the support (other than gross investment income) of which is normally received from any one such exempt organization; and not more than half of the support of which is normally received from gross investment income.

"(4) ALLOWABLE DISTRIBUTION PERIOD.—The term 'allowable distribution period' means, with respect to any private foundation, the period beginning with the first day of the first taxable year following the taxable year in which the incorrect valuation (described in subsection (a)(2)) occurred and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (a)) under section 6212 extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

"(5) FUNCTIONALLY RELATED BUSINESS.—The term 'functionally related business' means—

"(A) a trade or business which is not an unrelated trade or business (as defined in section 513), or

"(B) an activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization.

"SEC. 4943. TAXES ON EXCESS BUSINESS HOLDINGS.

"(a) INITIAL TAX.—

"(1) IMPOSITION.—There is hereby imposed on the excess business holdings of any private foundation in a business enterprise during any taxable year which ends during the taxable period a tax equal to 5 percent of the value of such holdings.

"(2) SPECIAL RULES.—The tax imposed by paragraph (1)—

"(A) shall be imposed on the last day of the taxable year, but

"(B) with respect to the private foundation's holdings in any business enterprise, shall be determined as of that day during the taxable year when the foundation's excess holdings in such enterprise were the greatest.

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the correction period with respect to such holdings, the foundation still has excess business holdings in such enterprise, there is hereby imposed a tax equal to 200 percent of such excess business holdings.

"(c) EXCESS BUSINESS HOLDINGS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess business holdings' means, with respect to the holdings of any private foundation in any business enterprise, the amount of stock or other interest in the enterprise which the foundation would have to dispose of to a person other than a disqualified person in order for the remaining holdings of the foundation in such enterprise to be permitted holdings.

"(2) PERMITTED HOLDINGS IN A CORPORATION.—

"(A) IN GENERAL.—The permitted holdings of any private foundation in an incorporated business enterprise are—

"(i) 20 percent of the voting stock, reduced by

"(ii) the percentage of the voting stock owned by all disqualified persons.

In any case in which all disqualified persons together do not own more than 20 percent of the voting stock of an incorporated business enterprise, nonvoting stock held by the private foundation shall also be treated as permitted holdings.

"(B) 35 PERCENT RULE WHERE THIRD PERSON HAS EFFECTIVE CONTROL OF ENTERPRISE.—If—

"(i) the private foundation and all disqualified persons together do not own more than 35 percent of the voting stock of an incorporated business enterprise, and

"(ii) it is established to the satisfaction of the Secretary or his delegate that effective control of the corporation is in one or more persons who are not disqualified persons with respect to the foundation,

then subparagraph (A) shall be applied by substituting 35 percent for 20 percent.

"(C) 2 PERCENT DE MINIMIS RULE.—A private foundation shall not be treated as having excess business holdings in any corporation in which it (together with all other private foundations which are described in section 4946(a)(1)(H)) owns not more than 2 percent of the voting stock and not more than 2 percent in value of all outstanding shares of all classes of stock.

"(3) PERMITTED HOLDINGS IN PARTNERSHIPS, ETC.—The permitted holdings of a private foundation in any business enterprise which is not incorporated shall be determined under regulations prescribed by the Secretary or his delegate. Such regulations shall be consistent in principle with paragraphs (2) and (4), except that—

"(A) in the case of a partnership or joint venture, 'profits interest' shall be substituted for 'voting stock', and 'capital interest' shall be substituted for 'nonvoting stock',

"(B) in the case of a proprietorship, there shall be no permitted holdings, and

"(C) in any other case, 'beneficial interest' shall be substituted for 'voting stock'.

"(4) PRESENT HOLDINGS.—

"(A)(i) In applying this section with respect to the holdings of any private foundation in a business enterprise, if such foundation and all disqualified persons together have holdings in such enterprise in excess of 20 percent of the voting stock on May 26, 1969, the percentage of such holdings shall be substituted for '20 percent,' and for '35 percent' (if the percentage of such holdings is greater than 35 percent), wherever it appears in paragraph 2, but in no event shall the percentage so substituted be more than 50 percent.

"(ii) If the percentage of the holdings of any private foundation and all disqualified persons together in a business enterprise (or if the percentage of the holdings of the private foundation in such enterprise) decreases for any reason, clause (i) and subparagraph (D) shall, except as provided in the next sentence, be applied for all periods after such decrease by substituting such decreased percentage for the percentage held on May 26, 1969, but in no event shall the percentage substituted be less than 20 percent. For purposes of this clause, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be determined only as of the close of each taxable year of the private foundation unless the aggregate of the percentage decreases attributable to the issuances of stock (or such issuances and redemptions) during such taxable year equals or exceeds 1 percent.

"(iii) The percentage substituted under clause (i), and any percentage substituted under subparagraph (D), shall be applied both with respect to the voting stock and, separately, with respect to the value of all outstanding shares of all classes of stock.

"(iv) In the case of any merger, recapitalization, or other reorganization involving one or more business enterprises, the application of clauses (i), (ii), and (iii) shall be determined under regulations prescribed by the Secretary or his delegate.

"(B) *Any interest in a business enterprise which a private foundation holds on May 26, 1969, if the private foundation on such date has excess business holdings, shall (while held by the foundation) be treated as held by a disqualified person (rather than by the private foundation)—*

"(i) *during the 20-year period beginning on such date, if the private foundation has more than a 95 percent voting stock interest on such date,*

"(ii) *except as provided in clause (i), during the 15-year period beginning on such date, if the foundation and all disqualified persons have more than a 75 percent voting stock interest (or more than a 75 percent profits or beneficial interest in the case of any unincorporated enterprise) on such date or more than a 75 percent interest in the value of all outstanding shares of all classes of stock (or more than a 75 percent capital interest in the case of a partnership or joint venture) on such date, or*

"(iii) *during the 10-year period beginning on such date, in any other case.*

"(C) *The 20-year, 15-year, and 10-year periods described in subparagraph (B) for the disposition of excess business holdings shall be suspended during the pendency of any judicial proceeding by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to allow disposition of such holdings.*

"(D)(i) *If, at any time during the second phase, all disqualified persons together have holdings in a business enterprise in excess of 2 percent of the voting stock of such enterprise, then subparagraph (A)(i) shall be applied by substituting for '50 percent' the following: '50 percent, of which not more than 25 percent shall be voting stock held by the private foundation'.*

"(ii) *If, immediately before the close of the second phase, clause (i) of this subparagraph did not apply with respect to a business enterprise, then for all periods after the close of the second phase subparagraph (A)(i) shall be applied by substituting for '50 percent' the following: '35 percent, or if at any time after the close of the second phase all disqualified persons together have had holdings in such enterprise which exceed 2 percent of the voting stock, 35 percent, of which not more than 25 percent shall be voting stock held by the private foundation'.*

"(iii) *For purposes of this subparagraph, the term 'second phase' means the 15-year period immediately following the 20-year, 15-year, or 10-year period described in subparagraph (B), whichever applies, as modified by subparagraph (C).*

"(E) *Clause (ii) of subparagraph (B) shall not apply with respect to any business enterprise if before January 1, 1971, one or more individuals who are substantial contributors (or members of the family (within the meaning of section 4946(d)) of one or more substantial contributors) to the private foundation and who on May 26, 1969, held more than 15 percent of the voting stock of the enterprise elect, in such manner as the Secretary or his delegate may by regulations prescribe, not to have such clause (ii) apply with respect to such enterprise.*

"(5) HOLDINGS ACQUIRED BY TRUST OR WILL.—Paragraph (4) (other than subparagraph (B)(i)) shall apply to any interest in a business enterprise which a private foundation acquires under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before such date, which are in effect on such date and at all times thereafter, as if such interest were held on May 26, 1969, except that the 15-year and 10-year periods prescribed in clauses (ii) and (iii) of paragraph (4)(B) shall commence with respect to such interest on the date of distribution under the trust or will in lieu of May 26, 1969.

"(6) 5-YEAR PERIOD TO DISPOSE OF GIFTS, BEQUESTS, ETC.—Except as provided in paragraph (5), if, after May 26, 1969, there is a change in the holdings in a business enterprise (other than by purchase by the private foundation or by a disqualified person) which causes the private foundation to have—

"(A) excess business holdings in such enterprise, the interest of the foundation in such enterprise (immediately after such change) shall (while held by the foundation) be treated as held by a disqualified person (rather than by the foundation) during the 5-year period beginning on the date of such change in holdings; or

"(B) an increase in excess business holdings in such enterprise (determined without regard to subparagraph (A)), subparagraph (A) shall apply, except that the excess holdings immediately preceding the increase therein shall not be treated, solely because of such increase, as held by a disqualified person (rather than by the foundation).

"(d) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) BUSINESS HOLDINGS.—In computing the holdings of a private foundation, or a disqualified person (as defined in section 4946) with respect thereto, in any business enterprise, any stock or other interest owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. The preceding sentence shall not apply with respect to an income or remainder interest of a private foundation in a trust described in section 4947(a)(2), but only if, in the case of property transferred in trust after May 26, 1969, such foundation holds only an income interest or only a remainder interest in such trust.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning on the first day on which there are such excess holdings and ending on the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212 in respect of such holdings.

"(3) CORRECTION PERIOD.—The term 'correction period' means, with respect to excess business holdings of a private foundation in a business enterprise, the period ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (b)) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit orderly disposition of such excess business holdings.

"(4) BUSINESS ENTERPRISE.—*The term 'business enterprise' does not include—*

"(A) *a functionally related business (as defined in section 4942(j)(5)), or*

"(B) *a trade or business at least 95 percent of the gross income of which is derived from passive sources.*

For purposes of subparagraph (B), gross income from passive sources includes the items excluded by section 512(b) (1), (2), (3), and (5), and income from the sale of goods (including charges or costs passed on at cost to purchasers of such goods or income received in settlement of a dispute concerning or in lieu of the exercise of the right to sell such goods) if the seller does not manufacture, produce, physically receive or deliver, negotiate sales of, or maintain inventories in such goods.

"SEC. 4944. TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.

"(a) INITIAL TAXES.—

"(1) ON THE PRIVATE FOUNDATION.—*If a private foundation invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, there is hereby imposed on the making of such investment a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by the private foundation.*

"(2) ON THE MANAGEMENT.—*In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the making of the investment.*

"(b) ADDITIONAL TAXES.—

"(1) ON THE FOUNDATION.—*In any case in which an initial tax is imposed by subsection (a)(1) on the making of an investment and such investment is not removed from jeopardy within the correction period, there is hereby imposed a tax equal to 25 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by the private foundation.*

"(2) ON THE MANAGEMENT.—*In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the removal from jeopardy, there is hereby imposed a tax equal to 5 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the removal from jeopardy.*

"(c) EXCEPTION FOR PROGRAM-RELATED INVESTMENTS.—*For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.*

"(d) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) or (b)(2) with respect to any one investment, all such persons shall be jointly and severally liable under such paragraph with respect to such investment.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one investment, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier: (A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or (B) the date on which the amount so invested is removed from jeopardy.

"(2) REMOVAL FROM JEOPARDY.—An investment which jeopardizes the carrying out of exempt purposes shall be considered to be removed from jeopardy when such investment is sold or otherwise disposed of, and the proceeds of such sale or other disposition are not investments which jeopardize the carrying out of exempt purposes.

"(3) CORRECTION PERIOD.—The term 'correction period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which such investment is entered into and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to bring about removal from jeopardy.

"SEC. 4945. TAXES ON TAXABLE EXPENDITURES.

"(a) INITIAL TAXES.—

"(1) ON THE FOUNDATION.—There is hereby imposed on each taxable expenditure (as defined in subsection (d)) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the private foundation.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the agreement of any foundation manager to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE FOUNDATION.—In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the private foundation.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one taxable expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) TAXABLE EXPENDITURE.—For purposes of this section, the term 'taxable expenditure' means any amount paid or incurred by a private foundation—

"(1) to carry on propaganda, or otherwise to attempt, to influence legislation, within the meaning of subsection (e),

"(2) except as provided in subsection (f), to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive,

"(3) as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g),

"(4) as a grant to an organization (other than an organization described in paragraph (1), (2), or (3) of section 509(a)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or

"(5) for any purpose other than one specified in section 170(c)(2)(B).

"(e) ACTIVITIES WITHIN SUBSECTION (d)(1).—For purposes of subsection (d)(1), the term 'taxable expenditure' means any amount paid or incurred by a private foundation for—

"(1) any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

"(2) any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be),

other than through making available the results of nonpartisan analysis, study, or research. Paragraph (2) of this subsection shall not apply to any amount paid or incurred in connection with an appearance before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

"(f) NONPARTISAN ACTIVITIES CARRIED ON BY CERTAIN ORGANIZATIONS.—Subsection (d)(2) shall not apply to any amount paid or incurred by any organization—

"(1) which is described in section 501(c)(3) and exempt from taxation under section 501(a),

"(2) the activities of which are nonpartisan, are not confined to one specific election period, and are carried on in 5 or more States,

"(3) substantially all of the income of which is expended directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated,

"(4) substantially all of the support (other than gross investment income as defined in section 509(e)) of which is received from exempt organizations, the general public, governmental units described in section 170(c)(1), or any combination of the foregoing; not more than 25 percent of such support is received from any one exempt organization (for this purpose treating private foundations which are described in section 4946(a)(1)(H) with respect to each other as one exempt organization); and not more than half of the support of which is received from gross investment income, and

"(5) contributions to which for voter registration drives are not subject to conditions that they may be used only in specified States, possessions of the United States, or political subdivisions or other areas of any of the foregoing, or the District of Columbia, or that they may be used in only one specific election period.

In determining whether the organization meets the requirements of paragraph (4) for any taxable year of such organization, there shall be taken into account the support received by such organization during such taxable year and during the immediately preceding 4 taxable years of such organization (excluding therefrom any preceding taxable year which begins before January 1, 1970). Subsection (d)(4) shall not apply to any grant to an organization which meets the requirements of this subsection.

"(g) INDIVIDUAL GRANTS.—Subsection (d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary or his delegate, if it is demonstrated to the satisfaction of the Secretary or his delegate that—

"(1) the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 151(e)(4),

"(2) the grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or

"(3) the purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

"(h) EXPENDITURE RESPONSIBILITY.—The expenditure responsibility referred to in subsection (d)(4) means that the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures—

"(1) to see that the grant is spent solely for the purpose for which made,

"(2) to obtain full and complete reports from the grantee on how the funds are spent, and

"(3) to make full and detailed reports with respect to such expenditures to the Secretary or his delegate.

"(i) *OTHER DEFINITIONS.—For purposes of this section—*

"(1) *CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any taxable expenditure, (A) recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible such additional corrective action as is prescribed by the Secretary or his delegate by regulations, or (B) in the case of a failure to comply with subsection (h)(2) or (h)(3), obtaining or making the report in question.*

"(2) *CORRECTION PERIOD.—The term 'correction period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—*

"(A) *any period in which a deficiency cannot be assessed under section 6213(a), and*

"(B) *any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the taxable expenditure (except that such determination shall not be made with respect to any taxable expenditure within the meaning of paragraph (1), (2), (3), or (4) of subsection (d) because of any action by an appropriate State officer as defined in section 6104(c)(2)).*

"*SEC. 4946. DEFINITIONS AND SPECIAL RULES.*

"(a) *DISQUALIFIED PERSON.—*

"(1) *IN GENERAL.—For purposes of this chapter, the term 'disqualified person' means, with respeci to a private foundation, a person who is—*

"(A) *a substantial contributor to the foundation,*

"(B) *a foundation manager (within the meaning of subsection (b)(1)),*

"(C) *an owner of more than 20 percent of—*

"(i) *the total combined voting power of a corporation,*

"(ii) *the profits interest of a partnership, or*

"(iii) *the beneficial interest of a trust or unincorporated enterprise,*

which is a substantial contributor to the foundation,

"(D) *a member of the family (as defined in subsection (d)) of any individual described in subparagraph (A), (B), or (C),*

"(E) *a corporation of which persons described in subparagraph (A), (B), (C), or (D) own more than 35 percent of the total combined voting power,*

"(F) *a partnership in which persons described in subparagraph (A), (B), (C), or (D) own more than 35 percent of the profits interest,*

"(G) *a trust or estate in which persons described in subparagraph (A), (B), (C), or (D) hold more than 35 percent of the beneficial interest,*

"(H) *only for purposes of section 4943, a private foundation—*

"(i) *which is effectively controlled (directly or indirectly) by the same person or persons who control the private foundation in question, or*

"(ii) *substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (A), (B), or (C), or members*

of their families (within the meaning of subsection (d)), who made (directly or indirectly) substantially all of the contributions to the private foundation in question, and

"(I) only for purposes of section 4941, a government official (as defined in subsection (c)).

"(2) SUBSTANTIAL CONTRIBUTORS.—For purposes of paragraph (1), the term 'substantial contributor' means a person who is described in section 507(d)(2).

"(3) STOCKHOLDINGS.—For purposes of paragraphs (1)(C)(i) and (1)(E), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of subsection (d).

"(4) PARTNERSHIPS; TRUSTS.—For purposes of paragraphs (1)(C) (ii) and (iii), (1)(F), and (1)(G), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of subsection (d).

"(b) FOUNDATION MANAGER.—For purposes of this chapter, the term 'foundation manager' means, with respect to any private foundation—

"(1) an officer, director, or trustee of a foundation (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the foundation), and

"(2) with respect to any act (or failure to act), the employees of the foundation having authority or responsibility with respect to such act (or failure to act).

"(c) GOVERNMENT OFFICIAL.—For purposes of subsection (a)(1)(I) and section 4941, the term 'government official' means, with respect to an act of self-dealing described in section 4941, an individual who, at the time of such act, holds any of the following offices or positions (other than as a 'special Government employee', as defined in section 202(a) of title 18, United States Code):

"(1) an elective public office in the executive or legislative branch of the Government of the United States,

"(2) an office in the executive or judicial branch of the Government of the United States, appointment to which was made by the President,

"(3) a position in the executive, legislative, or judicial branch of the Government of the United States—

"(A) which is listed in schedule C of rule VI of the Civil Service Rules, or

"(B) the compensation for which is equal to or greater than the lowest rate of compensation prescribed for GS–16 of the General Schedule under section 5332 of title 5, United States Code,

"(4) a position under the House of Representatives or the Senate of the United States held by an individual receiving gross compensation at an annual rate of $15,000 or more,

"(5) an elective or appointive public office in the executive, legislative, or judicial branch of the government of a State, possession of the United States, or political subdivision or other area of any of the

foregoing, or of the District of Columbia, held by an individual receiving gross compensation at an annual rate of $15,000 or more, or

"(6) a position as personal or executive assistant or secretary to any of the foregoing.

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, lineal descendants, and spouses of lineal descendants.

"SEC. 4947. APPLICATION OF TAXES TO CERTAIN NONEXEMPT TRUSTS.

"(a) APPLICATION OF TAX.—

"(1) CHARITABLE TRUSTS.—For purposes of part II of subchapter F of chapter 1 (other than section 508 (a), (b), and (c)) and for purposes of this chapter, a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3). For purposes of section 509(a)(3)(A), such a trust shall be treated as if organized on the day on which it first becomes subject to this paragraph.

"(2) SPLIT-INTEREST TRUSTS.—In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—

"(A) any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),

"(B) any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or

"(C) any amounts transferred in trust before May 27, 1969.

"(3) SEGREGATED AMOUNTS.—For purposes of paragraph (2)(B), a trust with respect to which amounts are segregated shall separately account for the various income, deduction, and other items properly attributable to each of such segregated amounts.

"(b) SPECIAL RULES.—

"(1) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

"(2) LIMIT TO SEGREGATED AMOUNTS.—If any amounts in the trust are segregated within the meaning of subsection (a)(2)(B) of this section, the value of the net assets for purposes of subsections (c)(2) and (g) of section 507 shall be limited to such segregated amounts.

"(3) SECTIONS 4943 AND 4944.—Sections 4943 and 4944 shall not apply to a trust which is described in subsection (a)(2) if—

"(A) all the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have an aggregate value not more than 60 percent of the aggregate fair market value of all amounts in such trust, or

"(B) a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

"SEC. 4948. APPLICATION OF TAXES AND DENIAL OF EXEMPTION WITH RESPECT TO CERTAIN FOREIGN ORGANIZATIONS.

"(a) TAX ON INCOME OF CERTAIN FOREIGN ORGANIZATIONS.—In lieu of the tax imposed by section 4940, there is hereby imposed for each taxable year on the gross investment income (within the meaning of section 4940(c)(2)) derived from sources within the United States (within the meaning of section 861) by every foreign organization which is a private foundation for the taxable year a tax equal to 4 percent of such income.

"(b) CERTAIN SECTIONS INAPPLICABLE.—Section 507 (relating to termination of private foundation status), section 508 (relating to special rules with respect to section 501(c)(3) organizations), and this chapter (other than this section) shall not apply to any foreign organization which has received substantially all of its support (other than gross investment income) from sources outside the United States.

"(c) DENIAL OF EXEMPTION TO FOREIGN ORGANIZATIONS ENGAGED IN PROHIBITED TRANSACTIONS.—

"(1) GENERAL RULE.—A foreign organization described in subsection (b) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this subsection, the term 'prohibited transaction' means any act or failure to act (other than with respect to section 4942(e)) which would subject a foreign organization described in subsection (b), or a disqualified person (as defined in section 4946) with respect thereto, to liability for a penalty under section 6684 or a tax under section 507 if such foreign organization were a domestic organization.

"(3) TAXABLE YEARS AFFECTED.—

"(A) Except as provided in subparagraph (B), a foreign organization described in subsection (b) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) for all taxable years beginning with the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction. The Secretary or his delegate shall publish such notice in the Federal Register on the day on which he so notifies such foreign organization.

"(B) *Under regulations prescribed by the Secretary or his delegate, any foreign organization described in subsection (b) which is denied exemption from taxation under section 501(a) by reason of paragraph (1) may, with respect to the second taxable year following the taxable year in which notice is given under subparagraph (A) (or any taxable year thereafter), file claim for exemption from taxation under section 501(a). If the Secretary or his delegate is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall not, with respect to taxable years beginning with the taxable year with respect to which such claim is filed, be denied exemption from taxation under section 501(a) by reason of any prohibited transaction which was engaged in before the date on which such notice was given under subparagraph (A).*

"(4) DISALLOWANCE OF CERTAIN CHARITABLE DEDUCTIONS.—*No gift or bequest shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if made—*

"(A) *to a foreign organization described in subsection (b) after the date on which the Secretary or his delegate publishes notice under paragraph (3)(A) that he has notified such organization that it has engaged in a prohibited transaction, and*

"(B) *in a taxable year of such organization for which it is not exempt from taxation under section 501(a) by reason of paragraph (1).*"

(c) ASSESSABLE PENALTIES FOR REPEATED, OR WILLFUL AND FLAGRANT, ACTS UNDER CHAPTER 42.—*Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:*

"SEC. 6684. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX UNDER CHAPTER 42.

"*If any person becomes liable for tax under any section of chapter 42 (relating to private foundations) by reason of any act or failure to act which is not due to reasonable cause and either—*

"(1) *such person has theretofore been liable for tax under such chapter, or*

"(2) *such act or failure to act is both willful and flagrant,*

then such person shall be liable for a penalty equal to the amount of such tax."

(d) INFORMATION RETURNS OF EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—*Section 6033(a) (relating to information returns by exempt organizations) is amended to read as follows:*

"(a) ORGANIZATIONS REQUIRED TO FILE.—

"(1) IN GENERAL.—*Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its*

return any information which is reported in returns filed by the employer which established such organization.

"(2) EXCEPTIONS FROM FILING.—

"(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to—

"(i) churches, their integrated auxiliaries, and conventions or associations of churches,

"(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than $5,000, or

"(iii) the exclusively religious activities of any religious order.

"(B) DISCRETIONARY EXCEPTIONS.—The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

"(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

"(i) a religious organization described in section 501 (c)(3);

"(ii) an educational organization described in section 170(b)(1)(A)(ii);

"(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

"(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

"(v) an organization described in section 501(c)(8); and

"(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation."

(2) ADDITIONAL INFORMATION.—Section 6033(b) (relating to certain organizations described in section 501(c)(3)) is amended—

(A) by striking out in paragraph (3) "out of income",

(B) by striking out paragraphs (4), (5), (6), and (8), and by redesignating paragraph (7) as paragraph (4), and

(C) by adding after paragraph (4) (as redesignated) the following new paragraphs:

"(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

"(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees, and

"(7) the compensation and other payments made during the year to each individual described in paragraph (6)."

(3) ANNUAL REPORT.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding after subpart C, the following new subpart:

"Subpart D—Information Concerning Private Foundations

"Sec. 6056. Annual reports by private foundations.

"SEC. 6056. ANNUAL REPORTS BY PRIVATE FOUNDATIONS.

"(a) GENERAL.—The foundation managers (within the meaning of section 4946(b)) of every organization which is a private foundation (within the meaning of section 509(a)) having at least $5,000 of assets at any time during a taxable year shall file an annual report as of the close of the taxable year at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

"(b) CONTENTS.—The foundation managers of the private foundation shall set forth in the annual report required under subsection (a) the following information:

"(1) its gross income for the year,

"(2) its expenses attributable to such income and incurred within the year,

"(3) its disbursements (including administrative expenses) within the year,

"(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of the year,

"(5) an itemized statement of its securities and all other assets at the close of the year, showing both book and market value,

"(6) the total of the contributions and gifts received by it during the year,

"(7) an itemized list of all grants and contributions made or approved for future payment during the year, showing the amount of each such grant or contribution, the name and address of the recipient, any relationship between any individual recipient and the foundation's managers or substantial contributors, and a concise statement of the purpose of each such grant or contribution.

"(8) the address of the principal office of the foundation and (if different) of the place where its books and records are maintained,

"(9) the names and addresses of its foundation managers (within the meaning of section 4946(b)), and

"(10) a list of all persons described in paragraph (9) that are substantial contributors (within the meaning of section 507(d)(2)) or that own 10 percent or more of the stock of any corporation of which the foundation owns 10 percent or more of the stock, or corresponding interests in partnerships or other entities, in which the foundation has a 10 percent or greater interest.

"(c) FORM.—The annual report may be prepared in printed, typewritten, or any other legible form the foundation chooses. The Secretary or his delegate shall provide forms which may be used by a private foundation for purposes of the annual report.

"(d) SPECIAL RULES.—

"(1) The annual report required to be filed under this section is in addition to and not in lieu of the information required to be filed under

section 6033 (relating to returns by exempt organizations) and shall be filed at the same time as such information.

"(2) A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), together with proof of publication thereof, shall be filed by the foundation managers together with the annual report.

"(3) The foundation managers shall furnish copies of the annual report required by this section to such State officials and other persons, at such times and under such conditions, as the Secretary or his delegate may by regulations prescribe."

(4) PENALTY FOR LATE FILING OF CERTAIN INFORMATION RETURNS.—Section 6652 (relating to failure to file certain information returns) is amended by relettering subsection (d) as subsection (e) and inserting immediately after subsection (c) the following new subsection:

"(d) RETURNS BY EXEMPT ORGANIZATIONS AND BY CERTAIN TRUSTS.—

"(1) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6033 (relating to returns by exempt organizations), section 6034 (relating to returns by certain trusts), or section 6043(b) (relating to exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the exempt organization or trust failing so to file, $10 for each day during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed $5,000.

"(2) MANAGERS.—The Secretary or his delegate may make written demand upon an organization failing to file under paragraph (1) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed $5,000. If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term 'person' as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

"(3) ANNUAL REPORTS.—In the case of a failure to file a report required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file or meet the publicity requirement, $10 for each day during which such failure continues, but the

total amount imposed hereunder on all such persons for such failure to file or comply with the requirements of section 6104(d) with regard to any one annual report shall not exceed $5,000. If more than one person is liable under this paragraph for a failure to file or comply with the requirements of section 6104(d), all such persons shall be jointly and severally liable with respect to such failure. The term 'person' as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs."

(e) PUBLICITY OF INFORMATION REQUIRED BY CERTAIN EXEMPT ORGANIZATIONS.—

(1) NAMES AND ADDRESSES OF CONTRIBUTORS.—Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by inserting at the end of subsection (b), the following sentence: "Nothing in this subsection shall authorize the Secretary or his delegate to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a)) which is required to furnish such information."

(2) PUBLICATION TO STATE OFFICIALS.—Section 6104 is amended by adding after subsection (b) the following new subsection:

"(c) PUBLICATION TO STATE OFFICIALS.—

"(1) GENERAL RULE.—In the case of any organization which is described in section 501(c)(3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c)(3), the Secretary or his delegate at such times and in such manner as he may by regulations prescribe shall—

"(A) notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c)(3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

"(B) notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 42, and

"(C) at the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

"(2) APPROPRIATE STATE OFFICER.—For purposes of this subsection, the term 'appropriate State officer' means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3)."

(3) ANNUAL REPORTS.—Section 6104 is amended by adding after subsection (c), as added by paragraph (2) of this subsection, the following new subsection:

"(d) PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL REPORTS.—The annual report required to be filed under section 6056 (relating to annual reports by private foundations) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability. Such

notice shall be published, not later than the day prescribed for filing such annual report (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual report of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address of the private foundation's principal office and the name of its principal manager."

(4) WILLFUL FAILURE TO PROVIDE INFORMATION REGARDING PRIVATE FOUNDATIONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6684 (added by subsection (c) of this section) the following new section:

"SEC. 6685. ASSESSABLE PENALTIES WITH RESPECT TO PRIVATE FOUNDATION ANNUAL REPORTS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to file the report and the notice required under section 6056 (relating to annual reports by private foundations) or to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual reports) and who fails so to file or comply, if such failure is willful, shall pay a penalty of $1,000 with respect to each such report or notice."

(5) Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "section 6047 (b) or (c)" and inserting in lieu thereof "sections 6047 (b) or (c), 6056, or 6104(d)".

(f) PETITION TO TAX COURT; DEFICIENCY PROCEDURES MADE APPLICABLE.—

(1) Section 6211(a) (relating to definition of a deficiency) is amended—

(A) by striking out "and gift taxes" and inserting in lieu thereof "gift, and excise taxes,",

(B) by striking out "subtitles A and B," and inserting in lieu thereof "subtitles A and B, and chapter 42,", and

(C) by striking out "subtitles A or B" and inserting in lieu thereof "subtitle A or B or chapter 42".

(2) Section 6212(c)(1) (relating to further deficiency letters restricted) is amended by striking out "or" before "of estate tax" and by inserting after "the same decedent," the following: "of section 4940 tax for the same taxable year, or of chapter 42 tax (other than under section 4940) with respect to any act (or failure to act) to which such petition relates,".

(3) Section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by relettering subsection (e) as subsection (f) and inserting immediately after subsection (d) the following new subsection:

"(e) SUSPENSION OF FILING PERIOD FOR CERTAIN CHAPTER 42 TAXES.—The running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to investments which jeopardize charitable purpose), or

4945 (relating to taxes on taxable expenditures) shall be suspended for any period during which the Secretary or his delegate has extended the time allowed for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), or 4945(h)(2)."

(g) LIMITATIONS ON ASSESSMENT AND COLLECTION.—

(1) *Section 6501 is amended by adding at the end thereof the following new subsection:*

"(n) SPECIAL RULE FOR CHAPTER 42 TAXES.—

"(1) IN GENERAL.—*For purposes of any tax imposed by chapter 42 (other than section 4940), the return referred to in this section shall be the return filed by the private foundation for the year in which the act (or failure to act) giving rise to liability for such tax occurred. For purposes of section 4940, such return is the return filed by the private foundation for the taxable year for which the tax is imposed.*

"(2) CERTAIN CONTRIBUTIONS TO SECTION 501 (c)(3) ORGANIZATIONS.—*In the case of a deficiency of tax of a private foundation making a contribution in the manner provided in section 4942(g)(3) (relating to certain contributions to section 501(c)(3) organizations) attributable to the failure of a section 501(c)(3) organization to make the distribution prescribed by section 4942(g)(3), such deficiency may be assessed at any time before the expiration of one year after the expiration of the period within which a deficiency may be assessed for the taxable year with respect to which the contribution was made.*"

(2) *Section 6501(c) is amended by adding the following new paragraph at the end thereof:*

"(7) TERMINATION OF PRIVATE FOUNDATION STATUS.—*In the case of a tax on termination of private foundation status under section 507, such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.*"

(3) *Section 6501(e)(3) is amended by adding at the end thereof the following sentence: "In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 42 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the existence and nature of such item."*

(4) *Section 6503 (relating to suspension of running of period of limitation) is amended by relettering subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:*

"(h) SUSPENSION PENDING CORRECTION.—*The running of the periods of limitations provided in sections 6501 and 6502 on the making of assessments or the collection by levy or a proceeding in court in respect of any tax imposed by chapter 42 or section 507 shall be suspended for any period described in section 507(g)(2) or during which the Secretary or his delegate has extended the time for making correction under section 4941(e)(4), 4942(j)(2), 4943(d)(3), 4944(e)(3), or 4945(h)(2).*"

(h) LIMITATIONS ON CREDITS OR REFUNDS.—*Section 6511 (relating to limitations on credits or refunds) is amended by relettering subsection (f) as subsection (g) and inserting immediately after subsection (e) the following new subsection:*

"(f) SPECIAL RULE FOR CHAPTER 42 TAXES.—For purposes of any tax imposed by chapter 42, the return referred to in subsection (a) shall be the return specified in section 6501(n)(1)."

(i) CIVIL ACTION FOR REFUND.—Section 7422 (relating to civil actions for refund) is amended by relettering subsection (g) as subsection (h) and by inserting immediately after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR CERTAIN EXCISE TAXES IMPOSED BY CHAPTER 42.—

"(1) RIGHT TO BRING ACTIONS.—With respect to any act (or failure to act) giving rise to liability under section 4941, 4942, 4943, 4944, or 4945, payment of the full amount of tax imposed under section 4941(a) (relating to initial taxes on self-dealing), section 4942(a) (relating to initial tax on failure to distribute income), section 4943(a) (relating to initial tax on excess business holdings), section 4944(a) (relating to initial taxes on investments which jeopardize charitable purpose), section 4945(a) (relating to initial taxes on taxable expenditures), section 4941(b) (relating to additional taxes on self-dealing), section 4942(b) (relating to additional tax on failure to distribute income), section 4943(b) (relating to additional tax on excess business holdings), section 4944(b) (relating to additional taxes on investments which jeopardize charitable purpose), or section 4945(b) (relating to additional taxes on taxable expenditures) shall constitute sufficient payment in order to maintain an action under this section with respect to such act (or failure to act).

"(2) LIMITATION ON SUIT FOR REFUND.—No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, or 4945 with respect to any act (or failure to act) giving rise to liability for tax under such sections, unless no other suit has been maintained for credit or refund of, and no petition has been filed in the Tax Court with respect to a deficiency in, any other tax imposed by such sections with respect to such act (or failure to act).

"(3) FINAL DETERMINATION OF ISSUES.—For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, or 4945 with respect to any act (or failure to act) giving rise to liability for tax under such sections, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such act (or failure to act) under such sections, and failure by the parties to such suit to bring any such question before the Court shall constitute a bar to such question."

(j) TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.—

(1) Section 101(b)(2)(B)(iii) (relating to nonforfeitable rights) is amended by striking out "section 503(b)(1), (2), or (3)" and inserting in lieu thereof "section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust)".

(2) Section 170(i) (relating to disallowance of deductions in certain cases) (as redesignated by section 201(a)(1)(A) of this Act) is amended—

(A) by striking out paragraph (1), and

(B) by striking out "(2) For disallowance" and inserting in lieu thereof "For disallowance".

(3) Section 501(a) (relating to exemption from taxation) is amended by striking out "502, 503, or 504" and inserting in lieu thereof "502 or 503".

(4) Section 501(b) (relating to tax on unrelated business income) is amended to read as follows:

"(b) TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II and III of this subchapter, but (notwithstanding parts II and III of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes."

(5) Section 501(c)(16) (relating to list of exempt organizations) is amended by striking out "part III" and inserting in lieu thereof "part IV".

(6) Section 501(e) (relating to cooperative hospital service organizations) is amended by striking out in the last sentence thereof "section 503(b)(5)." and inserting in lieu thereof "section 170(b)(1)(A)(iii).".

(7) Section 503(a)(1) (relating to general rule) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) An organization described in section 501(c)(17) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

"(B) An organization described in section 401(a) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954."

(8) Section 503(a)(2) (relating to taxable years affected by denial of exemption) is amended by striking out "section 501(c) (3) or (17)" and inserting in lieu thereof "section 501(c)(17)".

(9) Section 503(d) (relating to future status of organizations denied exemption) is amended by striking out "section 501(c) (3) or (17)" and inserting in lieu thereof "section 501(c)(17)".

(10) Section 503(g) (relating to special rule for loans) is amended by striking out "subsection (c)(1)," and inserting in lieu thereof "subsection (b)(1),".

(11) Section 503(h) (relating to special rules relating to lending by section 401(a) and section 501(c)(17) trusts to certain persons) is amended—

(A) by striking out in the heading thereof "SPECIAL RULES RELATING TO LENDING BY SECTION 401(a) AND SECTION 501(c)(17) TRUSTS TO CERTAIN PERSONS.—", and inserting in lieu thereof "SPECIAL RULES.—",

(B) by striking out "subsection (c)(1)," and inserting in lieu thereof "subsection (b)(1),",

(C) by striking out "acquired by a trust described in section 401(a) or section 501(c)(17)", and

(D) by striking out in paragraph (3) "subsection (c)" and inserting in lieu thereof "subsection (b)".

(12) Section 503(i) (relating to loans with respect to which employers are prohibited from pledging certain assets) is amended—

(A) by striking out "Subsection (c)(1)" and inserting in lieu thereof "Subsection (b)(1)", and

(B) by striking out "subsection (h)" and inserting in lieu thereof "subsection (e)".

(13) Section 503(j)(1) (relating to prohibited transactions) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(14) Section 503 (relating to requirements of exemption) is amended by striking out subsections (b), (e), and (f) and by redesignating subsections (c), (d), (g), (h), (i), and (j) (as amended), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(15) Section 504 (relating to denial of exemption) is repealed.

(16) Section 542(a)(2) (relating to stock ownership requirement) is amended—

(A) by striking out in the second sentence "section 503(b)" and inserting in lieu thereof "section 401(a), 501(c)(17), or 509(a)", and

(B) by amending the third sentence to read as follows: "The preceding sentence shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation."

(17) Section 663(a)(2) (relating to charitable, etc., distributions) is amended by striking out "section 681" and inserting in lieu thereof "sections 508(d), 681, and 4948(c)(4)".

(18) Section 681 (b) and (c) (relating to operations of trusts and accumulated income) is repealed.

(19) Section 681(d) (relating to cross reference) is redesignated as subsection (b), and as so redesignated is amended by striking out "section 503(e)" and inserting in lieu thereof "sections 508(d) and 4948(c)(4)".

(20) Section 878 (relating to foreign educational, charitable, and certain other exempt organizations) is amended by—

(A) striking out "unrelated business income of", and

(B) striking out "trusts, see section 512(a)" and inserting in lieu thereof "organizations, see sections 512(a) and 4948".

(21) Section 884 (relating to cross references) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (1), (2), (3), (4), and (5), respectively.

(22) Section 1443 (relating to foreign tax-exempt organizations) is amended by—

(A) inserting "(a) INCOME SUBJECT TO SECTION 511.—" before "In the case of", and

(B) adding subsection (b) to read as follows:

"(b) INCOME SUBJECT TO SECTION 4948.—In the case of income of a foreign organization subject to the tax imposed by section 4948(a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary or his delegate."

(23) Section 2039(c)(3) (relating to exemption of annuities under certain trusts and plans) is amended by striking out "section 503(b)(1), (2), or (3)," and inserting in lieu thereof "section 170(b)(1)(A) (ii) or (vi), or which is a religious organization (other than a trust),".

(24) Section 2517(a)(3) (relating to general rule for certain annuities under qualified plans) is amended by striking out "section 503(b)(1), (2), or (3)," and inserting in lieu thereof "section 170(b)(1)(A) (ii) or (vi), or which is a religious organization (other than a trust),".

(25) Section 4057(b) (relating to the definition of nonprofit educational organization) is amended by striking out "section 503(b)(2)" and inserting in lieu thereof "section 170(b)(1)(A)(ii)".

(26) Section 4221(d)(5) (relating to the definition of nonprofit educational organization) is amended by striking out "section 503(b)(2)" and inserting in lieu thereof "section 170(b)(1)(A)(ii)".

(27) Section 4253(h) (relating to nonprofit hospitals) is amended by striking out "section 503(b)(5)" and inserting in lieu thereof "section 170(b)(1)(A)(iii)".

(28) Section 4294(b) (relating to the definition of nonprofit educational organization) is amended by striking out "section 503(b)(2)" and inserting in lieu thereof "section 170(b)(1)(A)(ii)".

(29) Section 5214(a)(3)(A) (relating to purposes for withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out "section 503(b)(2)" and inserting in lieu thereof "section 170(b)(1)(A)(ii)".

(30) Section 6033(b)(4) (as redesignated by subsection (d)(2) of this section) (relating to certain balance sheet items on returns by exempt organizations) is amended by striking out "and" at the end thereof.

(31) Section 6033(c) (relating to cross reference) is amended by inserting the following at the end thereof:

"For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(d)."

(32) Section 6034 (relating to returns by certain trusts) is amended by striking out all of such section before paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

"(a) GENERAL RULE.—Every trust described in section 4947(a) or claiming a charitable, etc., deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary or his delegate may by forms or regulations prescribe, including—".

(33) Section 6034(a)(1) (relating to returns by certain trusts) is amended by striking out "(showing separately the amount of such deduction which was paid out and the amount which was permanently set aside for charitable, etc., purposes during such year)".

(34) Section 6034 (relating to returns by certain trusts) is amended by adding the following new subsection at the end thereof:

"(c) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6652(d)."

(35) Section 6043 (relating to return regarding corporate dissolution or liquidation) is amended—

(A) by striking out the heading and inserting in lieu thereof

"RETURNS REGARDING LIQUIDATION, DISSOLUTION, TERMINATION, OR CONTRACTION.",

(B) by striking out "Every corporation" and inserting in lieu thereof "(a) CORPORATIONS.—Every corporation", and

(C) by adding the following new subsections at the end thereof:

"(b) EXEMPT ORGANIZATIONS.—Every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under section 501(a) shall file such return and other information with respect to such liquidation, dissolution, termination, or substantial contraction as the Secretary or his delegate shall by forms or regulations prescribe; except that—

"(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than $5,000, and

"(2) the Secretary or his delegate may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in section 401(a), where the employer who established such organization files such a return.

"(c) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by subsection (b), see section 6652(d)."

(36) Section 6104(b) (relating to inspection of annual information returns) is amended by striking out "sections 6033(b) and 6034," and inserting in lieu thereof "sections 6033, 6034, and 6056,".

(37) Section 6161(b) (relating to the amount determined as a deficiency when granting an extension of time) is amended—

(A) by striking out in paragraph (1) "chapter 1 or 12," and inserting in lieu thereof "chapter 1, 12, or 42,", and

(B) by striking out "chapter 1," the last time it appears and inserting in lieu thereof "chapter 1 or 42,".

(38) Section 6201(d) (relating to deficiency proceedings) is amended by striking out "and gift taxes", and inserting in lieu thereof "gift, and chapter 42 taxes".

(39) Section 6211(b)(2) (relating to the term "rebate") is amended by striking out "subtitles A or B" and inserting in lieu thereof "subtitle A or B or chapter 42".

(40) Section 6212(a) (relating to notice of deficiency) is amended by striking out "subtitles A or B" and inserting in lieu thereof "subtitle A or B or chapter 42".

(41) Section 6212(b)(1) (relating to address for notice of deficiency) is amended—

(A) by striking out in the title thereof "AND GIFT TAXES" and inserting in lieu thereof "AND GIFT TAXES AND TAXES IMPOSED BY CHAPTER 42",

(B) by striking out "subtitle A or chapter 12," and inserting in lieu thereof "subtitle A, chapter 12, or chapter 42,", and

(C) by inserting "chapter 42," after "chapter 12," the last place it appears.

(42) Section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by inserting "or chapter 42" after "subtitle A or B".

(43) Section 6214 (relating to determination by the Tax Court) is amended by relettering subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAXES IMPOSED BY SECTION 507 OR CHAPTER 42.—*The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter 42 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter 42 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter 42 for any other period, act, or failure to act have been overpaid or underpaid.*"

(44) *Section 6214(d) (as relettered) is amended by inserting ", chapter 42," after "chapter".*

(45) *Section 6344(a)(1) (relating to certain cross references) is amended by inserting "and taxes imposed by chapter 42," after "gift taxes,".*

(46) *Section 6503(a)(1) (relating to issuance of statutory notice of deficiency) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift and chapter 42 taxes".*

(47) *Section 6512(a) (relating to effect of petition to Tax Court) is amended—*

(A) by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes", and

(B) by striking out "or of estate tax in respect of the taxable estate of the same decedent," and inserting in lieu thereof "of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates,".

(48) *Section 6512(b)(1) (relating to jurisdiction to determine overpayment determined by Tax Court) is amended by striking out "or of estate tax in respect of the taxable estate of the same decedent," and inserting in lieu thereof "of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates,".*

(49) *Section 6601(d) (relating to suspension of interest in certain cases) is amended—*

(A) by striking out in the title thereof "AND GIFT TAX CASES." and inserting in lieu thereof "GIFT, AND CHAPTER 42 TAX CASES.", and

(B) by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".

(50) *Section 6653(c)(1) (relating to definition of underpayment) is amended—*

(A) by striking out in the heading thereof "AND GIFT TAXES." and inserting in lieu thereof "GIFT, AND CHAPTER 42 TAXES.", and

(B) by striking out "and gift taxes" the last time it appears and inserting in lieu thereof "gift, and chapter 42 taxes".

(51) *Section 6659(b) (relating to procedure for assessing certain additions to tax) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".*

(52) *Section 6676(b) (relating to deficiency procedures not to apply) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".*

(53) *Section 6677(b) (relating to deficiency procedures not to apply) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".*

(54) Section 6679(b) (relating to deficiency procedures not to apply) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".

(55) Section 6682(b) (relating to deficiency procedures not to apply) is amended by striking out "and gift taxes" and inserting in lieu thereof "gift, and chapter 42 taxes".

(56) Section 7422(e) (relating to stay of proceeding in civil actions for refund) is amended by striking out "or gift tax" the first time it appears and inserting in lieu thereof "gift tax, or tax imposed by chapter 42".

(57) Section 7454 (relating to burden of proof in fraud and transferee cases) is amended—

(A) by striking out **"FRAUD AND TRANSFEREE CASES"** and inserting in lieu thereof **"FRAUD, FOUNDATION MANAGER, AND TRANSFEREE CASES"**,

(B) by redesignating subsection (b) as subsection (c), and

(C) by inserting after subsection (a) the following new subsection:

"(b) FOUNDATION MANAGERS.—In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has 'knowingly' participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), the burden of proof in respect of such issue shall be upon the Secretary or his delegate."

(58) The table of parts for subchapter F of chapter 1 is amended to read as follows:

"Subchapter F.—Exempt Organizations

"Part I. General rule.
"Part II. Private foundations.
"Part III. Taxation of business income of certain exempt organizations.
"Part IV. Farmers' cooperatives.
"Part V. Shipowners' protection and indemnity associations."

(59) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 42. Private foundations."

(60) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new items:

"Sec. 6684. Repeated liability for tax under chapter 42.

"Sec. 6685. Assessable penalties with respect to private foundation annual reports."

(61) The table of sections for part I of subchapter F of chapter 1 is amended by striking out the item relating to section 504.

(62) The heading of subchapter B of chapter 63 is amended by striking out **"and Gift Taxes"** and inserting in lieu thereof **"Gift, and Certain Excise Taxes"**.

(63) The table of subchapters for chapter 63 is amended by striking out "and gift taxes" in the item relating to subchapter B and inserting in lieu thereof "gift, and certain excise taxes".

(64) *The table of subparts for part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:*

"Subpart D. Information concerning private foundations."

(k) EFFECTIVE DATES.—

(1) IN GENERAL.—*Except as otherwise provided in this subsection and subsection (l), the amendments made by this section shall take effect on January 1, 1970.*

(2) PROVISIONS EFFECTIVE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1969.—*The following provisions shall apply to taxable years beginning after December 31, 1969:*

(A) *Sections 4940, 4942, 4943, and 4948 of the Internal Revenue Code of 1954 (as added by this section), and*

(B) *The amendments made by subsection (d) and paragraphs (3), (15), (16), (20), (21), (30), (31), (32), (33), (34), (35), and (61) of subsection (j).*

(3) SECTIONS 508 (a), (b), AND (c).—*Sections 508 (a), (b), and (c) of the Internal Revenue Code of 1954 (as added by this section) shall take effect on October 9, 1969.*

(l) SAVINGS PROVISIONS.—

(1) REFERENCES TO INTERNAL REVENUE CODE PROVISIONS.—*Except as otherwise expressly provided, references in the following paragraphs of this subsection are to sections of the Internal Revenue Code of 1954 as amended by this section.*

(2) SECTION 4941.—*Section 4941 shall not apply to—*

(A) *any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946), pursuant to the terms of securities of such corporation in existence at the time acquired by the foundation, if such securities were acquired by the foundation before May 27, 1969;*

(B) *the sale, exchange, or other disposition of property which is owned by a private foundation on May 26, 1969 (or which is acquired by a private foundation under the terms of a trust which was irrevocable on May 26, 1969, or under the terms of a will executed on or before such date, which are in effect on such date and at all times thereafter), to a disqualified person, if such foundation is required to dispose of such property in order not to be liable for tax under section 4943 (relating to taxes on excess business holdings) applied, in the case of a disposition before January 1, 1975, without taking section 4943(c)(4) into account and it receives in return an amount which equals or exceeds the fair market value of such property at the time of such disposition or at the time a contract for such disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law);*

(C) *the leasing of property or the lending of money or other extension of credit between a disqualified person and a private foundation pursuant to a binding contract in effect on October 9, 1969 (or pursuant to renewals of such a contract), until taxable years beginning after December 31, 1979, if such leasing or lending (or other extension of credit) remains at least as favorable as an arm's-length transaction with an unrelated party and if the execution of such contract was not at the time of such*

execution a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law);

(D) the use of goods, services, or facilities which are shared by a private foundation and a disqualified person until taxable years beginning after December 31, 1979, if such use is pursuant to an arrangement in effect before October 9, 1969, and such arrangement was not a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law) at the time it was made and would not be a prohibited transaction if such section continued to apply; and

(E) the use of property in which a private foundation and a disqualified person have a joint or common interest, if the interests of both in such property were acquired before October 9, 1969.

(3) SECTION 4942.—In the case of organizations organized before May 27, 1969, section 4942 shall—

(A) for all purposes other than the determination of the minimum investment return under section 4942(j)(3)(B)(ii), for taxable years beginning before January 1, 1972, apply without regard to section 4942(e) (relating to minimum investment return), and for taxable years beginning in 1972, 1973, and 1974, apply with an applicable percentage (as prescribed in section 4942(e)(3)) which does not exceed 4½ percent, 5 percent, and 5½ percent, respectively;

(B) not apply to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on May 26, 1969, and at all times thereafter) of an instrument executed before May 27, 1969, with respect to the transfer of income producing property to such organization, except that section 4942 shall apply to such organization if the organization would have been denied exemption if section 504(a) had not been repealed by this Act, or would have had its deductions under section 642(c) limited if section 681(c) had not been repealed by this Act. In applying the preceding sentence, in addition to the limitations contained in section 504(a) or 681(c) before its repeal, section 504(a)(1) or 681(c)(1) shall be treated as not applying to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on January 1, 1951, and at all times thereafter) of an instrument executed before January 1, 1951, with respect to the transfer of income producing property to such organization before such date, if such transfer was irrevocable on such date;

(C) apply to a grant to a private foundation described in section 4942(g)(1)(A)(ii) which is not described in section 4942(g)(1)(A)(i), pursuant to a written commitment which was binding on May 26, 1969, and at all times thereafter, as if such grant is a grant to an operating foundation (as defined in section 4942(j)(3)), if such grant is made for one or more of the purposes described in section 170(c)(2)(B) and is to be paid out to such private foundation on or before December 31, 1974;

(D) apply, for purposes of section 4942(f), in such a manner as to treat any distribution made to a private foundation in redemption of stock held by such private foundation in a business

enterprise as not essentially equivalent to a dividend under section 302(b)(1) if such redemption is described in paragraph (2)(B) of this subsection; and

(E) not apply to an organization which is prohibited by its governing instrument or other instrument from distributing capital or corpus to the extent the requirements of section 4942 are inconsistent with such prohibition.

With respect to taxable years beginning after December 31, 1971, subparagraphs (B) and (E) shall apply only during the pendency of any judicial proceeding by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to comply with the provisions of section 4942, and in the case of subparagraph (B) for all periods after the termination of such judicial proceeding during which the governing instrument or any other instrument does not permit compliance with such provisions.

(4) SECTION 4943.—

(A) In the case of a private foundation—

(i) which was incorporated before January 1, 1951;

(ii) substantially all of the assets of which on May 26, 1969, consist of more than 90 percent of the stock of an incorporated business enterprise which is licensed and regulated, the sales or contracts of which are regulated, and the professional representatives of which are licensed, by State regulatory agencies in at least 10 States; and

(iii) which acquired such stock solely by gift, devise, or bequest,

section 4943(c)(4)(A)(i) shall be applied with respect to the holdings of such foundation in such incorporated business enterprise by substituting "51 percent" for "50 percent", and section 4943(c)(4)(D) shall not apply with respect to such holdings. For purposes of the preceding sentence, stock of such enterprise in a trust created before May 27, 1969, of which the foundation is the remainder beneficiary shall be deemed to be held by such foundation on May 26, 1969, if such foundation held (without regard to such trust) more than 20 percent of the stock of such enterprise on May 26, 1969.

(B) Subparagraph (A) shall apply to a private foundation only if—

(i) the foundation does not purchase any stock or other interest in the enterprise described in subparagraph (A) after May 26, 1969, and does not acquire any stock or other interest in any other business enterprise which constitutes excess business holdings under section 4943; and

(ii) in the last 5 taxable years ending on or before December 31, 1970, the foundation expends substantially all of its adjusted net income (as defined in section 4942(f)) for the purpose or function for which it is organized and operated.

(C) For purposes of section 4943(c)(6), the term "purchase" does not include an exchange which is described in paragraph (2)(B) of this subsection and which is pursuant to a plan for disposition of excess business holdings.

(5) SECTION 4945.—Section 4945 (d)(4) and (h) shall not apply to a grant which is described in paragraph (3)(C) of this subsection.

(6) SECTION 508(e).—Section 508(e) shall not apply to require inclusion in governing instruments of any provisions inconsistent with this subsection.

(7) SECTION 509(a).—In the case of any trust created under the terms of a will or a codicil to a will executed on or before March 30, 1924, by which the testator bequeathed all of the outstanding common stock of a corporation in trust, the income of which trust is to be used principally for the benefit of those from time to time employed by the corporation and their families, the trustees of which trust are elected or selected from among the employees of such corporation, and which trust does not own directly any stock in any other corporation, if the trust makes an irrevocable election under this paragraph within one year after the date of the enactment of this Act, such trust shall be treated as not being a private foundation for purposes of the Internal Revenue Code of 1954 but shall be treated for purposes of such Code as if it were not exempt from tax under section 501(a) for any taxable year beginning after the date of the enactment of this Act and before the date (if any) on which such trust has complied with the requirements of section 507 for termination of the status of an organization as a private foundation.

(8) CERTAIN REDEMPTIONS.—For purposes of applying section 302(b)(1) to the determination of the amount of gross investment income under sections 4940 and 4948(a), any distribution made to a private foundation in redemption of stock held by such private foundation in a business enterprise shall be treated as not essentially equivalent to a dividend, if such redemption is described in paragraph (2)(B) of this subsection.

Subtitle B—Other Tax Exempt Organizations

SEC. 121. TAX ON UNRELATED BUSINESS INCOME.

(a) ORGANIZATIONS SUBJECT TO TAX.—

(1) CORPORATE RATES.—Section 511(a)(2)(A) (relating to certain organizations subject to tax on unrelated business income at corporate rates) is amended to read as follows:

"(A) ORGANIZATIONS DESCRIBED IN SECTIONS 401(a) AND 501(c).—The taxes imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in section 501(c)(1)) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a)."

(2) INDIVIDUAL RATES.—Section 511(b)(2) (relating to charitable, etc., trusts subject to tax on unrelated business income) is amended to read as follows:

"(2) CHARITABLE, ETC., TRUSTS SUBJECT TO TAX.—The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of section 501(a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents)."

(3) SECTION 501(c)(2) CORPORATIONS.—Section 511 (relating to tax on unrelated business income) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) SPECIAL RULE FOR SECTION 501(c)(2) CORPORATIONS.—If a corporation described in section 501(c)(2)—

"(1) pays any amount of its net income for a taxable year to an organization exempt from taxation under section 501(a) (or which would pay such an amount but for the fact that the expenses of collecting its income exceed its income), and

"(2) such corporation and such organization file a consolidated return for the taxable year,

such corporation shall be treated, for purposes of the tax imposed by subsection (a), as being organized and operated for the same purposes as such organization, in addition to the purposes described in section 501(c)(2)."

(4) CONFORMING AMENDMENT.—Section 1504 (relating to definitions for purposes of consolidated returns) is amended by adding at the end thereof the following new subsection:

"(e) INCLUDIBLE TAX-EXEMPT ORGANIZATIONS.—Despite the provisions of paragraph (1) of subsection (b), two or more organizations exempt from taxation under section 501, one or more of which is described in section 501(c)(2) and the others of which derive income from such 501(c)(2) organizations, shall be considered as includible corporations for the purpose of the application of subsection (a) to such organizations alone."

(b) DEFINITION OF UNRELATED BUSINESS TAXABLE INCOME.—

(1) IN GENERAL.—Section 512(a) (relating to definition of unrelated business taxable income) is amended to read as follows:

"(a) DEFINITION.—For purposes of this title—

"(1) GENERAL RULE.— Except as otherwise provided in this subsection, the term 'unrelated business taxable income' means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

"(2) SPECIAL RULE FOR FOREIGN ORGANIZATIONS.—In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be—

"(A) its unrelated business taxable income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, plus

"(B) its unrelated business taxable income which is effectively connected with the conduct of a trade or business within the United States.

"(3) SPECIAL RULES APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c) (7) OR (9).—

"(A) GENERAL RULE.—In the case of an organization described in section 501(c) (7) or (9), the term 'unrelated business taxable income' means the gross income (excluding any exempt function income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), both com-

puted with the modifications provided in paragraphs (6), (10), (11), and (12) of subsection (b).

"(B) EXEMPT FUNCTION INCOME.—For purposes of subparagraph (A), the term 'exempt function income' means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

"(i) for a purpose specified in section 170(c)(4), or

"(ii) in the case of an organization described in section 501(c)(9), to provide for the payment of life, sick, accident, or other benefits,

including reasonable costs of administration directly connected with a purpose described in clause (i) or (ii). If during the taxable year, an amount which is attributable to income so set aside is used for a purpose other than that described in clause (i) or (ii), such amount shall be included, under subparagraph (A), in unrelated business taxable income for the taxable year.

"(C) APPLICABILITY TO CERTAIN CORPORATIONS DESCRIBED IN SECTION 501(c)(2).—In the case of a corporation described in section 501(c)(2), the income of which is payable to an organization described in section 501(c) (7) or (9), subparagraph (A) shall apply as if such corporation were the organization to which the income is payable. For purposes of the preceding sentence, such corporation shall be treated as having exempt function income for a taxable year only if it files a consolidated return with such organization for such year.

"(D) NONRECOGNITION OF GAIN.—If property used directly in the performance of the exempt function of an organization described in section 501(c) (7) or (9) is sold by such organization, and within a period beginning 1 year before the date of such sale, and ending 3 years after such date, other property is purchased and used by such organization directly in the performance of its exempt function, gain (if any) from such sale shall be recognized only to the extent that such organization's sales price of the old property exceeds the organization's cost of purchasing the other property. For purposes of this subparagraph, the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, shall be treated as the sale of such property, and rules similar to the rules provided by subsections (b), (c), (e), and (j) of section 1034 shall apply."

(2) MODIFICATIONS.—

(A) RENTS AND DEBT-FINANCED PROPERTY.—Section 512(b)(3) (relating to modifications with respect to rents from real property) and section 512(b)(4) (relating to modifications with respect to business leases) are amended to read as follows:

"(3) In the case of rents—

"(A) *Except as provided in subparagraph (B), there shall be excluded—*

"(i) *all rents from real property (including property described in section 1245(a)(3)(C)), and*

"(ii) *all rents from personal property (including for purposes of this paragraph as personal property any property described in section 1245(a)(3)(B)) leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.*

"(B) *Subparagraph (A) shall not apply—*

"(i) *if more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A)(ii), or*

"(ii) *if the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).*

"(C) *There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).*

"(4) *Notwithstanding paragraph (1), (2), (3), or (5), in the case of debt-financed property (as defined in section 514) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under section 514(a)(1), and there shall be allowed, as a deduction, the amount ascertained under section 514(a)(2).*"

(B) LIMIT ON SPECIFIC DEDUCTION.—*Section 512(b)(12) (relating to allowance of specific deduction) is amended to read as follows:*

"(12) *Except for purposes of computing the net operating loss under section 172 and paragraph (6), there shall be allowed a specific deduction of $1,000. In the case of a diocese, province of a religious order, or a convention or association of churches, there shall also be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—*

"(A) *$1,000, or*

"(B) *the gross income derived from any unrelated trade or business regularly carried on by such local unit.*"

(C) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—*Section 512(b) (relating to modifications in determining unrelated business taxable income) is further amended by adding at the end thereof the following:*

"(15) *Notwithstanding paragraphs (1), (2), or (3), amounts of interest, annuities, royalties, and rents derived from any organization (in this paragraph called the 'controlled organization') of which the organization deriving such amounts (in this paragraph called the 'controlling organization') has control (as defined in section 368(c)) shall be included as an item of gross income (whether or not the activity from which such amounts are derived represents a trade or business or is regularly carried on) in an amount which bears the same ratio as—*

"(A)(i) *in the case of a controlled organization which is not exempt from taxation under section 501(a), the excess of the*

amount of taxable income of the controlled organization over the amount of such organization's taxable income which if derived directly by the controlling organization would not be unrelated business taxable income, or

"(ii) in the case of a controlled organization which is exempt from taxation under section 501(a), the amount of unrelated business taxable income of the controlled organization, bears to

"(B) the taxable income of the controlled organization (determined in the case of a controlled organization to which subparagraph (A)(ii) applies as if it were not an organization exempt from taxation under section 501(a)), but not less than the amount determined in clause (i) or (ii), as the case may be, of subparagraph (A),

both amounts computed without regard to amounts paid directly or indirectly to the controlling organization. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(16) Except as provided in paragraph (4), in the case of a church, or convention or association of churches, for taxable years beginning before January 1, 1976, there shall be excluded all gross income derived from a trade or business and all deductions directly connected with the carrying on of such trade or business if such trade or business was carried on by such organization or its predecessor before May 27, 1969.

"(17) Except as provided in paragraph (4), in the case of a trade or business—

"(A) which consists of providing services under license issued by a Federal regulatory agency,

"(B) which is carried on by a religious order or by an educational institution (as defined in section 151(e)(4)) maintained by such religious order, and which was so carried on before May 27, 1959, and

"(C) less than 10 percent of the net income of which for each taxable year is used for activities which are not related to the purpose constituting the basis for the religious order's exemption,

there shall be excluded all gross income derived from such trade or business and all deductions directly connected with the carrying on of such trade or business, so long as it is established to the satisfaction of the Secretary or his delegate that the rates or other charges for such services are competitive with rates or other charges charged for similar services by persons not exempt from taxation."

(D) TECHNICAL AMENDMENT.—Section 512(b) (relating to exceptions, additions, and limitations in determining unrelated business taxable income) is amended by striking out so much thereof as precedes paragraph (1) and inserting in lieu thereof the following:

"(b) MODIFICATIONS.—The modifications referred to in subsection (a) are the following:"

(3) RELATED AMENDMENT.—

(A) Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 277. DEDUCTIONS INCURRED BY CERTAIN MEMBERSHIP ORGANIZATIONS IN TRANSACTIONS WITH MEMBERS.

"(a) GENERAL RULE.—In the case of a social club or other membership organization which is operated primarily to furnish services or goods to members and which is not exempt from taxation, deductions for the taxable year attributable to furnishing services, insurance, goods, or other items of value to members shall be allowed only to the extent of income derived during such year from members or transactions with members (including income derived during such year from institutes and trade shows which are primarily for the education of members). If for any taxable year such deductions exceed such income, the excess shall be treated as a deduction attributable to furnishing services, insurance, goods, or other items of value to members paid or incurred in the succeeding taxable year.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to any organization—

"(1) which for the taxable year is subject to taxation under subchapter H or L,

"(2) which has made an election before October 9, 1969, under section 456(c) or which is affiliated with such an organization, or

"(3) which for each day of any taxable year is a national securities exchange subject to regulation under the Securities Exchange Act of 1934 or a contract market subject to regulation under the Commodity Exchange Act."

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Sec. 277. Deductions incurred by certain membership organizations in transactions with members."

(4) LOCAL EMPLOYEE ASSOCIATION.—Section 513(a)(2) (relating to exception to definition of unrelated trade or business) is amended by striking out "employees; or" and inserting in lieu thereof the following: "employees, or, in the case of a local association of employees described in section 501(c)(4) organized before May 27, 1969, which is the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or".

(5) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS AND CERTAIN FRATERNAL SOCIETIES.—

(A) IN GENERAL.—Section 501(c) (relating to list of exempt organizations) is amended by striking out paragraphs (9) and (10) and inserting in lieu thereof the following:

"(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

"(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

"(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

"(B) which do not provide for the payment of life, sick, accident, or other benefits."

(B) CONFORMING AMENDMENTS.—Section 801(b)(2) (relating to life insurance reserves) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out subparagraph (B), and

(iii) by redesignating subparagraph (C) as (B).

Section 810 (relating to rules for certain reserves) is amended by striking out subsection (e).

(6) CERTAIN FUNDED PENSION TRUSTS.—

(A) EXEMPTION FROM TAXATION.—Section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

"(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

"(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

"(C) such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan."

(B) CONFORMING AMENDMENTS.—

(i) Section 503(a)(1) (as amended by section 101(j)(7) of this Act) is amended by inserting after subparagraph (B) thereof the following new paragraph:

"(C) An organization described in section 501(c)(18) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969."

(ii) Section 503 (as so amended) is amended by striking out "(c)(17)" each place it appears therein and inserting in lieu thereof "(c)(17) or (18)".

(7) SPECIAL RULES FOR FEEDER ORGANIZATIONS.—Section 502 (relating to feeder organizations) is amended to read as follows:

"SEC. 502. FEEDER ORGANIZATIONS.

"(a) GENERAL RULE.—An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

"(b) SPECIAL RULE.—For purposes of this section, the term "trade or business" shall not include—

"(1) the deriving of rents which would be excluded under section 512(b)(3), if section 512 applied to the organization,

"(2) any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or

"(3) any trade or business which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions."

(c) ACTIVITIES INCLUDED AS UNRELATED TRADE OR BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) ADVERTISING, ETC., ACTIVITIES.—For purposes of this section, the term 'trade or business' includes any activity which is carried on for the production of income from the sale of goods or the performance of services. For purposes of the preceding sentence, an activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Where an activity carried on for profit constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit."

(d) UNRELATED DEBT-FINANCED INCOME.—

(1) IN GENERAL.—Section 514 (relating to business leases) is amended by striking out so much thereof as precedes subsection (b) and inserting in lieu thereof the following:

"SEC. 514. UNRELATED DEBT-FINANCED INCOME.

"(a) UNRELATED DEBT-FINANCED INCOME AND DEDUCTIONS.—In computing under section 512 the unrelated business taxable income for any taxable year—

"(1) PERCENTAGE OF INCOME TAKEN INTO ACCOUNT.—There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subsection (c)(7)) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Secretary or his delegate) of the adjusted basis of such property during the period it is held by the organization during such taxable year.

"(2) PERCENTAGE OF DEDUCTIONS TAKEN INTO ACCOUNT.—There shall be allowed as a deduction with respect to each debt-financed property an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryback or carryover of net capital losses under section 1212.

"(3) DEDUCTIONS ALLOWABLE.—The sum referred to in paragraph (2) is the sum of the deductions under this chapter which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in section

167, the allowance shall be computed only by use of the straight-line method.

"(*b*) DEFINITION OF DEBT-FINANCED PROPERTY.—

"(*1*) IN GENERAL.—*For purposes of this section, the term 'debt-financed property' means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subsection (c)) at any time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—*

"(*A*)(*i*) *any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function designated in section 501(c)(3)), or (ii) any property to which clause (i) does not apply, to the extent that its use is so substantially related;*

"(*B*) *except in the case of income excluded under section 512(b)(5), any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;*

"(*C*) *any property to the extent that the income from such property is excluded by reason of the provisions of paragraph (7), (8), or (9) of section 512(b) in computing the gross income of any unrelated trade or business; or*

"(*D*) *any property to the extent that it is used in any trade or business described in paragraph (1), (2), or (3) of section 513(a).*

For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

"(*2*) SPECIAL RULE FOR RELATED USES.—*For purposes of applying paragraphs (1) (A), (C), and (D), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization.*

"(*3*) SPECIAL RULES WHEN LAND IS ACQUIRED FOR EXEMPT USE WITHIN 10 YEARS.—

"(*A*) NEIGHBORHOOD LAND.—*If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in paragraph (1)(A) and at the time of acquisition the property is in the neighborhood of other property*

owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Secretary or his delegate that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

"(B) OTHER CASES.—If the first sentence of subparagraph (A) is inapplicable only because—

"(i) the acquired land is not in the neighborhood referred to in subparagraph (A), or

"(ii) the organization (for the period after the first 5 years of the 10-year period) is unable to establish to the satisfaction of the Secretary or his delegate that it is reasonably certain that the land will be used in the manner described in paragraph (1)(A) before the expiration of the 10-year period,

but the land is converted to such use by the organization within the 10-year period, the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion. For purposes of this subparagraph, land shall not be treated as used in the manner described in paragraph (1)(A) by reason of the use made of any structure which was on the land when acquired by the organization.

"(C) LIMITATIONS.—Subparagraphs (A) and (B)—

"(i) shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in paragraph (1)(A) requires that the structure be demolished or removed in order to use the land in such manner;

"(ii) shall not apply to structures erected on the land after the acquisition of the land; and

"(iii) shall not apply to property subject to a lease which is a business lease as (defined in subsection (f)).

"(D) REFUND OF TAXES WHEN SUBPARAGRAPH (B) APPLIES.—If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than chapter 74, relating to closing agree-

ments and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of 1 year after the close of the taxable year in which the use condition is satisfied. Interest on any overpayment for a taxable year resulting from the application of subparagraph (B) after the actual use condition is satisfied shall be allowed and paid at the rate of 4 percent per annum in lieu of 6 percent per annum.

"(E) SPECIAL RULE FOR CHURCHES.—In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraphs (A) and (B)(ii) shall apply whether or not the acquired land meets the neighborhood test.

"(c) ACQUISITION INDEBTEDNESS.—

"(1) GENERAL RULE.—For purposes of this section, the term 'acquisition indebtedness' means, with respect to any debt-financed property, the unpaid amount of—

"(A) the indebtedness incurred by the organization in acquiring or improving such property;

"(B) the indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

"(C) the indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement,

except that in the case of any taxable year beginning before January 1, 1972, any indebtedness incurred before June 28, 1966, shall not be taken into account. In the case of an organization (other than a church or convention or association of churches) such indebtedness incurred before June 28, 1966, shall be taken into account if such indebtedness constitutes business lease indebtedness (as defined in subsection (g)).

"(2) PROPERTY ACQUIRED SUBJECT TO MORTGAGE, ETC.—For purposes of this subsection—

"(A) GENERAL RULE.—Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

"(B) EXCEPTIONS.—Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than 5 years before the gift, which property was held by the donor more than 5 years before the gift, the indebtedness secured by such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift,

assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

"(3) EXTENSION OF OBLIGATIONS.—For purposes of this section, an extension, renewal, or refinancing of an obligation evidencing a pre-existing indebtedness shall not be treated as the creation of a new indebtedness.

"(4) INDEBTEDNESS INCURRED IN PERFORMING EXEMPT PURPOSE.—For purposes of this section, the term 'acquisition indebtedness' does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption, such as the indebtedness incurred by a credit union described in section 501(c)(14) in accepting deposits from its members.

"(5) ANNUITIES.—For purposes of this section, the term 'acquisition indebtedness' does not include an obligation to pay an annuity which—

"(A) is the sole consideration (other than a mortgage to which paragraph (2)(B) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the exchange,

"(B) is payable over the life of one individual in being at the time the annuity is issued, or over the lives of two individuals in being at such time, and

"(C) is payable under a contract which—

"(i) does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

"(ii) does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

"(6) CERTAIN FEDERAL FINANCING.—For purposes of this section, the term 'acquisition indebtedness' does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons.

"(7) AVERAGE ACQUISITION INDEBTEDNESS.—For purposes of this section, the term 'average acquisition indebtedness' for any taxable year with respect to a debt-financed property means the average amount, determined under regulations prescribed by the Secretary or his delegate, of the acquisition indebtedness during the period the property is held by the organization during the taxable year, except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition.

"(d) BASIS OF DEBT-FINANCED PROPERTY ACQUIRED IN CORPORATE LIQUIDATION.—For purposes of this subtitle, if the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in unrelated business taxable income under subsection (a).

"(e) ALLOCATION RULES.—Where debt-financed property is held for purposes described in subsection (b)(1) (A), (B), (C), or (D) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations required by this section shall be made in accordance with regulations prescribed by the Secretary or his delegate to the extent proper to carry out the purposes of this section."

(2) RELATED AMENDMENTS.—

(A) Section 48(a)(4) (relating to definition of section 38 property) is amended by adding at the end thereof the following new sentence: "If the property is debt-financed property (as defined in section 514(c)), the basis or cost of such property for purposes of computing qualified investment under section 46(c) shall include only that percentage of the basis or cost which is the same percentage as is used under section 514(b), for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property."

(B) The second sentence of section 681(a) (relating to limitation on charitable deduction of taxable trusts) is amended by striking out the words "certain leases" and inserting in lieu thereof "certain property acquired with borrowed funds".

(C) Section 1443(a) (relating to withholding of tax on payments to foreign tax-exempt organizations) is amended by striking out "rents" and inserting in lieu thereof "income".

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subsections (b), (c), and (d) of section 514 (relating to business leases) are relettered as subsections (f), (g), and (h), respectively.

(B) New subsection (f)(1) (old subsection (b)(1), relating to general rule for definition of business lease) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (g)".

(C) The table of sections for part III of subchapter F of chapter 1 (as redesignated by section 101(a) of this Act) is amended by striking out—

"Sec. 514. Business leases."

and inserting in lieu thereof the following:

"Sec. 514. Unrelated debt-financed income."

(e) RETURNS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"SEC. 6050. RETURNS RELATING TO CERTAIN TRANSFERS TO EXEMPT ORGANIZATIONS.

"(a) GENERAL RULE.—On or before the 90th day after the transfer of income producing property, the transferor shall make a return in compliance with the provisions of subsection (b) if the transferee is known by the transferor to be an organization referred to in section 511 (a) or (b) and the property (without regard to any lien) has a fair market value in excess of $50,000.

"(b) FORM AND CONTENTS OF RETURNS.—The return required by subsection (a) shall be in such form and shall set forth, in respect of the transfer, such information as the Secretary or his delegate prescibes by regulations as necessary for carrying out the provisions of the income tax laws."

(2) TECHNICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6050. Returns relating to certain transfers to exempt organizations."

(f) RESTRICTION ON EXAMINATION OF CHURCHES.—Section 7605 (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(c) RESTRICTION ON EXAMINATION OF CHURCHES.—No examination of the books of account of a church or convention or association of churches shall be made to determine whether such organization may be engaged in the carrying on of an unrelated trade or business or may be otherwise engaged in activities which may be subject to tax under part III of subchapter F of chapter 1 of this title (sec. 511 and following, relating to taxation of business income of exempt organizations) unless the Secretary or his delegate (such officer being no lower than a principal internal revenue officer for an internal revenue region) believes that such organization may be so engaged and so notifies the organization in advance of the examination. No examination of the religious activities of such an organization shall be made except to the extent necessary to determine whether such organization is a church or a convention or association of churches, and no examination of the books of account of such an organization shall be made other than to the extent necessary to determine the amount of tax imposed by this title."

(g) EFFECTIVE DATES.—The amendments made by this section (other than by subsections (b)(3) and (e)) shall apply to taxable years beginning after December 31, 1969. The amendments made by subsection (b)(3) shall apply to taxable years beginning after December 31, 1970. The amendments made by subsection (e) shall apply with respect to transfers of property after December 31, 1969. Where an organization makes a bargain purchase of property before October 9, 1969, which is subject to a mortgage which was placed on the property more than 5 years before the purchase, and the organization paid the seller a total amount no greater than the amount of the seller's costs (including attorneys' fees) directly related to the transfer of such property to the organization (but in any event no more than 10 percent of the value of the seller's equity in the property), the indebtedness secured by such mortgage shall not be treated, notwithstanding the amendments made by subsection (d)(1), as acquisition indebtedness for purposes of section 514(c)(1) of the Internal Revenue Code of 1954 during a period of 10 years following the date of the transaction.

TITLE II—INDIVIDUAL DEDUCTIONS

Subtitle A—Charitable Contributions

SEC. 201. CHARITABLE CONTRIBUTIONS.

(a) LIMITATIONS AND SPECIAL RULES.—

(1) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively, and by redesignating subsection (d) as (h), and

(B) by striking out subsections (a), (b), (c), (e), and (f) and inserting in lieu thereof the following:

"(a) ALLOWANCE OF DEDUCTION.—

"(1) GENERAL RULE.—There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

"(2) CORPORATIONS ON ACCRUAL BASIS.—In the case of a corporation reporting its taxable income on the accrual basis, if—

"(A) the board of directors authorizes a charitable contribution during any taxable year, and

"(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the Secretary or his delegate shall by regulations prescribe.

"(3) FUTURE INTERESTS IN TANGIBLE PERSONAL PROPERTY.—For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267 (b). For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

"(b) PERCENTAGE LIMITATIONS.—

"(1) INDIVIDUALS.—In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

"(A) GENERAL RULE.—Any charitable contribution to—

"(i) a church or a convention or association of churches,

"(ii) an educational organization which normally

maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

"(iii) an organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,

"(iv) an organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,

"(v) a governmental unit referred to in subsection (c)(1),

"(vi) an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public,

"(vii) a private foundation described in subparagraph (E), or

"(viii) an organization described in section 509(a)(2) or (3),

shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

"(B) OTHER CONTRIBUTIONS.—Any charitable contribution other than a charitable contribution to which subparagraph (A) applies shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

"(i) 20 percent of the taxpayer's contribution base for the taxable year, or

"(ii) the excess of 50 percent of the taxpayer's contribution base for the taxable year over the amount of charitable contributions allowable under subparagraph (A) (determined without regard to subparagraph (D)).

"(C) UNLIMITED DEDUCTION FOR CERTAIN INDIVIDUALS.—Subject to the provisions of subsections (f)(6) and (g), the limitations in subparagraphs (A), (B), and (D), and the provisions of subsection (e)(1)(B), shall not apply, in the case of an individual for a taxable year beginning before January 1, 1975, if in such taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions, plus the amount of income tax (determined without regard to chapter 2, relating to tax on self-employment income) paid during such year in respect of such year or preceding taxable years, exceeds the transitional deduction percentage (determined under subsection (f)(6)) of the taxpayer's taxable income for such year, computed without regard to—

"(i) this section,

"(ii) section 151 (allowance of deductions for personal exemption), and

"(iii) any net operating loss carryback to the taxable year under section 172.

In lieu of the amount of income tax paid during any such year, there may be substituted for that year the amount of income tax paid in respect of such year, provided that any amount so included in the year in respect of which payment was made shall not be included in any other year.

"(D) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS OF CERTAIN CAPITAL GAIN PROPERTY.—

"(i) In the case of charitable contributions of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this paragraph applies shall be taken into account after all other charitable contributions.

"(ii) If charitable contributions described in subparagraph (A) of capital gain property to which clause (i) applies exceeds 30 percent of the taxpayer's contribution base for any taxable year, such excess shall be treated, in a manner consistent with the rules of subsection (d)(1), as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.

"(iii) At the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate prescribes by regulations), subsection (e)(1) shall apply to all contributions of capital gain property (to which sub-

section (e)(1)(B) does not otherwise apply) made by the taxpayer during the taxable year. If such an election is made, clauses (i) and (ii) shall not apply to contributions of capital gain property made during the taxable year, and, in applying subsection (d)(1) for such taxable year with respect to contributions of capital gain property made in any prior contribution year for which an election was not made under this clause, such contributions shall be reduced as if subsection (e)(1) had applied to such contributions in the year in which made.

"(iv) For purposes of this subparagraph, the term 'capital gain property' means, with respect to any contribution, any capital asset the sale of which at its fair market value at the time of the contribution would have resulted in gain which would have been long-term capital gain. For purposes of the preceding sentence, any property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

"(E) CERTAIN PRIVATE FOUNDATIONS.—The private foundations referred to in subparagraph (A)(vii) and subsection (e)(1)(B) are—

"(i) a private operating foundation (as defined in section 4942(j)(3)),

"(ii) any other private foundation (as defined in section 509(a)) which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes qualifying distributions (as defined in section 4942(g), without regard to paragraph (3) thereof), which are treated, after the application of section 4942(g)(3), as distributions out of corpus (in accordance with section 4942(h)) in an amount equal to 100 percent of such contributions, and with respect to which the taxpayer obtains adequate records or other sufficient evidence from the foundation showing that the foundation made such qualifying distributions, and

"(iii) a private foundation all of the contributions to which are pooled in a common fund and which would be described in section 509(a)(3) but for the right of any substantial contributor (hereafter in this clause called 'donor') or his spouse to designate annually the recipients, from among organizations described in paragraph (1) of section 509(a), of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to an organization described in such paragraph (1), of the corpus in the common fund attributable to the donor's contribution; but this clause shall apply only if all of the income of the common fund is required to be (and is) distributed to one or more organizations described in such paragraph (1) not later than the 15th day of the third month after the close of the taxable year in which the income is realized by the fund and only if all of the corpus attributable to any donor's contribution to the

fund is required to be (and is) distributed to one or more of such organizations not later than one year after his death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus.

"(F) CONTRIBUTION BASE DEFINED.—For purposes of this section, the term 'contribution base' means adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under section 172).

"(2) CORPORATIONS.—In the case of a corporation, the total deductions under subsection (a) for any taxable year shall not exceed 5 percent of the taxpayer's taxable income computed without regard to—

"(A) this section,

"(B) part VIII (except section 248),

"(C) any net operating loss carryback to the taxable year under section 172,

"(D) section 922 (special deduction for Western Hemisphere trade corporations), and

"(E) any capital loss carryback to the taxable year under section 1212(a)(1).

"(c) CHARITABLE CONTRIBUTION DEFINED.—For purposes of this section, the term 'charitable contribution' means a contribution or gift to or for the use of—

"(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

"(2) A corporation, trust, or community chest, fund, or foundation—

"(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

"(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

"(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

"(D) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B).

"(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

"(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (h) as paid for the use of an organization described in paragraph (2), (3), or (4).

"(d) CARRYOVERS OF EXCESS CONTRIBUTIONS.—

"(1) INDIVIDUALS.—

"(A) IN GENERAL.—In the case of an individual, if the amount of charitable contributions described in subsection (b)(1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the 'contribution year') exceeds 50 percent (30 percent, in the case of a contribution year beginning before January 1, 1970) of the taxpayer's contribution base for such year, such excess shall be treated as a charitable contribution described in subsection (b)(1)(A) paid in each of the 5 succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

"(i) the amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in subsection (b)(1)(A) payment of which was made in taxable years before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

"(ii) in the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in subsection (b)(1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

"(B) SPECIAL RULE FOR NET OPERATING LOSS CARRYOVERS.—In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—Any contribution made by a corporation in a taxable year (hereinafter in this paragraph referred to as the 'contribution year') in excess of the amount deductible for such year under subsection (b)(2) shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under subsection (b)(2) over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

"(B) SPECIAL RULE FOR NET OPERATING LOSS CARRYOVERS.—For purposes of subparagraph (A), the excess of—

"(i) the contributions made by a corporation in a taxable year to which this section applies, over

"(ii) the amount deductible in such year under the limitation in subsection (b)(2),

shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases a net operating loss carryover under section 172 to a succeeding taxable year.

"(e) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME AND CAPITAL GAIN PROPERTY.—

"(1) GENERAL RULE.—The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

"(A) the amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

"(B) in the case of a charitable contribution—

"(i) of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

"(ii) to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E),

50 percent (62½ percent, in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution). For purposes of applying this paragraph (other than in the case of gain to which section 617(d)(1), 1245(a), 1251(a), or 1252(a) applies), property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

"(2) ALLOCATION OF BASIS.—For purposes of paragraph (1), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Secretary or his delegate.

"(f) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

"(1) IN GENERAL.—No deduction shall be allowed under this section for a contribution to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

"(2) CONTRIBUTIONS OF PROPERTY PLACED IN TRUST.—

"(A) REMAINDER INTEREST.—In the case of property transferred in trust, no deduction shall be allowed under this section for the value of a contribution of a remainder interest unless the trust is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664), or a pooled income fund (described in section 642(c)(5)).

"(B) INCOME INTERESTS, ETC.—No deduction shall be allowed under this section for the value of any interest in property (other than a remainder interest) transferred in trust unless the interest is in the form of a guaranteed annuity or the trust instrument specifies that the interest is a fixed percentage distributed yearly of the fair market value of the trust property (to be determined yearly) and the grantor is treated as the owner of such interest for purposes of applying section 671. If the donor ceases to be treated as the owner of such an interest for purposes of applying section 671, at the time the donor ceases to be so treated, the donor shall for purposes of this chapter be considered as having received an amount of income equal to the amount of any deduction he received under this section for the contribution reduced by the discounted value of all amounts of income earned by the trust and taxable to him before the time at which he ceases to be treated as the owner of the interest. Such amounts of income shall be discounted to the date of the contribution. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph.

"(C) DENIAL OF DEDUCTION IN CASE OF PAYMENTS BY CERTAIN TRUSTS.—In any case in which a deduction is allowed under this section for the value of an interest in property described in subparagraph (B), transferred in trust, no deduction shall be allowed under this section to the grantor or any other person for the amount of any contribution made by the trust with respect to such interest.

"(D) EXCEPTION.—This paragraph shall not apply in a case in which the value of all interests in property transferred in trust are deductible under subsection (a).

"(3) DENIAL OF DEDUCTION IN CASE OF CERTAIN CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY.—

"(A) IN GENERAL.—In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property,

a deduction shall be allowed under this section only to the extent that the value of the interest contributed would be allowable as a deduction under this section if such interest had been transferred in trust. For purposes of this subparagraph, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a contribution of—

"(i) a remainder interest in a personal residence or farm, or

"(ii) an undivided portion of the taxpayer's entire interest in property.

"(4) VALUATION OF REMAINDER INTEREST IN REAL PROPERTY.—For purposes of this section, in determining the value of a remainder interest in real property, depreciation (computed on the straight line method) and depletion of such property shall be taken into account, and such value shall be discounted at a rate of 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate.

"(5) REDUCTION FOR CERTAIN INTEREST.—If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution—

"(A) shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer, (ii) which is attributable to the liability, and (iii) which is attributable to any period after the making of the contribution, and

"(B) in the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includible in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term 'bond' means any bond, debenture, note, or certificate or other evidence of indebtedness.

"(6) PARTIAL REDUCTION OF UNLIMITED DEDUCTION.—

"(A) IN GENERAL.—If the limitations in subsections (b)(1)(A) and (B) do not apply because of the application of subsection (b)(1)(C), the amount otherwise allowable as a deduction under subsection (a) shall be reduced by the amount by which the taxpayer's taxable income computed without regard to this subparagraph is less than the transitional income percentage (determined under subparagraph (C)) of the taxpayer's adjusted gross income. However, in no case shall a taxpayer's deduction under this section be reduced below the amount allowable as a deduction under this section without the applicability of subsection (b)(1)(C).

"(B) TRANSITIONAL DEDUCTION PERCENTAGE.—For purposes of applying subsection (b)(1)(C), the term 'transitional deduction percentage' means—

"(i) in the case of a taxable year beginning before 1970, 90 percent, and

"(ii) in the case of a taxable year beginning in—

1970	80 percent
1971	74 percent
1972	68 percent
1973	62 percent
1974	56 percent.

"(C) TRANSITIONAL INCOME PERCENTAGE.—For purposes of applying subparagraph (A), the term 'transitional income percentage' means, in the case of a taxable year beginning in—

1970	20 percent
1971	26 percent
1972	32 percent
1973	38 percent
1974	44 percent."

(2) CONFORMING AMENDMENTS.—

(A) Section 170(g) (relating to application of unlimited charitable deduction) is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (d)(1)", and by striking subparagraph (B) of paragraph (2).

(B) Section 545(b)(2) (relating to adjustments to personal holding company taxable income) and section 556(b)(2) (relating to adjustments to foreign personal holding company taxable income) are each amended—

(i) by striking out "section 170(b)(1) (A) and (B)" in the first sentence and inserting in lieu thereof "section 170(b)(1) (A), (B), and (D)";

(ii) by striking out "section 170(b) (2) and (5)" in the first sentence and inserting in lieu thereof "section 170(b)(2) and (d)(1)";

(iii) by striking out " 'adjusted gross income' " in the second sentence and inserting in lieu thereof " 'contribution base' "; and

(iv) by striking out "the first sentence of section 170(b)(2) and (5)" in the second sentence and inserting in lieu thereof "section 170(b)(2) and (d)(1)".

(C) Section 809(e)(3) (relating to modifications of deductions for life insurance companies) is amended—

(i) by striking out "the first sentence of" in subparagraph (A); and

(ii) by striking out "section 170(b)(3)" in subparagraph (B) and inserting in lieu thereof "section 170(d)(2)(B)".

(b) CHARITABLE CONTRIBUTIONS BY ESTATES AND TRUSTS.—Subsection (c) of section 642 (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended to read as follows:

"(c) *DEDUCTION FOR AMOUNTS PAID OR PERMANENTLY SET ASIDE FOR A CHARITABLE PURPOSE.*—

"(1) *GENERAL RULE.*—*In the case of an estate or trust (other then a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.*

"(2) *AMOUNTS PERMANENTLY SET ASIDE.*—*In the case of an estate, and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—*

"(A) *created on or before October 9, 1969, if—*

"(i) *an irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or*

"(ii) *the grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or*

"(B) *established by a will executed on or before October 9, 1969, if—*

"(i) *the testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,*

"(ii) *the testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or*

"(iii) *the will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,*

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

"(3) POOLED INCOME FUNDS.—In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

"(5) DEFINITION OF POOLED INCOME FUND.—For purposes of paragraph (3), a pooled income fund is a trust—

"(A) to which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

"(B) in which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

"(C) which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

"(D) which includes only amounts received from transfers which meet the requirements of this paragraph,

"(E) which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

"(F) from which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

"(6) TAXABLE PRIVATE FOUNDATIONS.—In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply."

(c) TWO-YEAR CHARITABLE TRUSTS.—Section 673(b) (relating to trusts where the income is payable to a charitable beneficiary for at least a two-year period) is repealed.

(d) DISALLOWANCE OF ESTATE AND GIFT TAX DEDUCTIONS IN CERTAIN CASES.—

(1) ESTATES OF CITIZENS OR RESIDENTS.—Subsection (e) of section 2055 (relating to disallowance of charitable deductions in certain cases) is amended to read as follows:

"(e) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—

"(1) No deduction shall be allowed under this section for a transfer to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

"(2) Where an interest in property (other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property) passes or has passed from the decedent to a person, or for a use, described in subsection (a), and an interest (other than an interest which is extinguished upon the decedent's death) in the same property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to a person, or for a use, not described in subsection (a), no deduction shall be allowed under this section for the interest which passes or has passed to the person, or for the use, described in subsection (a) unless—

"(A) in the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

"(B) in the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly)."

(2) ESTATES OF NONRESIDENTS NOT CITIZENS.—Subparagraph (E) of section 2106(a)(2) (relating to disallowance of deductions in certain cases) is amended to read as follows:

"(E) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—The provisions of section 2055(e) shall be applied in the determination of the amount allowable as a deduction under this paragraph."

(3) GIFT TAX.—Subsection (c) of section 2522 (relating to disallowance of charitable deductions in certain cases) is amended to read as follows:

"(c) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.—

"(1) No deduction shall be allowed under this section for a gift to of for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

"(2) Where a donor transfers an interest in property (other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property) to a person, or for a use, described in subsection (a) or (b) and an interest in the same property is retained by the donor, or is transferred or has been transferred (for less than an adequate and full consideration in money or money's worth) from the donor to a person, or for a use, not described in subsection (a) or (b), no deduction shall be allowed under this section for the interest which is, or has been transferred to the person, or for the use, described in subsection (a) or (b), unless—

"(A) in the case of a remainder interest, such interest is in a

trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

"(B) in the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly)."

(4) POLITICAL ACTIVITIES.—

(A) Section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended—

(i) by striking out "and" before "no substantial part" in paragraph (2), and by inserting before the semicolon at the end of such paragraph ", and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office"; and

(ii) by striking out "and" before "no substantial part" in paragraph (3), and by inserting before the semicolon at the end of such paragraph ", and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office".

(B) Section 2106(a)(2) (relating to transfers for public, charitable, and religious uses) is amended—

(i) by striking out "and" before "no substantial part" in subparagraph (A)(ii), and by inserting before the semicolon at the end of such subparagraph ", and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office"; and

(ii) by striking out "and" before "no substantial part" in subparagraph (A)(iii), and by inserting before the semicolon at the end of such subparagraph ", and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office".

(C) Section 2522(a) (relating to charitable and similar gifts of citizens or residents) is amended by striking out "and" before "no substantial part" in paragraph (2), and by inserting before the semicolon at the end of such paragraph ", and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office".

(D) Section 2522(b) (relating to charitable and similar gifts of nonresidents) is amended—

(i) by striking out "and" before "no substantial part" in paragraph (2), and by inserting before the semicolon at the end of such paragraph ", and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office"; and

(ii) by inserting after "legislation" in paragraph (3) ", and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office".

(e) CHARITABLE REMAINDER TRUSTS.—

(1) Subpart C of part I of subchapter J of chapter 1 (relating to estates and trusts which may accumulate income or which distribute corpus) is amended by adding at the end thereof the following new section:

"SEC. 664. CHARITABLE REMAINDER TRUSTS.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary or his delegate, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

"(b) CHARACTER OF DISTRIBUTIONS.—Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

"(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years;

"(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

"(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

"(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

"(c) EXEMPTION FROM INCOME TAXES.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).

"(d) DEFINITIONS.—

"(1) CHARITABLE REMAINDER ANNUITY TRUST.—For purposes of this section, a charitable remainder annuity trust is a trust—

"(A) from which a sum certain (which is not less than 5 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

"(B) from which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

"(C) following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

"(2) CHARITABLE REMAINDER UNITRUST.—For purposes of this section, a charitable remainder unitrust is a trust—

"(A) from which a fixed percentage (which is not less than 5 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

"(B) from which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

"(C) following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

"(3) EXCEPTION.—Notwithstanding the provisions of paragraphs (2)(A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

"(A) the amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

"(B) any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

"(e) VALUATION FOR PURPOSES OF CHARITABLE CONTRIBUTION.—For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year."

(2) The table of sections for subpart C of part I of subchapter J of chapter 1 (relating to estates and trusts which may accumulate income or which distribute corpus) is amended by adding at the end thereof:

"Sec. 664. Charitable remainder trusts."

(f) BARGAIN SALES TO CHARITABLE ORGANIZATIONS.—Section 1011 (relating to adjusted basis for determining gain or loss) is amended—

(1) by striking out "The" at the beginning and inserting in lieu thereof:

"(a) GENERAL RULE.—The", and

(2) by adding at the end thereof the following new subsection:

"(b) BARGAIN SALE TO A CHARITABLE ORGANIZATION.—If a deduction is allowable under section 170 (relating to charitable contributions) by reason of a sale, then the adjusted basis for determining the gain from such

sale shall be that portion of the adjusted basis which bears the same ratio to the adjusted basis as the amount realized bears to the fair market value of the property."

(g) EFFECTIVE DATES.—

(1)(A) Except as provided in subparagraphs (B) and (C), the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

(B) Subsections (e) and (f)(1) of section 170 of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall apply to contributions paid after December 31, 1969, except that, with respect to a letter or memorandum or similar property described in section 1221(3) of such Code (as amended by section 514 of this Act), such subsection (e) shall apply to contributions paid after July 25, 1969.

(C) Paragraphs (2), (3), and (4) of section 170(f) of such Code (as amended by subsection (a)) shall apply to transfers in trust and contributions made after July 31, 1969.

(D) For purposes of applying section 170(d) of such Code (as amended by subsection (a)) with respect to contributions paid in a taxable year beginning before January 1, 1970, subsection (b)(1)(D), subsection (e), and paragraphs (1), (2), (3), and (4) of subsection (f) of section 170 of such Code shall not apply.

(2) The amendments made by subsection (b) shall apply with respect to amounts paid, permanently set aside, or to be used for a charitable purpose in taxable years beginning after December 31, 1969, except that section 642(c)(5) of the Internal Revenue Code of 1954 (as added by subsection (b)) shall apply to transfers in trust made after July 31, 1969.

(3) The amendment made by subsection (c) shall apply to transfers in trust made after April 22, 1969.

(4)(A) Except as provided in subparagraphs (B) and (C), the amendments made by paragraphs (1) and (2) of subsection (d) shall apply in the case of decedents dying after December 31, 1969.

(B) Such amendments shall not apply in the case of property passing under the terms of a will executed on or before October 9, 1969—

(i) if the decedent dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) if the decedent at no time after October 9, 1969, had the right to change the portions of the will which pertain to the passing of the property to, or for the use of, an organization described in section 2055(a), or

(iii) if the will is not republished by codicil or otherwise before October 9, 1972, and the decedent is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise.

(C) Such amendments shall not apply in the case of property transferred in trust on or before October 9, 1969—

(i) if the decedent dies before October 9, 1972, without having amended after October 9, 1969, the instrument governing the disposition of the property,

(ii) if the property transferred was an irrevocable interest to, or for the use of, an organization described in section 2055(a), or

(iii) if the instrument governing the disposition of the property

was not amended by the decedent before October 9, 1972, and the decedent is on such date and at all times thereafter under a mental disability to change the disposition of the property.

(D) The amendment made by paragraph (3) of subsection (d) shall apply to gifts made after December 31, 1969, except that the amendments made to section 2522(c)(2) of the Internal Revenue Code of 1954 shall apply to gifts made after July 31, 1969.

(E) The amendments made by paragraph (4) of subsection (d) shall apply to gifts and transfers made after December 31, 1969.

(5) The amendment made by subsection (e) shall apply to transfers in trust made after July 31, 1969.

(6) The amendments made by subsection (f) shall apply with respect to sales made after December 19, 1969.

(h) ELIGIBILITY FOR UNLIMITED CHARITABLE DEDUCTION.—

(1) Section 170(b)(1)(C) (relating to unlimited charitable deduction for certain individuals), as amended by subsection (a) of this section, is amended by adding at the end thereof the following new sentence: "In the case of a separate return for the taxable year by a married individual who previously filed a joint return with a former deceased spouse for any of the 10 preceding taxable years, the amount of charitable contributions and taxes paid for any such preceding taxable year, for which a joint return was filed with the former deceased spouse, shall be determined in the same manner as if the taxpayer had not remarried after the death of such former spouse."

(2) The amendment made by this subsection shall apply to taxable years beginning after December 31, 1968.

Subtitle B--Farm Losses, Etc.

SEC. 211. GAIN FROM DISPOSITION OF PROPERTY USED IN FARMING WHERE FARM LOSSES OFFSET NONFARM INCOME.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1251. GAIN FROM DISPOSITION OF PROPERTY USED IN FARMING WHERE FARM LOSSES OFFSET NONFARM INCOME.

"(a) CIRCUMSTANCES UNDER WHICH SECTION APPLIES.—This section shall apply with respect to any taxable year only if—

"(1) there is a farm net loss for the taxable year, or

"(2) there is a balance in the excess deductions account as of the close of the taxable year after applying subsection (b)(3)(A).

"(b) EXCESS DEDUCTIONS ACCOUNT.—

"(1) REQUIREMENT.—Each taxpayer subject to this section shall, for purposes of this section, establish and maintain an excess deductions account.

"(2) ADDITIONS TO ACCOUNT.—

"(A) GENERAL RULE.—There shall be added to the excess deductions account for each taxable year an amount equal to the farm net loss.

"(B) EXCEPTIONS.—In the case of an individual (other than a trust) and, except as provided in this subparagraph, in

the case of an electing small business corporation (as defined in section 1371(b)), subparagraph (A) shall apply for a taxable year—

"(i) only if the taxpayer's nonfarm adjusted gross income for such year exceeds $50,000, and

"(ii) only to the extent the taxpayer's farm net loss for such year exceeds $25,000.

This subparagraph shall not apply to an electing small business corporation for a taxable year if on any day of such year a shareholder of such corporation is an individual who, for his taxable year with which or within which the taxable year of the corporation ends, has a farm net loss.

"(C) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified in subparagraph (B)(i) shall be $25,000 in lieu of $50,000, and in subparagraph (B)(ii) shall be $12,500 in lieu of $25,000. This subparagraph shall not apply if the spouse of the taxpayer does not have any nonfarm adjusted gross income for the taxable year.

"(D) NONFARM ADJUSTED GROSS INCOME.—For purposes of this section, the term 'nonfarm adjusted gross income' means adjusted gross income (taxable income, in the case of an electing small business corporation) computed without regard to income or deductions attributable to the business of farming.

"(3) SUBTRACTIONS FROM ACCOUNT.—If there is any amount in the excess deductions account at the close of any taxable year (determined before any amount is subtracted under this paragraph for such year) there shall be subtracted from the account—

"(A) an amount equal to the farm net income for such year, plus the amount (determined as provided in regulations prescribed by the Secretary or his delegate) necessary to adjust the account for deductions which did not result in a reduction of the taxpayer's tax under this subtitle for the taxable year or any preceding taxable year, and

"(B) after applying paragraph (2) or subparagraph (A) of this paragraph (as the case may be), an amount equal to the sum of the amounts treated, solely by reason of the application of subsection (c), as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

"(4) EXCEPTION FOR TAXPAYERS USING CERTAIN ACCOUNTING METHODS.—

"(A) GENERAL RULE.—Except to the extent that the taxpayer has succeeded to an excess deductions account as provided in paragraph (5), additions to the excess deductions account shall not be required by a taxpayer who elects to compute taxable income from farming (i) by using inventories, and (ii) by charging to capital account all expenditures paid or incurred which are properly chargeable to capital account (including such expenditures which the taxpayer may, under this chapter or regulations prescribed thereunder, otherwise treat or elect to treat as expenditures which are not chargeable to capital account).

"(B) TIME, MANNER, AND EFFECT OF ELECTION.—An election under subparagraph (A) for any taxable year shall be filed within the time prescribed by law (including extensions thereof) for filing the return for such taxable year, and shall be made and filed in such manner as the Secretary or his delegate shall prescribe by regulations. Such election shall be binding on the taxpayer for such taxable year and for all subsequent taxable years and may not be revoked except with the consent of the Secretary or his delegate.

"(C) CHANGE OF METHOD OF ACCOUNTING, ETC.—If, in order to comply with the election made under subparagraph (A), a taxpayer changes his method of accounting in computing taxable income from the business of farming, such change shall be treated as having been made with the consent of the Secretary or his delegate and for purposes of section 481(a)(2) shall be treated as a change not initiated by the taxpayer.

"(5) TRANSFER OF ACCOUNT.—

"(A) CERTAIN CORPORATE TRANSACTIONS.—In the case of a transfer described in subsection (d)(3) to which section 371(a), 374(a), or 381 applies, the acquiring corporation shall succeed to and take into account as of the close of the day of distribution or transfer, the excess deductions account of the transferor.

"(B) CERTAIN GIFTS.—If—

"(i) farm recapture property is disposed of by gift, and

"(ii) the potential gain (as defined in subsection (e)(5)) on farm recapture property disposed of by gift during any one-year period in which any such gift occurs is more than 25 percent of the potential gain on farm recapture property held by the donor immediately prior to the first of such gifts,

each donee of the property shall succeed (at the time the first of such gifts is made, but in an amount determined as of the close of the donor's taxable year in which the first of such gifts is made) to the same proportion of the donor's excess deductions account (determined, after the application of paragraphs (2) and (3) with respect to the donor, as of the close of such taxable year), as the potential gain on the property received by such donee bears to the aggregate potential gain on farm recapture property held by the donor immediately prior to the first of such gifts.

"(6) JOINT RETURN.—In the case of an addition to an excess deductions account for a taxable year for which a joint return was filed under section 6013, for any subsequent taxable year for which a separate return was filed the Secretary or his delegate shall provide rules for allocating any remaining amount of such addition in a manner consistent with the purposes of this section.

"(c) ORDINARY INCOME.—

"(1) GENERAL RULE.—Except as otherwise provided in this section, if farm recapture property (as defined in subsection (e)(1)) is disposed of during a taxable year beginning after December 31, 1969, the amount by which—

"(A) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(B) in the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) LIMITATION.—

"(A) AMOUNT IN EXCESS DEDUCTIONS ACCOUNT.—The aggregate of the amounts treated under paragraph (1) as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 for any taxable year shall not exceed the amount in the excess deductions account at the close of the taxable year after applying subsection (b)(3)(A).

"(B) DISPOSITIONS TAKEN INTO ACCOUNT.—If the aggregate of the amounts to which paragraph (1) applies is limited by the application of subparagraph (A), paragraph (1) shall apply in respect of such dispositions (and in such amounts) as provided under regulations prescribed by the Secretary or his delegate.

"(C) SPECIAL RULE FOR DISPOSITIONS OF LAND.—In applying subparagraph (A), any gain on the sale or exchange of land shall be taken into account only to the extent of its potential gain (as defined in subsection (e)(5)).

"(d) EXCEPTIONS AND SPECIAL RULES.—

"(1) GIFTS.—Subsection (c) shall not apply to a disposition by gift.

"(2) TRANSFER AT DEATH.—Except as provided in section 691 (relating to income in respect of a decedent), subsection (c) shall not apply to a transfer at death.

"(3) CERTAIN CORPORATE TRANSACTIONS.—If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), or 374(a), then the amount of gain taken into account by the transferor under subsection (c)(1) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section). This paragraph shall not apply to a disposition to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter.

"(4) LIKE KIND EXCHANGES; INVOLUNTARY CONVERSION, ETC.—If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under section 1031 or 1033, then the amount of gain taken into account by the transferor under subsection (c)(1) shall not exceed the sum of—

"(A) the amount of gain recognized on such disposition (determined without regard to this section), plus

"(B) the fair market value of property acquired with respect to which no gain is recognized under subparagraph (A), but which is not farm recapture property.

"(5) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, each partner shall take into account separately his distributive share

of the partnership's farm net losses, gains from dispositions of farm recapture property, and other items in applying this section to the partner.

"(B) TRANSFERS TO PARTNERSHIPS.—If farm recapture property is contributed to a partnership and gain (determined without regard to this section) is not recognized under section 721, then the amount of gain taken into account by the transferor under subsection (c)(1) shall not exceed the excess of the fair market value of farm recapture property transferred over the fair market value of the partnership interest attributable to such property. If the partnership agreement provides for an allocation of gain to the contributing partner with respect to farm recapture property contributed to the partnership (as provided in section 704(c)(2)), the partnership interest of the contributing partner shall be deemed to be attributable to such property.

"(6) PROPERTY TRANSFERRED TO CONTROLLED CORPORATIONS.—Except for transactions described in subsection (b)(5)(A), in the case of a transfer, described in paragraph (3), of farm recapture property to a corporation, stock or securities received by a transferor in the exchange shall be farm recapture property to the extent attributable to the fair market value of farm recapture property (or, in the case of land, if less, the adjusted basis plus the potential gain (as in subsection (e)(5)) on farm recapture property) contributed to the of land, if less, the adjusted basis plus the potential gain (as defined in subsection (e)(5)) on farm recapture property) contributed to the corporation by such transferor.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FARM RECAPTURE PROPERTY.—The term 'farm recapture property' means—

"(A) any property (other than section 1250 property) described in paragraph (1) (relating to business property held for more than 6 months), (3) (relating to livestock), or (4) (relating to an unharvested crop) of section 1231(b) which is or has been used in the trade or business of farming by the taxpayer or by a transferor in a transaction described in subsection (b)(5), and

"(B) any property the basis of which in the hands of the taxpayer is determined with reference to the adjusted basis of property which was farm recapture property in the hands of the taxpayer within the meaning of subparagraph (A).

"(2) FARM NET LOSS.—The term 'farm net loss' means the amount by which—

"(A) the deductions allowed or allowable by this chapter which are directly connected with the carrying on of the trade or business of farming, exceed

"(B) the gross income derived from such trade or business. Gains and losses on the disposition of farm recapture property referred to in section 1231(a) (determined without regard to this section or section 1245(a)) shall not be taken into account.

"(3) FARM NET INCOME.—The term 'farm net income' means the amount by which the amount referred to in paragraph (2)(B) exceeds the amount referred to in paragraph (2)(A).

"(4) TRADE OR BUSINESS OF FARMING.—

"(A) HORSE RACING.—In the case of a taxpayer engaged in the raising of horses, the term 'trade or business of farming' includes the racing of horses.

"(B) SEVERAL BUSINESSES OF FARMING.—If a taxpayer is engaged in more than one trade or business of farming, all such trades and businesses shall be treated as one trade or business.

"(5) POTENTIAL GAIN.—The term 'potential gain' means an amount equal to the excess of the fair market value of property over its adjusted basis, but limited in the case of land to the extent of the deductions allowable in respect to such land under sections 175 (relating to soil and water conservation expenditures) and 182 (relating to expenditures by farmers for clearing land) for the taxable year and the 4 preceding taxable years."

(b) CONFORMING AMENDMENTS.—

(1) Section 301(b)(1)(B)(ii) (relating to corporate distributions of property) is amended by striking out "or 1250(a)" and inserting in lieu thereof "1250(a), 1251(c), or 1252(a)".

(2) Section 301(d)(2)(B) (relating to the basis of property distributed by a corporation) is amended by striking out "or 1250(a)" and inserting in lieu thereof "1250(a), 1251(c), or 1252(a)".

(3) Section 312(c)(3) (relating to adjustment to corporate earnings and profits) is amended by striking out "or 1250(a)" and inserting in lieu thereof "1250(a), 1251(c), or 1252(a)".

(4) Section 341(e)(12) (relating to nonapplication of section 1245(a) with respect to collapsible corporations) is amended by striking out "and 1250(a)" and inserting in lieu thereof "1250(a), 1251(c), and 1252(a)".

(5) Section 453(d)(4)(B) (relating to distribution of installment obligations under certain liquidations) is amended by striking out "or 1250(a)" and inserting in lieu thereof "1250(a), 1251(c), or 1252(a)".

(6) Section 751(c) (relating to unrealized receivables in partnership transactions) is amended by striking out "and section 1250 property (as defined in section 1250(c))" and inserting in lieu thereof "section 1250 property (as defined in section 1250(c)), farm recapture property (as defined in section 1251(e)(1)), and farm land (as defined in section 1252(a))"; and by striking out "1250(a)" and inserting in lieu thereof "1250(a), 1251(c), or 1252(a)".

(7) The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1251. Gain from disposition of property used in farming where farm losses offset nonfarm income."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

SEC. 212. LIVESTOCK.

(a) DEPRECIATION RECAPTURE.—

(1) GENERAL RULE.—Section 1245(a)(2) (relating to recomputed basis with respect to gain from disposition of certain depreciable property) is amended by striking out "or" at the end of subparagraph (A), and by inserting immediately after subparagraph (B) the following:

"(C) with respect to livestock, its adjusted basis recomputed by adding thereto all adjustments attributable to periods after December 31, 1969, or".

(2) CONFORMING AMENDMENT.—Section 1245(a)(3) (relating to section 1245 property) is amended by striking out "(other than livestock)".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to taxable years beginning after December 31, 1969.

(b) LIVESTOCK USED IN TRADE OR BUSINESS.—

(1) AMENDMENT OF SECTION 1231.—Section 1231(b)(3) (relating to property used in a trade or business) is amended to read as follows:

"(3) LIVESTOCK.—Such term includes—

"(A) cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy, or sporting purposes, and held by him for 24 months or more from the date of acquisition, and

"(B) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy, or sporting purposes, and held by him for 12 months or more from the date of acquisition.

Such term does not include poultry."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to livestock acquired after December 31, 1969.

(c) EXCHANGES OF LIVESTOCK OF DIFFERENT SEXES.—

(1) NOT TO BE TREATED AS LIKE KIND EXCHANGES.—Section 1031 (relating to exchange of property held for productive use or for investment) is amended by adding at the end thereof the following new subsection:

"(e) EXCHANGES OF LIVESTOCK OF DIFFERENT SEXES.—For purposes of this section, livestock of different sexes are not property of a like kind."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 213. DEDUCTIONS ATTRIBUTABLE TO ACTIVITIES NOT ENGAGED IN FOR PROFIT.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 183. ACTIVITIES NOT ENGAGED IN FOR PROFIT.

"(a) GENERAL RULE.—In the case of an activity engaged in by an individual or an electing small business corporation (as defined in section 1371(b)), if such activity is not engaged in for profit, no deduction attributable to such activity shall be allowed under this chapter except as provided in this section.

"(b) DEDUCTIONS ALLOWABLE.—In the case of an activity not engaged in for profit to which subsection (a) applies, there shall be allowed—

"(1) the deductions which would be allowable under this chapter for the taxable year without regard to whether or not such activity is engaged in for profit, and

"(2) a deduction equal to the amount of the deductions which would be allowable under this chapter for the taxable year only if such

activity were engaged in for profit, but only to the extent that the gross income derived from such activity for the taxable year exceeds the deductions allowable by reason of paragraph (1).

"(c) ACTIVITY NOT ENGAGED IN FOR PROFIT DEFINED.—For purposes of this section, the term 'activity not engaged in for profit' means any activity other than one with respect to which deductions are allowable for the taxable year under section 162 or under paragraph (1) or (2) of section 212.

"(d) PRESUMPTION.—If the gross income derived from an activity for 2 or more of the taxable years in the period of 5 consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity (determined without regard to whether or not such activity is engaged in for profit), then, unless the Secretary or his delegate establishes to the contrary, such activity shall be presumed for purposes of this chapter for such taxable year to be an activity engaged in for profit. In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting the period of 7 consecutive taxable years for the period of 5 consecutive taxable years."

(b) TECHNICAL AMENDMENT.—Section 270 (relating to limitation on deductions allowable to certain individuals) is repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 183. Activities not engaged in for profit."

(2) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 270.

(3) Section 6504 (relating to cross references) is amended by striking out the item relating to section 270.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

SEC. 214. GAIN FROM DISPOSITION OF FARM LAND.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1251 (added by section 211 of this Act) the following new section:

"SEC. 1252. GAIN FROM DISPOSITION OF FARM LAND.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—Except as otherwise provided in this section, if farm land which the taxpayer has held for less than 10 years is disposed of during a taxable year beginning after December 31, 1969, the lower of—

"(A) the applicable percentage of the aggregate of the deductions allowed under sections 175 (relating to soil and water conservation expenditures) and 182 (relating to expenditures by farmers for clearing land) for expenditures made by the taxpayer after December 31, 1969, with respect to the farm land or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the farm land (in the case of any other disposition), over

"(ii) *the adjusted basis of such land,*

shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent section 1251 applies to such gain.

"(2) FARM LAND.—*For purposes of this section, the term 'farm land' means any land with respect to which deductions have been allowed under sections 175 (relating to soil and water conservation expenditures) or 182 (relating to expenditures by farmers for clearing land).*

"(3) APPLICABLE PERCENTAGE.—*For purposes of this section—*

"If the farm land is disposed of—	*The applicable percentage is—*
Within 5 years after the date it was acquired	*100 percent.*
Within the sixth year after it was acquired	*80 percent.*
Within the seventh year after it was acquired	*60 percent.*
Within the eighth year after it was acquired	*40 percent.*
Within the ninth year after it was acquired	*20 percent.*
10 years or more years after it was acquired	*0 percent.*

"(b) SPECIAL RULES.—*Under regulations prescribed by the Secretary or his delegate, rules similar to the rules of section 1245 shall be applied for purposes of this section.*"

(b) CLERICAL AMENDMENT.—*The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following:*

"*Sec. 1252. Gain from the disposition of farm land.*"

(c) EFFECTIVE DATE.—*The amendments made by this section shall apply to taxable years beginning after December 31, 1969.*

SEC. 215. CROP INSURANCE PROCEEDS.

(a) YEAR IN WHICH INCLUDED IN INCOME.—*Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:*

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS.—*In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary or his delegate prescribes.*"

(b) EFFECTIVE DATE.—*The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.*

SEC. 216. CAPITALIZATION OF COSTS OF PLANTING AND DEVELOPING CITRUS GROVES.

(a) REQUIREMENT OF CAPITALIZATION.—*Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 277 (added by section 121(b)(3) of this Act) the following new section:*

"SEC. 278. CAPITAL EXPENDITURES INCURRED IN PLANTING AND DEVELOPING CITRUS GROVES.

"(a) GENERAL RULE.—Except as provided in subsection (b), any amount (allowable as a deduction without regard to this section), which is attributable to the planting, cultivation, maintenance, or development of any citrus grove (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted, shall be charged to capital account. For purposes of the preceding sentence, the portion of a citrus grove planted in one taxable year shall be treated separately from the portion of such grove planted in another taxable year.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus grove (or part thereof) which was:

"(1) replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests or casualty, or

"(2) planted or replanted prior to the enactment of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 278. Capital expenditures incurred in planting and developing citrus groves."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

Subtitle C—Interest

SEC. 221. INTEREST.

(a) LIMITATION ON INTEREST DEDUCTION ATTRIBUTABLE TO INVESTMENT INDEBTEDNESS.—Section 163 (relating to interest) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) LIMITATION ON INTEREST ON INVESTMENT INDEBTEDNESS.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount of investment interest (as defined in paragraph (3)(D)) otherwise allowable as a deduction under this chapter shall be limited, in the following order, to—

"(A) $25,000 ($12,500, in the case of a separate return by a married individual), plus

"(B) the amount of the net investment income (as defined in paragraph (3)(A)), plus

"(C) an amount equal to the amount by which the net long-term capital gain exceeds the net short-term capital loss for the taxable year, plus

"(D) one-half of the amount by which investment interest exceeds the sum of the amounts described in subparagraphs (A), (B), and (C).

In the case of a trust, the $25,000 amount specified in subparagraph (A) and in paragraph (2)(A) shall be zero. In determining the amount described in subparagraph (C), only gains and losses attributable to the disposition of property held for investment shall be taken into account.

"(2) CARRYOVER OF DISALLOWED INVESTMENT INTEREST.—

"(A) IN GENERAL.—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year. The amount of the interest so treated which is allowable as a deduction by reason of the first sentence of this paragraph for any taxable year shall not exceed one-half of the amount by which—

"(i) the net investment income for such taxable year plus $25,000, exceeds

"(ii) the investment interest paid or accrued during such taxable year (determined without regard to this paragraph) or $25,000, whichever is greater.

"(B) REDUCTION FOR CAPITAL GAIN DEDUCTION.—If—

"(i) an amount of disallowed investment interest treated under subparagraph (A) as investment interest paid or accrued in the taxable year is not allowable as a deduction for such taxable year by reason of the second sentence of subparagraph (A), and

"(ii) the taxpayer is entitled to a deduction under section 1202 for such taxable year (whether or not the taxpayer claims such deduction), the amount of such disallowed investment interest shall be reduced by an amount equal to the amount of the deduction allowable under section 1202.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NET INVESTMENT INCOME.—The term 'net investment income' means the excess of investment income over investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) the net short-term capital gain attributable to the disposition of property held for investment, and

"(iii) any amount treated under sections 1245 and 1250 as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231,

but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowable under sections 164 (a) (1) or (2), 166, 167, 171, 212, or 611 directly connected with the production of investment income. For purposes of this subparagraph, the deduction allowable under section 167 with respect to any property may be treated as the amount which would have been allowable had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property, and the deduction allowable under section 611 with respect to any property may be treated as the amount which would have been allowable had the taxpayer determined the deduction under section 611 without regard to section 613 for each taxable year for which the taxpayer has held the property.

"(D) INVESTMENT INTEREST.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(E) DISALLOWED INVESTMENT INTEREST.—The term 'disallowed investment interest' means with respect to any taxable year, the amount not allowable as a deduction solely by reason of the limitations in paragraphs (1) and (2)(A).

"(4) SPECIAL RULES.—

"(A) PROPERTY SUBJECT TO NET LEASE.—For purposes of this subsection, property subject to a lease shall be treated as property held for investment, and not as property used in a trade or business, for a taxable year, if—

"(i) for such taxable year the sum of the deductions with respect to such property which are allowable solely by reason of section 162 is less than 15 percent of the rental income produced by such property, or

"(ii) the lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income.

"(B) PARTNERSHIPS.—In the case of a partnership, each partner shall, under regulations prescribed by the Secretary or his delegate, take into account separately his distributive share of the partnership's investment interest and the other items of income and expense taken into account under this subsection.

"(C) SHAREHOLDERS OF ELECTING SMALL BUSINESS CORPORATIONS.—In the case of an electing small business corporation (as defined in section 1371(b)), the investment interest paid or accrued by such corporation and the other items of income and expense which would be taken into account if this subsection applied to such corporation shall, under regulations prescribed by the Secretary or his delegate, be treated as investment interest paid or accrued by the shareholders of such corporation and as items of such shareholders, and shall be apportioned pro rata among such shareholders in a manner consistent with section 1374(c)(1).

"(D) CONSTRUCTION INTEREST.—For purposes of this subsection, interest paid or accrued on indebtedness incurred or continued in the construction of property to be used in a trade or business shall not be treated as investment interest.

"(5) CAPITAL GAINS.—For purposes of sections 1201(b) (relating to alternative capital gains tax), 1202 (relating to deduction for capital gains), and 57(a)(9) (relating to treatment of capital gains as a tax preference), an amount equal to the amount of investment interest which is allowable as a deduction under this chapter by reason of subparagraph (C) of paragraph (1) shall be treated as gain from the sale or other disposition of property which is neither a capital asset nor property described in section 1231.

"(6) EXCEPTIONS.—This subsection shall not apply with respect to investment interest, investment income, and investment expenses attributable to a specific item of property, if the indebtedness with respect to such property—

"(A) is for a specified term, and

"(B) was incurred before December 17, 1969, or is incurred after December 16, 1969, pursuant to a written contract or commitment which, on such date and at all times thereafter prior to the incurring of such indebtedness, is binding on the taxpayer."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1971.

Subtitle D—Moving Expenses

SEC. 231. MOVING EXPENSES.

(a) DEDUCTION FOR MOVING EXPENSES.—Section 217 (relating to moving expenses) is amended to read as follows:

"SEC. 217. MOVING EXPENSES.

"(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

"(b) DEFINITION OF MOVING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'moving expenses' means only the reasonable expenses—

"(A) of moving household goods and personal effects from the former residence to the new residence,

"(B) of traveling (including meals and lodging) from the former residence to the new place of residence,

"(C) of traveling (including meals and lodging), after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence,

"(D) of meals and lodging while occupying temporary quarters in the general location of the new principal place of work during any period of 30 consecutive days after obtaining employment, or

"(E) constituting qualified residence sale, purchase, or lease expenses.

"(2) QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—For purposes of paragraph (1)(E), the term 'qualified residence sale, purchase, or lease expenses' means only reasonable expenses incident to—

"(A) the sale or exchange by the taxpayer or his spouse of the taxpayer's former residence (not including expenses for work performed on such residence in order to assist in its sale) which (but for this subsection and subsection (e)) would be taken into account in determining the amount realized on the sale or exchange,

"(B) the purchase by the taxpayer or his spouse of a new residence in the general location of the new principal place of work which (but for this subsection and subsection (e)) would be taken into account in determining—

"(i) the adjusted basis of the new residence, or

"(ii) the cost of a loan (but not including any amounts which represent payments or prepayments of interest),

"(C) the settlement of an unexpired lease held by the taxpayer or his spouse on property used by the taxpayer as his former residence, or

"(D) the acquisition of a lease by the taxpayer or his spouse on property used by the taxpayer as his new residence in the general location of the new principal place of work (not including amounts which are payments or prepayments of rent).

"(3) LIMITATIONS.—

"(A) DOLLAR LIMITS.—*The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed $1,000. The aggregate amount allowable as a deduction under subsection (a) which is attributable to qualified residence sale, purchase, or lease expenses shall not exceed $2,500, reduced by the aggregate amount so allowable which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1).*

"(B) HUSBAND AND WIFE.—*If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only one commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$500' for '$1,000', and by substituting '$1,250' for '$2,500'.*

"(C) INDIVIDUALS OTHER THAN TAXPAYER.—*In the case of any individual other than the taxpayer, expenses referred to in subparagraphs (A) through (D) of paragraph (1) shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.*

"(c) CONDITIONS FOR ALLOWANCE.—*No deduction shall be allowed under this section unless—*

"(1) *the taxpayer's new principal place of work—*

"(A) *is at least 50 miles farther from his former residence than was his former principal place of work, or*

"(B) *if he had no former principal place of work, is at least 50 miles from his former residence, and*

"(2) *either—*

"(A) *during the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks, or*

"(B) *during the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less than 39 weeks are during the 12-month period referred to in subparagraph (A).*

For purposes of paragraph (1), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

"(d) RULES FOR APPLICATION OF SUBSECTION (c)(2).—

"(1) *The condition of subsection (c)(2) shall not apply if the taxpayer is unable to satisfy such condition by reason of—*

"(A) *death or disability, or*

"(B) *involuntary separation (other than for willful misconduct) from the service of, or transfer for the benefit of, an employer after obtaining full-time employment in which the taxpayer could reasonably have been expected to satisfy such condition.*

"(2) *If a taxpayer has not satisfied the condition of subsection (c)(2) before the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which he paid or incurred moving expenses which would otherwise be deductible under this section, but may still satisfy such condition, then such expenses may (at the election of the taxpayer) be deducted for such taxable year notwithstanding subsection (c)(2).*

"(3) *If—*

"(A) *for any taxable year moving expenses have been deducted in accordance with the rule provided in paragraph (2), and*

"(B) *the condition of subsection (c)(2) cannot be satisfied at the close of a subsequent taxable year,*

then an amount equal to the expenses which were so deducted shall be included in gross income for the first such subsequent taxable year.

"(e) DENIAL OF DOUBLE BENEFIT.—*The amount realized on the sale of the residence described in subparagraph (A) of subsection (b)(2) shall not be decreased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a), and the basis of a residence described in subparagraph (B) of subsection (b)(2) shall not be increased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subsection (a). This subsection shall not apply to any expenses with respect to which an amount is included in gross income under subsection (d)(3).*

"(f) RULES FOR SELF-EMPLOYED INDIVIDUALS.—

"(1) DEFINITION.—*For purposes of this section, the term 'self-employed individual' means an individual who performs personal services—*

"(A) *as the owner of the entire interest in an unincorporated trade or business, or*

"(B) *as a partner in a partnership carrying on a trade or business.*

"(2) RULE FOR APPLICATION OF SUBSECTIONS (b)(1) (c) AND (D).—*For purposes of subparagraphs (C) and (D) of subsection (b)(1), an individual who commences work at a new principal place of work as a self-employed individual shall be treated as having obtained employment when he has made substantial arrangements to commence such work.*

"(g) REGULATIONS.—*The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.*"

(b) INCLUSION IN GROSS INCOME OF MOVING EXPENSE REIMBURSEMENTS.—*Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding after section 81 the following new section:*

"SEC. 82. REIMBURSEMENT FOR EXPENSES OF MOVING.

"*There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence which is attributable to employment or self-employment.*"

(c) CONFORMING AMENDMENTS.—

(1) *The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:*

"*Sec. 82. Reimbursement of moving expenses.*"

(2) *Section 1001 (relating to determination of amount and recognition of gain or loss) is amended by adding after subsection (e) (as added by section 516(a) of this Act) the following new subsection:*

"(f) CROSS REFERENCE.—

"For treatment of certain expenses incident to the sale of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e)."

(3) *Section 1016(c) is amended to read as follows:*

"(c) CROSS REFERENCES.—

"(1) For treatment of certain expenses incident to the purchase of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

"(2) For treatment of separate mineral interests as one property, see section 614."

(d) EFFECTIVE DATES.—*The amendments made by this section shall apply to taxable years beginning after December 31, 1969, except that—*

(1) *section 217 of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply to any item to the extent that the taxpayer received or accrued reimbursement or other expense allowance for such item in a taxable year beginning on or before December 31, 1969, which was not included in his gross income; and*

(2) *the amendments made by this section shall not apply (at the election of the taxpayer made at such time and manner as the Secretary of the Treasury or his delegate prescribes) with respect to moving expenses paid or incurred before July 1, 1970, in connection with the commencement of work by the taxpayer as an employee at a new principal place of work of which the taxpayer had been notified by his employer on or before December 19, 1969.*

TITLE III—MINIMUM TAX; ADJUSTMENTS PRIMARILY AFFECTING INDIVIDUALS

Subtitle A—Minimum Tax

SEC. 301. MINIMUM TAX FOR TAX PREFERENCES.

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VI—MINIMUM TAX FOR TAX PREFERENCES

"SEC. 56. IMPOSITION OF TAX.

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which—

"(1) the sum of the items of tax preference in excess of $30,000, is greater than

"(2) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income), and

"(C) section 38 (relating to investment credit).

"(b) DEFERRAL OF TAX LIABILITY IN CASE OF CERTAIN NET OPERATING LOSSES.—

"(1) IN GENERAL.—If for any taxable year a person—

"(A) has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

"(B) has items of tax preference in excess of $30,000,

then an amount equal to the lesser of the tax imposed by subsection (a) or 10 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

"(2) YEAR OF LIABILITY.—In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 10 percent of such reduction.

"(3) PRIORITY OF APPLICATION.—For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the excess described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion.

"SEC. 57. ITEMS OF TAX PREFERENCE.

"(a) IN GENERAL.—For purposes of this part, the items of tax preference are—

"(1) EXCESS INVESTMENT INTEREST.—The amount of the excess investment interest for the taxable year (as determined under subsection (b)).

"(2) ACCELERATED DEPRECIATION ON REAL PROPERTY.—With respect to each section 1250 property (as defined in section 1250(c)), the amount by which the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to section 167(k)) for which the taxpayer has held the property.

"(3) ACCELERATED DEPRECIATION ON PERSONAL PROPERTY SUBJECT TO A NET LEASE.—With respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is the subject of a net lease, the amount by which the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(4) AMORTIZATION OF CERTIFIED POLLUTION CONTROL FACILITIES.—With respect to each certified pollution control facility for which an election is in effect under section 169, the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167.

"(5) AMORTIZATION OF RAILROAD ROLLING STOCK.—With respect to each unit of railroad rolling stock for which an election is in effect under section 184, the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167.

"(6) STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in section 422(b)) or a restricted stock option (as defined in section 424(b)), the amount by which the fair market value of the share at the time of exercise exceeds the option price.

"(7) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for

the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(8) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(9) CAPITAL GAINS.—

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to one-half of the amount by which the net long-term capital gain exceeds the net short-term capital loss for the taxable year.

"(B) CORPORATIONS.—In the case of a corporation, if the net long-term capital gain exeeds the net short-term capital loss for the taxable year, an amount equal to the product obtained by multiplying such excess by a fraction the numerator of which is the sum of the normal tax rate and the surtax rate under section 11, minus the alternative tax rate under section 1201(a), for the taxable year, and the denominator of which is the sum of the normal tax rate and the surtax rate under section 11 for the taxable year. In the case of a corporation to which section 1201(a) does not apply, the amount under this subparagraph shall be determined under regulations prescribed by the Secretary or his delegate in a manner consistent with the preceding sentence.

Paragraph (1) shall apply only to taxable years beginning before January 1, 1972. Paragraphs (1) and (3) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542).

"(b) EXCESS INVESTMENT INTEREST.—

"(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the excess investment interest for any taxable year is the amount by which the investment interest expense for the taxable year exceeds the net investment income for the taxable year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) NET INVESTMENT INCOME.—The term 'net investment income' means the excess of investment income over investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) the net short-term capital gain attributable to the disposition of property held for investment, and

"(iii) amounts treated under sections 1245 and 1250 as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231,

but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowable under sections 164(a)(1) or (2), 166, 167, 171, 212, 243, 244, 245, or 611 directly connected with the production of investment income. For purposes

of this subparagraph, the deduction allowable under section 167 with respect to any property may be treated as the amount which would have been allowable had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property, and the deduction allowable under section 611 with respect to any property may be treated as the amount which would have been allowable had the taxpayer determined the deduction under section 611 without regard to section 613 for each taxable year for which the taxpayer has held the property.

"(D) INVESTMENT INTEREST EXPENSE.—The term 'investment interest expense' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment. For purposes of the preceding sentence, interest paid or accrued on indebtedness incurred or continued in the construction of property to be used in a trade or business shall not be treated as an investment interest expense.

"(3) PROPERTY SUBJECT TO NET LEASE.—For purposes of this subsection, property which is subject to a net lease entered into after October 9, 1969, shall be treated as property held for investment, and not as property used in a trade or business.

"(c) NET LEASES.—For purposes of this section, property shall be considered to be subject to a net lease for a taxable year if—

"(1) for such taxable year the sum of the deductions with respect to such property which are allowable solely by reason of section 162 is less than 15 percent of the rental income produced by such property, or

"(2) the lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income.

"SEC. 58. RULES FOR APPLICATION OF THIS PART.

"(a) HUSBAND AND WIFE.—In the case of a husband or wife who files a separate return for the taxable year, the $30,000 amount specified in section 56 shall be $15,000.

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $30,000 amount specified in section 56 shall be divided equally among the component members of such group unless all component members consent (at such time and in such manner as the Secretary or his delegate prescribes by regulations) to an apportionment plan providing for an unequal allocation of such amount.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

"(2) the $30,000 amount specified in section 56 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $30,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.

"(d) ELECTING SMALL BUSINESS CORPORATIONS AND THEIR SHAREHOLDERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the items of tax preference of an electing small business corporation

(as defined in section 1371 (b)) for each taxable year of the corporation shall be treated as items of tax preference of the shareholders of such corporation, and, except as provided in paragraph (2), shall not be treated as items of tax preference of such corporation. The sum of the items so treated shall be apportioned pro rata among such shareholders in a manner consistent with section 1374(c)(1). For purposes of this paragraph, this part shall be treated as applying to such corporation.

"(2) CERTAIN CAPITAL GAINS.—If for a taxable year of an electing small business corporation a tax is imposed on the income of such corporation under section 1378, such corporation shall, notwithstanding the provisions of section 1371(b)(1), be subject to the tax imposed by section 56, but computed only with reference to the item of tax preference set forth in section 57 (a)(9)(B) to the extent attributable to gains subject to the tax imposed by section 1378.

"(e) PARTICIPANTS IN A COMMON TRUST FUND.—The items of tax preference of a common trust fund (as defined in section 584(a)) for each taxable year of the fund shall be treated as items of tax preference of the participants of such fund and shall be apportioned pro rata among such participants. For purposes of this subsection, this part shall be treated as applying to such fund.

"(f) REGULATED INVESTMENT COMPANIES, ETC.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment trust to which part II of subchapter M applies—

"(1) the item of tax preference set forth in section 57(a)(9) shall not be treated as an item of tax preference of such company or such trust for each taxable year to the extent that such item is attributable to amounts taken into account as income by the shareholders of such company under section 852(b)(3), or by the shareholders or holders of beneficial interests of such trust under section 857(b)(3), and

"(2) the items of tax preference of such company or such trust for each taxable year (other than the item of tax preference set forth in section 57(a)(9) and, in the case of a real estate investment trust, the item of tax preference set forth in section 57(a)(2)) shall be treated as items of tax preference of the shareholders of such company, or the shareholders or holders of beneficial interests of such trust (and not as items of tax preference of such company or such trust), in the same proportion that the dividends (other than capital gain dividends) paid to each such shareholder, or holder of beneficial interest, bears to the taxable income of such company or such trust determined without regard to the deduction for dividends paid.

"(g) TAX PREFERENCES ATTRIBUTABLE TO FOREIGN SOURCES.—

"(1) IN GENERAL.—For purposes of section 56, the items of tax preference set forth in section 57(a) (other than in paragraphs (6) and (9) of such section) which are attributable to sources within any foreign country or possession of the United States shall be taken into account only to the extent that such items reduce the tax imposed by this chapter (other than the tax imposed by section 56) on income derived from sources within the United States. For purposes of the preceding sentence, items of tax preference shall be treated as reducing the tax imposed by this chapter before items which are not items of tax preference.

"(2) CAPITAL GAINS AND STOCK OPTIONS.—For purposes of section 56, the items of tax preference set forth in paragraphs (6) and (9) of section 57(a) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if, under the tax laws of such country or possession—

"(A) in the case of the item set forth in paragraph (6) of section 57(a), preferential treatment is not accorded transfers of shares of stock pursuant to stock options described in such paragraph, and

"(B) in the case of the item set forth in paragraph (9) of section 57(a), preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets)."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VI. Minimum tax for tax preferences."

(2) Section 5(a) (relating to cross references to other rates of tax on individuals, etc.) is amended by adding at the end thereof the following new paragraph:

"(5) For minimum tax for tax preferences, see section 56."

(3) Section 12 (relating to cross references relating to tax on corporations) is amended by adding at the end thereof the following new paragraph:

"(8) For minimum tax for tax preferences, see section 56."

(4) Section 46(a)(3) (relating to liability for tax for determining amount of investment credit) is amended by inserting "section 56 (relating to minimum tax for tax preferences)," before "section 531".

(5) Section 51(b)(1) (relating to adjusted tax for purposes of tax surcharge) is amended by inserting "section 56," after "this section,".

(6) Section 443 (relating to returns for a period of less than 12 months) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) ADJUSTMENT IN EXCLUSION FOR COMPUTING MINIMUM TAX FOR TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a), then the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365."

(7) Section 453(c)(3) (relating to rule for change from accrual to installment basis) is amended by inserting ", other than by section 56," after "prior revenue laws)".

(8) Section 511 (relating to tax on unrelated business income of charitable, etc., organizations) is amended by adding after subsection (c) (as added by section 121(a)(3) of this Act) the following new subsection:

"(d) TAX PREFERENCES.—The tax imposed by section 56 shall apply to an organization subject to tax under this section with respect to items of tax preference which enter into the computation of unrelated business taxable income."

(9) The last sentence of section 901(a) (relating to allowance of credit for taxes of foreign countries and of possessions of the United States) is amended by inserting "against the tax imposed by section 56 (relating to minimum tax for tax preferences)," after "not be allowed".

(10) Section 1373(c) (relating to definition of undistributed taxable income) is amended by striking out "tax imposed by section 1378(a)" and inserting in lieu thereof "taxes imposed by sections 56 and 1378(a)".

(11) Section 1375(a)(3) (relating to reduction for taxes imposed) is amended—

(A) by striking out "TAX IMPOSED BY SECTION 1378" in the heading of such section and inserting in lieu thereof "TAXES IMPOSED"; and

(B) by striking out "tax imposed by section 1378(a) on the income of" in the text of such section and inserting in lieu thereof "taxes imposed by sections 56 and 1378(a) on".

(12) Section 6015(c) (relating to definition of estimated tax) is amended by inserting after "taxable year" in paragraph (1) "(other than the tax imposed by section 56)".

(13) Section 6654(f) (relating to definition of tax) is amended by inserting after "chapter 1" in paragraph (1) "(other than by section 56)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1969. In the case of a taxable year beginning in 1969 and ending in 1970, the tax imposed by section 56 of the Internal Revenue Code of 1954 (as added by subsection (a)) shall be an amount equal to the tax imposed by such section (determined without regard to this sentence) multiplied by a fraction—

(1) the numerator of which is the number of days in the taxable year occurring after December 31, 1969, and

(2) the denominator of which is the number of days in the entire taxable year.

Subtitle B—Income Averaging

SEC. 311. INCOME AVERAGING.

(a) LIMITATION ON TAX.—Section 1301 (relating to limitation on tax) is amended by striking out "20 percent of such income" and all that follows and inserting in lieu thereof "20 percent of such income to 120 percent of average base period income."

(b) AVERAGABLE INCOME.—Section 1302 (relating to the definition of averagable income and related definitions) is amended to read as follows:

"SEC. 1302. DEFINITION OF AVERAGABLE INCOME; RELATED DEFINITIONS.

"(a) AVERAGABLE INCOME.—

"(1) IN GENERAL.—For purposes of this part, the term 'averagable income' means the amount by which taxable income for the computation year (reduced as provided in paragraph (2)) exceeds 120 percent of average base period income.

"(2) REDUCTIONS.—The taxable income for the computation year shall be reduced by—

"(A) the amount (if any) to which section 72 (m) (5) applies, and

"(B) the amounts included in the income of a beneficiary of a trust under section 668(a)

"(b) AVERAGE BASE PERIOD INCOME.—For purposes of this part—

"(1) IN GENERAL.—The term 'average base period income' means one-fourth of the sum of the base period incomes for the base period.

"(2) BASE PERIOD INCOME.—The base period income for any taxable year is the taxable income for such year—

"(A) increased by an amount equal to the excess of—

"(i) the amount excluded from gross income under section 911 (relating to earned income from sources without the United States) and subpart D of part III of subchapter N (sec. 931 and following, relating to income from sources within possessions of the United States), over

"(ii) the deductions which would have been properly allocable to or chargeable against such amount but for the exclusion of such amount from gross income; and

"(B) decreased by the amounts included in the income of a beneficiary of a trust under section 668(a).

"(c) OTHER RELATED DEFINITIONS.—For purposes of this part—

"(1) COMPUTATION YEAR.—The term 'computation year' means the taxable year for which the taxpayer chooses the benefits of this part.

"(2) BASE PERIOD.—The term 'base period' means the 4 taxable years immediately preceding the computation year.

"(3) BASE PERIOD YEAR.—The term 'base period year' means any of the 4 taxable years immediately preceding the computation year.

"(4) JOINT RETURN.—The term 'joint return' means the return of a husband and wife made under section 6013."

(c) SPECIAL RULES.—Section 1304(b) (relating to special rules applicable to income averaging) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following new paragraphs:

"(5) section 1201(b) (relating to alternative capital gains tax), and

"(6) section 1348 (relating to 50-percent maximum rate on earned income)."

(d) CONFORMING AMENDMENTS.—

(1) Section 1303(c)(2)(B) is amended by striking out "adjusted".

(2) Section 1304 is amended—

(A) by striking out paragraph (3) of subsection (c) and by redesignating paragraphs (4) and (5) of such subsections as paragraphs (3) and (4), respectively;

(B) by striking out "Paragraphs (2), (3), and (4)" in subsection (c)(1) and inserting in lieu thereof "Paragraphs (2) and (3)";

(C) by striking out "paragraph (4)" in subsection (c)(1)(B) and inserting in lieu thereof "paragraph (3)";

(D) by striking out "adjusted" in subparagraph (B) of subsection (c)(3) (as redesignated);

(E) by striking out in subsection (d) ", and the $3,000 figure contained in section 1302 (b)(2)(C) shall be applied to the aggregate net incomes";

(F) by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) TREATMENT OF CERTAIN OTHER ITEMS.—

"(1) SECTION 72(m)(5).—Section 72(m)(5) (relating to penalties applicable to certain amounts received by owner-employees) shall be applied as if this part had not been enacted.

"(2) OTHER ITEMS.—Except as otherwise provided in this part, the order and manner in which items of income or limitations on tax shall be taken into account in computing the tax imposed by this chapter on the income of any eligible individual to whom section 1301 applies for any computation year shall be determined under regulations prescribed by the Secretary or his delegate."; and

(G) by redesignating subsection (g) as (f).

(3) Section 6511(d)(2)(B)(ii) is amended—

(A) by striking out "1302(e)(1)" and inserting in lieu thereof "1302 (c) (1)"; and

(B) by striking out "1302(e)(3)" and inserting in lieu thereof "1302(c)(3)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to computation years (within the meaning of section 1302(c)(1) of the Internal Revenue Code of 1954) beginning after December 31, 1969, and to base period years (within the meaning of section 1302(c)(3) of such Code) applicable to such computation years.

Subtitle C—Restricted Property

SEC. 321. RESTRICTED PROPERTY.

(a) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding after section 82 (as added by section 221(b) of this Act) the following new section:

"SEC. 83. PROPERTY TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

"(a) GENERAL RULE.—If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of—

"(1) the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

"(2) the amount (if any) paid for such property,

shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

"(b) *ELECTION TO INCLUDE IN GROSS INCOME IN YEAR OF TRANSFER.*—

"(1) *IN GENERAL.*—*Any person who performs services in connection with which property is transferred to any person may elect to include in his gross income, for the taxable year in which such property is transferred, the excess of*—

"(A) *the fair market value of such property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), over*

"(B) *the amount (if any) paid for such property.*

If such election is made, subsection (a) shall not apply with respect to the transfer of such property, and if such property is subsequently forfeited, no deduction shall be allowed in respect of such forfeiture.

"(2) *ELECTION.*—*An election under paragraph (1) with respect to any transfer of property shall be made in such manner as the Secretary or his delegate prescribes and shall be made not later than 30 days after the date of such transfer (or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969). Such election may not be revoked except with the consent of the Secretary or his delegate.*

"(c) *SPECIAL RULES.*—*For purposes of this section*—

"(1) *SUBSTANTIAL RISK OF FORFEITURE.*—*The rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property are conditioned upon the future performance of substantial services by any individual.*

"(2) *TRANSFERABILITY OF PROPERTY.*—*The rights of a person in property are transferable only if the rights in such property of any transferee are not subject to a substantial risk of forfeiture.*

"(d) *CERTAIN RESTRICTIONS WHICH WILL NEVER LAPSE.*—

"(1) *VALUATION.*—*In the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell such property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Secretary or his delegate, and the burden of proof shall be on the Secretary or his delegate with respect to such value.*

"(2) *CANCELLATION.*—*If, in the case of property subject to a restriction which by its terms will never lapse, the restriction is canceled, then, unless the taxpayer establishes*—

"(A) *that such cancellation was not compensatory, and*

"(B) *that the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as evidenced in such manner as the Secretary or his delegate shall prescribe by regulations,*

the excess of the fair market value of the property (computed without regard to the restrictions) at the time of cancellation over the sum of—

"(C) *the fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and*

"(D) *the amount, if any, paid for the cancellation,*

shall be treated as compensation for the taxable year in which such cancellation occurs.

"(e) APPLICABILITY OF SECTION.—This section shall not apply to—

"(1) a transaction to which section 421 applies,

"(2) a transfer to or from a trust described in section 401(a) or a transfer under an annuity plan which meets the requirements of section 404(a)(2),

"(3) the transfer of an option without a readily ascertainable fair market value, or

"(4) the transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant.

"(f) HOLDING PERIOD.—In determining the period for which the taxpayer has held property to which subsection (a) applies, there shall be included only the period beginning at the first time his rights in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier.

"(g) CERTAIN EXCHANGES.—If property to which subsection (a) applies is exchanged for property subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject, and if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applied to such exchange, or if such exchange was pursuant to the exercise of a conversion privilege—

"(1) such exchange shall be disregarded for purposes of subsection (a), and

"(2) the property received shall be treated as property to which subsection (a) applies.

"(h) DEDUCTION BY EMPLOYER.—In the case of a transfer of property to which this section applies or a cancellation of a restriction described in subsection (d), there shall be allowed as a deduction under section 162, to the person for whom were performed the services in connection with which such property was transferred, an amount equal to the amount included under subsection (a), (b), or (d)(2) in the gross income of the person who performed such services. Such deduction shall be allowed for the taxable year of such person in which or with which ends the taxable year in which such amount is included in the gross income of the person who performed such services.

"(i) TRANSITION RULES.—This section shall apply to property transferred after June 30, 1969, except that this section shall not apply to property transferred—

"(1) pursuant to a binding written contract entered into before April 22, 1969,

"(2) upon the exercise of an option granted before April 22, 1969,

"(3) before May 1, 1970, pursuant to a written plan adopted and approved before July 1, 1969,

"(4) before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract entered into before April 22, 1969, between a corporation and the transferor requiring the transferor to grant options to employees of such corporation (or a subsidiary of such corporation) to purchase a determinable number of shares of stock of such corporation, but only if the transferee was an employee of such corporation (or a subsidiary of such corporation) on or before April 22, 1969, or

"(5) in exchange for (or pursuant to the exercise of a conversion privilege contained in) property transferred before July 1, 1969, or for property to which this section does not apply (by reason of paragraphs (1), (2), (3), or (4)), if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applies, or if gain or

loss is not otherwise required to be recognized upon the exercise of such conversion privilege, and if the property received in such exchange is subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject."

(b) NONEXEMPT TRUSTS AND NONQUALIFIED ANNUITIES.—

(1) BENEFICIARY OF NONEXEMPT TRUST.—Section 402(b) (relating to taxability of beneficiary of nonexempt trust) is amended to read as follows:

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section. The amount actually distributed or made available to any distributee by any such trust shall be taxable to him in the year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(1) (relating to amount not received as annuities). A beneficiary of any such trust shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners)."

(2) BENEFICIARY UNDER NONQUALIFIED ANNUITY.—Section 403 (relating to taxation of employee annuities) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection:

"(c) TAXABILITY OF BENEFICIARY UNDER NONQUALIFIED ANNUITIES OR UNDER ANNUITIES PURCHASED BY EXEMPT ORGANIZATIONS.—Premiums paid by an employer for an annuity contract which is not subject to subsection (a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subsection (b). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under section 72 (relating to annuities)."

(3) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404(a)(5) (relating to deduction for contributions of an employer to an employees' trust, etc.) is amended to read as follows:

"(5) OTHER PLANS.—If the plan is not one included in paragraph (1), (2), or (3), in the taxable year in which an amount attributable to the contribution is includible in the gross income of employees participating in the plan, but, in the case of a plan in which more than one employee participates only if separate accounts are maintained for each employee."

(c) CLERICAL AMENDMENT.—*The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:*

"Sec. 83. Property transferred in connection with performance of services."

(d) EFFECTIVE DATES.—*The amendments made by subsections (a) and (c) shall apply to taxable years ending after June 30, 1969. The amendments made by subsection (b) shall apply with respect to contributions made and premiums paid after August 1, 1969.*

Subtitle D—Accumulation Trusts, Multiple Trusts, Etc.

SEC. 331. TREATMENT OF EXCESS DISTRIBUTIONS BY TRUSTS.

(a) IN GENERAL.—*Subpart D of part I of subchapter J of chapter 1 is amended to read as follows:*

"SUBPART D—TREATMENT OF EXCESS DISTRIBUTIONS BY TRUSTS

"SEC. 665. DEFINITIONS APPLICABLE TO SUBPART D.

"(a) UNDISTRIBUTED NET INCOME.—*For purposes of this subpart the term 'undistributed net income' for any taxable year means the amoun by which the distributable net income of the trust for such taxable year exceeds the sum of—*

"(1) *the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a), and*

"(2) *the amount of taxes imposed on the trust attributable to such distributable net income.*

"(b) ACCUMULATION DISTRIBUTION.—*For purposes of this subpart, the term 'accumulation distribution' means, for any taxable year of the trust, the amount by which—*

"(1) *the amounts specified in paragraph (2) of section 661(a) for such taxable year, exceed*

"(2) *distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of section 661(a).*

"(c) SPECIAL RULE APPLICABLE TO DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS.—*For purposes of this subpart, any amount paid to a United States person which is from a payor who is not a United States person and which is derived directly or indirectly from a foreign trust created by a United States person shall be deemed in the year of payment to have been directly paid by the foreign trust.*

"(d) TAXES IMPOSED ON THE TRUST.—For purposes of this subpart, the term 'taxes imposed on the trust' means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart) and which, under regulations prescribed by the Secretary or his delegate, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchange of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) and (c) or 669 (d) and (e) to any beneficiary.

"(e) PRECEDING TAXABLE YEAR.—For purposes of this subpart—

"(1) in the case of a trust (other than a foreign trust created by a United States person), the term 'preceding taxable year' does not include any taxable year of the trust—

"(A) which precedes by more than 5 years the taxable year of the trust in which an accumulation distribution is made, if it is made in a taxable year beginning before January 1, 1974,

"(B) which begins before January 1, 1969, in the case of an accumulation distribution made during a taxable year beginning after December 31, 1973, or

"(C) which begins before January 1, 1969, in the case of a capital gain distribution made during a taxable year beginning after December 31, 1968; and

"(2) in the case of a foreign trust created by a United States person, such term does not include any taxable year of the trust to which this part does not apply.

In the case of a preceding taxable year with respect to which a trust qualifies (without regard to this subpart) under the provisions of subpart B, for purposes of the application of this subpart to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Secretary or his delegate, be treated as a trust to which subpart C applies.

"(f) UNDISTRIBUTED CAPITAL GAIN.—For purposes of this subpart, the term 'undistributed capital gain' means, for any taxable year of the trust beginning after December 31, 1968, the amount by which—

"(1) gains in excess of losses from the sale or exchange of capital assets, to the extent that such gains are allocated to corpus and are not (A) paid, credited, or required to be distributed to any beneficiary during such taxable year, or (B) paid, permanently set aside, or used for the purposes specified in section 642(c), exceed

"(2) the amount of taxes imposed on the trust attributable to such gains.

For purposes of paragraph (1), the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account.

"(g) CAPITAL GAIN DISTRIBUTION.—For purposes of this subpart, the term 'capital gain distribution' for any taxable year of the trust means, to the extent of undistributed capital gain for such taxable year, that portion of—

"(1) the excess of the amounts specified in paragraph (2) of section 661(a) for such taxable year over distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of section 661(a), over

"(2) the undistributed net income of the trust for all preceding taxable years.

"SEC. 666. ACCUMULATION DISTRIBUTION ALLOCATED TO PRECEDING YEARS.

"(a) AMOUNT ALLOCATED.—In the case of a trust which is subject to subpart C, the amount of the accumulation distribution of such trust for a taxable year shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the preceding taxable years, commencing with the earliest of such years, to the extent that such amount exceeds the total of any undistributed net income for all earlier preceding taxable years. The amount deemed to be distributed in any such preceding taxable year under the preceding sentence shall not exceed the undistributed net income for such preceding taxable year. For purposes of this subsection, undistributed net income for each of such preceding taxable years shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

"(b) TOTAL TAXES DEEMED DISTRIBUTED.—If any portion of an accumulation distribution for any taxable year is deemed under subsection (a) to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of any preceding taxable year, and such portion of such distribution is not less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the meaning of paragraph (2) of section 661(a). Such additional amount shall be equal to the taxes imposed on the trust for such preceding taxable year attributable to the undistributed net income. For purposes of this subsection, the undistributed net income and the taxes imposed on the trust for such preceding taxable year attributable to such undistributed net income shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

"(c) PRO RATA PORTION OF TAXES DEEMED DISTRIBUTED.—If any portion of an accumulation distribution for any taxable year is deemed under subsection (a) to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of any preceding taxable year and such portion of the accumulation distribution is less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the meaning of paragraph (2) of section 661(a). Such additional amount shall be equal to the taxes imposed on the trust for such taxable year attributable to the undistributed net income multiplied by the ratio of the portion of the accumulation distribution to the undistributed net income of the trust for such year. For purposes of this subsection, the undistributed net income and the taxes imposed on the trust for such preceding taxable year attributable to such undistributed net income shall be computed without regard to the accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

"(d) RULE WHEN INFORMATION IS NOT AVAILABLE.—If adequate records are not available to determine the proper application of this subpart to an amount distributed by a trust, such amount shall be deemed to be an accumulation distribution consisting of undistributed net income earned during the earliest preceding taxable year of the trust in which it can be established that the trust was in existence.

"SEC. 667. DENIAL OF REFUND TO TRUSTS; AUTHORIZATION OF CREDIT TO BENEFICIARIES.

"(a) DENIAL OF REFUND TO TRUSTS.—No refund or credit shall be allowed to a trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under section 666 or 669.

"(b) AUTHORIZATION OF CREDIT TO BENEFICIARY.—There shall be allowed as a credit (without interest) against the tax imposed by this subtitle on the beneficiary an amount equal to the amount of the taxes deemed distributed to such beneficiary by the trust under sections 666 (b) and (c) and 669 (d) and (e) during preceding taxable years of the trust on the last day of which the beneficiary was in being, reduced by the amount of the taxes deemed distributed to such beneficiary for such preceding taxable years to the extent that such taxes are taken into account under sections 668 (b)(1) and 669 (b) in determining the amount of the tax imposed by section 668.

"SEC. 668. TREATMENT OF AMOUNTS DEEMED DISTRIBUTED IN PRECEDING YEARS.

"(a) GENERAL RULE.—The total of the amounts which are treated under sections 666 and 669 as having been distributed by the trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) and (b) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

"(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted,

"(2) a partial tax determined as provided in subsection (b) of this section, and

"(3) in the case of a beneficiary of a trust which is not required to distribute all of its income currently, a partial tax determined as provided in section 669.

For purposes of this subpart, a trust shall not be considered to be a trust which is not required to distribute all of its income currently for any taxable year prior to the first taxable year in which income is accumulated.

"(b) TAX ON DISTRIBUTION.—

"(1) ALTERNATIVE METHODS.—Except as provided in paragraph (2), the partial tax imposed by subsection (a)(2) shall be the lesser of—

"(A) the aggregate of the taxes attributable to the amounts deemed distributed under section 666 had they been included in the gross income of the beneficiary on the last day of each respective preceding taxable year, or

"(B) the tax determined by multiplying, by the number of preceding taxable years of the trust, on the last day of which an amount is deemed under section 666(a) to have been distributed, the average of the increase in tax attributable to re-

computing the beneficiary's gross income for each of the beneficiary's 3 taxable years immediately preceding the year of the accumulation distribution by adding to the income of each of such years an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by such number of preceding taxable years of the trust,

less an amount equal to the amount of taxes deemed distributed to the beneficiary under sections 666 (b) and (c).

"(2) SPECIAL RULES.—

"(A) If a beneficiary was not in existence on the last day of a preceding taxable year of the trust with respect to which a distribution is deemed made under section 666(a), the partial tax under either paragraph (1)(A) or (1)(B) shall be computed as if the beneficiary were in existence on the last day of such year on the basis that the beneficiary had no gross income (other than amounts deemed distributed to him under sections 666 and 669 by the same or other trusts) and no deductions for such year.

"(B) The partial tax shall not be computed under the provisions of subparagraph (B) of paragraph (1) if, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior accumulation distributions by each of two or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary.

"(C) If the partial tax is computed under paragraph (1)(B), and the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

"(3) EFFECT OF OTHER ACCUMULATION DISTRIBUTIONS AND CAPITAL GAIN DISTRIBUTIONS.—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years—

"(A) shall include amounts previously deemed distributed to such beneficiary in such year under section 666 or 669 as a result of prior accumulation distributions or capital gain distributions (whether from the same or another trust), and

"(B) shall not include amounts deemed distributed to such beneficiary in such year under section 669 as a result of a capital gain distribution from the same trust in the current year.

"(4) MULTIPLE DISTRIBUTIONS IN THE SAME TAXABLE YEAR.—In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

"(5) INFORMATION REQUIREMENTS WITH RESPECT TO BENEFICIARY.—

"(A) *Except as provided in subparagraph (B), the partial tax shall not be computed under the provisions of paragraph (1)(A) unless the beneficiary supplies such information with respect to his income, for each taxable year with which or in which ends a taxable year of the trust on the last day of which an amount is deemed distributed under section 666(a), as the Secretary or his delegate prescribes by regulations.*

"(B) *If by reason of paragraph (2)(B) the provisions of paragraph (1)(B) do not apply, the determination of the amount of the beneficiary's income for a taxable year for which the beneficiary has not supplied the information required under subparagraph (A) shall be made by the Secretary or his delegate on the basis of information available to him.*

"SEC. 669. TREATMENT OF CAPITAL GAIN DEEMED DISTRIBUTED IN PRECEDING YEARS.

"(a) AMOUNT ALLOCATED.—*In the case of a trust which is not required to distribute all of its income currently, the amount of a capital gain distribution of such trust for a taxable year shall be deemed to be an amount properly paid, credited, or required to be distributed on the last day of each of the preceding taxable years, commencing with the earliest of such years, to the extent that such amount exceeds the total of any undistributed capital gain for all earlier preceding taxable years. The amount deemed to be distributed in any such preceding taxable year under the preceding sentence shall not exceed the undistributed capital gain for such preceding taxable year. For purposes of this subsection, undistributed capital gain for each of such preceding taxable years shall be computed without regard to such capital gain distribution and without regard to any capital gain distribution determined for any succeeding taxable year.*

"(b) TAX ON DISTRIBUTION.—*The partial tax imposed by section 668(a)(3) shall be the lesser of—*

"(1) *the aggregate of the taxes attributable to the amounts deemed distributed under this section, had such been included in the gross income of the beneficiary on the last day of each respective preceding taxable year, or*

"(2) *the tax determined by multiplying by the number of preceding taxable years of the trust, on the last day of which net gains from the sale or exchange of capital assets are deemed under subsection (a) to have been distributed, the average of the increase in tax attributable to recomputing the beneficiary's gross income for each of the beneficiary's 3 taxable years immediately preceding the year of the capital gain distribution by adding to the income of each of such years an amount determined by dividing the total of the amounts deemed distributed under this section and required to be included in income under section 668(a) by such number of preceding taxable years of the trust,*

less an amount equal to the amount of taxes deemed distributed to the beneficiary under subsections (d) and (e) which are attributable to the capital gain distribution.

"(c) EFFECT OF OTHER DISTRIBUTIONS; SPECIAL RULES, ETC.—*In computing the partial tax under subsection (b) for any beneficiary, the income of such beneficiary for each of his prior taxable years—*

"(1) shall include amounts previously deemed distributed to such beneficiary in such year under section 666 or 669 as a result of prior accumulation distributions or capital gain distributions (whether from the same or another trust), and

"(2) shall include amounts deemed distributed to such beneficiary in such year under section 666 as a result of an accumulation distribution from the same trust in the current year.

Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by paragraphs (2), (4), and (5) of section 668(b) shall be applied for purposes of this section.

"(d) TOTAL TAXES DEEMED DISTRIBUTED.—If any portion of a capital gain distribution for any taxable year is deemed under subsection (a) to be an amount properly paid, credited or required to be distributed on the last day of any preceding taxable year, and such portion of such capital gain distribution is not less than the undistributed capital gain for such preceding taxable year, the trust shall be deemed to have properly distributed on the last day of such preceding taxable year an additional amount. Such additional amount shall be equal to the taxes imposed on the trust for such preceding taxable year attributable to such undistributed capital gain. For purposes of this subsection, the undistributed capital gain and the taxes imposed on the trust for such preceding taxable year attributable to such gain shall be computed without regard to such capital gain distribution and without regard to any capital gain distribution determined for any succeeding taxable year.

"(e) PRO RATA PORTION OF TAXES DEEMED DISTRIBUTED.—If any portion of a capital gain distribution for any taxable year is deemed under subsection (a) to be an amount properly paid, credited, or required to be distributed on the last day of any preceding taxable year and such portion of the capital gain distribution is less than the undistributed capital gain for such preceding taxable year, the trust shall be deemed to have properly distributed on the last day of such preceding taxable year an additional amount. Such additional amount shall be equal to the taxes imposed on the trust for such taxable year attributable to such undistributed capital gain multiplied by the ratio of the portion of the capital gain distribution to the undistributed capital gain of the trust for such year. For purposes of this subsection, the undistributed capital gain and the taxes imposed on the trust for such preceding taxable year attributable to such gain shall be computed without regard to the capital gain distribution and without regard to any capital gain distribution determined for any succeeding taxable year.

"(f) CHARACTER OF CAPITAL GAIN.—For purposes of this section, the character of the capital gain of a trust for any taxable year with respect to a beneficiary shall be the same as it was with respect to the trust."

(b) DISTRIBUTIONS IN FIRST SIXTY-FIVE DAYS OF TAXABLE YEAR.—Section 663(b)(2) (relating to limitation on sixty-five day rule) is amended to read as follows:

"(2) LIMITATION.—Paragraph (1) shall apply with respect to any taxable year of a trust only if the fiduciary of such trust elects, in such manner and at such time as the Secretary or his delegate prescribes by regulations, to have paragraph (1) apply for such taxable year."

(c) EXCESSIVE CREDITS.—Section 6401(b) (relating to excessive credits) is amended—

(1) by striking out "UNDER SECTIONS 31 AND 39" in the heading of such section;

(2) by striking out "and 39 (relating" in the text of such section and inserting in lieu thereof ", 39 (relating"; and

(3) by inserting after "lubricating oil)" in the text of such section "and 667(b) (relating to taxes paid by certain trusts)".

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1968.

(2) EXCEPTIONS.—

(A) Amounts paid, credited, or required to be distributed by a trust (other than a foreign trust created by a United States person) on or before the last day of a taxable year of the trust beginning before January 1, 1974, shall not be deemed to be accumulation distributions to the extent that such amounts were accumulated by a trust in taxable years of such trust beginning before January 1, 1969, and would have been excepted from the definition of an accumulation distribution by reason of paragraphs (1), (2), (3), or (4) of section 665(b) of the Internal Revenue Code of 1954, as in effect on December 31, 1968, if they had been distributed on the last day of the last taxable year of the trust beginning before January 1, 1969.

(B) For taxable years of a trust beginning before January 1, 1970, the first sentence of section 666(a) of the Internal Revenue Code of 1954 (as amended by this section) shall not apply, and the amount of the accumulation distribution of the trust for such taxable years shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the preceding taxable years to the extent that such amount exceeds the total of any undistributed net income for any taxable years intervening between the taxable year with respect of which the accumulation distribution is determined and such preceding taxable year.

(C) In the case of a trust which was in existence on December 31, 1969, section 669 of the Internal Revenue Code of 1954, as amended by this section, shall not apply to capital gain distributions made to a beneficiary before January 1, 1972. If the beneficiary receives capital gain distributions from more than one such trust before January 1, 1972, the preceding sentence shall apply to capital gain distributions from only one of such trusts, such one to be designated by the taxpayer in accordance with regulations prescribed by the Secretary or his delegate. For purposes of the preceding sentence, capital gain distributions received from a trust qualifying under section 2056(b)(5) of the Internal Revenue Code of 1954 by a surviving spouse (who is the beneficiary of only one such trust) shall be disregarded.

SEC. 332. TRUST INCOME FOR BENEFIT OF A SPOUSE.

(a) INCOME FOR BENEFIT OF GRANTOR'S SPOUSE.—

(1) Paragraphs (1), (2), and (3) of section 677(a) (relating to income for benefit of grantor) are amended by striking out "the grantor" each place it appears and inserting in lieu thereof "the grantor or the grantor's spouse".

(2) Section 677(b) is amended by striking out "beneficiary" and inserting in lieu thereof "beneficiary (other than the grantor's spouse)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply in respect of property transferred in trust after October 9, 1969.

TITLE IV—ADJUSTMENTS PRIMARILY AFFECTING CORPORATIONS

Subtitle A—Multiple Corporations

SEC. 401. MULTIPLE CORPORATIONS.

(a) IN GENERAL.—

(1) Section 1561 (relating to surtax exemptions in case of certain controlled corporations) is amended to read as follows:

"SEC. 1561. LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.

"(a) GENERAL RULE.—The component members of a controlled group of corporations on a December 31 shall, for their taxable years which include such December 31, be limited for purposes of this subtitle to—

"(1) one $25,000 surtax exemption under section 11(d),

"(2) one $100,000 amount for purposes of computing the accumulated earnings credit under section 535(c) (2) and (3), and

"(3) one $25,000 amount for purposes of computing the limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809 (d)(10).

The amount specified in paragraph (1) shall be divided equally among the component members of such group on such December 31 unless all of such component members consent (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) to an apportionment plan providing for an unequal allocation of such amount. The amounts specified in paragraphs (2) and (3) shall be divided equally among the component members of such group on such December 31 unless the Secretary or his delegate prescribes regulations permitting an unequal allocation of such amounts.

"(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation has a short taxable year which does not include a December 31 and is a component member of a controlled group of corporations with respect to such taxable year, then for purposes of this subtitle—

"(1) the surtax exemption under section 11(d),

"(2) the amount to be used in computing the accumulated earnings credit under section 535(c) (2) and (3), and

"(3) the amount to be used in computing the limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10),

of such corporation for such taxable year shall be the amount specified in subsection (a) (1), (2), or (3), as the case may be, divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31."

(2) Section 1562 (relating to privilege of groups to elect multiple surtax exemptions) is repealed.

(3) The table of sections for part II of subchapter B of chapter 6 is amended by striking out the items relating to sections 1561 and 1562 and inserting in lieu thereof the following:

"Sec. 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations."

(b) TRANSITIONAL RULES FOR CONTROLLED GROUPS OF CORPORATIONS.—

(1) Part II of subchapter B of chapter 6 (relating to certain controlled corporations) is amended by adding at the end thereof the following new section:

"SEC. 1564. TRANSITIONAL RULES IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.

"(a) LIMITATION ON ADDITIONAL BENEFITS.—

"(1) IN GENERAL.—With respect to any December 31 after 1969 and before 1975, the amount of—

"(A) each additional $25,000 surtax exemption under section 1562 in excess of the first such exemption,

"(B) each additional $100,000 amount under section 535(c) (2) and (3) in excess of the first such amount, and

"(C) each additional $25,000 limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10) in excess of the first such limitation,

otherwise allowed to the component members of a controlled group of corporations for their taxable years which include such December 31 shall be reduced to the amount set forth in the following schedule:

"Taxable years including—	*Surtax exemption*	*Amount under sec. 535(c) (2) and (3)*	*Small business deduction limitation*
Dec. 31, 1970	*$20,833*	*$83,333*	*$20,833*
Dec. 31, 1971	*16,667*	*66,667*	*16,667*
Dec. 31, 1972	*12,500*	*50,000*	*12,500*
Dec. 31, 1973	*8,333*	*33,333*	*8,333*
Dec. 31, 1974	*4,167*	*16,667*	*4,167*

"(2) ELECTION.—With respect to any December 31 after 1969 and before 1975, the component members of a controlled group of corporations shall elect (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) which component member of such group shall be allowed for its taxable year which includes such December 31 the surtax exemption, the amount under section 535(c) (2) and (3), or the small business deduction limitation which is not reduced under paragraph (1).

"(b) *DIVIDENDS RECEIVED BY CORPORATIONS.*—

"(1) *GENERAL RULE.—If—*

"(A) *an election of a controlled group of corporations (as defined in paragraph (1), or in so much of paragraph (4) as relates to paragraph (1), of section 1563(a)) under section 1562(a) (relating to privilege of a controlled group of corporations to elect to have each of its component members make its returns without regard to section 1561) was made on or before April 22, 1969, and*

"(B) *such election is effective with respect to the taxable year of each component member of such group which includes December 31, 1969,*

then, with respect to a dividend distributed on or before December 31, 1977, out of earnings and profits of a taxable year which includes a December 31 after 1969 and before 1975, subsections (a)(3) and (b) of section 243 (relating to dividends received by corporations) shall be applied to such component members comprising an affiliated group (as defined in section 243(b)(5)) in the manner set forth in paragraph (2).

"(2) *SPECIAL RULES.—*

"(A) *An election under section 243(b)(2) may be made for a taxable year which includes a December 31 after 1969 and before 1975, notwithstanding that an election under section 1562(a) is in effect for the taxable year.*

"(B) *Section 243(b)(1)(B)(ii) shall not apply with respect to a dividend distributed on or before December 31, 1977, out of earnings and profits of a taxable year which includes a December 31 after 1969 and before 1975 for which an election under section 1562(a) is in effect, and in lieu of the percentage specified in section 243(a)(3) with respect to such dividend, the percentage shall be the percentage set forth in the following schedule:*

"If the dividend is distributed out of the earnings and profits of the distributing corporation's taxable year which includes—	***The percentage shall be—***
December 31, 1970	*87½ percent.*
December 31, 1971	*90 percent.*
December 31, 1972	*92½ percent.*
December 31, 1973	*95 percent.*
December 31, 1974	*97½ percent.*

"(C) *For taxable years which include a December 31 after 1969 for which an election under section 1562(a) is in effect, section 243(b)(3)(C)(v) shall not be applied to limit the number of surtax exemptions.*

"(c) *CERTAIN SHORT TAXABLE YEARS.—If—*

"(1) *a corporation has a short taxable year beginning after December 31, 1969, and ending before December 31, 1974, which does not include a December 31, and*

"(2) *such corporation is a component member of a controlled group of corporations with respect to such taxable year (determined by applying section 1563(b) as if the last day of such taxable year were substituted for December 31),*

then subsections (a) and (b) shall be applied as if the last day of such taxable year were the nearest December 31 to such day."

(2)(A) The first sentence of section 1562(b)(1) is amended by striking out "$25,000" and inserting in lieu thereof "the amount of such corporation's surtax exemption for such taxable year".

(B) Section 11(d) is amended by striking out "section 1561" and inserting in lieu thereof "section 1561 or 1564".

(C) Section 535(c)(5) is amended by striking out "section 1551" and inserting in lieu thereof "section 1551, and for limitation on such credit in the case of certain controlled corporations, see sections 1561 and 1564".

(D) Section 804 is amended by adding after subsection (c) the following new subsection:

"(d) CROSS REFERENCE.—

"For reduction of the $25,000 amount provided in subsection (a)(4) in the case of certain controlled corporations, see sections 1561 and 1564."

(E) The table of sections for part II of subchapter B of chapter 6 is amended by adding at the end thereof the following:

"Sec. 1564. Transitional rules in the case of certain controlled corporations."

(c) BROTHER-SISTER CONTROLLED GROUPS.—Section 1563(a)(2) is amended to read as follows:

"(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2)) stock possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and

"(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation."

(d) EXCLUDED STOCK RULES.—

(1) Section 1563(c)(2)(A) is amended by striking out "or" at the end of clause (ii); by striking out "stock." at the end of clause (iii) and inserting in lieu thereof "stock, or"; and by adding after clause (iii) the following new clause:

"(iv) stock in the subsidiary corporation owned (within the meaning of subsection (d)(2)) by an organization (other than the parent corporation) to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly or indirectly by the parent corporation or subsidiary corporation, by an individual, estate, or trust that is a principal stockholder (within the meaning of clause (ii)) of the parent corporation, by an officer of the parent corporation, or by any combination thereof."

(2) Section 1563(c)(2)(B) is amended—

(A) by striking out "a person who is an individual, estate, or trust (referred to in this paragraph as 'common owner') owns" and inserting in lieu thereof "5 or fewer persons who are indi-

viduals, estates, or trusts (referred to in this subparagraph as 'common owners') own";

(B) by striking out "or" at the end of clause (i);

(C) by striking out in clause (ii) "such common owner", "the common owner", and "stock." and inserting in lieu thereof "any of such common owners", "any of the common owners", and "stock, or", respectively; and

(D) by adding after clause (ii) the following new clause:

"(iii) stock in such corporation owned (within the meaning of subsection (d)(2)) by an organization to which section 501 (relating to certain educational and charitable organizations which are exempt from tax) applies and which is controlled directly or indirectly by such corporation, by an individual, estate, or trust that is a principal stockholder (within the meaning of subparagraph (A)(ii)) of such corporation, by an officer of such corporation, or by any combination thereof."

(e) INVESTMENT CREDIT.—

(1) Section 46(a)(5) is amended to read as follows:

"(5) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to such term by section 1563(a)."

(2) Section 48(c)(2)(C) is amended to read as follows:

"(C) CONTROLLED GROUPS.—In the case of a controlled group, the $50,000 amount specified under subparagraph (A) shall be reduced for each component member of the group by apportioning $50,000 among the component members of such group in accordance with their respective amounts of used section 38 property which may be taken into account."

(3) Section 48(c)(3)(C) is amended to read as follows:

"(C) CONTROLLED GROUP.—The term 'controlled group' has the meaning assigned to such term by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1)."

(4) Section 48(d)(2) is amended to read as follows:

"(2) if such property is leased by a corporation which is a component member of a controlled group (within the meaning of section 46(a)(5)) to another corporation which is a component member of the same controlled group, the basis of such property to the lessor."

(f) ADDITIONAL FIRST-YEAR DEPRECIATION.—Section 179(d) is amended—

(1) by amending paragraph (2)(B) to read as follows:

"(B) the property is not acquired by one component member of a controlled group from another component member of the same controlled group, and"; and

(2) by amending paragraphs (6) and (7) to read as follows:

"(6) DOLLAR LIMITATION OF CONTROLLED GROUP.—For purposes of subsection (b) of this section—

"(A) all component members of a controlled group shall be treated as one taxpayer, and

"(B) *the Secretary or his delegate shall apportion the dollar limitation contained in such subsection (b) among the component members of such controlled group in such manner as he shall by regulations prescribe.*

"(7) CONTROLLED GROUP DEFINED.—*For purposes of paragraphs (2) and (6), the term 'controlled group' has the meaning assigned to it by section 1563(a); except that, for such purposes, the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).*"

(g) RETROACTIVE TERMINATION OF SECTION 1562 ELECTIONS.—*If an affiliated group of corporations makes a consolidated return for the taxable year which includes December 31, 1970 (hereinafter in this subsection referred to as "1970 consolidated return year"), then on or before the due date prescribed by law (including any extensions thereof) for filing such consolidated return such affiliated group of corporations may terminate the election under section 1562 of the Internal Revenue Code of 1954 with respect to any prior December 31 which is included in a taxable year of any of such corporations from which there is a net operating loss carryover to the 1970 consolidated return year. A termination of an election under this subsection shall be valid only if it meets the requirements of sections 1562(c)(1) and 1562(e) of such Code (other than making the termination before the expiration of the 3-year period specified in section 1562(e)).*

(h) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to taxable years begining after December 31, 1974.

(2) The amendments made by subsection (b) shall apply with respect to taxable years beginning after December 31, 1969.

(3) The amendments made by subsections (c), (d), (e), and (f) shall apply with respect to taxable years ending on or after December 31, 1970.

Subtitle B—Debt-Financed Corporate Acquisitions and Related Problems

SEC. 411. INTEREST ON INDEBTEDNESS INCURRED BY CORPORATION TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.

(a) DISALLOWANCE OF INTEREST DEDUCTION.—*Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:*

"SEC. 279. INTEREST ON INDEBTEDNESS INCURRED BY CORPORATION TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.

"(a) GENERAL RULE.—*No deduction shall be allowed for any interest paid or incurred by a corporation during the taxable year with respect to its corporate acquisition indebtedness to the extent that such interest exceeds—*

"(1) $5,000,000, reduced by

"(2) the amount of interest paid or incurred by such corporation during such year on obligations (A) issued after December 31, 1967, to provide consideration for an acquisition described in paragraph (1) of subsection (b), but (B) which are not corporate acquisition indebtedness.

"(b) CORPORATE ACQUISITION INDEBTEDNESS.—For purposes of this section, the term 'corporate acquisition indebtedness' means any obligation evidenced by a bond, debenture, note, or certificate or other evidence of indebtedness issued after October 9, 1969, by a corporation (hereinafter in this section referred to as 'issuing corporation') if—

"(1) such obligation is issued to provide consideration for the acquisition of—

"(A) stock in another corporation (hereinafter in this section referred to as 'acquired corporation'), or

"(B) assets of another corporation (hereinafter in this section referred to as 'acquired corporation') pursuant to a plan under which at least two-thirds (in value) of all the assets (excluding money) used in trades and businesses carried on by such corporation are acquired,

"(2) such obligation is either—

"(A) subordinated to the claims of trade creditors of the issuing corporation generally, or

"(B) expressly subordinated in right of payment to the payment of any substantial amount of unsecured indebtedness, whether outstanding or subsequently issued, of the issuing corporation,

"(3) the bond or other evidence of indebtedness is either—

"(A) convertible directly or indirectly into stock of the issuing corporation, or

"(B) part of an investment unit or other arrangement which includes, in addition to such bond or other evidence of indebtedness, an option to acquire, directly or indirectly, stock in the issuing corporation, and

"(4) as of a day determined under subsection (c)(1), either—

"(A) the ratio of debt to equity (as defined in subsection (c)(2)) of the issuing corporation exceeds 2 to 1, or

"(B) the projected earnings (as defined in subsection (c)(3)) do not exceed 3 times the annual interest to be paid or incurred (determined under subsection (c)(4)).

"(c) RULES FOR APPLICATION OF SUBSECTION (b)(4).—For purposes of subsection (b)(4)—

"(1) TIME OF DETERMINATION.—Determinations are to be made as of the last day of any taxable year of the issuing corporation in which it issues any obligation to provide consideration for an acquisition described in subsection (b)(1) of stock in, or assets of, the acquired corporation.

"(2) RATIO OF DEBT TO EQUITY.—The term 'ratio of debt to equity' means the ratio which the total indebtedness of the issuing corporation bears to the sum of its money and all its other assets (in an amount equal to their adjusted basis for determining gain) less such total indebtedness.

"(3) PROJECTED EARNINGS.—

"(A) The term 'projected earnings' means the 'average annual earnings' (as defined in subparagraph (B)) of—

"(i) the issuing corporation only, if clause (ii) does not apply, or

"(ii) both the issuing corporation and the acquired corporation, in any case where the issuing corporation has acquired control (as defined in section 368(c)), or has acquired substantially all of the properties, of the acquired corporation.

"(B) The average annual earnings referred to in subparagraph (A) is, for any corporation, the amount of its earnings and profits for any 3-year period ending with the last day of a taxable year of the issuing corporation described in paragraph (1), computed without reduction for—

"(i) interest paid or incurred,

"(ii) depreciation or amortization allowed under this chapter,

"(iii) liability for tax under this chapter, and

"(iv) distributions to which section 301(c)(1) applies (other than such distributions from the acquired to the issuing corporation),

and reduced to an annual average for such 3-year period pursuant to regulations prescribed by the Secretary or his delegate. Such regulations shall include rules for cases where any corporation was not in existence for all of such 3-year period or such period includes only a portion of a taxable year of any corporation.

"(4) ANNUAL INTEREST TO BE PAID OR INCURRED.—The term 'annual interest to be paid or incurred' means—

"(A) if subparagraph (B) does not apply, the annual interest to be paid or incurred by the issuing corporation only, determined by reference to its total indebtedness outstanding, or

"(B) if projected earnings are determined under clause (ii) of paragraph (3)(A), the annual interest to be paid or incurred by both the issuing corporation and the acquired corporation, determined by reference to their combined total indebtedness outstanding.

"(5) SPECIAL RULES FOR BANKS AND LENDING OR FINANCE COMPANIES.—With respect to any corporation which is a bank (as defined in section 581) or is primarily engaged in a lending or finance business—

"(A) in determining under paragraph (2) the ratio of debt to equity of such corporation (or of the affiliated group of which such corporation is a member), the total indebtedness of such corporation (and the assets of such corporation) shall be reduced by an amount equal to the total indebtedness owed to such corporation which arises out of the banking business of such corporation, or out of the lending or finance business of such corporation, as the case may be;

"(B) in determining under paragraph (4) the annual interest to be paid or incurred by such corporation (or by the issuing and acquired corporations referred to in paragraph (4)(B) or by the affiliated group of which such corporation is a member)

the amount of such interest (determined without regard to this paragraph) shall be reduced by an amount which bears the same ratio to the amount of such interest as the amount of the reduction for the taxable year under subparagraph (A) bears to the total indebtedness of such corporation; and

"(C) in determining under paragraph (3)(B) the average annual earnings, the amount of the earnings and profits for the 3-year period shall be reduced by the sum of the reductions under subparagraph (B) for such period.

For purposes of this paragraph, the term 'lending or finance business' means a business of making loans or purchasing or discounting accounts receivable, notes, or installment obligations.

"(d) TAXABLE YEARS TO WHICH APPLICABLE.—In applying this section—

"(1) FIRST YEAR OF DISALLOWANCE.—The deduction of interest on any obligation shall not be disallowed under subsection (a) before the first taxable year of the issuing corporation as of the last day of which the application of either subparagraph (A) or subparagraph (B) of subsection (b)(4) results in such obligation being corporate acquisition indebtedness.

"(2) GENERAL RULE FOR SUCCEEDING YEARS.—Except as provided in paragraphs (3), (4), and (5), if an obligation is determined to be corporate acquisition indebtedness as of the last day of any taxable year of the issuing corporation, it shall be corporate acquisition indebtedness for such taxable year and all subsequent taxable years.

"(3) REDETERMINATION WHERE CONTROL, ETC., IS ACQUIRED.—If an obligation is determined to be corporate acquisition indebtedness as of the close of a taxable year of the issuing corporation in which clause (i) of subsection (c)(3)(A) applied, but would not be corporate acquisition indebtedness if the determination were made as of the close of the first taxable year of such corporation thereafter in which clause (ii) of subsection (c)(3)(A) could apply, such obligation shall be considered not to be corporate acquisition indebtedness for such later taxable year and all taxable years thereafter.

"(4) SPECIAL 3-YEAR RULE.—If an obligation which has been determined to be corporate acquisition indebtedness for any taxable year would not be such indebtedness for each of any 3 consecutive taxable years thereafter if subsection (b)(4) were applied as of the close of each of such 3 years, then such obligation shall not be corporate acquisition indebtedness for all taxable years after such 3 consecutive taxable years.

"(5) 5 PERCENT STOCK RULE.—In the case of obligations issued to provide consideration for the acquisition of stock in another corporation, such obligations shall be corporate acquisition indebtedness for a taxable year only if at some time after October 9, 1969, and before the close of such year the issuing corporation owns 5 percent or more of the total combined voting power of all classes of stock entitled to vote of such other corporation.

"(e) CERTAIN NONTAXABLE TRANSACTIONS.—An acquisition of stock of a corporation of which the issuing corporation is in control (as defined in section 368(c)) in a transaction in which gain or loss is not recognized shall be deemed an acquisition described in paragraph (1) of subsection (b) only if immediately before such transaction (1) the ac-

quired corporation was in existence, and (2) the issuing corporation was not in control (as defined in section 368(c)) of such corporation.

"(f) EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN CORPORATIONS.—For purposes of this section, the term 'corporate acquisition indebtedness' does not include any indebtedness issued to any person to provide consideration for the acquisition of stock in, or assets of, any foreign corporation substantially all of the income of which, for the 3-year period ending with the date of such acquisition or for such part of such period as the foreign corporation was in existence, is from sources without the United States.

"(g) AFFILIATED GROUPS.—In any case in which the issuing corporation is a member of an affiliated group, the application of this section shall be determined, pursuant to regulations prescribed by the Secretary or his delegate, by treating all of the members of the affiliated group in the aggregate as the issuing corporation, except that the ratio of debt to equity of, projected earnings of, and annual interest to be paid or incurred by any corporation (other than the issuing corporation determined without regard to this subsection) shall be included in the determinations required under subparagraphs (A) and (B) of subsection (b)(4) as of any day only if such corporation is a member of the affiliated group on such day, and, in determining projected earnings of such corporation under subsection (c)(3), there shall be taken into account only the earnings and profits of such corporation for the period during which it was a member of the affiliated group. For purposes of the preceding sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that all corporations other than the acquired corporation shall be treated as includible corporations (without any exclusion under section 1504(b)) and the acquired corporation shall not be treated as an includible corporation.

"(h) CHANGES IN OBLIGATION.—For purposes of this section—

"(1) Any extension, renewal, or refinancing of an obligation evidencing a preexisting indebtednses shall not be deemed to be the issuance of a new obligation.

"(2) Any obligation which is corporate acquisition indebtedness of the issuing corporation is also corporate acquisition indebtedness of any corporation which becomes liable for such obligation as guarantor, endorser, or indemnitor or which assumes liability for such obligation in any transaction.

"(i) CERTAIN OBLIGATIONS ISSUED AFTER OCTOBER 9, 1969.—For purposes of this section, an obligation shall not be corporate acquisition indebtedness if issued after October 9, 1969, to provide consideration for the acquisition of—

"(1) stock or assets pursuant to a binding written contract which was in effect on October 9, 1969, and at all times thereafter before such acquisition, or

"(2) stock in any corporation where the issuing corporation, on October 9, 1969, and at all times thereafter before such acquisition, owned at least 50 percent of the total combined voting power of all classes of stock entitled to vote of the acquired corporation.

Paragraph (2) shall cease to apply when (at any time on or after October 9, 1969) the issuing corporation has acquired control (as defined in section 368(c)) of the acquired corporation.

"(j) EFFECT ON OTHER PROVISIONS.—No inference shall be drawn from any provision in this section that any instrument designated as a

bond, debenture, note, or certificate or other evidence of indebtedness by its issuer represents an obligation or indebtedness of such issuer in applying any other provision of this title."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 279. Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the determination of the allowability of the deduction of interest paid or incurred with respect to indebtedness incurred after October 9, 1969.

SEC. 412. INSTALLMENT METHOD.

(a) CERTAIN EVIDENCES OF INDEBTEDNESS DEEMED TO BE PAYMENT.—Section 453(b) (relating to sales of realty and casual sales of personalty) is amended by adding at the end thereof the following new paragraph:

"(3) PURCHASER EVIDENCES OF INDEBTEDNESS PAYABLE ON DEMAND OR READILY TRADABLE.—In applying this subsection, a bond or other evidence of indebtedness which is payable on demand, or which is issued by a corporation or a government or political subdivision thereof (A) with interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or (B) in any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market, shall not be treated as an evidence of indebtedness of the purchaser."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or other dispositions occurring after May 27, 1969, which are not made pursuant to a binding written contract entered into on or before such date.

SEC. 413. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS.

(a) BONDS AND OTHER EVIDENCES OF INDEBTEDNESS.—Section 1232(a) (relating to general rule) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of this subtitle, in the case of bonds, debentures, notes, or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation, or by any government or political subdivision thereof—

"(1) RETIREMENT.—Amounts received by the holder on retirement of such bonds or other evidences of indebtedness shall be considered as amounts received in exchange therefor (except that in the case of bonds or other evidences of indebtedness issued before January 1, 1955, this paragraph shall apply only to those issued with interest coupons or in registered form, or to those in such form on March 1, 1954).

"(2) SALE OR EXCHANGE.—

"(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969.—Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a corporation after May 27, 1969, held by the taxpayer more than 6 months, any gain realized shall (except as provided in the

following sentence) be considered gain from the sale or exchange of a capital asset held for more than 6 months. If at the time of original issue there was an intention to call the bond or other evidence of indebtedness before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to the original issue discount (as defined in subsection (b)) reduced by the portion of original issue discount previously includible in the gross income of any holder (as provided in paragraph (3)(B)) shall be considered as gain from the sale or exchange of property which is not a capital asset.

"(B) CORPORATE BONDS ISSUED ON OR BEFORE MAY 27, 1969, AND GOVERNMENT BONDS.—Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a government or political subdivision thereof after December 31, 1954, or by a corporation after December 31, 1954, and on or before May 27, 1969, held by the taxpayer more than 6 months, any gain realized which does not exceed—

"(i) an amount equal to the original issue discount (as defined in subsection (b)), or

"(ii) if at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the original issue discount (as defined in subsection (b)) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as gain from the sale or exchange of property which is not a capital asset. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held more than 6 months.

"(C) EXCEPTIONS.—This paragraph shall not apply to—

"(i) obligations the interest on which is not includible in gross income under section 103 (relating to certain governmental obligations), or

"(ii) any holder who has purchased the bond or other evidence of indebtedness at a premium.

"(D) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section shall not require the inclusion of any amount previously includible in gross income.

"(3) INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT ON CORPORATE BONDS ISSUED AFTER MAY 27, 1969.—

"(A) GENERAL RULE.—There shall be included in the gross income of the holder of any bond or other evidence of indebtedness issued by a corporation after May 27, 1969, the ratable monthly portion of original issue discount multiplied by the number of complete months (plus any fractional part of a month determined in accordance with the last sentence of this subparagraph) such holder held such bond or other evidence of indebtedness during the taxable year. Except as provided in subparagraph (B), the ratable monthly portion of original issue discount shall equal the original issue discount (as defined in subsection (b)) divided by the number of complete months from the date of original issue to

the stated maturity date of such bond or other evidence of indebtedness. For purposes of this section, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day); and, in any case where a bond or other evidence of indebtedness is acquired on any other day, the ratable monthly portion of original issue discount for the complete month in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete month each held the bond or other evidence of indebtedness.

"(B) REDUCTION IN CASE OF ANY SUBSEQUENT HOLDER.—For purposes of this paragraph, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of such bond or other evidence of indebtedness, equal to the excess of—

"(i) the cost of such bond or other evidence of indebtedness incurred by such holder, over

"(ii) the issue price of such bond or other evidence of indebtedness increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this subparagraph),

divided by the number of complete months (plus any fractional part of a month commencing with the date of purchase) from the date of such purchase to the stated maturity date of such bond or other evidence of indebtedness.

"(C) PURCHASE DEFINED.—For purposes of subparagraph (B), the term 'purchase' means any acquisition of a bond or other evidence of indebtedness, but only if the basis of the bond or other evidence of indebtedness is not determined in whole or in part by reference to the adjusted basis of such bond or other evidence of indebtedness in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

"(D) EXCEPTIONS.—This paragraph shall not apply to any holder—

"(i) who has purchased the bond or other evidence of indebtedness at a premium, or

"(ii) which is a life insurance company to which section 818(b) applies.

"(E) BASIS ADJUSTMENTS.—The basis of any bond or other evidence of indebtedness in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to subparagraph (A)."

(b) ISSUE PRICE.—Section 1232(b)(2) (relating to issue price) is amended by adding at the end thereof the following:

"In the case of a bond or other evidence of indebtedness and an option or other security issued together as an investment unit, the issue price for such investment unit shall be determined in accordance with the rules stated in this paragraph. Such issue price attributable to each element of the investment unit shall be that portion thereof which the fair market value of such element bears to the total fair market value of all the elements in the investment unit. The issue price of the bond or other evidence of indebtedness included in such investment unit shall

be the portion so allocated to it. In the case of a bond or other evidence of indebtedness, or an investment unit as described in this paragraph (other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371, 373, or 374), which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such bond or other evidence of indebtedness or investment unit, as the case may be, shall be the fair market value of such property. Except in cases to which the preceding sentence applies, the issue price of a bond or other evidence of indebtedness (whether or not issued as a part of an investment unit) which is issued for property (other than money) shall be the stated redemption price at maturity."

(c) REQUIREMENT OF REPORTING.—Section 6049(a)(1) (relating to requirements of reporting interest) is amended to read as follows:

"(1) IN GENERAL.—Every person—

"(A) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year,

"(B) who receives payments of interest as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received, or

"(C) which is a corporation that has outstanding any bond, debenture, note, or certificate or other evidence of indebtedness in registered form as to which there is during any calendar year an amount of original issue discount aggregating $10 or more includible in the gross income of any holder under section 1232(a)(3) without regard to subparagraph (B) thereof,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and such aggregate amount includible in the gross income of any holder and the name and address of the person to whom paid or such holder."

(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT OF WHOM INFORMATION IS FURNISHED.—Section 6049(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to, or the aggregate

amount includible in the gross income of, such person shown on the return made with respect to subparagraph (A), (B), or (C), as the case may be, of subsection (a)(1) is less than $10."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to bonds and other evidences of indebtedness issued after May 27, 1969 (other than evidences of indebtedness issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter).

SEC. 414. LIMITATION ON DEDUCTION OF BOND PREMIUM ON REPURCHASE.

(a) LIMITATION ON DEDUCTION OF BOND PREMIUM ON REPURCHASE.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"SEC. 249. LIMITATION ON DEDUCTION OF BOND PREMIUM ON REPURCHASE.

"(a) GENERAL RULE.—No deduction shall be allowed to the issuing corporation for any premium paid or incurred upon the repurchase of a bond, debenture, note, or certificate or other evidence of indebtedness which is convertible into the stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation, to the extent the repurchase price exceeds an amount equal to the adjusted issue price plus a normal call premium on bonds or other evidences of indebtedness which are not convertible. The preceding sentence shall not apply to the extent that the corporation can demonstrate to the satisfaction of the Secretary or his delegate that such excess is attributable to the cost of borrowing and is not attributable to the conversion feature.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) ADJUSTED ISSUE PRICE.—The adjusted issue price is the issue price (as defined in section 1232(b)) increased by any amount of discount deducted before repurchase, or, in the case of bonds or other evidences of indebtedness issued after February 28, 1913, decreased by any amount of premium included in gross income before repurchase by the issuing corporation.

"(2) CONTROL.—The term 'control' has the meaning assigned to such term by section 368(c)."

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 249. Limitation on deduction of bond premium on repurchase."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to a convertible bond or other convertible evidence of indebtedness repurchased after April 22, 1969, other than such a bond or other evidence of indebtedness repurchased pursuant to a binding obligation incurred on or before April 22, 1969, to repurchase such bond or other evidence of indebtedness at a specified call premium, but no inference shall be drawn from the fact that section 249 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) does not apply to the repurchase of such convertible bond or other convertible evidence of indebtedness.

SEC. 415. TREATMENT OF CERTAIN CORPORATE INTERESTS AS STOCK OR INDEBTEDNESS.

(a) IN GENERAL.—Subchapter C of Chapter 1 (relating to corporate distributions and adjustments) is amended by redesignating part VI (relating to effective date of subchapter C) as part VII and by inserting after part V the following new part:

"Part VI—Treatment of Certain Corporate Interests as Stock or Indebtedness

"Sec. 385. Treatment of certain interests in corporations as stock or indebtedness.

"SEC. 385. TREATMENT OF CERTAIN INTERESTS IN CORPORATIONS AS STOCK OR INDEBTEDNESS.

"(a) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as may be necessary or appropriate to determine whether an interest in a corporation is to be treated for purposes of this title as stock or indebtedness.

"(b) FACTORS.—The regulations prescribed under this section shall set forth factors which are to be taken into account in determining with respect to a particular factual situation whether a debtor-creditor relationship exists or a corporation-shareholder relationship exists. The factors so set forth in the regulations may include among other factors:

"(1) whether there is a written unconditional promise to pay on demand or on a specified date a sum certain in money in return for an adequate consideration in money or money's worth, and to pay a fixed rate of interest,

"(2) whether there is subordination to or preference over any indebtedness of the corporation,

"(3) the ratio of debt to equity of the corporation,

"(4) whether there is convertibility into the stock of the corporation, and

"(5) the relationship between holdings of stock in the corporation and holdings of the interest in question."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter C of chapter 1 is amended by striking out the last line and inserting in lieu thereof the following:

"Part VI. Treatment of certain corporate interests as stock or indebtedness.
"Part VII. Effective date of subchapter C."

Subtitle C—Stock Dividends

SEC. 421. STOCK DIVIDENDS.

(a) IN GENERAL.—Section 305 (relating to distributions of stock and stock rights) is amended to read as follows:

"SEC. 305. DISTRIBUTIONS OF STOCK AND STOCK RIGHTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income does not include the amount of any distribution of the stock

of a corporation made by such corporation to its shareholders with respect to its stock.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to a distribution by a corporation of its stock, and the distribution shall be treated as a distribution of property to which section 301 applies—

"(1) DISTRIBUTIONS IN LIEU OF MONEY.—If the distribution is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either—

"(A) in its stock, or

"(B) in property.

"(2) DISPROPORTIONATE DISTRIBUTIONS.—If the distribution (or a series of distributions of which such distribution is one) has the result of—

"(A) the receipt of property by some shareholders, and

"(B) an increase in the proportionate interests of other shareholders in the assets or earnings and profits of the corporation.

"(3) DISTRIBUTIONS OF COMMON AND PREFERRED STOCK.—If the distribution (or a series of distributions of which such distribution is one) has the result of—

"(A) the receipt of preferred stock by some common shareholders, and

"(B) the receipt of common stock by other common shareholders.

"(4) DISTRIBUTIONS ON PREFERRED STOCK.—If the distribution is with respect to preferred stock, other than an increase in the conversion ratio of convertible preferred stock made solely to take account of a stock dividend or stock split with respect to the stock into which such convertible stock is convertible.

"(5) DISTRIBUTIONS OF CONVERTIBLE PREFERRED STOCK.—If the distribution is of convertible preferred stock, unless it is established to the satisfaction of the Secretary or his delegate that such distribution will not have the result described in paragraph (2).

"(c) CERTAIN TRANSACTIONS TREATED AS DISTRIBUTIONS.—For purposes of this section and section 301, the Secretary or his delegate shall prescribe regulations under which a change in conversion ratio, a change in redemption price, a difference between redemption price and issue price, a redemption which is treated as a distribution to which section 301 applies, or any transaction (including a recapitalization) having a similar effect on the interest of any shareholder shall be treated as a distribution with respect to any shareholder whose proportionate interest in the earnings and profits or assets of the corporation is increased by such change, difference, redemption, or similar transaction.

"(d) DEFINITIONS.—

"(1) RIGHTS TO ACQUIRE STOCK.—For purposes of this section, the term 'stock' includes rights to acquire such stock.

"(2) SHAREHOLDERS.—For purposes of subsections (b) and (c), the term 'shareholder' includes a holder of rights or of convertible securities.

"(e) CROSS REFERENCES.—

"For special rules—

"(1) Relating to the receipt of stock and stock rights in corporate organizations and reorganizations, see part III (sec. 351 and following).

"(2) In the case of a distribution which results in a gift, see section 2501 and following.

"(3) In the case of a distribution which has the effect of the payment of compensation, see section 61(a)(1)."

(b) *EFFECTIVE DATES.*—

(1) Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply with respect to distributions (or deemed distributions) made after January 10, 1969, in taxable years ending after such date.

(2)(A) Section 305(b)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to a distribution (or deemed distribution) of stock made before January 1, 1991, with respect to stock (i) outstanding on January 10, 1969, (ii) issued pursuant to a contract binding on January 10, 1969, on the distributing corporation, (iii) which is additional stock of that class of stock which (as of January 10, 1969) had the largest fair market value of all classes of stock of the corporation (taking into account only stock outstanding on January 10, 1969, or issued pursuant to a contract binding on January 10, 1969), (iv) described in subparagraph (C)(iii), or (v) issued in a prior distribution described in clause (i), (ii), (iii), or (iv).

(B) Subparagraph (A) shall apply only if—

(i) the stock as to which there is a receipt of property was outstanding on January 10, 1969 (or was issued pursuant to a contract binding on January 10, 1969, on the distributing corporation), and

(ii) if such stock and any stock described in subparagraph (A)(i) were also outstanding on January 10, 1968, a distribution of property was made on or before January 10, 1969, with respect to such stock, and a distribution of stock was made on or before January 10, 1969, with respect to such stock described in subparagraph (A)(i).

(C) Subparagraph (A) shall cease to apply when at any time after October 9, 1969, the distributing corporation issues any of its stock (other than in a distribution of stock with respect to stock of the same class) which is not—

(i) nonconvertible preferred stock,

(ii) additional stock of that class of stock which meets the requirements of subparagraph (A)(iii), or

(iii) preferred stock which is convertible into stock which meets the requirements of subparagraph (A)(iii) at a fixed conversion ratio which takes account of all stock dividends and stock splits with respect to the stock into which such convertible stock is convertible.

(D) For purposes of this paragraph, the term "stock" includes rights to acquire such stock.

(3) In cases to which Treasury Decision 6990 (promulgated January 10, 1969) would not have applied, in applying paragraphs (1) and (2) April 22, 1969, shall be substituted for January 10, 1969.

(4) Section 305(b)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any distribution (or deemed distribution) with respect to preferred stock (including any increase in the conversion ratio of convertible stock) made before January 1, 1991, pursuant to the terms relating to the issuance of such stock which were in effect on January 10, 1969.

(5) With respect to distributions made or considered as made after January 10, 1969, in taxable years ending after such date, to the extent that the amendment made by subsection (a) does not apply by reason of paragraph (2), (3), or (4) of this subsection, section 305 of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a)) shall continue to apply.

Subtitle D—Financial Institutions

SEC. 431. RESERVE FOR LOSSES ON LOANS; NET OPERATING LOSS CARRYBACKS.

(a) BAD DEBT DEDUCTIONS OF FINANCIAL INSTITUTIONS.—Part I of subchapter H of chapter 1 (relating to rules of general application to banking institutions) is amended by adding at the end thereof the following new sections:

"SEC. 585. RESERVES FOR LOSSES ON LOANS OF BANKS.

"(a) INSTITUTIONS TO WHICH SECTION APPLIES.—This section shall apply to the following financial institutions:

"(1) any bank (as defined in section 581) other than an organization to which section 593 applies, and

"(2) any corporation to which paragraph (1) would apply except for the fact that it is a foreign corporation, and in the case of any such foreign corporation this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—

"(1) GENERAL RULE.—For purposes of section 166(c), the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the greater of—

"(A) for taxable years beginning before 1988 the addition to the reserve for losses on loans determined under the percentage method as provided in paragraph (2), or

"(B) the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (3).

"(2) PERCENTAGE METHOD.—The amount determined under this paragraph for a taxable year shall be the amount necessary to increase the balance of the reserve for losses on loans (at the close of the taxable year) to the allowable percentage of eligible loans outstanding at such time, except that—

"(A) If the reserve for losses on loans at the close of the base year is less than the allowable percentage of eligible loans outstanding at such time, the amount determined under this paragraph with respect to the difference shall not exceed one-fifth of such difference.

"(B) If the reserve for losses on loans at the close of the base year is not less than the allowable percentage of eligible loans outstanding at such time, the amount determined under this paragraph shall be the amount necessary to increase the balance of the reserve at the close of the taxable year to (i) the allowable percentage of eligible loans outstanding at such time, or (ii) the balance of the reserve at the close of the base year, whichever is greater,

but if the amount of eligible loans outstanding at the close of the taxable year is less than the amount of such loans outstanding at the close of the base year, the amount determined under clause (ii) shall be the amount necessary to increase the balance of the reserve at the close of the taxable year to the amount which bears the same ratio to eligible loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of eligible loans outstanding at the close of the base year.

For purposes of this paragraph, the term 'allowable percentage' means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; and 0.6 percent for taxable years beginning after 1981. The amount determined under this paragraph shall not exceed 0.6 percent of eligible loans outstanding at the close of the taxable year or an amount sufficient to increase the reserve for losses on loans to 0.6 percent of eligible loans outstanding at the close of the taxable year, whichever is greater. For purposes of this paragraph, the term 'base year' means: for taxable years beginning before 1976, the last taxable year beginning on or before July 11, 1969, for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976, and for taxable years beginning after 1981, the last taxable year beginning before 1982; except that for purposes of subparagraph (A) such term means the last taxable year before the most recent adoption of the percentage method, if later.

"(3) EXPERIENCE METHOD.—The amount determined under this paragraph for a taxable year shall be the amount necessary to increase the balance of the reserve for losses on loans (at the close of the taxable year) to the greater of—

"(A) the amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

"(B) the lower of—

"(i) the balance of the reserve at the close of the base year, or

"(ii) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this paragraph, the base year shall be the last taxable year before the most recent adoption of the experience method, except that for taxable years beginning after 1987 the base year shall be the last taxable year beginning before 1988.

"(4) REGULATIONS; DEFINITION OF ELIGIBLE LOAN, ETC.—The Secretary or his delegate shall define the terms 'loan' and 'eligible loan' and prescribe such regulations as may be necessary to carry out the purposes of this section; except that the term 'eligible loan' shall not include—

"(A) a loan to a bank (as defined in section 581),

"(B) a loan to a domestic branch of a foreign corporation to which subsection (a)(2) applies,

"(C) a loan secured by a deposit (i) in the lending bank, or (ii) in an institution described in subparagraph (A) or (B) if the lending bank has control over withdrawal of such deposit,

"(D) a loan to or guaranteed by the United States, a possession or instrumentality thereof, or a State or a political subdivision thereof,

"(E) a loan evidenced by a security as defined in section 165(g)(2)(C),

"(F) a loan of Federal funds, and

"(G) commercial paper, including short-term promissory notes which may be purchased on the open market.

"SEC. 586. RESERVES FOR LOSSES ON LOANS OF SMALL BUSINESS INVESTMENT COMPANIES, ETC.

"(a) INSTITUTIONS TO WHICH SECTION APPLIES.—This section shall apply to the following financial institutions:

"(1) any small business investment company operating under the Small Business Investment Act of 1958, and

"(2) any business development corporation.

For purposes of this section, the term 'business development corporation' means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks (as defined in section 581) within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—

"(1) GENERAL RULE.—For purposes of section 166(c), except as provided in paragraph (2) the reasonable addition to the reserve for bad debts of any financial institution to which this section applies shall be an amount determined by the taxpayer which shall not exceed the amount necessary to increase the balance of the reserve for bad debts (at the close of the taxable year) to the greater of—

"(A) the amount which bears the same ratio to loans outstanding at the close of the taxable year as (i) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Secretary or his delegate, a shorter period), adjusted for recoveries of bad debts during such period, bears to (ii) the sum of the loans outstanding at the close of such 6 or fewer taxable years, or

"(B) the lower of—

"(i) the balance of the reserve at the close of the base year, or

"(ii) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve at the close of the base year bears to the amount of loans outstanding at the close of the base year.

For purposes of this subparagraph, the term 'base year' means the last taxable year beginning on or before July 11, 1969.

"(2) NEW FINANCIAL INSTITUTIONS.—In the case of any taxable year beginning not more than 10 years after the day before the first day on which a financial institution (or any predecessor) was authorized to do business as a financial institution described in subsection (a), the reasonable addition to the reserve for bad debts of such financial institution shall not exceed the larger of the amount determined under paragraph (1) or the amount necessary to increase the balance of the reserve for bad debts at the close of the taxable year to the amount which bears the same ratio (as determined by the Secretary or his delegate) to loans outstanding at the close of the taxable year as (i) the total bad debts sustained by all institutions described in the applicable paragraph of subsection (a) during the 6 preceding taxable years (adjusted for recoveries of bad debts during such period), bears to (ii) the sum of the loans by all such institutions outstanding at the close of such taxable years."

(b) 10-YEAR NET OPERATING LOSS CARRYBACK.—Section 172(b)(1) (relating to net operating loss deduction) is amended by striking out in subparagraph (A)(i) thereof "and (E)" and inserting in lieu thereof (E), (F), and (G)", and by adding at the end thereof the following new subparagraphs:

"(F) In the case of a financial institution to which section 585, 586, or 593 applies, a net operating loss for any taxable year beginning after December 31, 1975, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

"(G) In the case of a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)), a net operating loss for any taxable year beginning after December 31, 1969, shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss."

(c) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (h) of section 166 (relating to bad debts) is amended by adding at the end thereof the following new paragraph:

"(4) For special rule for bad debt reserves of banks, small business investment companies, etc., see sections 585 and 586."

(2) The table of sections for part I of subchapter H of chapter 1 is amended—

(A) by striking out:

"Sec. 582. Bad debt and loss deduction with respect to securities held by banks."

and inserting in lieu thereof:

"Sec. 582. Bad debts, losses, and gains with respect to securities held by financial institutions."

(B) by adding at the end thereof the following:

"Sec. 585. Reserves for losses on loans of banks.
"Sec. 586. Reserves for losses on loans of small business investment companies, etc."

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after July 11, 1969.

SEC. 432. MUTUAL SAVINGS BANKS, ETC.

(a) RESERVE FOR LOSSES ON LOANS.—Section 593(b) (relating to addition to reserves for bad debts) is amended—

(1) by striking out subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(A) the amount determined to be a reasonable addition to the reserve for losses on nonqualifying loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(3), plus".

(2) by striking out paragraphs (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(2) PERCENTAGE OF TAXABLE INCOME METHOD.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the amount determined under this paragraph for the taxable year shall be an amount equal to the applicable percentage of the taxable income for such year (determined under the following table):

"For a taxable year beginning in—	The applicable percentage under this paragraph shall be—
1969	60 percent.
1970	57 percent.
1971	54 percent.
1972	51 percent.
1973	49 percent
1974	47 percent
1975	45 percent
1976	43 percent
1977	42 percent
1978	41 percent
1979 or thereafter	40 percent

"(B) REDUCTION OF APPLICABLE PERCENTAGE IN CERTAIN CASES.—If, for the taxable year, the percentage of the assets of a taxpayer described in subsection (a), which are assets described in section 7701(a)(19)(C), is less than—

"(i) 82 percent of the total assets in the case of a taxpayer other than a mutual savings bank, the applicable percentage for such year provided by subparagraph (A) shall be reduced by ¾ of 1 percentage point for each 1 percentage point of such difference, or

"(ii) 72 percent of the total assets in the case of a mutual savings bank, the applicable percentage for such year provided by subparagraph (A) shall be reduced by 1½ percentage points for each 1 percentage point of such difference.

If, for the taxable year, the percentage of the assets of such taxpayer which are assets described in section 7701(a)(19)(C) is less than 60 percent (50 percent for a taxable year beginning before 1973 in the case of a mutual savings bank), this paragraph shall not apply.

"(C) REDUCTION FOR AMOUNTS REFERRED TO IN PARAGRAPH (1)(A).—The amount determined under subparagraph (A) shall be reduced by that portion of the amount referred to in paragraph (1)(A) for the taxable year (not in excess of 100

percent) which bears the same ratio to such amount as (i) 18 percent (28 percent in the case of mutual savings banks) bears to (ii) the percentage of the assets of the taxpayer for such year which are not assets described in section 7701(a)(19)(C).

"(D) OVERALL LIMITATION ON PARAGRAPH.—The amount determined under this paragraph shall not exceed the amount necessary to increase the balance at the close of the taxable year of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time.

"(E) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed—

"(i) by excluding from gross income any amount included therein by reason of subsection (f),

"(ii) without regard to any deduction allowable for any addition to the reserve for bad debts,

"(iii) by excluding from gross income an amount equal to the net gain for the taxable year arising from the sale or exchange of stock of a corporation or of obligations the interest on which is excludable from gross income under section 103,

"(iv) by excluding from gross income an amount equal to the lesser of ⅜ of the net long-term capital gain for the taxable year or ⅜ of the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii), and

"(v) by excluding from gross income dividends with respect to which a deduction is allowable by part VIII of subchapter B, reduced by an amount equal to the applicable percentage (determined under subparagraphs (A) and (B)) of the dividends received deduction (determined without regard to section 596) for the taxable year.

"(3) PERCENTAGE METHOD.—The amount determined under this paragraph to be a reasonable addition to the reserve for losses on qualifying real property loans shall be computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(2), reduced by the amount referred to in paragraph (1)(A) for the taxable year.

"(4) EXPERIENCE METHOD.—The amount determined under this paragraph for the taxable year shall be computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(3).

"(5) DETERMINATION OF RESERVE FOR PERCENTAGE METHOD.—For purposes of paragraph (3), the amount deemed to be the balance of the reserve for losses on loans at the beginning of the taxable year shall be the total of the balances at such time of the reserve for losses on nonqualifying loans, the reserve for losses on qualifying real property loans, and the supplemental reserve for losses on loans."

(b) CERTAIN CORPORATE ACQUISITIONS.—Section 593(f)(1) (relating to distributions to shareholders) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies."

(c) INVESTMENT STANDARDS.—Section 7701(a)(19) (defining domestic building and loan association) is amended to read as follows:

"(19) DOMESTIC BUILDING AND LOAN ASSOCIATION.—The term 'domestic building and loan association' means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

"(A) which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

"(B) the business of which consists principally of acquiring the savings of the public and investing in loans; and

"(C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of—

"(i) cash,

"(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

"(iii) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

"(iv) loans secured by a deposit or share of a member,

"(v) loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

"(vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

"(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

"(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

"(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary or his delegate, and

"(x) property used by the association in the conduct of the business described in subparagraph (B).

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary or his delegate. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential reat property loan if the planned residential use exceeds 80 percenl of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary or his delegate, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property."

(d) CONFORMING AMENDMENTS.—Section 7701(a)(32) (defining cooperative bank) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).", and

(2) by striking out the third sentence thereof.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective for taxable years beginning after July 11, 1969.

SEC. 433. TREATMENT OF BONDS, ETC., HELD BY FINANCIAL INSTITUTIONS.

(a) GAIN ON SECURITIES HELD BY FINANCIAL INSTITUTIONS.—Subsection (c) of section 582 (relating to bad debt and loss deduction with respect to securities held by banks) is amended by striking out such subsection and inserting the following in lieu thereof:

"(c) BOND, ETC., LOSSES AND GAINS OF FINANCIAL INSTITUTIONS.—

"(1) GENERAL RULE.—For purposes of this subtitle, in the case of a financial institution to which section 585, 586, or 593 applies, the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be considered a sale or exchange of a capital asset.

"(2) TRANSITIONAL RULE FOR BANKS.—In the case of a bank, if the net long-term capital gains of the taxable year from sales or exchanges of qualifying securities exceed the net short-term capital losses of the taxable year from such sales or exchanges, such excess shall be considered as gain from the sale of a capital asset held for

more than 6 months to the extent it does not exceed the net gain on sales and exchanges described in paragraph (1).

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) The term 'qualifying security' means a bond, debenture, note, or certificate or other evidence of indebtedness held by a bank on July 11, 1969.

"(B) The amount treated as capital gain or loss from the sale or exchange of a qualifying security shall be determined by multiplying the amount of capital gain or loss from the sale or exchange of such security (determined without regard to this subsection) by a fraction, the numerator of which is the number of days before July 12, 1969, that such security was held by the bank, and the denominator of which is the number of days the security was held by the bank."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 1243 (relating to loss of a small business investment company) is amended to read as follows:

"(1) a loss is on stock received pursuant to the conversion privilege of convertible debentures acquired pursuant to section 304 of the Small Business Investment Act of 1958, and".

(c) CLERICAL AMENDMENT.—The heading for section 582 is amended to read as follows:

"SEC. 582. BAD DEBTS, LOSSES, AND GAINS WITH RESPECT TO SECURITIES HELD BY FINANCIAL INSTITUTIONS."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after July 11, 1969.

(2) ELECTION FOR SMALL BUSINESS INVESTMENT COMPANIES AND BUSINESS DEVELOPMENT CORPORATIONS.—Notwithstanding paragraph (1), in the case of a financial institution described in section 586(a) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply for its taxable years beginning after July 11, 1969, and before July 11, 1974, unless the taxpayer so elects at such time and in such manner as shall be prescribed by the Secretary of the Treasury or his delegate. Such election shall be irrevocable and shall apply to all such taxable years.

SEC. 434. LIMITATION ON DEDUCTION FOR DIVIDENDS RECEIVED BY MUTUAL SAVINGS BANKS, ETC.

(a) SPECIAL LIMITATION.—Part II of subchapter H of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 596. LIMITATION ON DIVIDENDS RECEIVED DEDUCTION.

"In the case of an organization to which section 593 applies and which computes additions to the reserve for losses on loans for the taxable year under section 593(b)(2), the total amount allowed under sections 243, 244, and 245 (determined without regard to this section) for the taxable year as a deduction with respect to dividends received shall be reduced by an amount equal to the applicable percentage for such year (determined under subparagraphs (A) and (B) of section 593(b)(2)) of such total amount."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Section 246 (relating to rules applying to deductions for dividends received) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For special rule relating to mutual savings banks, etc., to which section 593 applies, see section 596."

(2) The table of sections for part II of subchapter H of chapter 1 is amended by adding at the end thereof:

"Sec. 596. Limitation on dividends received deduction."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 11, 1969.

SEC. 435. FOREIGN DEPOSITS IN UNITED STATES BANKS.

(a) INCOME FROM SOURCES WITHIN THE UNITED STATES.—

(1) Effective with respect to amounts paid or credited after December 31, 1969, subparagraphs (C) and (D) of section 861(a)(1) (relating to interest) are each amended by striking out "after December 31, 1972,".

(2) Section 861(c) (relating to interest on deposits, etc.) is amended by striking out "1972" and inserting in lieu thereof "1975".

(b) PROPERTY WITHIN THE UNITED STATES.—The second sentence of section 2104(c) (relating to debt obligations) is amended by striking out "December 31, 1972" and inserting in lieu thereof "December 31, 1969"

Subtitle E—Depreciation Allowed Regulated Industries; Earnings and Profits Adjustment for Depreciation

SEC. 441. PUBLIC UTILITY PROPERTY.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by inserting after subsection (k) (added by section 521) the following new subsection:

"(l) REASONABLE ALLOWANCE IN CASE OF PROPERTY OF CERTAIN UTILITIES.—

"(1) PRE-1970 PUBLIC UTILITY PROPERTY.—

"(A) IN GENERAL.—In the case of any pre-1970 public utility property, the term 'reasonable allowance' as used in subsection (a) means an allowance computed under—

"(i) a subsection (l) method, or

"(ii) the applicable 1968 method for such property.

Except as provided in subparagraph (B), clause (ii) shall apply only if the taxpayer uses a normalization method of accounting.

"(B) FLOW-THROUGH METHOD OF ACCOUNTING IN CERTAIN CASES.—In the case of any pre-1970 public utility property, the taxpayer may use the applicable 1968 method for such property if—

"(i) the taxpayer used a flow-through method of accounting for such property for its July 1969 accounting period, or

"(ii) the first accounting period with respect to such property is after the July 1969 accounting period, and the taxpayer used a flow-through method of accounting for its July 1969 accounting period for the property on the basis of which the applicable 1968 method for the property in question is established.

"(2) POST-1969 PUBLIC UTILITY PROPERTY.—In the case of any post-1969 public utility property, the term 'reasonable allowance' as used in subsection (a) means an allowance computed under—

"(A) a subsection (l) method,

"(B) a method otherwise allowable under this section if the taxpayer uses a normalization method of accounting, or

"(C) the applicable 1968 method, if, with respect to its pre-1970 public utility property of the same (or similar) kind most recently placed in service, the taxpayer used a flow-through method of accounting for its July 1969 accounting period.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PUBLIC UTILITY PROPERTY.—The term 'public utility property' means property used predominantly in the trade or business of the furnishing or sale of—

"(i) electrical energy, water, or sewage disposal services,

"(ii) gas or steam through a local distribution system,

"(iii) telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

"(iv) transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

"(B) PRE-1970 PUBLIC UTILITY PROPERTY.—The term 'pre-1970 public utility property' means property which was public utility property in the hands of any person at any time before January 1, 1970.

"(C) POST-1969 PUBLIC UTILITY PROPERTY.—The term 'post-1969 public utility property' means any public utility property which is not pre-1970 public utility property.

"(D) APPLICABLE 1968 METHOD.—The term 'applicable 1968 method' means, with respect to any public utility property—

"(i) the method of depreciation used on a return with respect to such property for the latest taxable year for which a return was filed before August 1, 1969,

"(ii) if clause (i) does not apply, the method used by the taxpayer on a return for the latest taxable year for which a return was filed before August 1, 1969, with respect to its public utility property of the same kind (or if there is no property of the same kind, property of the most similar kind) most recently placed in service, or

"(iii) if neither clause (i) nor (ii) applies, a subsection (l) method.

In the case of any section 1250 property to which subsection (j) applies, the term 'applicable 1968 method' means the method permitted under subsection (j) which is most nearly comparable to the applicable 1968 method determined under the preceding sentence.

"(E) APPLICABLE 1968 METHOD IN CERTAIN CASES.—If the taxpayer evidenced the intent to use a method of depreciation (other than its applicable 1968 method or a subsection (l) method) with respect to any public utility property in a timely application for change of accounting method filed before August 1, 1969, or in the computation of its tax expense for purposes of reflecting operating results in its regulated books of account for its July 1969 accounting period, such other method shall be deemed to be its applicable 1968 method with respect to such property and public utility property of the same (or similar) kind subsequently placed in service.

"(F) SUBSECTION (l) METHOD.—The term 'subsection (l) method' means any method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), other than (i) a declining balance method, (ii) the sum of the years-digits method, or (iii) any other method allowable solely by reason of the application of subsection (b) (4) or (j)(1)(C).

"(G) NORMALIZATION METHOD OF ACCOUNTING.—In order to use a normalization method of accounting with respect to any public utility property—

"(i) the taxpayer must use the same method of depreciation to compute both its tax expense and its depreciation expense for purposes of establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account, and

"(ii) if, to compute its allowance for depreciation under this section, it uses a method of depreciation other than the method it used for the purposes described in clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from the use of such different methods of depreciation.

"(H) FLOW-THROUGH METHOD OF ACCOUNTING.—The taxpayer used a 'flow-through method of accounting' with respect to any public utility property if it used the same method of depreciation (other than a subsection (l) method) to compute its allowance for depreciation under this section and to compute its tax expense for purposes of reflecting operating results in its regulated books of account.

"(I) JULY 1969 ACCOUNTING PERIOD.—The term 'July 1969 accounting period' means the taxpayer's latest accounting period ending before August 1, 1969, for which it computed its tax expense for purposes of reflecting operating results in its regulated books of account.

For purposes of this paragraph, different declining balance rates shall be treated as different methods of depreciation.

"(4) SPECIAL RULES AS TO FLOW-THROUGH METHOD.—

"(A) ELECTION AS TO NEW PROPERTY REPRESENTING GROWTH IN CAPACITY.—If the taxpayer makes an election under this subparagraph within 180 days after the date of the enact-

ment of this subparagraph in the manner prescribed by the Secretary or his delegate, in the case of taxable years beginning after December 31, 1970, paragraph (2)(C) shall not apply with respect to any post-1969 public utility property, to the extent that such property constitutes property which increases the productive or operational capacity of the taxpayer with respect to the goods or services described in paragraph (3)(A) and does not represent the replacement of existing capacity.

"(B) CERTAIN PENDING APPLICATIONS FOR CHANGES IN METHOD.—In applying paragraph (1)(B), the taxpayer shall be deemed to have used a flow-through method of accounting for its July 1969 accounting period with respect to any pre-1970 public utility property for which it filed a timely application for change of accounting method before August 1, 1969, if with respect to public utility property of the same (or similar) kind most recently placed in service, it used a flow-through method of accounting for its July 1969 accounting period.

"(5) REORGANIZATIONS, ASSETS ACQUISITIONS, ETC.—If by reason of a corporate reorganization, by reason of any other acquisition of the assets of one taxpayer by another taxpayer, by reason of the fact that any trade or business of the taxpayer is subject to ratemaking by more than one body, or by reason of other circumstances, the application of any provisions of this subsection to any public utility property does not carry out the purposes of this subsection, the Secretary or his delegate shall provide by regulations for the application of such provisions in a manner consistent with the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to all taxable years for which a return has not been filed before August 1, 1969.

SEC. 442. EFFECT ON EARNINGS AND PROFITS.

(a) IN GENERAL.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

"(m) EFFECT OF DEPRECIATION ON EARNINGS AND PROFITS.—

"(1) GENERAL RULE.—For purposes of computing the earnings and profits of a corporation for any taxable year beginning after June 30, 1972, the allowance for depreciation (and amortization, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for each taxable year beginning after June 30, 1972.

"(2) EXCEPTION.—If for any taxable year beginning after June 30, 1972, a method of depreciation was used by the taxpayer which the Secretary or his delegate has determined results in a reasonable allowance under section 167(a), and which is not—

"(A) a declining balance method,

"(B) the sum of the years-digits method, or

"(C) any other method allowable solely by reason of the application of subsection (b)(4) or (j)(1)(C) of section 167,

then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of under the straight line method).

"(3) CERTAIN FOREIGN CORPORATIONS.—The provisions of paragraph (1) shall not apply in computing the earnings and profits of a foreign corporation for any taxable year for which less than

20 percent of the gross income from all sources of such corporation is derived from sources within the United States."

(*b*) CONFORMING AMENDMENTS.—

(1) Section 964(a) (relating to earnings and profits of a foreign corporation) is amended by striking out "For purposes of this subpart," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this subpart".

(2) Section 1248(c)(1) (relating to general rule for determination of the earnings and profits of a foreign corporation) is amended by striking out "For purposes of this section," and inserting in lieu thereof "Except as provided in section 312(m)(3), for purposes of this section".

TITLE V—ADJUSTMENTS AFFECTING INDIVIDUALS AND CORPORATIONS

Subtitle A—Natural Resources

SEC. 501. PERCENTAGE DEPLETION RATES.

(a) CHANGE IN CERTAIN PERCENTAGE DEPLETION RATES.—Subsection (b) of section 613 (relating to percentage depletion) is amended to read as follows:

"(b) PERCENTAGE DEPLETION RATES.—The mines, wells, and other natural deposits, and the percentages, referred to in subsection (a) are as follows:

"(1) 22 PERCENT—

"(A) oil and gas wells;

"(B) sulphur and uranium; and

"(C) if from deposits in the United States—anorthosite, clay, laterite, and nephelite syenite (to the extent that alumina and aluminum compounds are extracted therefrom), asbestos, bauxite, celestite, chromite, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, quartz crystals (radio grade), rutile, block steatite talc, and zircon, and ores of the following metals: antimony, beryllium, bismuth, cadmium, cobalt, columbium, lead, lithium, manganese, mercury, molybdenum, nickel, platinum and platinum group metals, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc.

"(2) 15 PERCENT—if from deposits in the United States—

"(A) gold, silver, copper, and iron ore, and

"(B) oil shale (except shale described in paragraph (5)).

"(3) 14 PERCENT—

"(A) metal mines (if paragraph (1)(C) or (2)(A) does not apply), rock asphalt, and vermiculite; and

"(B) if paragraph (1)(C), (5), or (6)(B) does not apply, ball clay, bentonite, china clay, sagger clay, and clay used or sold for use for purposes dependent on its refractory properties.

"(4) 10 PERCENT—asbestos (if paragraph (1)(C) does not apply), brucite, coal, lignite, perlite, sodium chloride, and wollastonite.

"(5) 7½ PERCENT—clay and shale used or sold for use in the manufacture of sewer pipe or brick, and clay, shale, and slate used or sold for use as sintered or burned lightweight aggregates.

"(6) 5 PERCENT—

"(A) gravel, peat, pumice, sand, scoria, shale (except shale described in paragraph (2)(B) or (5)), and stone (except stone described in paragraph (7));

"(B) clay used, or sold for use, in the manufacture of drainage and roofing tile, flower pots, and kindred products; and

"(C) *if from brine wells—bromine, calcium chloride, and magnesium chloride.*

"(7) *14 PERCENT—all other minerals, including, but not limited to, aplite, barite, borax, calcium carbonates, diatomaceous earth, dolomite, feldspar, fullers earth, garnet, gilsonite, granite, limestone, magnesite, magnesium carbonates, marble, mollusk shells (including clam shells and oyster shells), phosphate rock, potash, quartzite, slate, soapstone, stone (used or sold for use by the mine owner or operator as dimension stone or ornamental stone), thenardite, tripoli, trona, and (if paragraph (1)(C) does not apply) bauxite, flake graphite, fluorspar, lepidolite, mica, spodumene, and talc (including pyrophyllite), except that, unless sold on bid in direct competition with a bona fide bid to sell a mineral listed in paragraph (3), the percentage shall be 5 percent for any such other mineral (other than slate to which paragraph (5) applies) when used, or sold for use, by the mine owner or operator as rip rap, ballast, road material, rubble, concrete aggregates, or for similar purposes. For purposes of this paragraph, the term 'all other minerals' does not include—*

"(A) *soil, sod, dirt, turf, water, or mosses; or*

"(B) *minerals from sea water, the air, or similar inexhaustible sources.*

For purposes of this subsection, minerals (other than sodium chloride) extracted from brines pumped from a saline perennial lake within the United States shall not be considered minerals from an inexhaustible source."

(b) EFFECTIVE DATE.—*The amendment made by subsection (a) shall apply to taxable years beginning after October 9, 1969.*

SEC. 502. TREATMENT PROCESSES IN THE CASE OF OIL SHALE.

(a) IN GENERAL.—*Section 613(c)(4) (relating to treatment processes considered as mining) is amended by striking out "and" at the end of subparagraph (G), by redesignating subparagraph (H) as subparagraph (I), and by inserting after subparagraph (G) the following new subparagraph:*

"(H) *in the case of oil shale—extraction from the ground, crushing, loading into the retort, and retorting, but not hydrogenation, refining, or any other process subsequent to retorting; and".*

(b) EFFECTIVE DATE.—*The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.*

SEC. 503. MINERAL PRODUCTION PAYMENTS.

(a) IN GENERAL.—*Subchapter I of chapter 1 (relating to natural resources) is amended by adding at the end thereof the following new part:*

"PART IV—MINERAL PRODUCTION PAYMENTS

"SEC. 636. INCOME TAX TREATMENT OF MINERAL PRODUCTION PAYMENTS.

"(a) CARVED-OUT PRODUCTION PAYMENT.—*A production payment carved out of mineral property shall be treated, for purposes of this subtitle,*

as if it were a mortgage loan on the property, and shall not qualify as an economic interest in the mineral property. In the case of a production payment carved out for exploration or development of a mineral property, the preceding sentence shall apply only if and to the extent gross income from the property (for purposes of section 613) would be realized, in the absence of the application of such sentence, by the person creating the production payment.

"(b) RETAINED PRODUCTION PAYMENT ON SALE OF MINERAL PROPERTY.—A production payment retained on the sale of a mineral property shall be treated, for purposes of this subtitle, as if it were a purchase money mortgage loan and shall not qualify as an economic interest in the mineral property.

"(c) RETAINED PRODUCTION PAYMENT ON LEASE OF MINERAL PROPERTY.—A production payment retained in a mineral property by the lessor in a leasing transaction shall be treated, for purposes of this subtitle, insofar as the lessee (or his successors in interest) is concerned, as if it were a bonus granted by the lessee to the lessor payable in installments. The treatment of the production payment in the hands of the lessor shall be determined without regard to the provisions of this subsection.

"(d) DEFINITION.—As used in this section, the term 'mineral property' has the meaning assigned to the term 'property' in section 614(a).

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter I of chapter 1 is amended by adding at the end thereof the following:

"Part IV. Mineral production payments."

(c) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply with respect to mineral production payments created on or after August 7, 1969, other than mineral production payments created before January 1, 1971, pursuant to a binding contract entered into before August 7, 1969.

(2) ELECTION.—At the election of the taxpayer (made at such time and in such manner as the Secretary of the Treasury or his delegate prescribes by regulations), the amendments made by this section shall apply with respect to all mineral production payments which the taxpayer carved out of mineral properties after the beginning of his last taxable year ending before August 7, 1969. No interest shall be allowed on any refund or credit of any overpayment resulting from such election for any taxable year ending before August 7, 1969.

(3) SPECIAL RULE.—With respect to a taxpayer who does not elect the treatment provided in paragraph (2) and who carves out one or more mineral production payments on or after August 7, 1969, during the taxable year which includes such date, the amendments made by this section shall apply to such production payments only to the extent the aggregate amount of such production payments exceeds the lesser of—

(A) the excess of—

(i) the aggregate amount of production payments carved out and sold by the taxpayer during the 12-month period immediately preceding his taxable year which includes August 7, 1969, over

(ii) the aggregate amount of production payments carved out before August 7, 1969, by the taxpayer during his taxable year which includes such date, or

(B) the amount necessary to increase the amount of the taxpayer's gross income, within the meaning of chapter 1 of subtitle A of the Internal Revenue Code of 1954, for the taxable year which includes August 7, 1969, to an amount equal to the amount of deductions (other than any deduction under section 172 of such Code) allowable for such year under such chapter.

The preceding sentence shall not apply for purposes of determining the amount of any deduction allowable under section 611 or the amount of foreign tax credit allowable under section 904 of such Code.

SEC. 504. EXPLORATION EXPENDITURES.

(a) AMENDMENTS TO SECTION 615.—Section 615 (relating to exploration expenditures) is amended—

(1) by striking out the heading and inserting in lieu thereof:

"SEC. 615. PRE-1970 EXPLORATION EXPENDITURES."; and

(2) by adding at the end thereof the following new subsection:

"(h) TERMINATION.—The provisions of this section shall not apply with respect to expenditures paid or incurred after December 31, 1969."

(b) AMENDMENTS TO SECTION 617.—Section 617 (relating to additional exploration expenditures in the case of domestic mining) is amended—

(1) by striking out the heading and inserting in lieu thereof:

"SEC. 617. DEDUCTION AND RECAPTURE OF CERTAIN MINING EXPLORATION EXPENDITURES.";

(2) by striking out in subsection (a)(1) "in the United States or on the Outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; 43 U.S.C. 1331)"; and

(3) by striking out subsection (h) and inserting the following in lieu thereof:

"(h) LIMITATION.—

"(1) IN GENERAL.—Subsection (a) shall apply to any amount paid or incurred after December 31, 1969, with respect to any deposit of ore or other mineral located outside the United States, only to the extent that such amount, when added to the amounts which are or have been deducted under subsection (a) and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b), or the corresponding provisions of prior law, does not exceed $400,000.

"(2) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of paragraph (1), there shall be taken into account amounts deducted and amounts treated as deferred expenses by—

"(A) the taxpayer, and

"(B) any individual or corporation who has transferred to the taxpayer any mineral property.

"(3) APPLICATION OF PARAGRAPH (2)(B).—Paragraph (2)(B) shall apply with respect to all amounts deducted and all amounts treated as deferred expenses which were paid or incurred before the latest such transfer from the individual or corporation to the taxpayer.

Paragraph (2)(B) shall apply only if—

"(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer;

"(B) the taxpayer would be entitled under section 381(c)(10) to deduct expenses deferred under section 615(b) had the distributor or transferor corporation elected to defer such expenses; or

"(C) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 373(b)(1), 1051, or 1082 apply to such transfer."

(c) CONFORMING AMENDMENTS.—

(1) Section 243(b)(3)(C)(iii) is amended by striking out "section 615(c)(1)" and inserting in lieu thereof "sections 615(c)(1) and 617(h)(1)".

(2) Paragraph (10) of section 381(c) is amended—

(A) by striking out so much as precedes the second sentence and inserting in lieu thereof:

"(10) TREATMENT OF CERTAIN MINING EXPLORATION AND DEVELOPMENT EXPENSES OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—The acquiring corporation shall be entitled to deduct, as if it were the distributor or transferor corporation, expenses deferred under sections 615 and 616 (relating to pre-1970 exploration expenditures and development expenditures, respectively) if the distributor or transferor corporation has so elected."; and

(B) by adding at the end thereof the following new sentence: "For the purpose of applying the limitation provided in section 617, if, for any taxable year, the distributor or transferor corporation was allowed the deduction in section 615(a) or section 617(a) or made the election provided in section 615(b), the acquiring corporation shall be deemed to have been allowed such deduction or deductions or to have made such election, as the case may be."

(3) Section 703(b) is amended by striking out "(relating to exploration expenditures) or under section 617 (relating to additional exploration expenditures in the case of domestic mining)" and inserting in lieu thereof "(relating to pre-1970 exploration expenditures) or under section 617 (relating to deduction and recapture of certain mining exploration expenditures)".

(4) Paragraph (10) of section 1016(a) is amended by inserting "pre-1970" after "certain".

(5) The table of sections for part I of subchapter I of chapter 1 is amended—

(A) by striking out the item relating to section 615 and inserting in lieu thereof:

"Sec. 615. Pre-1970 exploration expenditures."; and

(B) by striking out the item relating to section 617 and inserting in lieu thereof:

"Sec. 617. Deduction and recapture of certain mining exploration expenditures."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—*The amendments made by this section shall apply with respect to exploration expenditures paid or incurred after December 31, 1969.*

(2) PRESUMPTION OF ELECTION UNDER SECTION 617.—*For purposes of section 617 of the Internal Revenue Code of 1954, an election under section 615(e) of such Code, which is effective with respect to exploration expenditures paid or incurred before January 1, 1970, shall be treated as an election under section 617(a) of such Code with respect to exploration expenditures paid or incurred after December 31, 1969. The preceding sentence shall not apply to any taxpayer who notifies the Secretary of the Treasury or his delegate (at such time and in such manner as the Secretary or his delegate prescribes by regulations) that he does not desire his election under section 615(e) to be so treated.*

SEC. 505. CONTINENTAL SHELF AREAS.

(a) IN GENERAL.—*Subchapter I of chapter 1 (relating to natural resources) is amended by adding after part IV (added by section 503 of this Act) the following new part:*

"PART V—CONTINENTAL SHELF AREAS

"Sec. 638. Continental shelf areas.

"SEC. 638. CONTINENTAL SHELF AREAS.

"For purposes of applying the provisions of this chapter (including sections 861(a)(3) and 862(a)(3) in the case of the performance of personal services) with respect to mines, oil and gas wells, and other natural deposits—

"(1) the term 'United States' when used in a geographical sense includes the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States and over which the United States has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources; and

"(2) the terms 'foreign country' and 'possession of the United States' when used in a geographical sense include the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country or such possession and over which the foreign country (or the United States in case of such possession) has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources, but this paragraph shall apply in the case of a foreign country only if it exercises, directly or indirectly, taxing jurisdiction with respect to such exploration or exploitation.

No foreign country shall, by reason of the application of this section, be treated as a country contiguous to the United States."

(b) SOURCE OF INCOME FOR WITHHOLDING OF TAX.—*Section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new subsection:*

"(f) CONTINENTAL SHELF AREAS.—

"For sources of income derived from, or for services performed with respect to, the exploration or exploitation of natural resources on submarine areas adjacent to the territorial waters of the United States, see section 638."

(c) CLERICAL AMENDMENT.—The table of parts for subchapter I of chapter 1 is amended by adding at the end thereof the following new item:

"Part V. Continental shelf areas."

SEC. 506. FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN FOREIGN MINERAL INCOME.

(a) LIMITATION ON AMOUNT OF FOREIGN TAXES ALLOWED.—Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended—

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

"(e) FOREIGN TAXES ON MINERAL INCOME.—

"(1) REDUCTION IN AMOUNT ALLOWED.—Notwithstanding subsection (b), the amount of any income, war profits, and excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign mineral income from sources within such country or possession which would (but for this paragraph) be allowed under such subsection shall be reduced by the amount (if any) by which—

"(A) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under this chapter with respect to such income determined without the deduction allowed under section 613), exceeds

"(B) the amount of the tax computed under this chapter with respect to such income.

"(2) FOREIGN MINERAL INCOME DEFINED.—For purposes of paragraph (1), the term 'foreign mineral income' means income derived from the extraction of minerals from mines, wells, or other natural deposits, the processing of such minerals into their primary products, and the transportation, distribution, or sale of such minerals or primary products. Such term includes, but is not limited to—

"(A) dividends received from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902, to the extent such dividends are attributable to foreign mineral income, and

"(B) that portion of the taxpayer's distributive share of the income of partnerships attributable to foreign mineral income"

(b) ELECTION OF OVERALL LIMITATION.—Section 904(b) (relating to election of overall limitation) is amended—

(1) by striking out "with the consent of the Secretary or his delegate with respect to any taxable year" in paragraph (1) and inserting in lieu thereof "(A) with the consent of the Secretary or his delegate with respect to any taxable year or (B) for the taxpayer's first taxable year beginning after December 31, 1969", and

(2) by striking out "If a taxpayer" in paragraph (2) and inserting in lieu thereof "Except in a case to which paragraph (1)(B) applies, if the taxpayer".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1969.

Subtitle B—Capital Gains and Losses

SEC. 511. INCREASE IN ALTERNATIVE CAPITAL GAINS TAX.

(a) DEFINITION OF NET SECTION 1201 GAIN.—Section 1222 (relating to definition of terms applicable to capital gains and losses) is amended by adding at the end thereof the following new paragraph:

"(11) NET SECTION 1201 GAIN.—The term 'net section 1201 gain' means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year."

(b) INCREASE IN ALTERNATIVE TAX RATES.—Section 1201 (relating to alternative tax) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX.

"(a) CORPORATIONS.—If for any taxable year a corporation has a net section 1201 gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of a tax computed on the taxable income reduced by the amount of the net section 1201 gain, at the rates and in the manner as if this subsection had not been enacted, plus—

"(1) in the case of a taxable year beginning before January 1, 1975—

"(A) a tax of 25 percent of the lesser of—

"(i) the amount of the subsection (d) gain, or

"(ii) the amount of the net section 1201 gain,

and

"(B) a tax of 30 percent (28 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of the excess (if any) of the net section 1201 gain over the subsection (d) gain; and

"(2) in the case of a taxable year beginning after December 31, 1974, a tax of 30 percent of the net section 1201 gain.

"(b) OTHER TAXPAYERS.—If for any taxable year a taxpayer other than a corporation has a net section 1201 gain, then, in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by an amount equal to 50 percent of the net section 1201 gain, at the rates and in the manner as if this subsection had not been enacted,

"(2) a tax of 25 percent of the lesser of—

"(A) the amount of the subsection (d) gain, or

"(B) the amount of the net section 1201 gain, and

"(3) if the amount of the net section 1201 gain exceeds the amount of the subsection (d) gain, a tax computed as provided in subsection (c) on such excess.

"(c) COMPUTATION OF TAX ON CAPITAL GAIN IN EXCESS OF SUBSECTION (d) GAIN.—

"(1) IN GENERAL.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or

511 on an amount equal to the taxable income (but not less than 50 percent of the net section 1201 gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the subsection (d) gain.

"(2) LIMITATION.—Notwithstanding paragraph (1), the tax computed for purposes of subsection (b)(3) shall not exceed an amount equal to the following percentage of the excess of the net section 1201 gain over the subsection (d) gain:

"(A) 29½ percent, in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971, or

"(B) 32½ percent, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972.

"(d) SUBSECTION (d) GAIN DEFINED.—For purposes of this section, the term 'subsection (d) gain' means the sum of the long-term capital gains for the taxable year arising—

"(1) in the case of amounts received before January 1, 1975, from sales or other dispositions pursuant to binding contracts (other than any gain from a transaction described in section 631 or 1235) entered into on or before October 9, 1969, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1),

"(2) in respect of distributions from a corporation made prior to October 10, 1970, which are pursuant to a plan of complete liquidation adopted on or before October 9, 1969, and

"(3) in the case of a taxpayer other than a corporation, from any other source, but the amount taken into account from such other sources for the purposes of this paragraph shall be limited to an amount equal to the excess (if any) of $50,000 ($25,000 in the case of a married individual filing a separate return) over the sum of the gains to which paragraphs (1) and (2) apply.

"(e) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 802(a)(2);

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3) (A) and (D); and

"(3) in the case of real estate investment trusts, see section 857(b)(3) (A)."

(c) CONFORMING AMENDMENTS.—

(1) Section 802(a)(2)(B) (relating to alternative tax in case of capital gains of life insurance companies) is amended to read as follows:

"(B) an amount determined as provided in section 1201(a) on such excess."

(2) Section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders in the case of capital gains) is amended:

(A) by striking out "of 25 percent of" in subparagraph (A) and inserting in lieu thereof ", determined as provided in section 1201(a), on",

(B) by adding at the end of subparagraph (C) the following new sentence: "For purposes of subparagraph (A)(ii), the deduction for dividends paid shall, in the case of a taxable year beginning before January 1, 1975, first be made from the

amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A).",

(C) by striking out "of 25 percent" in subparagraph (D)(ii), and

(D) by amending subparagraph (D)(iii) to read as follows:

"(iii) The adjusted basis of such shares in the hands of the shareholder shall be increased, with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(B) or (2)."

(3) Section 857(b)(3) (relating to imposition of tax in the case of capital gains of real estate investment trusts) is amended:

(A) by striking out "of 25 percent of" in subparagraph (A) and inserting in lieu thereof ", determined as provided in section 1201(a), on", and

(B) by adding at the end of subparagraph (C) the following new sentence: "For purposes of subparagraph (A)(ii), in the case of a taxable year beginning before January 1, 1975, the deduction for dividends paid shall first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A)."

(4) Section 1378 (relating to tax imposed on certain capital gains of an electing small business corporation) is amended:

(A) by striking out "25 percent of" in subsection (b)(1) and inserting in lieu thereof "the tax, determined as provided in section 1201(a), on",

(B) by adding at the end of subsection (b) the following new sentence: "In applying section 1201(a)(1) (A) and (B) for purposes of paragraph (1), the $25,000 limitation shall first be deducted from the amount (determined without regard to this subsection) subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount (determined without regard to this subsection) subject to tax in accordance with section 1201(a)(1)(A).", and

(C) by striking out "25 percent of" in subsection (c)(3) and inserting in lieu thereof "a tax, determined as provided in section 1201(a), on".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1969.

SEC. 512. CAPITAL LOSSES OF CORPORATIONS.

(a) THREE-YEAR CARRYBACK OF NET CAPITAL LOSSES.—Section 1212(a)(1) (relating to capital loss carryover for corporations) is amended to read as follows:

"(1) IN GENERAL.—If a corporation has a net capital loss for any taxable year (hereinafter in this paragraph referred to as the 'loss year'), the amount thereof shall be—

"(A) a capital loss carryback to each of the 3 taxable years preceding the loss year, but only to the extent—

"(i) such loss is not attributable to a foreign expropriation capital loss, and

"(ii) the carryback of such loss does not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back; and

"(B) a capital loss carryover to each of the 5 taxable years (10 taxable years to the extent such loss is attributable to a foreign expropriation capital loss) succeeding the loss year,

and shall be treated as a short-term capital loss in each such taxable year. The entire amount of the net capital loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be the excess, if any, of such loss over the total of the net capital gains for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the net capital gain for any such prior taxable year shall be computed without regard to the net capital loss for the loss year or for any taxable year thereafter. In the case of any net capital loss which cannot be carried back in full to a preceding taxable year by reason of clause (ii) of subparagraph (A), the net capital gain for such prior taxable year shall in no case be treated as greater than the amount of such loss which can be carried back to such preceding taxable year upon the application of such clause (ii)."

(b) SPECIAL RULES.—Section 1212(a) (relating to net capital losses of corporations) is amended by adding at the end thereof the following new paragraphs:

"(3) ELECTING SMALL BUSINESS CORPORATIONS.—Paragraph (1)(A) shall not apply to the net capital loss of a corporation for any taxable year for which it is an electing small business corporation under subchapter S, and a net capital loss of a corporation (for a year for which it is not such an electing small business corporation) shall not be carried back under paragraph (1)(A) to a taxable year for which it is an electing small business corporation.

"(4) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

"(A) for which it is a foreign personal holding company (as defined in section 552);

"(B) for which it is a regulated investment company (as defined in section 851);

"(C) for which it is a real estate investment trust (as defined in section 856); or

"(D) for which an election made by it under section 1247 is applicable (relating to election by foreign investment companies to distribute income currently)."

(c) CERTAIN CORPORATE ACQUISITIONS.—Section 381(b)(3) (relating to operating rules for carryovers in certain corporate acquisitions) is amended by striking out "a net operating loss" and inserting in lieu thereof "a net operating loss or a net capital loss".

(d) TENTATIVE CARRYBACK ADJUSTMENTS.—Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(1) by striking out the first two sentences of subsection (a) and inserting in lieu thereof "A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate.", and

(2) by striking out "net operating loss or unused investment credit", wherever such term appears in subsections (a)(1), (b), and, (c), and inserting in lieu thereof "net operating loss, net capital loss, or unused investment credit".

(e) STATUTES OF LIMITATIONS AND INTEREST RELATING TO CAPITAL LOSS CARRYBACKS.—

(1) ASSESSMENT AND COLLECTION.—Section 6501 (relating to limitations on assessment and collection) is amended—

(A) by striking out "LOSS CARRYBACKS" in the heading of subsection (h) and inserting in lieu thereof "LOSS OR CAPITAL LOSS CARRYBACKS",

(B) by striking out "loss carryback" in subsection (h) and inserting in lieu thereof "loss carryback or a capital loss carryback",

(C) by striking out "operating loss which" in subsection (h) and inserting in lieu thereof "operating loss or net capital loss which",

(D) by striking out "assessed, or within 18 months" and all that follows thereafter in subsection (h) and inserting in lieu thereof "assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to the taxable year of the net operating loss) issued under section 317 of the Trade Expansion Act of 1962, if later than the date prescribed by the preceding sentence.",

(E) by striking out "loss carryback" in subsection (j) and inserting in lieu thereof "loss carryback or a capital loss carryback", and

(F) by striking out "net operating loss carryback or an investment credit carryback" in subsection (m) and inserting in lieu thereof "net operating loss carryback, a capital loss carryback, or an investment credit carryback".

(2) CREDIT OR REFUND.—Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended—

(A) by striking out "LOSS CARRYBACKS" in the heading of paragraph (2) and inserting in lieu thereof "LOSS OR CAPITAL LOSS CARRYBACKS",

(B) by striking out "loss carryback" in that part of paragraph (2)(A) which precedes clause (i) thereof and inserting in lieu thereof "loss carryback or a capital loss carryback",

(C) by striking out "operating loss which" in that part of paragraph (2)(A) which precedes clause (i) thereof and inserting in lieu thereof "operating loss or net capital loss which",

(D) by striking out "loss carryback" in the first sentence of paragraph (2)(B)(i) and inserting in lieu thereof "loss carryback or a capital loss carryback",

(E) by amending the last sentence of paragraph (2)(B)(i) to read as follows: "In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.",

(F) by striking out "loss carryback" in paragraph (2)(B)(ii) and inserting in lieu thereof "loss carryback or a capital loss carryback, as the case may be,", and

(G) by striking out "loss carryback" in paragraph (4)(A) and inserting in lieu thereof "loss carryback or a capital loss carryback".

(3) INTEREST ON UNDERPAYMENTS.—Section 6601(e) (relating to computation of interest in case of carryback or adjustment for certain unused deductions) is amended—

(A) by striking out "LOSS CARRYBACK" in the heading of paragraph (1) and inserting in lieu thereof "LOSS OR CAPITAL LOSS CARRYBACK",

(B) by striking out "net operating loss" wherever it appears in paragraph (1) and inserting in lieu thereof "net operating loss or net capital loss", and

(C) by striking out "loss carryback" in paragraph (2) and inserting in lieu thereof "loss carryback or a capital loss carryback".

(4) INTEREST ON OVERPAYMENTS.—Section 6611(f) (relating to interest in case of refund of income tax caused by carryback or adjustment for certain unused deductions) is amended—

(A) by striking out "LOSS CARRYBACK" in the heading of paragraph (1) and inserting in lieu thereof "LOSS OR CAPITAL LOSS CARRYBACK",

(B) by striking out "net operating loss" wherever it appears in paragraph (1) and inserting in lieu thereof "net operating loss or net capital loss", and

(C) by striking out "loss carryback" in paragraph (2) and inserting in lieu thereof "loss carryback or a capital loss carryback".

(f) TECHNICAL AMENDMENTS.—

(1) The heading of section 1212 is amended by striking out **"CARRYOVER"** and inserting in lieu thereof **"CARRYBACKS AND CARRYOVERS"**.

(2) The item relating to section 1212 in the table of sections for part II of subchapter P of chapter 1 is amended by striking out "carryover" and inserting in lieu thereof "carrybacks and carryovers".

(3) Section 246(b)(1) (relating to dividends received deduction) is amended by striking out "and 247" and inserting in lieu thereof "and 247, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1)."

(4) Section 481(b)(3)(A) (relating to changes in method of accounting) is amended by striking out "loss carryover" and inserting in lieu thereof "loss carryback or carryover".

(5) Section 535(b)(6) (relating to improper accumulations of surplus) is amended—

(A) by striking out "capital loss carryover" in the first sentence and inserting in lieu thereof "capital loss carryback or carryover", and

(B) by strikng out "capital loss carryover" in subparagraph (B) and inserting in lieu thereof "capital loss carryback and carryover".

(6) Paragraph (7) of section 535(b) (relating to treatment of capital loss carryovers) is amended to read as follows:

"(7) CAPITAL LOSS.—No allowance shall be made for the capital loss carryback or carryover provided in section 1212."

(7) Section 1314(a) (relating to mitigation of limitations) is amended by striking out "capital loss carryover" and inserting in lieu thereof "capital loss carryback or carryover".

(8) The last sentence of section 1314(b) (relating to method of adjustment) is amended to read as follows: "In the case of an adjustment resulting from an increase or decrease in a net operating loss or net capital loss which is carried back to the year of adjustment, interest shall not be collected or paid for any period prior to the close of the taxable year in which the net operating loss or net capital loss arises."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to net capital losses sustained in taxable years beginning after December 31, 1969.

SEC. 513. CAPITAL LOSSES OF INDIVIDUALS.

(a) LIMITATION ON ALLOWANCE OF CAPITAL LOSSES.—Section 1211 (b) (relating to limitation on capital losses of taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

"(A) the taxable income for the taxable year,

"(B) $1,000, or

"(C) the sum of—

"(i) the excess of the net short-term capital loss over the net long-term capital gain, and

"(ii) one-half of the excess of the net long-term capital loss over the net short-term capital gain.

"(2) MARRIED INDIVIDUALS.—*In the case of a husband or wife who files a separate return, the amount specified in paragraph (1)(B) shall be $500 in lieu of $1,000.*

"(3) COMPUTATION OF TAXABLE INCOME.—*For purposes of paragraph (1), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof. If the taxpayer elects to pay the optional tax imposed by section 3, 'taxable income' as used in this subsection shall read as 'adjusted gross income'.*"

(b) CAPITAL LOSS CARRYOVER.—*Section 1212(b) (relating to capital loss carryover of taxpayers other than corporations) is amended by striking out "beginning after December 31, 1963" at the beginning of paragraph (1), by striking out the last sentence of paragraph (1), and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:*

"(2) SPECIAL RULES.—

"(A) *For purposes of determining the excess referred to in paragraph (1)(A), an amount equal to the amount allowed for the taxable year under section 1211(b)(1) (A), (B), or (C) shall be treated as a short-term capital gain in such year.*

"(B) *For purposes of determining the excess referred to in paragraph (1)(B), an amount equal to the sum of—*

"(i) *the amount allowed for the taxable year under section 1211(b)(1) (A), (B), or (C), and*

"(ii) *the excess of the amount described in clause (i) over the net short-term capital loss (determined without regard to this subsection) for such year,*

shall be treated as a short-term capital gain in such year.

"(3) TRANSITIONAL RULE.—*In the case of any amount which, under paragraph (1) and section 1211(b) (as in effect for taxable years beginning before January 1, 1970), is treated as a capital loss in the first taxable year beginning after December 31, 1969, paragraph (1) and section 1211(b) (as in effect for taxable years beginning before January 1, 1970) shall apply (and paragraph (1) and section 1211(b) as in effect for taxable years beginning after December 31, 1969, shall not apply) to the extent such amount exceeds the total of any net capital gains (determined without regard to this subsection) of taxable years beginning after December 31, 1969.*"

(c) CONFORMING AMENDMENT.—*Section 1222(9) (defining net capital gain) is amended by striking out "In the case of a corporation, the" and inserting in lieu thereof "The".*

(d) EFFECTIVE DATE.—*The amendments made by this section shall apply to taxable years beginning after December 31, 1969.*

SEC. 514. LETTERS, MEMORANDUMS, ETC.

(a) TREATMENT AS PROPERTY WHICH IS NOT A CAPITAL ASSET.—*Section 1221(3) (relating to definition of capital asset) is amended to read as follows:*

"(3) *a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—*

"(A) *a taxpayer whose personal efforts created such property,*

"(B) *in the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or*

"(C) a taxpayer in whose hands the basis of such property is determined, for purposes of determining gain from a sale or exchange, in whole or part by reference to the basis of such property in the hands of a taxpayer described in subparagraph (A) or (B);".

(b) CONFORMING AMENDMENTS.—

(1) Section 341(e)(5)(A)(iv) (relating to definition of subsection (e) asset in the case of collapsible corporations) is amended to read as follows:

"(iv) property (unless included under clause (i), (ii), or (iii)) which consists of a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, or any interest in any such property, if the property was created in whole or in part by the personal efforts of, or (in the case of a letter, memorandum, or similar property) was prepared, or produced in whole or in part for, any individual who owns more than 5 percent in value of the stock of the corporation."

(2) Section 1231(b)(1)(C) (relating to definition of property used in the trade or business) is amended by inserting ", a letter or memorandum" before ", or similar property".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and other dispositions occurring after July 25, 1969.

SEC. 515. TOTAL DISTRIBUTIONS FROM QUALIFIED PENSION, ETC., PLANS.

(a) LIMITATION ON CAPITAL GAINS TREATMENT.—

(1) EMPLOYEES' TRUST.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION ON CAPITAL GAINS TREATMENT.—The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1969, only to the extent that it does not exceed the sum of—

"(A) the benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

"(B) the portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the distributee establishes does not consist of the employee's allocable share of employer contributions to the trust by which such distribution is paid.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph."

(2) EMPLOYEE ANNUITIES.—Section 403(a)(2) (relating to capital gains treatment for certain distributions under a qualified annuity plan) is amended by adding at the end thereof the following new subparagraph:

"(C) LIMITATION ON CAPITAL GAINS TREATMENT.—Subparagraph (A) shall apply to a payment paid after December 31, 1969, only to the extent it does not exceed the sum of—

"(i) the benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

"(ii) the portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the payee establishes does not consist of the employee's

allocable share of employer contributions under the plan under which the annuity contract is purchased.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph."

(b) LIMITATION ON TAX.—Section 72(n) (relating to treatment of certain distributions with respect to contributions by self-employed individuals) is amended—

(1) by striking out so much thereof as precedes paragraph (2) and inserting in lieu thereof the following:

"(n) TREATMENT OF TOTAL DISTRIBUTIONS.—

"(1) APPLICATION OF SUBSECTION.—

"(A) GENERAL RULE.—This subsection shall apply to amounts—

"(i) distributed to a distributee, in the case of an employees' trust described in section 401(a) which is exempt from tax under section 501(a), or

"(ii) paid to a payee, in the case of an annuity plan described in section 403(a),

if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of section 401(c)(1)) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that section 402(a)(2) or 403(a)(2)(A) does not apply to such amounts.

"(B) DISTRIBUTIONS TO WHICH APPLICABLE.—This subsection shall apply only to distributions or amounts paid—

"(i) on account of the employee's death,

"(ii) with respect to an individual who is an employee without regard to section 401(c)(1), on account of his separation from the service,

"(iii) with respect to an employee within the meaning of section 401(c)(1), after he has attained the age of 59½ years, or

"(iv) with respect to an employee within the meaning of section 401(c)(1), after he has become disabled (within the meaning of subsection (m)(7)).

"(C) MINIMUM PERIOD OF SERVICE.—This subsection shall apply to amounts distributed or paid to an employee from or under a plan only if he has been a participant in the plan for 5 or more taxable years prior to the taxable year in which such amounts are distributed or paid.

"(D) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in clauses (ii) and (iii) of subparagraph (A) of subsection (m)(5) (but, in the case of amounts described in clause (ii) of such subparagraph, only to the extent that subsection (m)(5) applies to such amounts).";

(2) by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR EMPLOYEES WITHOUT REGARD TO SECTION 401(c)(1).—In the case of amounts to which this subsection applies which are distributed or paid with respect to an individual who is an employee without regard to section 401(c)(1), paragraph (2) shall be applied with the following modifications:

"(A) '7 times' shall be substituted for '5 times', and '14¾ percent' shall be substituted for '20 percent'.

"(B) *Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of section 404) for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.*

"(C) *No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which section 402(a)(2) or 403(a)(2)(A) applies shall be taken into account.*

Subparagraph (B) shall not apply if the employee has not attained the age of 59½ years, unless he has died or become disabled (within the meaning of subsection (m)(7))."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) *Section 405(e) (relating to capital gains treatment not to apply to bonds distributed by trusts) is amended—*

(A) *by striking out "CAPITAL GAINS TREATMENT" in the heading and inserting in lieu thereof "CAPITAL GAINS TREATMENT AND LIMITATION OF TAX";*

(B) *by striking out "Section 402(a)(2)" and inserting in lieu thereof "Section 72(n) and section 402(a)(2)"; and*

(C) *by striking out "section" and inserting in lieu thereof "sections".*

(2) *Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of capital gain provisions) is amended—*

(A) *by striking out "PROVISIONS." in the heading and inserting in lieu thereof "PROVISIONS AND LIMITATION OF TAX."; and*

(B) *by striking out "section 402(a)(2)" and inserting in lieu thereof "section 72(n), section 402(a)(2),".*

(3) *Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of capital gain provisions) is amended—*

(A) *by striking out "PROVISIONS." in the heading and inserting in lieu thereof "PROVISIONS AND LIMITATION OF TAX."; and*

(B) *by striking out "section 402(a)(2)" and inserting in lieu thereof "section 72(n), section 402(a)(2),".*

(4) *Section 1304(b)(2) (relating to certain provisions inapplicable) is amended to read as follows:*

"(2) *section 72(n)(2) (relating to limitation of tax in case of total distribution),".*

(d) EFFECTIVE DATE.—*The amendments made by this section shall apply to taxable years ending after December 31, 1969.*

SEC. 516. OTHER CHANGES IN CAPITAL GAINS TREATMENT.

(a) SALES OF TERM INTERESTS.—*Section 1001 (relating to determination of amount of and recognition of gain or loss) is amended by adding at the end thereof the following new subsection:*

"(e) CERTAIN TERM INTERESTS.—

"(1) IN GENERAL.—*In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to*

section 1014 or 1015 (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property) shall be disregarded.

"(2) TERM INTEREST IN PROPERTY DEFINED.—For purposes of paragraph (1), the term 'term interest in property' means—

"(A) a life interest in property,

"(B) an interest in property for a term of years, or

"(C) an income interest in a trust.

"(3) EXCEPTION.—Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons."

(b) CERTAIN CASUALTY LOSSES UNDER SECTION 1231.—Section 1231(a) (relating to property used in the trade or business and involuntary conversions) is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following:

"(2) losses (including losses not compensated for by insurance or otherwise) upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of (A) property used in the trade or business or (B) capital assets held for more than 6 months shall be considered losses from a compulsory or involuntary conversion.

In the case of any involuntary conversion (subject to the provisions of this subsection but for this sentence) arising from fire, storm, shipwreck, or other casualty, or from theft, of any property used in the trade or business or of any capital asset held for more than 6 months, this subsection shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions."

(c) TRANSFERS OF FRANCHISES, TRADEMARKS AND TRADE NAMES.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1252 (added by section 214 of this Act) the following new section:

"SEC. 1253. TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

"(a) GENERAL RULE.—A transfer of a franchise, trademark, or trade name shall not be treated as a sale or exchange of a capital asset if the transferor retains any significant power, right, or continuing interest with respect to the subject matter of the franchise, trademark, or trade name.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FRANCHISE.—The term 'franchise' includes an agreement which gives one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.

"(2) SIGNIFICANT POWER, RIGHT, OR CONTINUING INTEREST.—The term 'significant power, right, or continuing interest' includes, but is not limited to, the following rights with respect to the interest transferred:

"(A) A right to disapprove any assignment of such interest, or any part thereof.

"(B) A right to terminate at will.

"(C) A right to prescribe the standards of quality of products used or sold, or of services furnished, and of the equipment and facilities used to promote such products or services.

"(D) A right to require that the transferee sell or advertise only products or services of the transferor.

"(E) *A right to require that the transferee purchase substantially all of his supplies and equipment from the transferor.*

"(F) *A right to payments contingent on the productivity, use, or disposition of the subject matter of the interest transferred, if such payments constitute a substantial element under the transfer agreement.*

"(3) TRANSFER.—*The term 'transfer' includes the renewal of a franchise, trademark, or trade name.*

"(c) TREATMENT OF CONTINGENT PAYMENTS BY TRANSFEROR.—*Amounts received or accrued on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name which are contingent on the productivity, use, or disposition of the franchise, trademark, or trade name transferred shall be treated as amounts received or accrued from the sale or other disposition of property which is not a capital asset.*

"(d) TREATMENT OF PAYMENTS BY TRANSFEREE.—

"(1) CONTINGENT PAYMENTS.—*Amounts paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name which are contingent on the productivity, use, or disposition of the franchise, trademark, or trade name transferred shall be allowed as a deduction under section 162(a) (relating to trade or business expenses).*

"(2) OTHER PAYMENTS.—*If a transfer of a franchise, trademark, or trade name is not (by reason of the application of subsection (a)) treated as a sale or exchange of a capital asset, any payment not described in paragraph (1) which is made in discharge of a principal sum agreed upon in the transfer agreement shall be allowed as a deduction—*

"(A) *in the case of a single payment made in discharge of such principal sum, ratably over the taxable years in the period beginning with the taxable year in which the payment is made and ending with the ninth succeeding taxable year or ending with the last taxable year beginning in the period of the transfer agreement, whichever period is shorter;*

"(B) *in the case of a payment which is one of a series of approximately equal payments made in discharge of such principal sum, which are payable over—*

"(i) *the period of the transfer agreement, or*

"(ii) *a period of more than 10 taxable years, whether ending before or after the end of the period of the transfer agreement,*

in the taxable year in which the payment is made; and

"(C) *in the case of any other payment, in the taxable year or years specified in regulations prescribed by the Secretary or his delegate, consistently with the preceding provisions of this paragraph.*

"(e) EXCEPTION.—*This section shall not apply to the transfer of a franchise to engage in professional football, basketball, baseball, or other professional sport.*"

(2) CONFORMING AMENDMENTS.—

(A) *Section 162(h) (as redesignated by section 902) is amended by striking out "For" and inserting in lieu thereof "(1) For", and by adding at the end thereof the following:*

"(2) *For special rule relating to the treatment of payments by a transferee of a franchise, trademark, or trade name, see section 1253.*"

(B) Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (21) and inserting in lieu thereof a semicolon, and by inserting after paragraph (21) the following new paragraph:

"(22) for amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under section 1253(d)(2)."

(C) The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1253. Transfers of franchises, trademarks, and trade names."

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to sales or other dispositions after October 9, 1969.

(2) The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1969.

(3) The amendments made by subsection (c) shall apply to transfers after December 31, 1969, except that section 1253(d)(1) of the Internal Revenue Code of 1954 (as added by subsection (c)) shall, at the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate may by regulations prescribe), apply to transfers before January 1, 1970, but only with respect to payments made in taxable years ending after December 31, 1969, and beginning before January 1, 1980.

Subtitle C—Real Estate Depreciation

SEC. 521. DEPRECIATION OF REAL ESTATE.

(a) SECTION 1250 PROPERTY AND REHABILITATION PROPERTY.—Section 167 (relating to depreciation) is amended by redesignating subsection (j) as subsection (m), and by inserting after subsection (i) the following new subsections:

"(j) SPECIAL RULES FOR SECTION 1250 PROPERTY.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), in the case of section 1250 property, subsection (b) shall not apply and the term 'reasonable allowance' as used in subsection (a) shall include an allowance computed in accordance with regulations prescribed by the Secretary or his delegate, under any of the following methods:

"(A) the straight line method,

"(B) the declining balance method, using a rate not exceeding 150 percent of the rate which would have been used had the annual allowance been computed under the method described in subparagraph (A), or

"(C) any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in subparagraph (B).

Nothing in this paragraph shall be construed to limit or reduce an allowance otherwise allowable under subsection (a) except where allowable solely by reason of paragraph (2), (3), or (4) of subsection (b).

"(2) RESIDENTIAL RENTAL PROPERTY.—

"(A) IN GENERAL.—Paragraph (1) of this subsection shall not apply, and subsection (b) shall apply in any taxable year, to a building or structure—

"(i) which is residential rental property located within the United States or any of its possessions, or located within a foreign country if a method of depreciation for such property comparable to the method provided in subsection (b) (2) or (3) is provided by the laws of such country, and

"(ii) the original use of which commences with the taxpayer.

In the case of residential rental property located within a foreign country, the original use of which commences with the taxpayer, if the allowance for depreciation provided under the laws of such country for such property is greater than that provided under paragraph (1) of this subsection, but less than that provided under subsection (b), the allowance for depreciation under subsection (b) shall be limited to the amount provided under the laws of such country.

"(B) DEFINITION.—For purposes of subparagraph (A), a building or structure shall be considered to be residential rental property for any taxable year only if 80 percent or more of the gross rental income from such building or structure for such year is rental income from dwelling units (within the meaning of subsection (k)(3)(C)). For purposes of the preceding sentence, if any portion of such building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied.

"(C) CHANGE IN METHOD OF DEPRECIATION.—Any change in the computation of the allowance for depreciation for any taxable year, permitted or required by reason of the application of subparagraph (A), shall not be considered a change in a method of accounting.

"(3) PROPERTY CONSTRUCTED, ETC., BEFORE JULY 25, 1969.—Paragraph (1) of this subsection shall not apply, and subsection (b) shall apply, in the case of property—

"(A) the construction, reconstruction, or erection of which was begun before July 25, 1969, or

"(B) for which a written contract entered into before July 25, 1969, with respect to any part of the construction, reconstruction, or erection or for the permanent financing thereof, was on July 25, 1969, and at all times thereafter, binding on the taxpayer.

"(4) USED SECTION 1250 PROPERTY.—Except as provided in paragraph (5), in the case of section 1250 property acquired after July 24, 1969, the original use of which does not commence with the taxpayer, the allowance for depreciation under this section shall be limited to an amount computed under—

"(A) the straight line method, or

"(B) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), not including—

"(i) any declining balance method,

"(ii) the sum of the years-digits method, or

"(iii) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(C) of this subsection.

"(5) Used residential rental property.—In the case of section 1250 property which is residential rental property (as defined in paragraph (2)(B)) acquired after July 24, 1969, having a useful life of 20 years or more, the original use of which does not commence with the taxpayer, the allowance for depreciation under this section shall be limited to an amount computed under—

"(A) the straight line method,

"(B) the declining balance method, using a rate not exceeding 125 percent of the rate which would have been used had the annual allowance been computed under the method described in subparagraph (A), or

"(C) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), not including—

"(i) the sum of the years-digits method,

"(ii) any declining balance method using a rate in excess of the rate permitted under subparagraph (B), or

"(iii) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(C) of this subsection.

"(6) Special rules.—

"(A) Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided in paragraphs (5), (9), (10), and (13) of section 48(h) shall be applied for purposes of paragraphs (3), (4), and (5) of this subsection.

"(B) For purposes of paragraphs (2), (4), and (5), if section 1250 property which is not property described in subsection (a) when its original use commences, becomes property described in subsection (a) after July 24, 1969, such property shall not be treated as property the original use of which commences with the taxpayer.

"(C) Paragraphs (4) and (5) shall not apply in the case of section 1250 property acquired after July 24, 1969, pursuant to a written contract for the acquisition of such property or for the permanent financing thereof, which was, on July 24, 1969, and at all times thereafter, binding on the taxpayer.

"(k) DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.—

"(1) 60-MONTH RULE.—The taxpayer may elect, in accordance with regulations prescribed by the Secretary or his delegate, to compute the depreciation deduction provided by subsection (a) attributable to rehabilitation expenditures incurred with respect to low-income rental housing after July 24, 1969, and before January 1, 1975, under the straight line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction under sub-

section (a), and in lieu of any deduction for amortization, for such expenditures.

"(2) LIMITATIONS.—

"(A) The aggregate amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit in any low-income rental housing which may be taken into account under paragraph (1) shall not exceed $15,000.

"(B) Rehabilitation expenditures paid or incurred by the taxpayer in any taxable year with respect to any dwelling unit in any low-income rental housing shall be taken into account under paragraph (1) only if over a period of two consecutive years, including the taxable year, the aggregate amount of such expenditures exceeds $3,000.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) REHABILITATION EXPENDITURES.—The term 'rehabilitation expenditures' means amounts chargeable to capital account and incurred for property or additions or improvements to property (or related facilities) with a useful life of 5 years or more, in connection with the rehabilitation of an existing building for low-income rental housing; but such term does not include the cost of acquisition of such building or any interest therein.

"(B) LOW-INCOME RENTAL HOUSING.—The term 'low-income rental housing' means any building the dwelling units in which are held for occupancy on a rental basis by families and individuals of low or moderate income, as determined by the Secretary or his delegate in a manner consistent with the policies of the Housing and Urban Development Act of 1968 pursuant to regulations prescribed under this subsection.

"(C) DWELLING UNIT.—The term 'dwelling unit' means a house or an apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, inn, or other establishment more than one-half of the units in which are used on a transient basis."

(b) RECAPTURE OF ADDITIONAL DEPRECIATION.—Section 1250(a) (relating to gain from dispositions of certain depreciable realty) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969.—If section 1250 property is disposed of after December 31, 1969, the applicable percentage of the lower of—

"(A) that portion of the additional depreciation (as defined in subsection (b) (1) or (4)) attributable to periods after December 31, 1969, in respect of the property, or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over

"(ii) the adjusted basis of such property,

shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(C) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(i) in the case of section 1250 property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

"(ii) in the case of section 1250 property constructed, reconstructed, or acquired by the taxpayer before January 1, 1975, with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing is financed or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus one percentage point for each full month the property was held after the date the property was held 20 full months;

"(iii) in the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by clauses (i) and (ii), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

"(v) in the case of all other section 1250 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(2) ADDITIONAL DEPRECIATION BEFORE JANUARY 1, 1970.—

"(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1963, and the amount determined under paragraph (1)(B) exceeds the amount determined under paragraph (1)(A), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods before January 1, 1970, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(B) over the amount determined under paragraph (1)(A),

shall also be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A) the term 'applicable percentage' means 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held for 20 full months."

(c) ADDITIONAL DEPRECIATION.—Section 1250(b) (relating to definition of additional depreciation) is amended by adding at the end thereof the following new paragraph:

"(4) ADDITIONAL DEPRECIATION ATTRIBUTABLE TO REHABILITATION EXPENDITURES.—The term 'additional depreciation' also means, in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), the depreciation adjustments allowed under such section to the extent attributable to such property, except that, in the case of such property held for more than one year after the rehabilitation expenditures so allowed were incurred, it means such adjustments only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined under the straight line method of adjustment without regard to the useful life permitted under section 167(k)."

(d) CHANGE IN METHOD OF COMPUTING DEPRECIATION.—Section 167(e) (relating to depreciation) is amended by adding at the end thereof the following new paragraph:

"(3) CHANGE WITH RESPECT TO SECTION 1250 PROPERTY.—A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after July 24, 1969, and in such manner as the Secretary or his delegate shall by regulation prescribe, elect to change his method of depreciation in respect of section 1250 property (as defined in section 1250(c)) from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this paragraph notwithstanding any provision to the contrary in an agreement under subsection (d)."

(e) TECHNICAL AND CONFORMING CHANGES.—

(1) Subsection (d) of section 1250 is amended by striking out "subsection (a)(1)" wherever it appears and inserting in lieu thereof "subsection (a)".

(2) Subsection (f) of section 1250 is amended—

(A) by striking out "subsection (a)(1)" in paragraph (1) and inserting in lieu thereof "subsection (a)", and

(B) by striking out paragraph (2) thereof and inserting in lieu thereof the following:

"(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be the sum of—

"(A) the amount (if any) determined by multiplying—

"(i) the amount which bears the same ratio to the lower of the amounts specified in subparagraph (A) or (B) of subsection (a)(1) for the section 1250 property as the additional depreciation for such element attributable to periods after December 31, 1969, bears to the sum of the additional depreciation for all elements attributable to periods after December 31, 1969, by

"(ii) the applicable percentage for such element, and

"(B) the amount (if any) determined by multiplying—

"(i) the amount which bears the same ratio to the lower of the amounts specified in subsection (a)(2)(A) (i) or (ii) for the section 1250 property as the additional depreciation for such element attributable to periods before January 1,

1970, bears to the sum of the additional depreciation for all elements attributable to periods before January 1, 1970, by

"(ii) the applicable percentage for such element.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property."

(f) CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.—Section 381(c)(6) (relating to method of computing depreciation allowance) is amended to read as follows:

"(6) METHOD OF COMPUTING DEPRECIATION ALLOWANCE.—The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the depreciation allowance under subsections (b), (j), and (k) of section 167 on property acquired in a distribution or transfer with respect to so much of the basis in the hands of the acquiring corporation as does not exceed the adjusted basis in the hands of the distributor or transferor corporation."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after July 24, 1969.

Subtitle D—Subchapter S Corporations

SEC. 531. QUALIFIED PENSION, ETC., PLANS OF SMALL BUSINESS CORPORATIONS.

(a) IN GENERAL.—Subchapter S of chapter 1 (relating to election of certain small business corporations as to taxable status) is amended by adding at the end thereof the following new section:

"SEC. 1379. CERTAIN QUALIFIED PENSION, ETC., PLANS.

"(a) ADDITIONAL REQUIREMENT FOR QUALIFICATION OF STOCK BONUS OR PROFIT-SHARING PLANS.—A trust forming part of a stock bonus or profit-sharing plan which provides contributions or benefits for employees some or all of whom are shareholder-employees shall not constitute a qualified trust under section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) unless the plan of which such trust is a part provides that forfeitures attributable to contributions deductible under section 404(a)(3) for any taxable year (beginning after December 31, 1970) of the employer with respect to which it is an electing small business corporation may not inure to the benefit of any individual who is a shareholder-employee for such taxable year. A plan shall be considered as satisfying the requirement of this subsection for the period beginning with the first day of a taxable year and ending with the 15th day of the third month following the close of such taxable year, if all the provisions of the plan which are necessary to satisfy this requirement are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

"(b) TAXABILITY OF SHAREHOLDER-EMPLOYEE BENEFICIARIES.—

"(1) INCLUSION OF EXCESS CONTRIBUTIONS IN GROSS INCOME.—Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual

who is a shareholder-employee of an electing small business corporation shall include in gross income, for his taxable year in which or with which the taxable year of the corporation ends, the excess of the amount of contributions paid on his behalf which is deductible under section 404(a) (1), (2), or (3) by the corporation for its taxable year over the lesser of—

"(A) 10 percent of the compensation received or accrued by him from such corporation during its taxable year, or

"(B) $2,500.

"(2) TREATMENT OF AMOUNTS INCLUDED IN GROSS INCOME.—Any amount included in the gross income of a shareholder-employee under paragraph (1) shall be treated as consideration for the contract contributed by the shareholder-employee for purposes of section 72 (relating to annuities).

"(3) DEDUCTION FOR AMOUNTS NOT RECEIVED AS BENEFITS.—If—

"(A) amounts are included in the gross income of an individual under paragraph (1), and

"(B) the rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under paragraph (1),

then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under paragraph (1) over such payments.

"(c) CARRYOVER OF AMOUNTS DEDUCTIBLE.—No amount deductible shall be carried forward under the second sentence of section 404(a)(3)(A) (relating to limits on deductible contributions under stock bonus and profit-sharing trusts) to a taxable year of a corporation with respect to which it is not an electing small business corporation from a taxable year (beginning after December 31, 1970) with respect to which it is an electing small business corporation.

"(d) SHAREHOLDER-EMPLOYEE.—For purposes of this section, the term 'shareholder-employee' means an employee or officer of an electing small business corporation who owns (or is considered as owning within the meaning of section 318(a)(1)), on any day during the taxable year of such corporation, more than 5 percent of the outstanding stock of the corporation."

(b) CONFORMING AMENDMENT.—Section 62 (relating to adjusted gross income defined) is amended by inserting after paragraph (8) the following new paragraph:

"(9) PENSION, ETC., PLANS OF ELECTING SMALL BUSINESS CORPORATIONS.—The deduction allowed by section 1379(b)(3)."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter S of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1379. Certain qualified pensions, etc., plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of electing small business corporations beginning after December 31, 1970.

TITLE VI—STATE AND LOCAL OBLIGATIONS

SEC. 601. ARBITRAGE BONDS.

(a) NOT TO BE TREATED AS TAX-EXEMPT OBLIGATIONS.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"(d) ARBITRAGE BONDS.—

"(1) SUBSECTION (a)(1) NOT TO APPLY.—Except as provided in this subsection, any arbitrage bond shall be treated as an obligation not described in subsection (a)(1).

"(2) ARBITRAGE BOND.—For purposes of this subsection, the term 'arbitrage bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly—

"(A) to acquire securities (within the meaning of section 165(g)(2) (A) or (B)) or obligations (other than obligations described in subsection (a)(1)) which may be reasonably expected at the time of issuance of such issue, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on obligations of such issue, or

"(B) to replace funds which were used directly or indirectly to acquire securities or obligations described in subparagraph (A).

"(3) EXCEPTION.—Paragraph (1) shall not apply to any obligation—

"(A) which is issued as part of an issue substantially all of the proceeds of which are reasonably expected to be used to provide permanent financing for real property used or to be used for residential purposes for the personnel of an educational institution (within the meaning of section 151(e)(4)) which grants baccalaureate or higher degrees, or to replace funds which were so used, and

"(B) the yield on which over the term of the issue is not reasonably expected, at the time of issuance of such issue, to be substantially lower than the yield on obligations acquired or to be acquired in providing such financing.

This paragraph shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of property financed by the proceeds of the issue of which such obligation is a part, or by a member of the family (within the meaning of section 318(a)(1)) of any such person.

"(4) SPECIAL RULES.—For purposes of paragraph (1), an obligation shall not be treated as an arbitrage bond solely by reason of the fact that—

"(A) the proceeds of the issue of which such obligation is a part may be invested for a temporary period in securities or other obligations until such proceeds are needed for the purpose for which such issue was issued, or

"(B) an amount of the proceeds of the issue of which such obligation is a part may be invested in securities or other obligations which are part of a reasonably required reserve or replacement fund.

The amount referred to in subparagraph (B) shall not exceed 15 percent of the proceeds of the issue of which such obligation is a part unless the issuer establishes that a higher amount is necessary.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to obligations issued after October 9, 1969.

TITLE VII—EXTENSION OF TAX SURCHARGE AND EXCISE TAXES; TERMINATION OF INVESTMENT CREDIT

SEC. 701. EXTENSION OF TAX SURCHARGE.

(a) SURCHARGE EXTENSION. Section 51(a) (relating to imposition of tax surcharge) is amended—

(1) by adding at the end of paragraph (1)(A) the following:

"CALENDAR YEAR 1970:

TABLE 1.—SINGLE PERSON (OTHER THAN HEAD OF HOUSEHOLD) AND MARRIED PERSONS FILING SEPARATE RETURNS

If the adjusted tax is:			If the adjusted tax is:		
At least—	But less than—	The tax is—	At least—	But less than—	The tax is—
0	$155	0	$1,020	$1,060	$26
$155	175	$1	1,060	1,100	27
175	195	2	1,100	1,140	28
195	215	3	1,140	1,180	29
215	235	4	1,180	1,220	30
235	255	5	1,220	1,260	31
255	275	6	1,260	1,300	32
275	300	7	1,300	1,340	33
300	340	8	1,340	1,380	34
340	380	9	1,380	1,420	35
380	420	10	1,420	1,460	36
420	460	11	1,460	1,500	37
460	500	12	1,500	1,540	38
500	540	13	1,540	1,580	39
540	580	14	1,580	1,620	40
580	620	15	1,620	1,660	41
620	660	16	1,660	1,700	42
660	700	17	1,700	1,740	43
700	740	18	1,740	1,780	44
740	780	19	1,780	1,820	45
780	820	20	1,820	1,860	46
820	860	21	1,860	1,900	47
860	900	22	1,900	1,940	48
900	940	23	1,940	1,980	49
940	980	24	1,980	2,020	50
980	1,020	25	2,020 and over, 2.6% of the adjusted tax.		

TABLE 2.—HEAD OF HOUSEHOLD

If the adjusted tax is:			If the adjusted tax is:		
At least—	But less than—	The tax is—	At least—	But less than—	The tax is—
0	$230	0	$1,020	$1,060	$26
$230	250	$1	1,060	1,100	27
250	270	2	1,100	1,140	28
270	290	3	1,140	1,180	29
290	310	4	1,180	1,220	30
310	330	5	1,220	1,260	31
330	350	6	1,260	1,300	32
350	370	7	1,300	1,340	33
370	390	8	1,340	1,380	34
390	410	9	1,380	1,420	35
410	430	10	1,420	1,460	36
430	460	11	1,460	1,500	37
460	500	12	1,500	1,540	38
500	540	13	1,540	1,580	39
540	580	14	1,580	1,620	40
580	620	15	1,620	1,660	41
620	660	16	1,660	1,700	42
660	700	17	1,700	1,740	43
700	740	18	1,740	1,780	44
740	780	19	1,780	1,820	45
780	820	20	1,820	1,860	46
820	860	21	1,860	1,900	47
860	900	22	1,900	1,940	48
900	940	23	1,940	1,980	49
940	980	24	1,980	2,020	50
980	1,020	25	2,020 and over, 2.5% of the adjusted tax.		

TABLE 3.—MARRIED PERSONS OR SURVIVING SPOUSE FILING JOINT RETURN

If the adjusted tax is:			If the adjusted tax is:		
At least—	But less than—	The tax is—	At least—	But less than—	The tax is—
0	$300	0	$1,020	$1,060	$26
$300	320	$1	1,060	1,100	27
320	340	2	1,100	1,140	28
340	360	3	1,140	1,180	29
360	380	4	1,180	1,220	30
380	400	5	1,220	1,260	31
400	420	6	1,260	1,300	32
420	440	7	1,300	1,340	33
440	460	8	1,340	1,380	34
460	480	9	1,380	1,420	35
480	500	10	1,420	1,460	36
500	520	11	1,460	1,500	37
520	540	12	1,500	1,540	38
540	560	13	1,540	1,580	39
560	580	14	1,580	1,620	40
580	620	15	1,620	1,660	41
620	660	16	1,660	1,700	42
660	700	17	1,700	1,740	43
700	740	18	1,740	1,780	44
740	780	19	1,780	1,820	45
780	820	20	1,820	1,860	46
820	860	21	1,860	1,900	47
860	900	22	1,900	1,940	48
900	940	23	1,940	1,980	49
940	980	24	1,980	2,020	50
980	1,020	25	2,020 and over, 2.5% of the adjusted tax."		

(2) by striking out the table in paragraph (1)(B) and inserting in lieu thereof the following table:

"Calendar year	Percent	
	Estates and trusts	Corporation
1968	7.5	10.0
1969	10.0	10.0
1970	2.5	2.5."

(3) by striking out "January 1, 1970" the first time it appears in paragraph (2)(A) and inserting in lieu thereof "July 1, 1970", and

(4) by striking out paragraph (2)(A)(ii) and inserting in lieu thereof the following:

"(ii) a fraction, the numerator of which is the sum of the number of days in the taxable year occurring on and after the effective date of the surcharge and before January 1, 1970, plus one-half times the number of days in the taxable year occurring after December 31, 1969, and before July 1, 1970, and the denominator of which is the number of days in the entire taxable year."

(b) RECEIPT OF MINIMUM DISTRIBUTIONS.—Section 963(b) (relating to receipt of minimum distributions) is amended—

(1) by striking out "surcharge period" in the heading of paragraph (1) and inserting in lieu thereof "surcharge period ending before January 1, 1970";

(2) by striking out "1964" in the heading of paragraph (2) and inserting in lieu thereof "1964 and taxable years beginning in 1969 and ending in 1970 to the extent subparagraph (B) applies"; and

(3) by striking out the last two sentences and inserting in lieu thereof the following:

"In the case of a taxable year beginning before the surcharge period and ending within the surcharge period, or beginning within the surcharge period and ending after the surcharge period, or beginning before January 1, 1970, and ending after December 31, 1969, the required minimum distribution shall be equal to the sum of—

"(A) that portion of the minimum distribution which would be required if the provisions of paragraph (1) were applicable to the taxable year, which the number of days in such taxable year which are within the surcharge period and before January 1, 1970, bears to the total number of days in such taxable year,

"(B) that portion of the minimum distribution which would be required if the provisions of paragraph (2) were applicable to such taxable year, which the number of days in such taxable year which are within the surcharge period and after December 31, 1969, bears to the total number of days in such taxable year, and

"(C) that portion of the minimum distribution which would be required if the provisions of paragraph (3) were applicable to such taxable year, which the number of days in such taxable year which are not within the surcharge period bears to the total number of days in such taxable year.

As used in this subsection, the term 'surcharge period' means the period beginning January 1, 1968, and ending June 30, 1970."

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1969, and beginning before July 1, 1970.

SEC. 702. CONTINUATION OF EXCISE TAXES ON COMMUNICATION SERVICES AND ON AUTOMOBILES.

(a) PASSENGER AUTOMOBILES.—

(1) IN GENERAL.—Section 4061(a)(2)(A) (relating to tax on passenger automobiles, etc.) is amended to read as follows:

"(A) *Articles enumerated in subparagraph (B) are taxable at whichever of the following rates is applicable:*

"If the article is sold—	*The tax rate is—*
Before January 1, 1971	*7 percent.*
During 1971	*6 percent.*
During 1972	*3 percent.*
During 1973	*1 percent.*

The tax imposed by this subsection shall not apply with respect to articles enumerated in subparagraph (B) which are sold by the manufacturer, producer, or importer after December 31, 1973."

(2) CONFORMING AMENDMENT.—*Section 6412(a)(1) (relating to floor stocks refunds on passenger automobiles, etc.) is amended by striking out "January 1, 1970, January 1, 1971, January 1, 1972, or January 1, 1973", and inserting in lieu thereof "January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974".*

(b) COMMUNICATIONS SERVICES.—

(1) CONTINUATION OF TAX.—*Section 4251(a)(2) (relating to tax on certain communications services) is amended by striking out the table and inserting in lieu thereof the following table:*

"Amounts paid pursuant to bills first rendered—	*Percent—*
Before January 1, 1971	*10*
During 1971	*5*
During 1972	*3*
During 1973	*1".*

(2) CONFORMING AMENDMENT.—*Section 4251(b) (relating to termination of tax) is amended by striking out "January 1, 1973", and inserting in lieu thereof "January 1, 1974".*

(3) REPEAL OF SUBCHAPTER B OF CHAPTER 33.—*Section 105(b)(3) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266) is amended to read as follows:*

"(3) REPEAL OF SUBCHAPTER B OF CHAPTER 33.—*Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1974, subchapter B of chapter 33 (relating to the tax on communications) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before November 1, 1973, for which a bill has not been rendered before January 1, 1974, a bill shall be treated as having been first rendered on December 31, 1973. Effective January 1, 1974, the table of subchapters for chapter 33 is amended by striking out the item relating to such subchapter B.*"

SEC. 703. TERMINATION OF INVESTMENT CREDIT.

(a) IN GENERAL.—*Subpart B of part IV of subchapter A of chapter 1 (relating to rules for computing credit for investment in certain depreciable property) is amended by adding at the end thereof the following new section:*

"SEC. 49. TERMINATION OF CREDIT.

"(a) GENERAL RULE.—*For purposes of this subpart, the term 'section 38 property' does not include property—*

"(1) *the physical construction, reconstruction, or erection of which is begun after April 18, 1969, or*

"(2) *which is acquired by the taxpayer after April 18, 1969, other than pre-termination property.*

"(b) PRE-TERMINATION PROPERTY.—For purposes of this section—

"(1) BINDING CONTRACTS.—Any property shall be treated as pre-termination property to the extent that such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1969, and at all times thereafter, binding on the taxpayer.

"(2) EQUIPPED BUILDING RULE.—If—

"(A) pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer placed the equipped building in service), the taxpayer has constructed, reconstructed, erected, or acquired a building and the machinery and equipment necessary to the planned use of the building by the taxpayer, and

"(B) more than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such building as so equipped is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such building as so equipped (and any incidental property adjacent to such building which is necessary to the planned use of the building) shall be pre-termination property. For purposes of subparagraph (B) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied. For purposes of this paragraph, a special purpose structure shall be treated as a building.

"(3) PLANT FACILITY RULE.—

"(A) GENERAL RULE.—If—

"(i) pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer placed the plant facility in service), the taxpayer has constructed, reconstructed, or erected a plant facility, and either

"(ii) the construction, reconstruction, or erection of such plant facility was commenced by the taxpayer before April 19, 1969, or

"(iii) more than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facility is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such plant facility shall be pre-termination property. For purposes of clause (iii) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied.

"(B) PLANT FACILITY DEFINED.—For purposes of this paragraph, the term 'plant facility' means a facility which does not include any building (or of which buildings constitute an insignificant portion) and which is—

"(i) a self-contained, single operating unit or processing operation,

"(ii) *located on a single site, and*

"(iii) *identified, on April 18, 1969, in the purchasing and internal financial plans of the taxpayer as a single unitary project.*

"(C) SPECIAL RULE.—*For purposes of this subsection, if—*

"(i) *a certificate of convenience and necessity has been issued before April 19, 1969, by a Federal regulatory agency with respect to two or more plant facilities which are included under a single plan of the taxpayer to construct, reconstruct, or erect such plant facilities, and*

"(ii) *more than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facilities is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,*

such plant facilities shall be treated as a single plant facility.

"(D) COMMENCEMENT OF CONSTRUCTION.—*For purposes of subparagraph (A)(ii), the construction, reconstruction, or erection of a plant facility shall not be considered to have commenced until construction, reconstruction, or erection has commenced at the site of such plant facility. The preceding sentence shall not apply if the site of such plant facility is not located on land.*

"(4) MACHINERY OR EQUIPMENT RULE.—*Any piece of machinery or equipment—*

"(A) *more than 50 percent of the parts and components of which (determined on the basis of cost) were held by the taxpayer on April 18, 1969, or are acquired by the taxpayer pursuant to a binding contract which was in effect on such date, for inclusion or use in such piece of machinery or equipment, and*

"(B) *the cost of the parts and components of which is not an insignificant portion of the total cost,*

shall be treated as property which is pre-termination property.

"(5) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—

"(A) *Where a person who is a party to a binding contract described in paragraph (1) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (1), succeed to the position of the transferor with respect to such binding contract and such property. In any case in which the lessor does not make an election under section 48(d)—*

"(i) *the preceding sentence shall apply only if a party to the contract retains the right to use the property under a lease for a term of at least 1 year; and*

"(ii) *if such use is retained (other than under a long-term lease), the lessor shall be deemed for the purposes of section 47 as having made a disposition of the property at such time as the lessee loses the right to use the property.*

For purposes of clause (ii), if the lessee transfers the lease in a transfer described in paragraph (7), the lessee shall be considered

as having the right to use of the property so long as the transferee has such use.

"(B) For purposes of subparagraph (A)—

"(i) a person who holds property (or rights in property) which is pre-termination property by reason of the application of paragraph (4) shall, with respect to such property, be treated as a party to a binding contract described in paragraph (1), and

"(ii) a corporation which is a member of the same affiliated group (as defined in paragraph (8)) as the transferor described in subparagraph (A) and which simultaneously with the transfer of property to another person acquires a right to use such property under a lease with such other person shall be treated as the transferor and as a party to the contract.

"(6) CERTAIN LEASE AND CONTRACT OBLIGATIONS.—

"(A) Where, pursuant to a binding lease or contract to lease in effect on April 18, 1969, a lessor or lessee is obligated to construct, reconstruct, erect, or acquire property specified in such lease or contract or in a related document filed before April 19, 1969, with a Federal regulatory agency, or property the specifications of which are readily ascertainable from the terms of such lease or contract or from such related document, any property so constructed, reconstructed, erected, or acquired by the lessor or lessee shall be pre-termination property. In the case of any project which includes property other than the property to be leased to such lessee, the preceding sentence shall be applied, in the case of the lessor, to such other property only if the binding leases and contracts with all lessees in effect on April 18, 1969, cover real property constituting 25 percent or more of the project (determined on the basis of rental value). For purposes of the preceding sentences of this paragraph, in the case of any project where one or more vendor-vendee relationships exist, such vendors and vendees shall be treated as lessors and lessees.

"(B) Where, in order to perform a binding contract or contracts in effect on April 18, 1969, (i) the taxpayer is required to construct, reconstruct, erect, or acquire property specified in any order of a Federal regulatory agency for which application was filed before April 19, 1969, (ii) the property is to be used to transport one or more products under such contract or contracts, and (iii) one or more parties to the contract or contracts are required to take or to provide more than 50 percent of the products to be transported over a substantial portion of the expected useful life of the property, then such property shall be pre-termination property.

"(C) Where, in order to perform a binding contract in effect on April 18, 1969, the taxpayer is required to construct, reconstruct, erect, or acquire property specified in the contract to be used to produce one or more products and (unless the other party to the contract is a State or a political subdivision of a State which is required by the contract to make substantial expenditures which benefit the taxpayer) the other party to the contract is required to take substantially all of the products to be produced over a substantial portion of the expected useful

life of the property, then such property shall be pre-termination property. For purposes of applying the preceding sentence in the case of a contract for the extraction of minerals, property shall be treated as specified in the contract if (i) the specifications for such property are readily ascertainable from the location and characteristics of the mineral properties specified in such contract from which the minerals are to be extracted; (ii) such property is necessary for and is to be used solely in the extraction of minerals under such contract; (iii) the physical construction, reconstruction, or erection of such property is begun by the taxpayer before April 19, 1970, such property is acquired by the taxpayer before April 19, 1970, or such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1970, and at all times thereafter, binding on the taxpayer; (iv) such property is placed in service on or before December 31, 1972; (v) such contract is a fixed price contract (except for provisions for price changes under which the loss of the credit allowed by section 38 would not result in a price change); and (vi) such property is not placed in service to replace other property used in extracting minerals under such contract.

"(7) CERTAIN TRANSFERS TO BE DISREGARDED.—

"(A) If property or rights under a contract are transferred in—

"(i) a transfer by reason of death,

"(ii) a transaction as a result of which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, or

"(iii) a sale of substantially all of the assets of the transferor pursuant to the terms of a contract, which was on April 18, 1969, and at all times thereafter, binding on the transferee,

and such property (or the property acquired under such contract) would be treated as pre-termination property in the hands of the decedent or the transferor, such property shall be treated as pre-termination property in the hands of the transferee.

"(B) If—

"(i) property or rights under a contract are acquired in a transaction to which section 334(b)(2) applies,

"(ii) the stock of the distributing corporation was acquired before April 19, 1969, or pursuant to a binding contract in effect April 18, 1969, and

"(iii) such property (or the property acquired under such contract) would be treated as pre-termination property in the hands of the distributing corporation,

such property shall be treated as pre-termination property in the hands of the distributee.

"(8) PROPERTY ACQUIRED FROM AFFILIATED CORPORATION.—In the case of property acquired by a corporation which is a member of an affiliated group from another member of the same group—

"(A) such corporation shall be treated as having acquired such property on the date on which it was acquired by such other member,

"(B) such corporation shall be treated as having entered into a binding contract for the construction, reconstruction, erection, or acquisition of such property on the date on which such other member entered into a contract for the construction, reconstruction, erection, or acquisition of such property, and

"(C) such corporation shall be treated as having commenced the construction, reconstruction, or erection of such property on the date on which such other member commenced such construction, reconstruction, or erection.

For purposes of this subsection and subsection (c), a contract between two corporations which are members of the same affiliated group shall not be treated as a binding contract as between such corporations, unless, at all times after June 30, 1969, and prior to the completion of performance of such contract, such corporations are not members of the same affiliated group. For purposes of the preceding sentences, the term 'affiliated group' has the meaning assigned to it by section 1504 (a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504 (b)).

"(9) BARGES FOR OCEAN-GOING VESSELS.—Barges specifically designed and constructed, reconstructed, erected, or acquired for use with ocean-going vessels which are designed to carry barges and which are pre-termination property, but not in excess of—

"(A) the number to be used with such vessels specified in applications for mortgage or construction loan insurance filed with the Secretary of Commerce on or before April 18, 1969, under title XI of the Merchant Marine Act, 1936, or

"(B) if subparagraph (A) does not apply and if more than 50 percent of the barges which the taxpayer establishes as necessary to the initial planned use of such vessels are pre-termination property (determined without regard to this paragraph), the number which the taxpayer establishes as so necessary,

together with the machinery and equipment to be installed on such barges and necessary for their planned use, shall be treated as pre-termination property.

"(10) CERTAIN NEW-DESIGN PRODUCTS.—Where—

"(A) on April 18, 1969, the taxpayer had undertaken a project to produce a product of a new design pursuant to binding contracts in effect on such date which—

"(i) were fixed-price contracts (except for provisions requiring or permitting price changes resulting from changes in rates of pay or costs of materials), and

"(ii) covered more than 50 percent of the entire production of such design to be delivered by the taxpayer before January 1, 1973, and

"(B) on or before April 18, 1969, more than 50 percent of the aggregate adjusted basis of all property of a character subject to the allowance for depreciation required to carry out such binding contracts was property the construction, reconstruction, or erection of which had been begun by the taxpayer, or had been acquired by the taxpayer (or was under a binding contract for such construction, reconstruction, erection, or acquisition),

then all tangible personal property placed in service by the taxpayer before January 1, 1972, which is required to carry out such binding contracts shall be deemed to be pre-termination property. For purposes

of subparagraph (B) of the preceding sentence, jigs, dies, templates, and similar items which can be used only for the manufacture or assembly of the production under the project and which were described in written engineering and internal financial plans of the taxpayer in existence on April 18, 1969, shall be treated as property which on such date was under a binding contract for construction.

"(c) LEASED PROPERTY.—In the case of property which is leased after April 18, 1969 (other than pursuant to a binding contract to lease entered into before April 19, 1969), which is section 38 property with respect to the lessor but is property which would not be section 38 property because of the application of subsection (a) if acquired by the lessee, and which is property of the same kind which the lessor ordinarily sold to customers before April 19, 1969, or ordinarily leased before such date and made an election under section 48(d), such property shall not be section 38 property with respect to either the lessor or the lessee.

"(d) PROPERTY PLACED IN SERVICE AFTER 1975.—For purposes of this subpart, the term 'section 38 property' does not include any property placed in service after December 31, 1975."

(b) LIMITATIONS ON USE OF CARRYOVERS AND CARRYBACKS.—Section 46(b) (relating to carryback and carryover of unused credits) is amended by adding at the end thereof the following new paragraphs:

"(5) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1968, AND ENDING AFTER APRIL 18, 1969.—The amount which may be added under this subsection for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, shall not exceed 20 percent of the higher of—

"(A) the aggregate of the investment credit carrybacks and investment credit carryovers to the taxable year, or

"(B) the highest amount computed under subparagraph (A) for any preceding taxable year which began after December 31, 1968, and ended after April 18, 1969.

"(6) ADDITIONAL 3-YEAR CARRYOVER PERIOD IN CERTAIN CASES.—Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, which—

"(A) may be added under this subsection under the limitation provided by paragraph (2), and

"(B) may not be added under the limitation provided by paragraph (5),

shall be an investment credit carryover to each of the 3 taxable years following the last taxable year for which such portion may be added under paragraph (1), and shall (subject to the provisions of paragraphs (1), (2), and (5)) be added to the amount allowable as a credit by section 38 for such years."

(c) RULES RELATING TO CERTAIN CASUALTIES AND THEFTS AND TO REPLACEMENT OF CERTAIN SECTION 38 PROPERTY.—

(1) PROPERTY DESTROYED BY CASUALTY.—Section 47(a)(4) (relating to rules with respect to section 38 property destroyed by casualty, etc.) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (B) and (C) shall not apply with respect to any casualty or theft occurring after April 18, 1969."

(2) REPLACEMENT OF CERTAIN SECTION 38 PROPERTY.—Section 47(a) (relating to certain dispositions of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN PROPERTY REPLACED AFTER APRIL 18, 1969.—In any case in which—

"(A) section 38 property is disposed of, and

"(B) property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the property disposed of,

the increase under paragraph (1) and the adjustment under paragraph (3) shall not be greater than the increase or adjustment which would result if the qualified investment of the property described in subparagraph (B) (determined as if such property were section 38 property) were substituted for the qualified investment of the property disposed of (as determined under paragraph (1)). Except in the case of a disposition by reason of a casualty or theft occurring before April 19, 1969, the preceding sentence shall apply only if the section 38 property disposed of is replaced within 6 months after the date of such disposition."

(d) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 (relating to rules for computing credit for investment in certain depreciable property) is amended by adding at the end thereof the following new item:

"Sec. 49. Termination of credit."

SEC. 704. AMORTIZATION OF POLLUTION CONTROL FACILITIES.

(a) ALLOWANCE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by striking out section 169 and inserting in lieu thereof the following new section:

"SEC. 169. AMORTIZATION OF POLLUTION CONTROL FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED POLLUTION CONTROL FACILITY.—The term 'certified pollution control facility' means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

"(2) STATE CERTIFYING AUTHORITY.—The term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(3) FEDERAL CERTIFYING AUTHORITY.—The term 'Federal certifying authority' means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

"(4) NEW IDENTIFIABLE TREATMENT FACILITY.—For purposes of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which—

"(A) is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

"(ii) *acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and*

"(B) *is placed in service by the taxpayer before January 1,*

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

"(e) PROFITMAKING ABATEMENT WORKS, ETC.—*The Federal certifying authority shall not certify any property under subsection (d)(1)(B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.*

"(f) AMORTIZABLE BASIS.—

"(1) DEFINED.—*For purposes of this section, the term 'amortizable basis' means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.*

"(2) SPECIAL RULES.—

"(A) *If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.*

"(B) *The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.*

"(g) DEPRECIATION DEDUCTION.—*The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.*

"(h) INVESTMENT CREDIT NOT TO BE ALLOWED.—*In the case of any property with respect to which an election has been made under subsection (a), so much of the adjusted basis of the property as (after the application of subsection (f)) constitutes the amortizable basis for purposes of this section shall not be treated as section 38 property within the meaning of section 48(a).*

"(i) LIFE TENANT AND REMAINDERMAN.—*In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.*

"(j) CROSS REFERENCE.—

"For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) CONFORMING, ETC., AMENDMENTS.—

(1) *The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 169 and inserting in lieu thereof the following new item:*

"Sec. 169. Amortization of pollution control facilities."

(2) The heading and the first sentence of section 642(f) (relating to special rules for credits and deductions of estates and trusts) are amended to read as follows:

"(f) AMORTIZATION DEDUCTIONS.—The benefit of the deductions for amortization provided by sections 168, 169, 184, and 187 shall be allowed to estates and trusts in the same manner as in the case of an individual."

(3) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 169" and inserting in lieu thereof ", 169, 184, 185, or 187".

(4) Section 1245(a) of such Code (relating to gain from disposition of certain depreciable property) is amended—

(A) by inserting after paragraph (2)(C) (added by section 212(a)(1) of this Act) the following new subparagraph:

"(D) with respect to any property referred to in paragraph (3)(D), its adjusted basis recomputed by adding thereto all adjustments attributable to periods beginning with the first month for which a deduction for amortization is allowed under section 169 or 185";

(B) by striking out "168" each place it appears in paragraph (2) and inserting in lieu thereof "168, 169, 184, 185, or 187".

(C) by striking out "section 167" in paragraph (3) and inserting in lieu thereof "section 167 (or subject to the allowance of amortization provided in section 185)";

(D) by striking out "or" at the end of paragraphs (3) (A) and (B);

(E) by striking out the period at the end of paragraph (3)(C) and inserting in lieu thereof ", or"; and

(F) by adding at the end of paragraph (3) the following new subparagraph:

"(D) so much of any real property (other than any property described in subparagraph (B)) which has an adjusted basis in which there are reflected adjustments for amortization under section 169 or 185."

(5) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "168" and inserting in lieu thereof "168, 169, or 185".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1968.

SEC. 705. AMORTIZATION OF RAILROAD ROLLING STOCK AND RIGHT-OF-WAY IMPROVEMENTS.

(a) ALLOWANCE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 183 (as added by section 213 of this Act) the following new sections:

"SEC. 184. AMORTIZATION OF CERTAIN RAILROAD ROLLING STOCK.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any qualified railroad rolling stock (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the qualified railroad rolling stock at the end of such month divided by the number of

months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any qualified railroad rolling stock for any month shall be in lieu of the depreciation deduction with respect to such rolling stock for such month provided by section 167. The 60-month period shall begin, as to any qualified railroad rolling stock, at the election of the taxpayer, with the month following the month in which such rolling stock was placed in service or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the qualified railroad rolling stock was placed in service, or with the taxable year succeeding the taxable year in which such rolling stock is placed in service, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided by subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such rolling stock.

"(d) QUALIFIED RAILROAD ROLLING STOCK.—Except as provided in subsection (e)(4), the term 'qualified railroad rolling stock' means, for purposes of this section, rolling stock of the type used by a common carrier engaged in the furnishing or sale of transportation by railroad and subject to the jurisdiction of the Interstate Commerce Commission if—

"(1) such rolling stock is—

"(A) used by a domestic common carrier by railroad on a full-time basis, or on a part-time basis if its only additional use is an incidental use by a Canadian or Mexican common carrier by railroad on a per diem basis, or

"(B) owned and used by a switching or terminal company all of whose stock is owned by one or more domestic common carriers by railroad, and

"(2) the original use of such rolling stock commences with the taxpayer after December 31, 1968.

"(e) SPECIAL RULES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to qualified railroad rolling stock placed in service after 1968 and before 1975.

"(2) PLACED IN SERVICE IN 1969.—If any qualified railroad rolling stock is placed in service in 1969—

"(A) the month as to which the amortization period shall begin with respect to such rolling stock shall be determined as if such rolling stock were placed in service on December 31, 1969, and

"(B) subsections (a) and (b) shall be applied by substituting '48' for '60' each place that it appears in such subsections.

This section shall not apply to any qualified railroad rolling stock placed in service in 1969 and owned by any person who is not a domestic common carrier by railroad, or a corporation at least 95 percent of the stock of which is owned by one or more such common carriers.

"(3) PLACED IN SERVICE IN 1970.—If any qualified railroad rolling stock is placed in service in 1970 by a domestic common carrier by railroad or by a corporation at least 95 percent of the stock of which is owned by one or more such common carriers, then subsection (a) shall be applied, without regard to paragraph (2), as if such rolling stock were placed in service on December 31, 1969.

"(4) RAILROAD ROLLING STOCK NOT IN SHORT SUPPLY.—The Secretary or his delegate shall determine (with the assistance of the Secretary of Transportation) which types of railroad rolling stock are not in short supply and shall prescribe regulations designating such types. The term 'qualified railroad rolling stock' shall not include any rolling stock which—

"(A) is of the type of rolling stock designated by such regulations as not in short supply, and

"(B) is placed in service after (i) 1972, or (ii) 30 days after the date on which such regulations are promulgated, whichever is later.

"(5) ADJUSTED BASIS.—

"(A) The adjusted basis of any qualified railroad rolling stock, with respect to which an election has been made under this section, shall not be increased, for purposes of this section, for amounts chargeable to capital account for additions or improvements after the amortization period has begun.

"(B) Costs incurred in connection with a used unit of railroad rolling stock which are properly chargeable to capital account shall be treated as a separate unit of railroad rolling stock for purposes of this section.

"(C) The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not taken into account in applying this section.

"(6) CONSTRUCTIVE TERMINATION.—If at any time during the amortization period any qualified railroad rolling stock ceases to meet the requirements of subsection (d)(1), the taxpayer shall be deemed to have terminated under subsection (c) his election under this section. Such termination shall be effective beginning with the month following the month in which such cessation occurs.

"(7) METHOD OF ACCOUNTING FOR DATE PLACED IN SERVICE.—For purposes of subsections (a) and (b), in the case of qualified railroad rolling stock placed in service after December 31, 1969, and before January 1, 1975, the taxpayer may elect (unless paragraph (3) is applicable) to begin the 60-month period with the date when such rolling stock is treated as having been placed in service under a method of accounting for acquisitions and retirements of property which—

"(A) prescribes a date when property is placed in service, and

"(B) is consistently followed by the taxpayer.

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of qualified railroad rolling stock leased to a domestic common carrier, and held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(g) CROSS REFERENCE.—

"For treatment of certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

"SEC. 185. AMORTIZATION OF RAILROAD GRADING AND TUNNEL BORES.

"(a) GENERAL RULE.—In the case of a domestic common carrier by railroad, the taxpayer shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of his qualified railroad grading and tunnel bores. The amortization deduction provided by this section with respect to such property shall be in lieu of any depreciation deduction, or other amortization deduction, with respect to such property for any taxable year to which the election applies.

"(b) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—The deduction allowable under subsection (a) for any taxable year shall be an amount determined by amortizing ratably over a period of 50 years the adjusted basis (for determining gain) of the qualified railroad grading and tunnel bores of the taxpayer. Such 50-year period shall commence with the first taxable year for which an election under this section is effective.

"(2) SPECIAL RULE.—In the case of qualified railroad grading and tunnel bores placed in service after the beginning of the first taxable year for which an election under this section is effective, the 50-year period with respect to such property shall begin with the year following the year the property is placed in service.

"(c) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction provided in subsection (a) may be made for any taxable year beginning after December 31, 1969. Such election shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election. The election shall remain in effect for all taxable years subsequent to the first year for which it is effective and shall apply to all qualified railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary or his delegate permits him, subject to such conditions as the Secretary or his delegate deems necessary, to revoke such election.

"(d) DEFINITIONS.—For purposes of this section—

"(1) RAILROAD GRADING AND TUNNEL BORES.—The term 'railroad grading and tunnel bores' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track. If expenditures for improvements described in the preceding sentence are incurred with respect to an existing roadbed or right-of-way for railroad track, such expenditures shall be considered, in applying this section, as costs for railroad grading or tunnel bores placed in service in the year in which such costs are incurred.

"(2) QUALIFIED RAILROAD GRADING AND TUNNEL BORES.—The term 'qualified railroad grading and tunnel bores' means railroad grading and tunnel bores the original use of which commences after December 31, 1968.

"(e) TREATMENT UPON RETIREMENT.—If any qualified railroad grading or tunnel bore is retired or abandoned during a taxable year for which an election under this section is in effect, no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this section shall continue with respect to such property. This subsection shall not apply if the retirement or abandonment is attributable primarily to fire, storm, or other casualty.

"(f) INVESTMENT CREDIT NOT TO BE ALLOWED.—Property eligible to be amortized under this section shall not be treated as section 38 property within the meaning of section 48(a).

"(g) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

"(h) CROSS REFERENCE.—

"For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

"Sec. 184. Amortization of certain railroad rolling stock.
"Sec. 185. Amortization of railroad grading and tunnel bores."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1969.

SEC. 706. EXPENDITURES IN CONNECTION WITH CERTAIN RAILROAD ROLLING STOCK.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(e) EXPENDITURES IN CONNECTION WITH CERTAIN RAILROAD ROLLING STOCK.—In the case of expenditures in connection with the rehabilitation of a unit of railroad rolling stock (except a locomotive) used by a domestic common carrier by railroad which would, but for this subsection, be properly chargeable to capital account, such expenditures, if during any 12-month period they do not exceed an amount equal to 20 per percent of the basis of such unit in the hands of the taxpayer, shall be treated (notwithstanding subsection (a)) as deductible repairs under section 162 or 212."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1969.

SEC. 707. AMORTIZATION OF CERTAIN COAL MINE SAFETY EQUIPMENT.

(a) ALLOWANCE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 186 (added by section 904 of this Act) the following new section.

"SEC. 187. AMORTIZATION OF CERTAIN COAL MINE SAFETY EQUIPMENT.

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted

basis (for determining gain) of any certified coal mine safety equipment (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the certified coal mine safety equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any certified coal mine safety equipment for any month shall be in lieu of the depreciation deduction with respect to such equipment for such month provided by section 167. The 60-month period shall begin, as to any certified coal mine safety equipment, at the election of the taxpayer, with the month following the month in which such equipment was placed in service or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the certified coal mine safety equipment was placed in service, or with the taxable year succeeding the taxable year in which such equipment is placed in service, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided by subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such equipment.

"(d) CERTIFIED COAL MINE SAFETY EQUIPMENT.—For purposes of this section, the term 'certified coal mine safety equipment' means property which—

"(1) is electric face equipment (within the meaning of section 305 of the Federal Coal Mine Health and Safety Act of 1969) required in order to meet the requirements of section 305(a)(2) of such Act,

"(2) the Secretary of the Interior certifies is permissible within the meaning of such section 305(a)(2), and

"(3) is placed in service before January 1, 1975.

For purposes of this section, any property placed in service in connection with any used electric face equipment which the Secretary of the Interior certifies makes such electric face equipment permissible shall be treated as a separate item of certified coal mine safety equipment.

"(e) SPECIAL RULES.—

"(1) The adjusted basis of any certified coal mine safety equipment, with respect to which an election is made under this section, shall not be increased, for purposes of this section, for amounts chargeable to capital account for additions or improvements after the amortization period has begun.

"(2) The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to

the portion of the adjusted basis which is not taken into account in applying this section."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of the chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 187. Amortization of certain coal mine safety equipment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1969.

TITLE VIII—ADJUSTMENT OF TAX BURDEN FOR INDIVIDUALS

SEC. 801. PERSONAL EXEMPTIONS.

(a) INCREASE TO $625 FOR 1970.—Effective with respect to taxable years beginning after December 31, 1969, and before January 1, 1971—

(1) section 151 (relating to allowance of personal exemptions) is amended by striking out "$600" wherever it appears therein and inserting in lieu thereof "$625"; and

(2) section 6013(b)(3)(A) (relating to assessment and collection in case of certain returns of husband and wife) is amended by striking out "$600" wherever it appears therein and inserting in lieu thereof "$625", and by striking out "$1,200" wherever it appears therein and inserting in lieu thereof "$1,250".

(b) INCREASE TO $650 FOR 1971.—Effective with respect to taxable years beginning after December 31, 1970, and before January 1, 1972—

(1) section 151 (relating to allowance of personal exemptions) is amended by striking out "$625" wherever it appears therein and inserting in lieu thereof "$650"; and

(2) section 6013(b)(3)(A) (relating to assessment and collection in case of certain returns of husband and wife) is amended by striking out "$625" wherever it appears therein and inserting in lieu thereof "$650", and by striking out "$1,250" wherever it appears therein and inserting in lieu thereof "$1,300".

(c) INCREASE TO $700 FOR 1972.—Effective with respect to taxable years beginning after December 31, 1971, and before January 1, 1973—

(1) section 151 (relating to allowance of personal exemptions) is amended by striking out "$650" wherever it appears therein and inserting in lieu thereof "$700"; and

(2) section 6013(b)(3)(A) (relating to assessment and collection in case of certain returns of husband and wife) is amended by striking out "$650" wherever it appears therein and inserting in lieu thereof "$700", and by striking out "$1,300" wherever it appears therein and inserting in lieu thereof "$1,400".

(d) INCREASE TO $750 FOR 1973 AND SUBSEQUENT YEARS.—Effective with respect to taxable years beginning after December 31, 1972—

(1) section 151 (relating to allowance of personal exemptions) is amended by striking out "$700" wherever it appears therein and inserting in lieu thereof "$750"; and

(2) section 6013(b)(3)(A) (relating to assessment and collection in case of certain returns of husband and wife) is amended by striking out "$700" wherever it appears therein and inserting in lieu thereof "$750", and by striking out "$1,400", wherever it appears therein and inserting in lieu thereof "$1,500".

SEC. 802. LOW INCOME ALLOWANCE; INCREASE IN STANDARD DEDUCTION.

(a) IN GENERAL.—Section 141 (relating to the standard deduction) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) STANDARD DEDUCTION.—Except as otherwise provided in this section, the standard deduction referred to in this title is the larger of the percentage standard deduction or the low income allowance.

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

"Taxable years beginning in—	Applicable percentage	Maximum amount
1970	10	$1,000
1971	13	1,500
1972	14	2,000
1973 and thereafter	15	2,000

"(c) LOW INCOME ALLOWANCE.—

"(1) IN GENERAL.—The low income allowance is an amount equal to the sum of—

"(A) the basic allowance, and

"(B) the additional allowance.

"(2) BASIC ALLOWANCE.—For purposes of this subsection, the basic allowance is an amount equal to the sum of—

"(A) $200, plus

"(B) $100, multiplied by the number of exemptions.

The basic allowance shall not exceed $1,000.

"(3) ADDITIONAL ALLOWANCE.—

"(A) IN GENERAL.—For purposes of this subsection, the additional allowance is an amount equal to the excess (if any) of $900 over the sum of—

"(i) $100, multiplied by the number of exemptions, plus

"(ii) the income phase-out.

"(B) INCOME PHASE-OUT.—For purposes of subparagraph (A)(ii), the income phase-out is an amount equal to one-half of the amount by which the adjusted gross income for the taxable year exceeds the sum of—

"(i) ~~$1,100~~, plus

"(ii) $625, multiplied by the number of exemptions.

"(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married taxpayer filing a separate return—

"(A) the low income allowance is an amount equal to the basic allowance, and

"(B) the basic allowance is an amount (not in excess of $500) equal to the sum of—

"(i) $100, plus

"(ii) $100, multiplied by the number of exemptions.

"(5) NUMBER OF EXEMPTIONS.—For purposes of this subsection, the number of exemptions is the number of exemptions allowed as a deduction for the taxable year under section 151.

"(6) SPECIAL RULE FOR 1971.—For a taxable year beginning after December 31, 1970, and before January 1, 1972,—

"(A) paragraph (3)(A) shall be applied by substituting '$850' for '$900',

"(B) paragraph (3)(B) shall be applied by substituting 'one-fifteenth' for 'one-half',

"(C) paragraph (3)(B)(i) shall be applied by substituting '$1050' for '$1100', and

"(D) paragraph (3)(B)(ii) shall be applied by substituting '$650' for '$625'.

(b) DETERMINATION OF MARITAL STATUS.—Section 143 (relating to determination of marital status) is amended—

(1) by striking out "For purposes of this part—" and inserting in lieu thereof "(a) GENERAL RULE.—For purposes of this part—"; and

(2) by adding at the end thereof the following new subsection:

"(b) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, if—

"(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (A) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the individual, and (B) with respect to whom such individual is entitled to a deduction for the taxable year under section 151,

"(2) such individual furnishes over half of the cost of maintaining such household during the taxable year, and

"(3) during the entire taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4(a) (relating to number of exemptions) is amended to read as follows:

"(a) NUMBER OF EXEMPTIONS.—For purposes of the tables prescribed by the Secretary or his delegate pursuant to section 3, the term 'number of exemptions' means the number of exemptions allowed under section 151 as deductions in computing taxable income."

(2) Section 4(c) (relating to married individuals filing separate returns) is amended to read as follows:

"(c) HUSBAND OR WIFE FILING SEPARATE RETURN.—

"(1) A husband or wife may not elect to pay the optional tax imposed by section 3 if the tax of the other spouse is determined under section 1 on the basis of taxable income computed without regard to the standard deduction.

"(2) Except as otherwise provided in this subsection, in the case of a husband or wife filing a separate return the tax imposed by section 3 shall be the lesser of the tax shown in—

"(A) the table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the percentage standard deduction, or

"(B) the table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the low income allowance.

"(3) The table referred to in paragraph (2)(B) shall not apply in the case of a husband or wife filing a separate return if the tax of the other spouse is determined with regard to the percentage standard deduction; except that an individual described in section 141(d)(2) may elect (under regulations prescribed by the Secretary or his delegate) to pay the tax shown in the table referred to in paragraph (2)(B) in lieu of the tax shown in the table referred to in paragraph (2)(A). For purposes of this title, an election under the preceding sentence shall be treated as an election made under section 141(d)(2).

"(4) For purposes of this subsection, determination of marital status shall be made under section 143."

(3) Paragraph (4) of section 4(f) is amended to read as follows:

"(4) For computation of tax by Secretary or his delegate, see section 6014."

(4) Section 141(d) (relating to married individuals filing separate returns) is amended—

(A) by striking out "minimum standard deduction" each place it appears and inserting in lieu thereof "low income allowance"; and

(B) by striking out "10-percent" each place it appears therein and inserting in lieu thereof "percentage".

(5) Section 1304(c)(4) (relating to special rules for income averaging) is amended by striking out "section 143" and inserting in lieu thereof "section 143(a)".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1969.

(e) YEARS AFTER 1971.—Effective with respect to taxable years beginning after December 31, 1971, section 141(c) (relating to low income allowance), as amended by subsection (a), is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is $1,000 ($500, in the case of a married individual filing a separate return)."

SEC. 803. TAX RATES FOR SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; OPTIONAL TAX.

(a) RATES OF TAX ON INDIVIDUALS.—Section 1 (relating to the tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), A tax determined in accordance with the following table:

"If the taxable income is:	*The tax is:*
Not over $1,000	*14% of the taxable income.*
Over $1,000 but not over $2,000	*$140, plus 15% of excess over $1,000.*
Over $2,000 but not over $3,000	*$290, plus 16% of excess over $2,000.*
Over $3,000 but not over $4,000	*$450, plus 17% of excess over $3,000.*
Over $4,000 but not over $8,000	*$620, plus 19% of excess over $4,000.*
Over $8,000 but not over $12,000	*$1,380, plus 22% of excess over $8,000.*
Over $12,000 but not over $16,000	*$2,260, plus 25% of excess over $12,000.*
Over $16,000 but not over $20,000	*$3,260, plus 28% of excess over $16,000.*
Over $20,000 but not over $24,000	*$4,380, plus 32% of excess over $20,000.*
Over $24,000 but not over $28,000	*$5,660, plus 36% of excess over $24,000.*
Over $28,000 but not over $32,000	*$7,100, plus 39% of excess over $28,000.*
Over $32,000 but not over $36,000	*$8,660, plus 42% of excess over $32,000.*
Over $36,000 but not over $40,000	*$10,340, plus 45% of excess over $36,000.*
Over $40,000 but not over $44,000	*$12,140, plus 48% of excess over $40,000.*
Over $44,000 but not over $52,000	*$14,060, plus 50% of excess over $44,000.*
Over $52,000 but not over $64,000	*$18,060, plus 53% of excess over $52,000.*
Over $64,000 but not over $76,000	*$24,420, plus 55% of excess over $64,000.*
Over $76,000 but not over $88,000	*$31,020, plus 58% of excess over $76,000.*
Over $88,000 but not over $100,000	*$37,980, plus 60% of excess over $88,000.*
Over $100,000, but not over $120,000	*$45,180, plus 62% of excess over $100,000.*
Over $120,000 but not over $140,000	*$57,580, plus 64% of excess over $120,000.*
Over $140,000 but not over $160,000	*$70,380, plus 66% of excess over $140,000.*
Over $160,000 but not over $180,000	*$83,580, plus 68% of excess over $160,000.*
Over $180,000 but not over $200,000	*$97,180, plus 69% of excess over $180,000.*
Over $200,000	*$110,980, plus 70% of excess over $200,000.*

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,000	14% of the taxable income.
Over $1,000 but not over $2,000	$140, plus 16% of excess over $1,000.
Over $2,000 but not over $4,000	$300, plus 18% of excess over $2,000.
Over $4,000 but not over $6,000	$660, plus 19% of excess over $4,000.
Over $6,000 but not over $8,000	$1,040, plus 22% of excess over $6,000.
Over $8,000 but not over $10,000	$1,480, plus 23% of excess over $8,000.
Over $10,000 but not over $12,000	$1,940, plus 25% of excess over $10,000.
Over $12,000 but not over $14,000	$2,440, plus 27% of excess over $12,000.
Over $14,000 but not over $16,000	$2,980, plus 28% of excess over $14,000.
Over $16,000 but not over $18,000	$3,540, plus 31% of excess over $16,000.
Over $18,000 but not over $20,000	$4,160, plus 32% of excess over $18,000.
Over $20,000 but not over $22,000	$4,800, plus 35% of excess over $20,000.
Over $22,000 but not over $24,000	$5,500, plus 36% of excess over $22,000.
Over $24,000 but not over $26,000	$6,220, plus 38% of excess over $24,000.
Over $26,000 but not over $28,000	$6,980, plus 41% of excess over $26,000.
Over $28,000 but not over $32,000	$7,800, plus 42% of excess over $28,000.
Over $32,000 but not over $36,000	$9,480, plus 45% of excess over $32,000.
Over $36,000 but not over $38,000	$11,280, plus 48% of excess over $36,000.
Over $38,000 but not over $40,000	$12,240, plus 51% of excess over $38,000.
Over $40,000 but not over $44,000	$13,260, plus 52% of excess over $40,000.
Over $44,000 but not over $50,000	$15,340, plus 55% of excess over $44,000.
Over $50,000 but not over $52,000	$18,640, plus 56% of excess over $50,000.
Over $52,000 but not over $64,000	$19,760, plus 58% of excess over $52,000.
Over $64,000 but not over $70,000	$26,720, plus 59% of excess over $64,000.
Over $70,000 but not over $76,000	$30,260, plus 61% of excess over $70,000.
Over $76,000 but not over $80,000	$33,920, plus 62% of excess over $76,000.
Over $80,000 but not over $88,000	$36,400, plus 63% of excess over $80,000.
Over $88,000 but not over $100,000	$41,440, plus 64% of excess over $88,000.
Over $100,000 but not over $120,000	$49,120, plus 66% of excess over $100,000.
Over $120,000 but not over $140,000	$62,320, plus 67% of excess over $120,000.
Over $140,000 but not over $160,000	$75,720, plus 68% of excess over $140,000.
Over $160,000 but not over $180,000	$89,320, plus 69% of excess over $160,000.
Over $180,000	$103,120, plus 70% of excess over $180,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	*The tax is:*
Not over $500	*14% of the taxable income.*
Over $500 but not over $1,000	*$70, plus 15% of excess over $500.*
Over $1,000 but not over $1,500	*$145, plus 16% of excess over $1,000.*
Over $1,500 but not over $2,000	*$225, plus 17% of excess over $1,500.*
Over $2,000 but not over $4,000	*$310, plus 19% of excess over $2,000.*
Over $4,000 but not over $6,000	*$690, plus 21% of excess over $4,000.*
Over $6,000 but not over $8,000	*$1,110, plus 24% of excess over $6,000.*
Over $8,000 but not over $10,000	*$1,590, plus 25% of excess over $8,000.*
Over $10,000 but not over $12,000	*$2,090, plus 27% of excess over $10,000.*
Over $12,000 but not over $14,000	*$2,630, plus 29% of excess over $12,000.*
Over $14,000 but not over $16,000	*$3,210, plus 31% of excess over $14,000.*
Over $16,000 but not over $18,000	*$3,830, plus 34% of excess over $16,000.*
Over $18,000 but not over $20,000	*$4,510, plus 36% of excess over $18,000.*
Over $20,000 but not over $22,000	*$5,230, plus 38% of excess over $20,000.*
Over $22,000 but not over $26,000	*$5,990, plus 40% of excess over $22,000.*
Over $26,000 but not over $32,000	*$7,590, plus 45% of excess over $26,000.*
Over $32,000 but not over $38,000	*$10,290, plus 50% of excess over $32,000.*
Over $38,000 but not over $44,000	*$13,290, plus 55% of excess over $38,000.*
Over $44,000 but not over $50,000	*$16,590, plus 60% of excess over $44,000.*
Over $50,000 but not over $60,000	*$20,190, plus 62% of excess over $50,000.*
Over $60,000 but not over $70,000	*$26,390, plus 64% of excess over $60,000.*
Over $70,000 but not over $80,000	*$32,790, plus 66% of excess over $70,000.*
Over $80,000 but not over $90,000	*$39,390, plus 68% of excess over $80,000.*
Over $90,000 but not over $100,000	*$46,190, plus 69% of excess over $90,000.*
Over $100,000	*$53,090, plus 70% of excess over $100,000.*

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and of every estate and trust taxable under this subsection, a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	14% of the taxable income.
Over $500 but not over $1,000	$70, plus 15% of excess over $500.
Over $1,000 but not over $1,500	$145, plus 16% of excess over $1,000.
Over $1,500 but not over $2,000	$225, plus 17% of excess over $1,500.
Over $2,000 but not over $4,000	$310, plus 19% of excess over $2,000.
Over $4,000 but not over $6,000	$690, plus 22% of excess over $4,000.
Over $6,000 but not over $8,000	$1,130, plus 25% of excess over $6,000.
Over $8,000 but not over $10,000	$1,630, plus 28% of excess over $8,000.
Over $10,000 but not over $12,000	$2,190, plus 32% of excess over $10,000.
Over $12,000 but not over $14,000	$2,830, plus 36% of excess over $12,000.
Over $14,000 but not over $16,000	$3,550, plus 39% of excess over $14,000.
Over $16,000 but not over $18,000	$4,330, plus 42% of excess over $16,000.
Over $18,000 but not over $20,000.	$5,170 plus 45% of excess over $18,000.
Over $20,000 but nor over $22,000.	$6,070, plus 48% of excess over $20,000.
Over $22,000 but not over $26,000.	$7,030, plus 50% of excess over $22,000.
Over $26,000 but not over $32,000.	$9,030, plus 53% of excess over $26,000.
Over $32,000 but not over $38,000.	$12,210, plus 55% of excess over $32,000.
Over $38,000 but not over $44,000.	$15,510, plus 58% of excess over $38,000.
Over $44,000 but not over $50,000.	$18,990, plus 60% of excess over $44,000.
Over $50,000 but not over $60,000.	$22,590, plus 62% of excess over $50,000.
Over $60,000 but not over $70,000.	$28,790, plus 64% of excess over $60,000.
Over $70,000 but not over $80,000.	$35,190, plus 66% of excess over $70,000.
Over $80,000 but not over $90,000.	$41,790, plus 68% of excess over $80,000.
Over $90,000 but not over $100,000.	$48,590, plus 69% of excess over $90,000.
Over $100,000	$55,490, plus 70% of excess over $100,000."

(b) DEFINITIONS AND SPECIAL RULES.—Section 2 (relating to tax in case of joint return or return of surviving spouse) is amended to read as follows:

"SEC. 2. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITION OF SURVIVING SPOUSE.—

"(1) IN GENERAL.—For purposes of section 1, the term 'surviving spouse' means a taxpayer—

"(A) whose spouse died during either of his two taxable years immediately preceding the taxable year, and

"(B) who maintains as his home a household which constitutes for the taxable year the principal place of abode (as a

member of such household) of a dependent (i) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer, and (ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of section 1 a taxpayer shall not be considered to be a surviving spouse—

"(A) if the taxpayer has remarried at any time before the close of the taxable year, or

"(B) unless, for the taxpayer's taxable year during which his spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

"(b) DEFINITION OF HEAD OF HOUSEHOLD.—

"(1) IN GENERAL.—For purposes of this subtitle, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

"(A) maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of—

"(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 151, or

"(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 151, or

"(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 151.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) DETERMINATION OF STATUS.—For purposes of this subsection—

"(A) a legally adopted child of a person shall be considered a child of such person by blood;

"(B) an individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married;

"(C) a taxpayer shall be considered as not married at the close of his taxable year if at any time during the taxable year his spouse is a nonresident alien; and

"(D) a taxpayer shall be considered as married at the close of his taxable year if his spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

"(3) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of this subtitle a taxpayer shall not be considered to be a head of a household—

"(A) if at any time during the taxable year he is a nonresident alien; or

"(B) by reason of an individual who would not be a dependent for the taxable year but for—

"(i) paragraph (9) of section 152(a),

"(ii) paragraph (10) of section 152(a), or

"(iii) subsection (c) of section 152.

"(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual who, under section 143(b), is not to be considered as married shall not be considered as married.

"(d) NONRESIDENT ALIENS.—In the case of a nonresident alien individual, the tax imposed by section 1 shall apply only as provided by section 871 or 877.

"(e) CROSS REFERENCE.—

"For definition of taxable income, see section 63."

(c) OPTIONAL TAX TABLES FOR INDIVIDUALS.—Section 3 (relating to optional tax if adjusted gross income is less than $5,000) is amended to read as follows:

"SEC. 3. OPTIONAL TAX TABLES FOR INDIVIDUALS.

"In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year beginning after December 31, 1969, on the taxable income of every individual whose adjusted gross income for such year is less than $10,000 and who has elected for such year to pay the tax imposed by this section, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary or his delegate. In the tables so prescribed, the amounts of tax shall be computed on the basis of the taxable income computed by taking the standard deduction and on the basis of the rates prescribed by section 1."

(d) TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.—

(1) Section 6014(a) (relating to election by taxpayer) is amended—

(A) by striking out "$5,000" in the first sentence, and inserting in lieu thereof "$10,000", and

(B) by striking out the last two sentences.

(2) Section 511(b)(1) (relating to imposition of tax on unrelated business income of charitable, etc., organizations) is amended by striking out "section 1", in the first sentence of such section, and inserting in lieu thereof "section 1(d)".

(3) Section 641 (relating to imposition of tax in respect of estates and trusts) is amended by striking out "The taxes imposed by this chapter on individuals" in subsection (a) and inserting in lieu thereof "The tax imposed by section 1(d)".

(4) Section 632 (relating to sale of oil or gas properties) is amended—

(A) by striking out "surtax" and inserting in lieu thereof "tax", and

(B) by striking out "30 percent" and inserting in lieu thereof "33 percent".

(5) Section 1347 (relating to claims against United States involving acquisition of property) is amended—

(A) by striking out "surtax" and inserting in lieu thereof "tax", and

(B) by striking out "30 percent" and inserting in lieu thereof "33 percent".

(6) Paragraphs (1) and (5) of section 5(b) (cross references) are each amended by striking out "surtax" and inserting in lieu thereof "tax".

(7) Section 6015(a)(1) (relating to declaration of estimated income tax by individuals) is amended—

(A) by striking out "section 1(b)(2)" each place it appears and inserting in lieu thereof "section 2(b)", and

(B) by striking out "section 2(b)" each place it appears and inserting in lieu thereof "section 2(a)".

(8) Section 1304(b)(1) (relating to special rules) is amended by striking out "if adjusted gross income is less than $5,000".

(9) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the second and third items and inserting in lieu thereof the following:

"Sec. 2. Definitions and special rules.
"Sec. 3. Optional tax tables for individuals."

(e) Section 21(d) (relating to changes in rates during a taxable year) is amended to read as follows:

"(d) CHANGES MADE BY TAX REFORM ACT OF 1969 IN CASE OF INDIVIDUALS.—In applying subsection (a) to a taxable year of an individual which is not a calendar year, each change made by the Tax Reform Act of 1969 in part I or in the application of part IV or V of subchapter B for purposes of the determination of taxable income shall be treated as a change in a rate of tax."

(f) EFFECTIVE DATES.—The amendments made by subsections (a), (b), and (d) (other than paragraphs (1) and (8)) shall apply to taxable years beginning after December 31, 1970, except that section 2(c) of the Internal Revenue Code of 1954, as amended by subsection (b), shall also apply to taxable years beginning after December 31, 1969. The amendments made by subsections (c), (d)(1), and (d)(8) shall apply to taxable years beginning after December 31, 1969.

SEC. 804. FIFTY-PERCENT MAXIMUM RATE ON EARNED INCOME.

(a) IN GENERAL.—Part VI of subchapter Q of chapter 1 (relating to other limitations) is amended by adding at the end thereof the following new section:

"SEC. 1348. FIFTY-PERCENT MAXIMUM RATE ON EARNED INCOME.

"(a) GENERAL RULE.—If for any taxable year an individual has earned taxable income which exceeds the amount of taxable income specified in paragraph (1), the tax imposed by section 1 for such year shall, unless the taxpayer chooses the benefits of part I (relating to income averaging), be the sum of—

"(1) the tax imposed by section 1 on the lowest amount of taxable income on which the rate of tax under section 1 exceeds 50 percent,

"(2) 50 percent of the amount by which his earned taxable income exceeds the lowest amount of taxable income on which the rate of tax under section 1 exceeds 50 percent, and

"(3) the excess of the tax computed under section 1 without regard to this section over the tax so computed with reference solely to his earned taxable income.

In applying this subsection to a taxable year beginning after December 31, 1970, and before January 1, 1972, '60 percent' shall be substituted for '50 percent' each place it appears in paragraphs (1) and (2).

"(b) DEFINITIONS.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' means any income which is earned income within the meaning of section 401 (c)(2)(C) or section 911(b), except that such term does not include any distribution to which section 72(m)(5), 72(n), 402(a)(2), or 403(a)(2)(A) applies or any deferred compensation within the meaning of section 404. For purposes of this paragraph, deferred compensation does not include any amount received before the end of the taxable year following the first taxable year of the recipient in which his right to receive such amount is not subject to a substantial risk of forfeiture (within the meaning of section 83(c)(1)).

"(2) EARNED TAXABLE INCOME.—The earned taxable income of an individual is the excess of—

"(A) the amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his earned net income bears to his adjusted gross income, over

"(B) the amount by which the greater of—

"(i) one-fifth of the sum of the taxpayer's items of tax preference referred to in section 57 for the taxable year and the 4 preceding taxable years, or

"(ii) the sum of the items of tax preference for the taxable year,

exceeds $30,000.

For purposes of subparagraph (A), the term 'earned net income' means earned income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

"(c) MARRIED INDIVIDUALS.—This section shall apply to a married individual only if such individual and his spouse make a single return jointly for the taxable year."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter Q of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1348. Fifty-percent maximum rate on earned income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 805. COLLECTION OF INCOME TAX AT SOURCE ON WAGES.

(a) REQUIREMENT OF WITHHOLDING.—Section 3402(a) (relating to requirement of withholding) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In the case of wages paid after December 31, 1969, and before July 1, 1970:

"*Table 1—If the payroll period with respect to an employee is WEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $21.00	0
Over $21.00 but not over $33.00	21% of excess over $21.00
Over $33.00 but not over $52.00	$2.52 plus 27% of excess over $33.00
Over $52.00 but not over $88.00	$7.65 plus 18% of excess over $52.00
Over $88.00 but not over $177.00	$14.13 plus 21% of excess over $88.00
Over $177.00 but not over $212.00	$32.82 plus 26% of excess over $177.00
Over $212.00	$41.92 plus 31% of excess over $212.00

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $21.00	0
Over $21.00 but not over $48.00	21% of excess over $21.00
Over $48.00 but not over $88.00	$5.67 plus 16% of excess over $48.00
Over $88.00 but not over $177.00	$12.07 plus 18% of excess over $88.00
Over $177.00 but not over $346.00	$28.09 plus 21% of excess over $177.00
Over $346.00 but not over $423.00	$63.58 plus 26% of excess over $346.00
Over $423.00	$83.60 plus 31% of excess over $423.00

"*Table 2—If the payroll period with respect to an employee is BI-WEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42.00	0.
Over $42.00 but not over $65.00	21% of excess over $42.00.
Over $65.00 but not over $104.00	$4.83 plus 27% of excess over $65.00.
Over $104.00 but not over $177.00	$15.36 plus 18% of excess over $104.00.
Over $177.00 but not over $354.00	$28.50 plus 21% of excess over $177.00.
Over $354.00 but not over $423.00	$65.67 plus 26% of excess over $354.00.
Over $423.00	$83.61 plus 31% of excess over $423.00.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42.00	0.
Over $42.00 but not over $96.00	21% of excess over $42.00.
Over $96.00 but not over $177.00	$11.34 plus 16% of excess over $96.00.
Over $177.00 but not over $354.00	$24.30 plus 18% of excess over $177.00.
Over $354.00 but not over $692.00	$56.16 plus 21% of excess over $354.00.
Over $692.00 but not over $846.00	$127.14 plus 26% of excess over $692.00.
Over $846.00	$167.18 plus 31% of excess over $846.00.

"*Table 3—If the payroll period with respect to an employee is SEMI-MONTHLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $46	0
Over $46 but not over $71	21% of excess over $46.
Over $71 but not over $113	$5.25 plus 27% of excess over $71.
Over $113 but not over $192	$16.59 plus 18% of excess over $113.
Over $192 but not over $383	$30.81 plus 21% of excess over $192.
Over $383 but not over $458	$70.92 plus 26% of excess over $383.
Over $458	$90.42 plus 31% of excess over $458.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $46	0
Over $46 but not over $104	21% of excess over $46.
Over $104 but not over $192	$12.18 plus 16% of excess over $104.
Over $192 but not over $383	$26.26 plus 18% of excess over $192.
Over $383 but not over $750	$60.64 plus 21% of excess over $383.
Over $750 but not over $917	$137.71 plus 26% of excess over $750.
Over $917	$181.13 plus 31% of excess over $917.

"*Table 4.—If the payroll period with respect to an employee is MONTHLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $92	0.
Over $92 but not over $142	21% of excess over $92.
Over $142 but not over $225	$10.50 plus 27% of excess over $142.
Over $225 but not over $383	$32.91 plus 18% of excess over $225.
Over $383 but not over $767	$61.35 plus 21% of excess over $383.
Over $767 but not over $917	$141.99 plus 26% of excess over $767.
Over $917	$180.99 plus 31% of excess over $917.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $92	0.
Over $92 but not over $208	21% of excess over $92.
Over $208 but not over $383	$24.36 plus 16% of excess over $208.
Over $383 but not over $767	$52.36 plus 18% of excess over $383.
Over $767 but not over $1,500	$121.48 plus 21% of excess over $767.
Over $1,500 but not over $1,833	$275.41 plus 26% of excess over $1,500.
Over $1,833	$361.99 plus 31% of excess over $1,833.

"*Table 5—If the payroll period with respect to an employee is QUARTERLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $275	0.
Over $275 but not over $425	21% of excess over $275
Over $425 but not over $675	$31.50 plus 27% of excess over $425.
Over $675 but not over $1,150	$99.00 plus 18% of excess over $675.
Over $1,150 but not over $2,300	$184.50 plus 21% of excess over $1,150.
Over $2,300 but not over $2,750	$426.00 plus 26% of excess over $2,300.
Over $2,750	$543.00 plus 31% of excess over $2,750.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $275	0.
Over $275 but not over $625	21% of excess over $275.
Over $625 but not over $1,150	$73.50 plus 16% of excess over $625.
Over $1,150 but not over $2,300	$157.50 plus 18% of excess over $1,150.
Over $2,300 but not over $4,500	$364.50 plus 21% of excess over $2,300.
Over $4,500 but not over $5,500	$826.50 plus 26% of excess over $4,500.
Over $5,500	$1,086.50 plus 31% of excess over $5,500.

"*Table 6—If the payroll period with respect to an employee is SEMIANNUAL*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $550	0
Over $550 but not over $850	21% of excess over $550
Over $850 but not over $1,350	$63 plus 27% of excess over $850
Over $1,350 but not over $2,300	$198 plus 18% of excess over $1,350
Over $2,300 but not over $4,600	$369 plus 21% of excess over $2,300
Over $4,600 but not over $5,500	$852 plus 26% of excess over $4,600
Over $5,500	$1,086 plus 31% of excess over $5,500

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $550	0
Over $550 but not over $1,250	21% of excess over $550
Over $1,250 but not over $2,300	$147 plus 16% of excess over $1,250
Over $2,300 but not over $4,600	$315 plus 18% of excess over $2,300
Over $4,600 but not over $9,000	$729 plus 21% of excess over $4,600
Over $9,000 but not over $11,000	$1,653 plus 26% of excess over $9,000
Over $11,000	$2,173 plus 31% of excess over $11,000

"*Table 7—If the payroll period with respect to an employee is ANNUAL*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $1,100	0
Over $1,100 but not over $1,700	21% of excess over $1,100.
Over $1,700 but not over $2,700	$126 plus 27% of excess over $1,700.
Over $2,700 but not over $4,600	$396 plus 18% of excess over $2,700.
Over $4,600 but not over $9,200	$738 plus 21% of excess over $4,600.
Over $9,200 but not over $11,000	$1,704 plus 26% of excess over $9,200.
Over $11,000	$2,172 plus 31% of excess over $11,000.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $1,100	0
Over $1,100 but not over $2,500	21% of excess over $1,100.
Over $2,500 but not over $4,600	$294 plus 16% of excess over $2,500.
Over $4,600 but not over $9,200	$630 plus 18% of excess over $4,600.
Over $9,200 but not over $18,000	$1,458 plus 21% of excess over $9,200.
Over $18,000 but not over $22,000	$3,306 plus 26% of excess over $18,000.
Over $22,000	$4,346 plus 31% of excess over $22,000.

"*Table 8—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $3.00	0
Over $3.00 but not over $4.70	21% of excess over $3.00
Over $4.70 but not over $7.40	$0.36 plus 27% of excess over $4.70
Over $7.40 but not over $12.60	$1.09 plus 18% of excess over $7.40
Over $12.60 but not over $25.20	$2.02 plus 21% of excess over $12.60
Over $25.20 but not over $30.10	$4.67 plus 26% of excess over $25.20
Over $30.10	$5.94 plus 31% of excess over $30.10

"*(b) Married Person:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $3.00	0
Over $3.00 but not over $6.80	21% of excess over $3.00
Over $6.80 but not over $12.60	$0.80 plus 16% of excess over $6.80
Over $12.60 but not over $25.20	$1.73 plus 18% of excess over $12.60
Over $25.20 but not over $49.30	$3.99 plus 21% of excess over $25.20
Over $49.30 but not over $60.30	$9.06 plus 26% of excess over $49.30
Over $60.30	$11.92 plus 31% of excess over $60.30

"*(2) In the case of wages paid after June 30, 1970, and before January 1, 1971:*

"*Table 1—If the payroll period with respect to an employee is WEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $21	0.
Over $21 but not over $33	21% of excess over $21.
Over $33 but not over $52	$2.52 plus 25% of excess over $33.
Over $52 but not over $88	$7.27, plus 17% of excess over $52.
Over $88 but not over $177	$13.39, plus 21% of excess over $88.
Over $177 but not over $212	$32.08, plus 25% of excess over $177.
Over $212	$40.83, plus 30% of excess over $212.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $21	0.
Over $21, but not over $48	21% of excess over $21.
Over $48, but not over $88	$5.67, plus 15% of excess over $48.
Over $88 but not over $177	$11.67, plus 17% of excess over $88.
Over $177 but not over $346	$26.80, plus 20% of excess over $177.
Over $346 but not over $423	$60.60, plus 25% of excess over $346.
Over $423	$79.85, plus 30% of excess over $423.

"*Table 2—If the payroll period with respect to an employee is BI-WEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0.
Over $42 but not over $65	21% of excess over $42.
Over $65 but not over $104	$4.83 plus 25% of excess over $65.
Over $104 but not over $177	$14.58 plus 17% of excess over $104.
Over $177 but not over $354	$26.99 plus 21% of excess over $177.
Over $354 but not over $423	$64.16 plus 25% of excess over $354.
Over $423	$81.41 plus 30% of excess over $423.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0.
Over $42 but not over $96	21% of excess over $42.
Over $96 but not over $177	$11.34 plus 15% of excess over $96.
Over $177 but not over $354	$23.49 plus 17% of excess over $177.
Over $354 but not over $692	$53.58 plus 20% of excess over $354.
Over $692 but not over $846	$121.18 plus 25% of excess over $692.
Over $846	$159.68 plus 30% of excess over $846.

'*Table 3—If the payroll period with respect to an employee is SEMI-MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $46	0.
Over $46 but not over $71	21% of excess over $46.
Over $71 but not over $113	$5.25 plus 25% of excess over $71.
Over $113 but not over $192	$15.75 plus 17% of excess over $113.
Over $192 but not over $383	$29.18 plus 21% of excess over $192.
Over $383 but not over $458	$69.29 plus 25% of excess over $383.
Over $458	$88.04 plus 30% of excess over $458.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $46	0.
Over $46 but not over $104	21% of excess over $46.
Over $104 but not over $192	$12.18 plus 15% of excess over $104.
Over $192 but not over $383	$25.38 plus 17% of excess over $192.
Over $383 but not over $750	$57.85 plus 20% of excess over $383.
Over $750 but not over $917	$131.25 plus 25% of excess over $750.
Over $917	$173.00 plus 30% of excess over $917.

"*Table 4.—If the payroll period with respect to an employee is MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $92	0
Over $92 but not over $142	21% of excess over $92
Over $142 but not over $225	$10.50 plus 25% of excess over $142
Over $225 but not over $383	$31.25 plus 17% of excess over $225
Over $383 but not over $767	$58.11 plus 21% of excess over $383
Over $767 but not over $917	$138.75 plus 25% of excess over $767
Over $917	$176.25 plus 30% of excess over $917

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $92	0
Over $92 but not over $208	21% of excess over $92
Over $208 but not over $383	$24.36 plus 15% of excess over $208
Over $383 but not over $767	$50.61 plus 17% of excess over $383
Over $767 but not over $1,500	$115.89 plus 20% of excess over $767
Over $1,500 but not over $1,833	$262.49 plus 25% of excess over $1,500
Over $1,833	$345.74 plus 30% of excess over $1,833

"*Table 5—If the payroll period with respect to an employee is QUARTERLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $275	*0.*
Over $275 but not over $425	*21% of excess over $275.*
Over $425 but not over $675	*$31.50 plus 25% of excess over $425.*
Over $675 but not over $1,150	*$94.00 plus 17% of excess over $675.*
Over $1,150 but not over $2,300	*$174.75 plus 21% of excess over $1,150.*
Over $2,300 but not over $2,750	*$416.25 plus 25% of excess over $2,300.*
Over $2,750	*$528.75 plus 30% of excess over $2,750.*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $275	*0.*
Over $275 but not over $625	*21% of excess over $275.*
Over $625 but not over $1,150	*$73.50 plus 15% of excess over $625.*
Over $1,150 but not over $2,300	*$152.25 plus 17% of excess over $1,150.*
Over $2,300 but not over $4,500	*$347.75 plus 20% of excess over $2,300.*
Over $4,500 but not over $5,500	*$787.75 plus 25% of excess over $4,500.*
Over $5,500	*$1,037.75 plus 30% of excess over $5,500.*

"*Table 6—If the payroll period with respect to an employee is SEMIANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $550	*0*
Over $550 but not over $850	*21% of excess over $550*
Over $850 but not over $1,350	*$63.00 plus 25% of excess over $850*
Over $1,350 but not over $2,300	*$188.00 plus 17% of excess over $1,350*
Over $2,300 but not over $4,600	*$349.50 plus 21% of excess over $2,300*
Over $4,600 but not over $5,500	*$832.50 plus 25% of excess over $4,600*
Over $5,500	*$1,057.50 plus 30% of excess over $5,500*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $550	*0*
Over $550 but not over $1,250	*21% of excess over $550*
Over $1,250 but not over $2,300	*$147.00 plus 15% of excess over $1,250*
Over $2,300 but not over $4,600	*$304.50 plus 17% of excess over $2,300*
Over $4,600 but not over $9,000	*$695.50 plus 20% of excess over $4,600*
Over $9,000 but not over $11,000	*$1,575.50 plus 25% of excess over $9,000*
Over $11,000	*$2,075.50 plus 30% of excess over $11,000*

"*Table 7—If the payroll period with respect to an employee is ANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,100	*0.*
Over $1,100 but not over $1,700	*21% of excess over $1,100.*
Over $1,700 but not over $2,700	*$126 plus 25% of excess over $1,700.*
Over $2,700 but not over $4,600	*$376 plus 17% of excess over $2,700.*
Over $4,600 but not over $9,200	*$699 plus 21% of excess over $4,600.*
Over $9,200 but not over $11,000	*$1,665 plus 25% of excess over $9,200.*
Over $11,000	*$2,115 plus 30% of excess over $11,000.*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,100	*0.*
Over $1,100 but not over $2,500	*21% of excess over $1,100.*
Over $2,500 but not over $4,600	*$294 plus 15% of excess over $2,500.*
Over $4,600 but not over $9,200	*$609 plus 17% of excess over $4,600.*
Over $9,200 but not over $18,000	*$1,391 plus 20% of excess over $9,200.*
Over $18,000 but not over $22,000	*$3,151 plus 25% of excess over $18,000.*
Over $22,000	*$4,151 plus 30% of excess over $22,000.*

"*Table 8—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages divided by the number of days in the payroll period is:	***The amount of income tax to be withheld shall be:***
Not over $3.00	*0*
Over $3.00 but not over $4.70	*21% of excess over $3.00.*
Over $4.70 but not over $7.40	*$0.36 plus 25% of excess over $4.70.*
Over $7.40 but not over $12.60	*$1.03 plus 17% of excess over $7.40.*
Over $12.60 but not over $25.20	*$1.92 plus 21% of excess over $12.60.*
Over $25.20 but not over $30.10	*$4.56 plus 25% of excess over $25.20.*
Over $30.10	*$5.79 plus 30% of excess over $30.10.*

"*(b) Married person:*

"If the amount of wages divided by the number of days in the payroll period is:	***The amount of income tax to be withheld shall be:***
Not over $3.00	*0*
Over $3.00 but not over $6.80	*21% of excess over $3.00.*
Over $6.80 but not over $12.60	*$0.80 plus 15% of excess over $6.80.*
Over $12.60 but not over $25.20	*$1.67 plus 17% of excess over $12.60.*
Over $25.20 but not over $49.30	*$3.81 plus 20% of excess over $25.20.*
Over $49.30 but not over $60.30	*$8.63 plus 25% of excess over $49.30.*
Over $60.30	*$11.38 plus 30% of excess over $60.30.*

"(3) *In the case of wages paid after December 31, 1970, and before January 1, 1972:*

"*Table 1—If the payroll period with respect to an employee is WEEKLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $20	0
Over $20 but not over $31	14% of excess over $20
Over $31 but not over $50	$1.54 plus 17% of excess over $31
Over $50 but not over $100	$4.77 plus 20% of excess over $50
Over $100 but not over $135	$14.77 plus 18% of excess over $100
Over $135 but not over $212	$21.07 plus 21% of excess over $135
Over $212	$37.24 plus 24% of excess over $212

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $20	0
Over $20 but not over $42	14% of excess over $20
Over $42 but not over $77	$3.08 plus 17% of excess over $42
Over $77 but not over $163	$9.03 plus 16% of excess over $77
Over $163 but not over $269	$22.79 plus 19% of excess over $163
Over $269 but not over $385	$42.93 plus 21% of excess over $269
Over $385	$67.29 plus 25% of excess over $385

"*Table 2—If the payroll period with respect to an employee is BI-WEEKLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $40	0.
Over $40 but not over $62	14% of excess over $40.
Over $62 but not over $100	$3.08 plus 17% of excess over $62.
Over $100 but not over $200	$9.54 plus 20% of excess over $100.
Over $200 but not over $269	$29.54 plus 18% of excess over $200.
Over $269 but not over $423	$41.96 plus 21% of excess over $269.
Over $423	$74.30 plus 24% of excess over $423.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $40	0.
Over $40 but not over $85	14% of excess over $40.
Over $85 but not over $154	$6.30 plus 17% of excess over $85.
Over $154 but not over $327	$18.03 plus 16% of excess over $154.
Over $327 but not over $538	$45.71 plus 19% of excess over $327.
Over $538 but not over $769	$85.80 plus 21% of excess over $538.
Over $769	$134.31 plus 25% of excess over $769.

"*Table 3—If the payroll period with respect to an employee is SEMIMONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $44	0.
Over $44 but not over $67	14% of excess over $44.
Over $67 but not over $108	$3.22 plus 17% of excess over $67.
Over $108 but not over $217	$10.19 plus 20% of excess over $108.
Over $217 but not over $292	$31.99 plus 18% of excess over $217.
Over $292 but not over $458	$45.49 plus 21% of excess over $292.
Over $458	$80.35 plus 24% of excess over $458.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $44	0.
Over $44 but not over $92	14% of excess over $44.
Over $92 but not over $167	$6.72 plus 17% of excess over $92.
Over $167 but not over $354	$19.47 plus 16% of excess over $167.
Over $354 but not over $583	$49.39 plus 19% of excess over $354.
Over $583 but not over $833	$92.90 plus 21% of excess over $583.
Over $833	$145.40 plus 25% of excess over $833.

"*Table 4—If the payroll period with respect to an employee is MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $88	0.
Over $88 but not over $133	14% of excess over $88.
Over $133 but not over $217	$6.30 plus 17% of excess over $133.
Over $217 but not over $433	$20.68 plus 20% of excess over $217.
Over $433 but not over $583	$63.78 plus 18% of excess over $433.
Over $583 but not over $917	$90.78 plus 21% of excess over $583.
Over $917	$160.92 plus 24% of excess over $917.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $88	0
Over $88 but not over $183	14% of excess over $88.
Over $183 but not over $333	$13.30 plus 17% of excess over $183.
Over $333 but not over $708	$38.80 plus 16% of excess over $333.
Over $708 but not over $1,167	$98.80 plus 19% of excess over $708.
Over $1,167 but not over $1,667	$186.01 plus 21% of excess over $1,167.
Over $1,667	$291.01 plus 25% of excess over $1,667.

"*Table 5—If the payroll period with respect to an employee is QUARTERLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $263	0
Over $263 but not over $400	14% of excess over $263
Over $400 but not over $650	$19.18 plus 17% of excess over $400
Over $650 but not over $1,300	$61.68 plus 20% of excess over $650
Over $1,300 but not over $1,750	$191.68 plus 18% of excess over $1,300
Over $1,750 but not over $2,750	$272.68 plus 21% of excess over $1,750
Over $2,750	$482.68 plus 24% of excess over $2,750

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $263	0
Over $263 but not over $550	14% of excess over $263
Over $550 but not over $1,000	$40.18 plus 17% of excess over $550
Over $1,000 but not over $2,125	$116.68 plus 16% of excess over $1,000
Over $2,125 but not over $3,500	$296.68 plus 19% of excess over $2,125
Over $3,500 but not over $5,000	$557.93 plus 21% of excess over $3,500
Over $5,000	$872.93 plus 25% of excess over $5,000

"*Table 6—If the payroll period with respect to an employee is SEMI-ANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $525	*0.*
Over $525 but not over $800	*14% of excess over $525.*
Over $800 but not over $1,300	*$38.50 plus 17% of excess over $800.*
Over $1,300 but not over $2,600	*$123.50 plus 20% of excess over $1,300.*
Over $2,600 but not over $3,500	*$383.50 plus 18% of excess over $2,600.*
Over $3,500 but not over $5,500	*$545.50 plus 21% of excess over $3,500.*
Over $5,500	*$965.50 plus 24% of excess over $5,500.*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $525	*0.*
Over $525 but not over $1,100	*14% of excess over $525.*
Over $1,100 but not over $2,000	*$80.50 plus 17% of excess over $1,100.*
Over $2,000 but not over $4,250	*$233.50 plus 16% of excess over $2,000.*
Over $4,250 but not over $7,000	*$593.50 plus 19% of excess over $4,250.*
Over $7,000 but not over $10,000	*$1,116.00 plus 21% of excess over $7,000.*
Over $10,000	*$1,746.00 plus 25% of excess over $10,000.*

"*Table 7—If the payroll period with respect to an employee is ANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,050	*0.*
Over $1,050 but not over $1,600	*14% of excess over $1,050.*
Over $1,600 but not over $2,600	*$77 plus 17% of excess over $1,600.*
Over $2,600 but not over $5,200	*$247 plus 20% of excess over $2,600.*
Over $5,200 but not over $7,000	*$767 plus 18% of excess over $5,200.*
Over $7,000 but not over $11,000	*$1,091 plus 21% of excess over $7,000.*
Over $11,000	*$1,931 plus 24% of excess over $11,000.*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,050	*0.*
Over $1,050 but not over $2,200	*14% of excess over $1,050.*
Over $2,200 but not over $4,000	*$161 plus 17% of excess over $2,200.*
Over $4,000 but not over $8,500	*$467 plus 16% of excess over $4,000.*
Over $8,500 but not over $14,000	*$1,187 plus 19% of excess over $8,500.*
Over $14,000 but not over $20,000	*$2,232 plus 21% of excess over $14,000.*
Over $20,000	*$3,492 plus 25% of excess over $20,000.*

"*Table 8.—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $2.90	0.
Over $2.90 but not over $4.40	14% of excess over $2.90.
Over $4.40 but not over $7.10	$0.21 plus 17% of excess over $4.40.
Over $7.10 but not over $14.20	$0.67 plus 20% of excess over $7.10.
Over $14.20 but not over $19.20	$2.09 plus 18% of excess over $14.20.
Over $19.20 but not over $30.10	$2.99 plus 21% of excess over $19.20.
Over $30.10	$5.28 plus 24% of excess over $30.10.

"*(b) Married Person:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $2.90	0.
Over $2.90 but not over $6.00	14% of excess over $2.90.
Over $6.00 but not over $11.00	$0.43 plus 17% of excess over $6.00.
Over $11.00 but not over $23.30	$1.28 plus 16% of excess over $11.00.
Over $23.30 but not over $38.40	$3.25 plus 19% of excess over $23.30.
Over $38.40 but not over $54.80	$6.12 plus 21% of excess over $38.40.
Over $54.80	$9.57 plus 25% of excess over $54.80.

"*(4) In case of wages paid after December 31, 1971, and before January 1, 1973:*

"*Table 1—If the payroll period with respect to an employee is WEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $19	0.
Over $19 but not over $38	14% of excess over $19.
Over $38 but not over $58	$2.66 plus 17% of excess over $38.
Over $58 but not over $87	$6.06 plus 19% of excess over $58.
Over $87 but not over $135	$11.57 plus 20% of excess over $87.
Over $135 but not over $221	$21.17 plus 21% of excess over $135.
Over $221	$39.23 plus 24% of excess over $221.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $19	0.
Over $19 but not over $48	14% of excess over $19.
Over $48 but not over $183	$4.06 plus 16% of excess over $48.
Over $183 but not over $269	$25.66 plus 19% of excess over $183.
Over $269 but not over $365	$42.00 plus 21% of excess over $269.
Over $365 but not over $442	$62.16 plus 24% of excess over $365.
Over $442	$80.64 plus 28% of excess over $442.

"*Table 2—If the payroll period with respect to an employee is BIWEEKLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $38	0.
Over $38 but not over $77	14% of excess over $38.
Over $77 but not over $115	$5.46 plus 17% of excess over $77.
Over $115 but not over $173	$11.92 plus 19% of excess over $115.
Over $173 but not over $269	$22.94 plus 20% of excess over $173.
Over $269 but not over $442	$42.14 plus 21% of excess over $269.
Over $442	$78.47 plus 24% of excess over $442.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $38	0.
Over $38 but not over $96	14% of excess over $38.
Over $96 but not over $365	$8.12 plus 16% of excess over $96.
Over $365 but not over $538	$51.16 plus 19% of excess over $365.
Over $538 but not over $731	$84.03 plus 21% of excess over $538.
Over $731 but not over $885	$124.56 plus 24% of excess over $731.
Over $885	$161.52 plus 28% of excess over $885.

"*Table 3—If the payroll period with respect to an employee is SEMI-MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0
Over $42 but not over $83	14% of excess over $42
Over $83 but not over $125	$5.74 plus 17% of excess over $83
Over $125 but not over $188	$12.88 plus 19% of excess over $125
Over $188 but not over $292	$24.85 plus 20% of excess over $188
Over $292 but not over $479	$45.65 plus 21% of excess over $292
Over $479	$84.92 plus 24% of excess over $479

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0
Over $42 but not over $104	14% of excess over $42
Over $104 but not over $396	$8.68 plus 16% of excess over $104
Over $396 but not over $583	$55.40 plus 19% of excess over $396
Over $583 but not over $792	$90.93 plus 21% of excess over $583
Over $792 but not over $958	$134.82 plus 24% of excess over $792
Over $958	$174.66 plus 28% of excess over $958

"*Table 4—If the payroll period with respect to an employee is MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $83	0.
Over $83 but not over $167	14% of excess over $83.
Over $167 but not over $250	$11.76 plus 17% of excess over $167.
Over $250 but not over $375	$25.87 plus 19% of excess over $250.
Over $375 but not over $583	$49.62 plus 20% of excess over $375.
Over $583 but not over $958	$91.22 plus 21% of excess over $583.
Over $958	$169.97 plus 24% of excess over $958.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $83	0.
Over $83 but not over $208	14% of excess over $83.
Over $208 but not over $792	$17.50 plus 16% of excess over $208.
Over $792 but not over $1,167	$110.94 plus 19% of excess over $792.
Over $1,167 but not over $1,583	$182.19 plus 21% of excess over $1,167.
Over $1,583 but not over $1,917	$269.55 plus 24% of excess over $1,583.
Over $1,917	$349.71 plus 28% of excess over $1,917.

"*Table 5—If the payroll period with respect to an employee is QUARTERLY*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $250	0.
Over $250 but not over $500	14% of excess over $250.
Over $500 but not over $750	$35.00 plus 17% of excess over $500.
Over $750 but not over $1,125	$77.50 plus 19% of excess over $750.
Over $1,125 but not over $1,750	$148.75 plus 20% of excess over $1,125.
Over $1,750 but not over $2,875	$273.75 plus 21% of excess over $1,750.
Over $2,875	$510.00 plus 24% of excess over $2,875.

(b) Married Person:

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $250	0.
Over $250 but not over $625	14% of excess over $250.
Over $625 but not over $2,375	$52.50 plus 16% of excess over $625.
Over $2,375 but not over $3,500	$332.50 plus 19% of excess over $2,375.
Over $3,500 but not over $4,750	$546.25 plus 21% of excess over $3,500.
Over $4,750 but not over $5,750	$808.75 plus 24% of excess over $4,750.
Over $5,750	$1,048.75 plus 28% of excess over $5,750.

"*Table 6—If the payroll period with respect to an employee is SEMI-ANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $500	0.
Over $500 but not over $1,000	14% of excess over $500.
Over $1,000 but not over $1,500	$70.00 plus 17% of excess over $1,000.
Over $1,500 but not over $2,250	$155.00 plus 19% of excess over $1,500.
Over $2,250 but not over $3,500	$297.50 plus 20% of excess over $2,250.
Over $3,500 but not over $5,750	$547.50 plus 21% of excess over $3,500.
Over $5,750	$1,020.00 plus 24% of excess over $5,750.

"*(b) Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $500	0.
Over $500 but not over $1,250	14% of excess over $500.
Over $1,250 but not over $4,750	$105.00 plus 16% of excess over $1,250.
Over $4,750 but not over $7,000	$665.00 plus 19% of excess over $4,750.
Over $7,000 but not over $9,500	$1,092.50 plus 21% of excess over $7,000.
Over $9,500 but not over $11,500	$1,617.50 plus 24% of excess over $9,500.
Over $11,500	$2,097.50 plus 28% of excess over $11,500.

"*Table 7—If the payroll period with respect to an employee is ANNUAL*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,000	*0.*
Over $1,000 but not over $2,000	*14% of excess over $1,000.*
Over $2,000 but not over $3,000	*$140 plus 17% of excess over $2,000.*
Over $3,000 but not over $4,500	*$310 plus 19% of excess over $3,000.*
Over $4,500 but not over $7,000	*$595 plus 20% of excess over $4,500.*
Over $7,000 but not over $11,500	*$1,095 plus 21% of excess over $7,000.*
Over $11,500	*$2,040 plus 24% of excess over $11,500.*

"*(b) Married Person:*

"If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,000	*0.*
Over $1,000 but not over $2,500	*14% of excess over $1,000.*
Over $2,500 but not over $9,500	*$210 plus 16% of excess over $2,500.*
Over $9,500 but not over $14,000	*$1,330 plus 19% of excess over $9,500.*
Over $14,000 but not over $19,000	*$2,185 plus 21% of excess over $14,000.*
Over $19,000 but not over $23,000	*$3,235 plus 24% of excess over $19,000.*
Over $23,000	*$4,195 plus 28% of excess over $23,000.*

"*Table 8—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period*

"*(a) Single Person—Including Head of Household:*

"If the amount of wages divided by the number of days in the payroll period is:	***The amount of income tax to be withheld shall be:***
Not over $2.70	*0.*
Over $2.70 but not over $5.50	*14% of excess over $2.70.*
Over $5.50 but not over $8.20	*$0.39 plus 17% of excess over $5.50.*
Over $8.20 but not over $12.30	*$0.85 plus 19% of excess over $8.20.*
Over $12.30 but not over $19.20	*$1.63 plus 20% of excess over $12.30.*
Over $19.20 but not over $31.50	*$3.01 plus 21% of excess over $19.20.*
Over $31.50	*$5.59 plus 24% of excess over $31.50.*

"*(b) Married Person:*

"If the amount of wages divided by the number of days in the payroll period is:	***The amount of income tax to be withheld shall be:***
Not over $2.70	*0.*
Over $2.70 but not over $6.80	*14% of excess over $2.70.*
Over $6.80 but not over $26.00	*$0.57 plus 16% of excess over $6.80.*
Over $26.00 but not over $38.40	*$3.65 plus 19% of excess over $26.00.*
Over $38.40 but not over $52.10	*$6.00 plus 21% of excess over $38.40.*
Over $52.10 but not over $63.00	*$8.88 plus 24% of excess over $52.10.*
Over $63.00	*$11.50 plus 28% of excess over $63.00.*

"(5) *In the case of wages paid after December 31, 1972:*

"*Table 1—If the payroll period with respect to an employee is WEEKLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $19	0.
Over $19 but not over $38	14% of excess over $19.
Over $38 but not over $58	$2.66 plus 17% of excess over $38.
Over $58 but not over $96	$6.06 plus 19% of excess over $58.
Over $96 but not over $183	$13.28 plus 20% of excess over $96.
Over $183 but not over $221	$30.68 plus 21% of excess over $183.
Over $221	$38.66 plus 23% of excess over $221.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $19	0.
Over $19 but not over $38	14% of excess over $19.
Over $38 but not over $96	$2.66 plus 15% of excess over $38.
Over $96 but not over $183	$11.36 plus 16% of excess over $96.
Over $183 but not over $288	$25.28 plus 19% of excess over $183.
Over $288 but not over $442	$45.23 plus 22% of excess over $288.
Over $442	$79.11 plus 27% of excess over $442.

"*Table 2—if the payroll period with respect to an employee is BI-WEEKLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $38	0
Over $38 but not over $77	14% of excess over $38
Over $77 but not over $115	$5.46 plus 17% of excess over $77
Over $115 but not over $192	$11.92 plus 19% of excess over $115
Over $192 but not over $365	$26.55 plus 20% of excess over $192
Over $365 but not over $442	$61.15 plus 21% of excess over $365
Over $442	$77.32 plus 23% of excess over $442

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $38	0
Over $38 but not over $77	14% of excess over $38
Over $77 but not over $192	$5.46 plus 15% of excess over $77
Over $192 but not over $365	$22.71 plus 16% of excess over $192
Over $365 but not over $577	$50.39 plus 19% of excess over $365
Over $577 but not over $885	$90.67 plus 22% of excess over $577
Over $885	$158.43 plus 27% of excess over $885

"*Table 3—If the payroll period with respect to an employee is SEMI-MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0.
Over $42 but not over $83	14% of excess over $42.
Over $83 but not over $125	$5.74 plus 17% of excess over $83.
Over $125 but not over $208	$12.88 plus 19% of excess over $125.
Over $208 but not over $396	$28.65 plus 20% of excess over $208.
Over $396 but not over $479	$66.25 plus 21% of excess over $396.
Over $479	$83.68 plus 23% of excess over $479.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $42	0.
Over $42 but not over $83	14% of excess over $42.
Over $83 but not over $208	$5.74 plus 15% of excess over $83.
Over $208 but not over $396	$24.49 plus 16% of excess over $208.
Over $396 but not over $625	$54.57 plus 19% of excess over $396.
Over $625 but not over $958	$98.08 plus 22% of excess over $625.
Over $958	$171.34 plus 27% of excess over $958.

"*Table 4—If the payroll period with respect to an employee is MONTHLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $83	0.
Over $83 but not over $167	14% of excess over $83.
Over $167 but not over $250	$11.76 plus 17% of excess over $167.
Over $250 but not over $417	$25.87 plus 19% of excess over $250.
Over $417 but not over $792	$57.60 plus 20% of excess over $417.
Over $792 but not over $958	$132.60 plus 21% of excess over $792.
Over $958	$167.46 plus 23% of excess over $958.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $83	0.
Over $83 but not over $167	14% of excess over $83.
Over $167 but not over $417	$11.76 plus 15% of excess over $167.
Over $417 but not over $792	$49.26 plus 16% of excess over $417.
Over $792 but not over $1,250	$109.26 plus 19% of excess over $792.
Over $1,250 but not over $1,917	$196.28 plus 22% of excess over $1,250.
Over $1,917	$343.02 plus 27% of excess over $1,917.

"*Table 5.—If the payroll period with respect to an employee is QUARTERLY*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $250	0.
Over $250 but not over $500	14% of excess over $250.
Over $500 but not over $750	$35.00 plus 17% of excess over $500
Over $750 but not over $1,250	$77.50 plus 19% of excess over $750
Over $1,250 but not over $2,375	$172.50 plus 20% of excess over $1,250
Over $2,375 but not over $2,875	$397.50 plus 21% of excess over $2,375
Over $2,875	$502.50 plus 23% of excess over $2,875.

"(b) *Married Person:*

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $250	0.
Over $250 but not over $500	14% of excess over $250.
Over $500 but not over $1,250	$35.00 plus 15% of excess over $500
Over $1,250 but not over $2,375	$147.50 plus 16% of excess over $1,250
Over $2,375 but not over $3,750	$327.50 plus 19% of excess over $2,375
Over $3,750 but not over $5,750	$588.75 plus 22% of excess over $3,750
Over $5,750	$1,028.75 plus 27% of excess over $5,750

"*Table 6— If the payroll period with respect to an employee is SEMIANNUAL*

"*(a) Single Person—Including Head of Household:*

If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $500	*0.*
Over $500 but not over $1,000	*14% of excess over $500.*
Over $1,000 but not over $1,500	*$70.00 plus 17% of excess over $1,000.*
Over $1,500 but not over $2,500	*$155.00 plus 19% of excess over $1,500.*
Over $2,500 but not over $4,750	*$345.00 plus 20% of excess over $2,500.*
Over $4,750 but not over $5,750	*$795.00 plus 21% of excess over $4,750.*
Over $5,750	*$1,005.00 plus 23% of excess over $5,750.*

"*(b) Married Person:*

If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $500	*0.*
Over $500 but not over $1,000	*14% of excess over $500.*
Over $1,000 but not over $2,500	*$70.00 plus 15% of excess over $1,000.*
Over $2,500 but not over $4,750	*$295.00 plus 16% of excess over $2,500.*
Over $4,750 but not over $7,500	*$655.00 plus 19% of excess over $4,750.*
Over $7,500 but not over $11,500	*$1,177.50 plus 22% of excess over $7,500.*
Over $11,500	*$2,057.50 plus 27% of excess over $11,500.*

"*Table 7—If the payroll period with respect to an employee is ANNUAL*

"*(a) Single Person—Including Head of Household:*

If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,000	*0.*
Over $1,000 but not over $2,000	*14% of excess over $1,000.*
Over $2,000 but not over $3,000	*$140 plus 17% of excess over $2,000.*
Over $3,000 but not over $5,000	*$310 plus 19% of excess over $3,000.*
Over $5,000 but not over $9,500	*$690 plus 20% of excess over $5,000.*
Over $9,500 but not over $11,500	*$1,590 plus 21% of excess over $9,500.*
Over $11,500	*$2,010 plus 23% of execss over $11,500.*

"*(b) Married Person:*

If the amount of wages is:	***The amount of income tax to be withheld shall be:***
Not over $1,000	*0.*
Over $1,000 but not over $2,000	*14% of excess over $1,000.*
Over $2,000 but not over $5,000	*$140 plus 15% of excess over $2,000.*
Over $5,000 but not over $9,500	*$590 plus 16% of excess over $5,000.*
Over $9,500 but not over $15,000	*$1,310 plus 19% of excess over $9,500.*
Over $15,000 but not over $23,000	*$2,355 plus 22% of excess over $15,000.*
Over $23,000	*$4,115 plus 27% of excess over $23,000.*

"*Table 8.—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period*

"(a) *Single Person—Including Head of Household:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $2.70	0.
Over $2.70 but not over $5.50	14% of excess over $2.70.
Over $5.50 but not over $8.20	$0.39 plus 17% of excess over $5.50.
Over $8.20 but not over $13.70	$0.85 plus 19% of excess over $8.20.
Over $13.70 but not over $26.00	$1.90 plus 20% of excess over $13.70.
Over $26.00 but not over $31.50	$4.36 plus 21% of excess over $26.00.
Over $31.50	$5.51 plus 23% of excess over $31.50.

"(b) *Married Person:*

"If the amount of wages divided by the number of days in the payroll period is:	The amount of income tax to be withheld shall be:
Not over $2.70	0.
Over $2.70 but not over $5.50	14% of excess over $2.70.
Over $5.50 but not over $13.70	$0.39 plus 15% of excess over $5.50.
Over $13.70 but not over $26.00	$1.62 plus 16% of excess over $13.70.
Over $26.00 but not over $41.10	$3.59 plus 19% of excess over $26.00.
Over $41.10 but not over $63.00	$6.46 plus 22% of excess over $41.10.
Over $63.00	$11.28 plus 27% of excess over $63.00."

(b) PERCENTAGE METHOD OF WITHHOLDING.—

(1) WAGES PAID BEFORE JULY 1, 1970.—*Effective with respect to wages paid after December 31, 1969, and before July 1, 1970, the table contained in section 3402(b)(1) is amended to read as follows:*

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption:
Weekly	$11.50
Biweekly	23.00
Semimonthly	25.00
Monthly	50.00
Quarterly	150.00
Semiannual	300.00
Annual	600.00
Daily or miscellaneous (per day of such period)	1.60."

(2) WAGES PAID IN 1970 AND 1971.—*Effective with respect to wages paid after June 30, 1970, and before January 1, 1972, the table contained in section 3402(b)(1) is amended to read as follows:*

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption:
Weekly	$12.50
Biweekly	25.00
Semimonthly	27.10
Monthly	54.20
Quarterly	162.50
Semiannual	325.00
Annual	650.00
Daily or miscellaneous (per day of such period)	1.80."

(3) WAGES PAID DURING 1972.—*Effective with respect to wages paid during 1972, the table contained in section 3402(b)(1) is amended to read as follows:*

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption:
Weekly	$13.50
Biweekly	26.90
Semimonthly	29.20
Monthly	58.30
Quarterly	175.00
Semiannual	350.00
Annual	700.00
Daily or miscellaneous (per day of such period)	1.90."

(4) WAGES PAID AFTER 1972.—*Effective with respect to wages paid after 1972, the table contained in section 3402(b)(1) is amended to read as follows:*

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption:
Weekly	$14.40
Biweekly	28.80
Semimonthly	31.30
Monthly	62.50
Quarterly	187.50
Semiannual	375.00
Annual	750.00
Daily or miscellaneous (per day of such period)	2.10."

(c) WAGE BRACKET WITHHOLDING.—*Section 3402(c) (relating to wage bracket withholding) is amended—*

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee a tax (in lieu of the tax required to be deducted and withheld under subsection (a)) determined in accordance with tables prescribed by the Secretary or his delegate in accordance with paragraph (6).", and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) In the case of wages paid after December 31, 1969, the amount deducted and withheld under paragraph (1) shall be determined in accordance with tables prescribed by the Secretary or his delegate. In the tables so prescribed, the amounts set forth as amounts of wages and amounts of income tax to be deducted and withheld shall be computed on the basis of table 7 contained in paragraph (1), (2), (3), (4), or (5) (whichever is applicable) of subsection (a)."

(d) ALTERNATIVE METHODS OF COMPUTING AMOUNT TO BE WITHHELD.—*Section 3402(h) (relating to withholding on basis of average wages) is amended to read as follows:*

"(h) ALTERNATIVE METHODS OF COMPUTING AMOUNT TO BE WITHHELD.—The Secretary or his delegate may, under regulations prescribed by him, authorize—

"(1) WITHHOLDING ON BASIS OF AVERAGE WAGES.—An employer—

"(A) to estimate the wages which will be paid to any employee in any quarter of the calendar year,

"(B) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and

"(C) to deduct and withhold upon any payment of wages to such employee during such quarter (and, in the case of tips referred to in subsection (k), within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

"(2) WITHHOLDING ON BASIS OF ANNUALIZED WAGES.—An employer to determine the amount of tax to be deducted and withheld upon a payment of wages to an employee for a payroll period by—

"(A) multiplying the amount of an employee's wages for a payroll period by the number of such payroll periods in the calendar year,

"(B) determining the amount of tax which would be required to be deducted and withheld upon the amount determined under subparagraph (A) if such amount constituted the actual wages for the calendar year and the payroll period of the employee were an annual payroll period, and

"(C) dividing the amount of tax determined under subparagraph (B) by the number of payroll periods (described in subparagraph (A)) in the calendar year.

"(3) WITHHOLDING ON BASIS ON CUMULATIVE WAGES.—An employer, in the case of any employee who requests to have the amount of tax to be withheld from his wages computed on the basis of his cumulative wages, to—

"(A) add the amount of the wages to be paid to the employee for the payroll period to the total amount of wages paid by the employer to the employee during the calendar year,

"(B) divide the aggregate amount of wages computed under subparagraph (A) by the number of payroll periods to which such aggregate amount of wages relates,

"(C) compute the total amount of tax that would have been required to be deducted and withheld under subsection (a) if the average amount of wages (as computed under subparagraph (B)) had been paid to the employee for the number of payroll periods to which the aggregate amount of wages (computed under subparagraph (A)) relates,

"(D) determine the excess, if any, of the amount of tax computed under subparagraph (C) over the total amount of tax deducted and withheld by the employer from wages paid to the employee during the calendar year, and

"(E) deduct and withhold upon the payment of wages (referred to in subparagraph (A)) to the employee an amount equal to the excess (if any) computed under subparagraph (D).

"(4) OTHER METHODS.—An employer to determine the amount of tax to be deducted and withheld upon the wages paid to an employee by any other method which will require the employer to deduct and withhold upon such wages substantially the same amount as would be required to be deducted and withheld by applying subsection (a) or (c), either with respect to a payroll period or with respect to the entire taxable year."

(e) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Section 3402(m) (relating to withholding allowances based on itemized deductions in the case of income tax collected at source) is amended:

(1) by redesignating paragraph (2)(C) as paragraph (2)(D), and

(2) by amending that portion of such section as precedes paragraph (2)(D) (as redesignated) to read as follows:

"(m) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—

"(1) GENERAL RULE.—An employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages in a number equal to the number determined by dividing by $750 the excess of—

"(A) his estimated itemized deductions, over

"(B) an amount equal to 15 percent of his estimated wages.

For purposes of this subsection, a fractional number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to 1.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ESTIMATED ITEMIZED DEDUCTIONS.— The term 'estimated itemized deductions' means the aggregate amount which he reasonably expects will be allowable as deductions under chapter 1 (other than the deductions referred to in sections 141 and 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62) for the estimation year. In no case shall such aggregate amount be greater than the sum of (i) the amount of such deductions (or the amount of the standard deduction) reflected in his return of tax under subtitle A for the taxable year preceding the estimation year, and (ii) the amount of his determinable additional deductions for the estimation year.

"(B) ESTIMATED WAGES.—The term 'estimated wages' means the aggregate amount which he reasonably expects will constitute wages for the estimation year.

"(C) DETERMINABLE ADDITIONAL DEDUCTIONS.—The term 'determinable additional deductions' means those estimated itemized deductions which (i) are in excess of the deductions referred to in subparagraph (A) (or the standard deduction) reflected on his return of tax under subtitle A for the taxable year preceding the estimation year, and (ii) are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of such deductions on the return of tax under subtitle A for the estimation year."

(f) EMPLOYEES INCURRING NO INCOME TAX LIABILITY.—

(1) IN GENERAL.—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

"(n) EMPLOYEES INCURRING NO INCOME TAX LIABILITY.—Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding exemption certificate (in such form and containing such other information as the Secretary or his delegate may prescribe) furnished to the employer by the employee certifying that the employee—

"(1) incurred no liability for income tax imposed under subtitle A for his preceding taxable year, and

"(2) anticipates that he will incur no liability for income tax imposed under subtitle A for his current taxable year.

The Secretary or his delegate shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f)."

(2) CONFORMING AMENDMENT.—The first sentence of section 6051 (relating to receipts for employees) is amended by striking out "under section 3402 if" and inserting "under section 3402 (determined without regard to subsection (n)) if".

(g) EXTENSION OF WITHHOLDING TO PAYMENTS OTHER THAN WAGES.—Section 3402 (relating to income tax collected at source) is amended by adding after subsection (n) (added by subsection (f)) the following new subsections:

"(o) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS OTHER THAN WAGES.—

"(1) GENERAL RULE.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(A) any supplemental unemployment compensation benefit paid to an individual, and

"(B) any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subject to withholding under this chapter is in effect,

shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

"(2) DEFINITIONS.—

"(A) SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—For purposes of paragraph (1), the term 'supplemental unemployment compensation benefits' means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment (whether or not such separation is temporary), resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includible in the employee's gross income.

"(B) ANNUITY.—For purposes of this subsection, the term 'annuity' means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includible in the gross income of such individual.

"(3) REQUEST FOR WITHHOLDING.—A request that an annuity be subject to withholding under this chapter shall be made by the payee in writing to the person making the annuity payments, shall be accompanied by a withholding exemption certificate, executed in accordance with the provisions of subsection (f)(2), and shall take effect as provided in subsection (f)(3). Such a request may, notwithstanding the provisions of subsection (f)(4), be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate for purposes of subsection (f)(3)(B).

"(p) VOLUNTARY WITHHOLDING AGREEMENTS.—The Secretary or his delegate is authorized by regulations to provide for withholding—

"(1) from remuneration for services performed by an employee for his employer which (without regard to this subsection) does not constitute wages, and

"(2) from any other type of payment with respect to which the Secretary or his delegate finds that withholding would be appropriate under the provisions of this chapter,

if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to such withholding. Such agreement shall be made in such form and manner as the Secretary or his delegate may by regulations provide. For purposes of this chapter (and so much of subtitle F as relates to this chapter) remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect."

(h) EFFECTIVE DATES—

(1) The amendments made by subsections (a), (b), (c), (d), and (e) shall apply with respect to remuneration paid after December 31, 1969.

(2) The amendment made by subsection (f) applies to wages paid after April 30, 1970.

(3) Subsection (o) of section 3402 of the Internal Revenue Code of 1954, added by subsection (g) of this subsection, shall apply to payments made after December 31, 1970. Subsection (p) of such section 3402, added by subsection (g) of this section, shall apply to payments made after June 30, 1970.

TITLE IX—MISCELLANEOUS PROVISIONS

Subtitle A—Miscellaneous Income Tax Provisions

SEC. 901. EXCLUSION OF ADDITIONAL LIVING EXPENSES.

(a) EXCLUSION OF ADDITIONAL LIVING EXPENSES.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by renumbering section 123 as 124, and by inserting after section 122 the following new section:

"SEC. 123. AMOUNTS RECEIVED UNDER INSURANCE CONTRACTS FOR CERTAIN LIVING EXPENSES.

"(a) GENERAL RULE.—In the case of an individual whose principal residence is damaged or destroyed by fire, storm, or other casualty, or who is denied access to his principal residence by governmental authorities because of the occurrence or threat of occurrence of such a casualty, gross income does not include amounts received by such individual under an insurance contract which are paid to compensate or reimburse such individual for living expenses incurred for himself and members of his household resulting from the loss of use or occupancy of such residence.

"(b) LIMITATION.—Subsection (a) shall apply to amounts received by the taxpayer for living expenses incurred during any period only to the extent the amounts received do not exceed the amount by which—

"(1) the actual living expenses incurred during such period for himself and members of his household resulting from the loss of use or occupancy of their residence, exceed

"(2) the normal living expenses which would have been incurred for himself and members of his household during such period."

(b) CONFORMING AMENDMENT.—The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 123. Amounts received under insurance contracts for certain living expenses.
"Sec. 124. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts received on or after January 1, 1969.

SEC. 902. DEDUCTIBILITY OF TREBLE DAMAGE PAYMENTS, FINES AND PENALTIES, ETC.

(a) FINES AND PENALTIES; TREBLE DAMAGE PAYMENTS.—Section 162 (relating to deduction of trade or business expenses) is amended by redesignating subsection (f) as subsection (h), and by inserting after subsection (e) the following new subsections:

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"(f) FINES AND PENALTIES.—No deduction shall be allowed under subsection (a) for any fine or similar penalty paid to a government for the violation of any law.

"(g) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAWS.—If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred—

"(1) on any judgment for damages entered against the taxpayer under section 4 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

"(2) in settlement of any action brought under such section 4 on account of such violation or related violation.

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1970, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date."

(b) BRIBES AND ILLEGAL KICKBACKS.—Section 162(c) (relating to improper payments to certain government officials or employees) is amended to read as follows:

"(c) BRIBES AND ILLEGAL KICKBACKS.—

"(1) ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.—No deduction shall be allowed under subsection (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Secretary or his delegate to the same extent as he bears the burden of proof under section 7454 (concerning the burden of proof when the issue relates to fraud).

"(2) OTHER BRIBES OR KICKBACKS.—If in a criminal proceeding a taxpayer is convicted of making a payment (other than a payment described in paragraph (1)) which is an illegal bribe or kickback, or his plea of guilty or nolo contendere to an indictment or information charging the making of such a payment is entered or accepted in such a proceeding, no deduction shall be allowed under subsection (a) on account of such payment or any related payment made prior to the date of the final judgment in such proceeding.

"(3) STATUTE OF LIMITATIONS.—If a taxpayer claimed a deduction for a payment described in paragraph (2) which is disallowed because of a final judgment entered after the close of the taxable year for which the deduction was claimed, and if the proceeding was based on an indictment returned or an information filed prior to the expiration of the period for the assessment of any deficiency

for such taxable year, the period for the assessment of any deficiency attributable to the deduction of such payment shall not expire prior to the expiration of one year from the date of such final judgment, and such deficiency may be assessed prior to the expiration of such one-year period notwithstanding the provision of any other law or rule of law which would otherwise prevent such assessment."

(c) EFFECTIVE DATES.—Section 162(f) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to all taxable years to which such Code applies. Section 162(g) of such Code (as added by subsection (a)) shall apply with respect to amounts paid or incurred after December 31, 1969. Section 162(c)(1) of such Code (as amended by subsection (b)) shall apply to all taxable years to which such Code applies. Sections 162(c) (2) and (3) of such Code (as amended by subsection (b)) shall apply with respect to payments made after the date of the enactment of this Act.

SEC. 903. ACCRUED VACATION PAY.

Section 97 of the Technical Amendments Act of 1958 is amended by striking out "January 1, 1969" and inserting in lieu thereof "January 1, 1971".

SEC. 904. DEDUCTION OF RECOVERIES OF ANTITRUST DAMAGES, ETC.

(a) DEDUCTION ALLOWED.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 185 (as added by section 705 of this Act) the following new section:

"SEC. 186. RECOVERIES OF DAMAGES FOR ANTITRUST VIOLATIONS, ETC.

"(a) ALLOWANCE OF DEDUCTION.—If a compensatory amount which is included in gross income is received or accrued during the taxable year for a compensable injury, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

"(1) the amount of such compensatory amount, or

"(2) the amount of the unrecovered losses sustained as result of such compensable injury.

"(b) COMPENSABLE INJURY.—For purposes of this section, the term 'compensable injury' means—

"(1) injuries sustained as a result of an infringement of a patent issued by the United States,

"(2) injuries sustained as a result of a breach of contract or a breach of fiduciary duty or relationship, or

"(3) injuries sustained in business, or to property, by reason of any conduct forbidden in the antitrust laws for which a civil action may be brought under section 4 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (commonly known as the Clayton Act).

"(c) COMPENSATORY AMOUNT.—For purposes of this section, the term 'compensatory amount' means the amount received or accrued during the taxable year as damages as a result of an award in, or in settlement of, a civil action for recovery for a compensable injury, reduced by any amounts paid or incurred in the taxable year in securing such award or settlement.

"(d) UNRECOVERED LOSSES.—

"(1) IN GENERAL.—For purposes of this section, the amount of any unrecovered loss sustained as a result of any compensable injury is—

"(A) the sum of the amount of the net operating losses (as determined under section 172) for each taxable year in whole or in part within the injury period, to the extent that such net operating losses are attributable to such compensable injury, reduced by

"(B) the sum of—

"(i) the amount of the net operating losses described in subparagraph (A) which were allowed for any prior taxable year as a deduction under section 172 as a net operating loss carryback or carryover to such taxable year, and

"(ii) the amounts allowed as a deduction under subsection (a) for any prior taxable year for prior recoveries of compensatory amounts for such compensable injury.

"(2) INJURY PERIOD.—For purposes of paragraph (1), the injury period is—

"(A) with respect to any infringement of a patent, the period in which such infringement occurred,

"(B) with respect to a breach of contract or breach of fiduciary duty or relationship, the period during which amounts would have been received or accrued but for the breach of contract or breach of fiduciary duty or relationship, and

"(C) with respect to injuries sustained by reason of any conduct forbidden in the antitrust laws, the period in which such injuries were sustained.

"(3) NET OPERATING LOSSES ATTRIBUTABLE TO COMPENSABLE INJURIES.—For purposes of paragraph (1)—

"(A) a net operating loss for any taxable year shall be treated as attributable to a compensable injury to the extent of the compensable injury sustained during such taxable year, and

"(B) if only a portion of a net operating loss for any taxable year is attributable to a compensable injury, such portion shall (in applying section 172 for purposes of this section) be considered to be a separate net operating loss for such year to be applied after the other portion of such net operating loss.

"(e) EFFECT ON NET OPERATING LOSS CARRYOVERS.—If for the taxable year in which a compensatory amount is received or accrued any portion of a net operating loss carryover to such year is attributable to the compensable injury for which such amount is received or accrued, such portion of such net operating loss carryover shall be reduced by an amount equal to—

"(1) the deduction allowed under subsection (a) with respect to such compensatory amount, reduced by

"(2) any portion of the unrecovered losses sustained as a result of the compensable injury with respect to which the period for carryover under section 172 has expired."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 186. Recoveries of damages for antitrust violations, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1968.

SEC. 905. CORPORATIONS USING APPRECIATED PROPERTY TO REDEEM THEIR OWN STOCK.

(a) GENERAL RULE.—Section 311 (relating to taxability of corporation on distribution) is amended by adding at the end thereof the following new subsection:

"(d) APPRECIATED PROPERTY USED TO REDEEM STOCK.—

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which subpart A applies) of part or all of his stock in such corporation, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Subsections (b) and (c) shall not apply to any distribution to which this subsection applies.

"(2) EXCEPTIONS AND LIMITATIONS.—Paragraph (1) shall not apply to—

"(A) a distribution in complete redemption of all of the stock of a shareholder who, at all times within the 12-month period ending on the date of such distribution, owns at least 10 percent in value of the outstanding stock of the distributing corporation, but only if the redemption qualifies under section 302(b)(3) (determined without the application of section 302(c)(2)(A)(ii));

"(B) a distribution of stock or an obligation of a corporation—

"(i) which is engaged in at least one trade or business,

"(ii) which has not received property constituting a substantial part of its assets from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

"(iii) at least 50 percent in value of the outstanding stock of which is owned by the distributing corporation at any time within the 9-year period ending one year before the date of the distribution;

"(C) a distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in section 1504(a)) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution;

"(D) a distribution of stock or securities pursuant to the terms of a final judgment rendered by a court with respect to the distributing corporation in a court proceeding under the Sherman Act (26 Stat. 209; 15 U.S.C. 1–7) or the Clayton Act (38 Stat. 730; 15 U.S.C. 12–27), or both, to which the United States is a party, but only if the distribution of such stock or securities in redemption of the distributing corporation's stock is in furtherance of the purposes of the judgment;

"(E) a distribution to the extent that section 303(a) (relating to distributions in redemption of stock to pay death taxes) applies to such distribution;

"(F) a distribution to a private foundation in redemption of stock which is described in section 537(b)(2)(A) and (B); and

"(G) a distribution by a corporation to which part I of subchapter M (relating to regulated investment companies) applies, if such distribution is in redemption of its stock upon the demand of the shareholder."

(b) CONFORMING AMENDMENTS.—

(1) Section 311(a) is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(2) Sections 301(b)(1)(B)(ii), 301(d)(2)(B), and 312(c)(3) are each amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall apply with respect to distributions after November 30, 1969.

(2) The amendments made by subsections (a) and (b) shall not apply to a distribution before April 1, 1970, pursuant to the terms of—

(A) a written contract which was binding on the distributing corporation on November 30, 1969, and at all times thereafter before the distribution,

(B) an offer made by the distributing corporation before December 1, 1969,

(C) an offer made in accordance with a request for a ruling filed by the distributing corporation with the Internal Revenue Service before December 1, 1969, or

(D) an offer made in accordance with a registration statement filed with the Securities and Exchange Commission before December 1, 1969.

For purposes of subparagraphs (B), (C), and (D), an offer shall be treated as an offer only if it was in writing and not revocable by its express terms.

(3) The amendments made by subsections (a) and (b) shall not apply to a distribution by a corporation of specific property in redemption of stock outstanding on November 30, 1969, if—

(A) every holder of such stock on such date had the right to demand redemption of his stock in such specific property, and

(B) the corporation had such specific property on hand on such date in a quantity sufficient to redeem all of such stock.

For purposes of the preceding sentence, stock shall be considered to have been outstanding on November 30, 1969, if it could have been acquired on such date through the exercise of an existing right of conversion contained in other stock held on such date.

SEC. 906. REASONABLE ACCUMULATIONS BY CORPORATIONS.

(a) GENERAL RULE.—Section 537 (relating to reasonable needs of the business) is amended to read as follows:

"SEC. 537. REASONABLE NEEDS OF THE BUSINESS.

"(a) GENERAL RULE.—For purposes of this part, the term 'reasonable needs of the business' includes—

"(1) the reasonably anticipated needs of the business,

"(2) the section 303 redemption needs of the business, and

"(3) the excess business holdings redemption needs of the business.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) SECTION 303 REDEMPTION NEEDS.—The term 'section 303 redemption needs' means, with respect to the taxable year of the corporation in which a shareholder of the corporation died or any taxable year thereafter, the amount needed (or reasonably anticipated to be needed) to make a redemption of stock included in the gross estate of the decedent (but not in excess of the maximum amount of stock to which section 303(a) may apply).

"(2) EXCESS BUSINESS HOLDINGS REDEMPTION NEEDS.—The term 'excess business holdings redemption needs' means, with respect to taxable years of the corporation ending after May 26, 1969, the amount needed (or reasonably anticipated to be needed) to redeem from a private foundation stock which—

"(A) such foundation held on May 26, 1969 (or which was received by such foundation pursuant to a will or irrevocable trust to which section 4943(c)(5) applies), and

"(B) constituted excess business holdings on May 26, 1969, or would have constituted excess business holdings as of such date if there were taken into account (i) stock received pursuant to a will or trust described in subparagraph (A), and (ii) the reduction in the total outstanding stock of the corporation which would have resulted solely from the redemption of stock held by the private foundation.

"(3) OBLIGATIONS INCURRED TO MAKE REDEMPTIONS.—In applying paragraphs (1) and (2), the discharge of any obligation incurred to make a redemption described in such paragraphs shall be treated as the making of such redemption.

"(4) NO INFERENCE AS TO PRIOR TAXABLE YEARS.—The application of this part to any taxable year before the first taxable year specified in paragraph (1) or (2) shall be made without regard to the fact that distributions in redemption coming within the terms of such paragraphs were subsequently made."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the tax imposed under section 531 of the Internal Revenue Code of 1954 with respect to taxable years ending after May 26, 1969.

SEC. 907. INSURANCE COMPANIES.

(a) SPECIAL CONTINGENCY RESERVES UNDER GROUP CONTRACTS.—

(1) INTEREST PAID.—Section 805(e)(4) (relating to interest paid on certain reserves) is amended to read as follows:

"(4) INTEREST ON CERTAIN SPECIAL CONTINGENCY RESERVES.—Interest for the taxable year on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof."

(2) RULES FOR CERTAIN CONTINGENCY RESERVES.—Section 810(c) (relating to items taken into account as reserves) is amended by inserting after paragraph (5) the following new paragraph:

"(6) Special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof."

(b) CERTAIN DISTRIBUTIONS.—

(1) EXCEPTION FROM DEFINITION OF DISTRIBUTION.—Section 815(f) (relating to definition of distribution) is amended—

(A) by striking out "or" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or";

(C) by inserting after paragraph (4) the following new paragraph:

"(5) any distribution after December 31, 1968, of the stock of a controlled corporation to which section 355 applies, if such distribution is made to a corporation which immediately after the distribution is the owner of all of the stock of all classes of both the distributing corporation and such controlled corporation and if, immediately before the distribution, the distributing corporation had been the owner of all of the stock of all classes of such controlled corporation at all times since December 31, 1957.";

(D) by striking out "Neither paragraph (3) nor paragraph (4) shall apply" in the next to the last sentence and inserting in lieu thereof "Paragraphs (3), (4), and (5) shall not apply"; and

(E) by striking out "paragraphs (3) and (4)" in the last sentence and inserting in lieu thereof "paragraphs (3), (4), and (5)".

(2) SPECIAL RULE.—Section 815 (relating to distributions to shareholders) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN DISTRIBUTIONS RELATED TO FORMER SUBSIDIARIES.—If subsection (f)(5) applied to the distribution by a life insurance company of the stock of a corporation which was a controlled corporation—

"(1) any distribution by such corporation to its shareholders (after the date of the distribution of its stock by the life insurance company), and

"(2) any disposition of the stock of such corporation by the distributee corporation,

shall, for purposes of this section, be treated as a distribution to its shareholders by such life insurance company, until the amounts so treated equal the amount of the distribution of such stock which by reason of subsection (f)(5) was not included as a distribution for purposes of this section."

(c) CARRYOVER OF LOSSES.—

(1) IN GENERAL.—Part IV of subchapter L of chapter 1 (relating to provisions of general application to insurance companies) is amended by adding at the end thereof the following new section:

"SEC. 844. SPECIAL LOSS CARRYOVER RULES.

"(a) GENERAL RULE.—If an insurance company—

"(1) is subject to the tax imposed by part I, II, or III of this subchapter for the taxable year, and

"(2) was subject to the tax imposed by a different part of this subchapter for a prior taxable year beginning after December 31, 1962,

then any operations loss carryover under section 812, unused loss carryover under section 825, or net operating loss carryover under section 172, as the case may be, arising in such prior taxable year shall be included in its operations loss deduction under section 812(a), unused loss deduction under section 825(a), or net operating loss deduction under section 832(c)(10), as the case may be.

"(b) LIMITATION.—The amount included under section 812(a), 825(a), or 832(c)(10), as the case may be, by reason of the application of subsection (a) shall not exceed the amount that would have constituted the loss carryover under such section if for all relevant taxable years such company had been subject to the tax imposed by the part referred to in subsection (a)(1) rather than the part referred to in subsection (a)(2). For purposes of applying the preceding sentence—

"(1) in the case of a mutual insurance company which becomes a stock insurance company, an amount equal to 25 percent of the deduction under section 832(c)(11) (relating to dividends to policyholders) shall not be allowed, and

"(2) section 812(b)(1)(A)(iii) (relating to additional years to which losses may be carried by new life insurance companies) shall not apply.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for part IV of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 844. Special loss carryover rules."

(B) Sections 809(e)(5) and 823(b)(1) are each amended by striking out "The" and inserting in lieu thereof "Except as provided by section 844, the".

(C) Section 825(g)(2) is amended by striking out "to or from" and inserting in lieu thereof "except as provided by section 844, to or from".

(D) Section 825(g)(3) is amended by striking out "to any" and inserting in lieu thereof "except as provided by section 844, to any".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1957. The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1958. The amendments made by subsection (c) shall apply with respect to losses incurred in taxable years beginning after December 31, 1962, but shall not affect any tax liability for any taxable year beginning before January 1, 1967.

SEC. 908. CERTAIN UNIT INVESTMENT TRUSTS.

(a) NOT TO BE TREATED AS SEPARATE TAXPAYER.—Section 851 (relating to definition of regulated investment company) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN UNIT INVESTMENT TRUSTS.—For purposes of this title—

"(1) A unit investment trust (as defined in the Investment Company Act of 1940)—

"(A) which is registered under such Act and issues periodic payment plan certificates (as defined in such Act) in one or more series,

"(B) substantially all of the assets of which, as to all such series, consist of (i) securities issued by a single management company (as defined in such Act) and securities acquired pursuant to subparagraph (C), or (ii) securities issued by a single other corporation, and

"(C) which has no power to invest in any other securities except securities issued by a single other management company, when permitted by such Act or the rules and regulations of the Securities and Exchange Commission,

shall not be treated as a person.

"(2) In the case of a unit investment trust described in paragraph (1)—

"(A) each holder of an interest in such trust shall, to the extent of such interest, be treated as owning a proportionate share of the assets of such trust;

"(B) the basis of the assets of such trust which are treated under subparagraph (A) as being owned by a holder of an interest in such trust shall be the same as the basis of his interest in such trust; and

"(C) in determining the period for which the holder of an interest in such trust has held the assets of the trust which are treated under subparagraph (A) as being owned by him, there shall be included the period for which such holder has held his interest in such trust.

This subsection shall not apply in the case of a unit investment trust which is a segregated asset account under the insurance laws or regulations of a State."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of unit investment trusts ending after December 31, 1968, and to taxable years of holders of interests in such trusts ending with or within such taxable years of such trusts. The enactment of this section shall not be construed to result in the realization of gain or loss by any unit investment trust or by any holder of an interest in a unit investment trust.

SEC. 909. FOREIGN CORPORATIONS NOT AVAILED OF TO REDUCE TAXES.

(a) EXCLUSION FROM FOREIGN BASE COMPANY INCOME.—Section 954(b)(4) (relating to exception for foreign corporations not availed of to reduce taxes) is amended to read as follows:

"(4) EXCEPTION FOR FOREIGN CORPORATIONS NOT AVAILED OF TO REDUCE TAXES.—For purposes of subsection (a), foreign base company income does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate that neither—

"(A) the creation or organization of such controlled foreign corporation under the laws of the foreign country in which it is incorporated (or, in the case of a controlled foreign corporation which is an acquired corporation, the acquisition of such

corporation created or organized under the laws of the foreign country in which it is incorporated), nor

"(B) the effecting of the transaction giving rise to such income through the controlled foreign corporation,

has as one of its significant purposes a substantial reduction of income, war profits, or excess profits or similar taxes."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after October 9, 1969.

SEC. 910. SALES OF CERTAIN LOW-INCOME HOUSING PROJECTS.

(a) NONRECOGNITION OF GAIN IN CASE OF APPROVED DISPOSITIONS.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1039. CERTAIN SALES OF LOW-INCOME HOUSING PROJECTS.

"(a) NONRECOGNITION OF GAIN.—If—

"(1) a qualified housing project is sold or disposed of by the taxpayer in an approved disposition, and

"(2) within the reinvestment period the taxpayer constructs, reconstructs, or acquires another qualified housing project,

then, at the election of the taxpayer, gain from such approved disposition shall be recognized only to the extent that the net amount realized on such approved disposition exceeds the cost of such other qualified housing project. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means a project to provide rental or cooperative housing for lower income families—

"(A) with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, and

"(B) with respect to which the owner is, under such sections or regulations issued thereunder—

"(i) limited as to the rate of return on his investment in the project, and

"(ii) limited as to rentals or occupancy charges for units in the project.

"(2) APPROVED DISPOSITION.—The term 'approved disposition' means a sale or other disposition of a qualified housing project to the tenants or occupants of units in such project, or to a cooperative or other nonprofit organization formed solely for the benefit of such tenants or occupants, which sale or disposition is approved by the Secretary of Housing and Urban Development under section 221(d)(3) or 236 of the National Housing Act or regulations issued under such sections.

"(3) REINVESTMENT PERIOD.—The reinvestment period, with respect to an approved disposition of a qualified housing project, is the period beginning one year before the date of such approved disposition and ending—

"(A) one year after the close of the first taxable year in which any part of the gain from such approved disposition is realized, or

"(B) subject to such terms and conditions as may be specified by the Secretary or his delegate, at the close of such later date as the Secretary or his delegate may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(4) NET AMOUNT REALIZED.—The net amount realized on an approved disposition of a qualified housing project is the amount realized reduced by—

"(A) the expenses paid or incurred which are directly connected with such approved disposition, and

"(B) the amount of taxes (other than income taxes) paid or incurred which are attributable to such approved disposition.

"(c) SPECIAL RULES.—For purposes of applying subsection (a)(2) with respect to an approved disposition—

"(1) no property acquired by the taxpayer before the date of the approved disposition shall be taken into account unless such property is held by the taxpayer on such date, and

"(2) no property acquired by the taxpayer shall be taken into account unless, except as provided in subsection (d), the unadjusted basis of such property is its cost within the meaning of section 1012.

"(d) BASIS OF OTHER QUALIFIED HOUSING PROJECT.—If the taxpayer makes an election under subsection (a) with respect to an approved disposition, the basis of the qualified housing project described in subsection (a)(2) shall be its cost reduced by an amount equal to the amount of gain not recognized by reason of the application of subsection (a).

"(e) ASSESSMENT OF DEFICIENCIES.—

"(1) DEFICIENCY ATTRIBUTABLE TO GAIN.—If the taxpayer has made an election under subsection (a) with respect to an approved disposition—

"(A) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on such approved disposition is realized, attributable to the gain on such approved disposition shall not expire prior to the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of the construction, reconstruction, or acquisition of another qualified housing project or of the failure to construct, reconstruct, or acquire another qualified housing project, and

"(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provision of any other law or rule of law which would otherwise prevent such assessment.

"(2) TIME FOR ASSESSMENT OF OTHER DEFICIENCIES ATTRIBUTABLE TO ELECTION.—If a taxpayer has made an election under subsection (a) with respect to an approved disposition and another qualified housing project is constructed, reconstructed, or acquired before the beginning of the last taxable year in which any part of the gain upon such approved disposition is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 6212(c) or 6501 or the provisions of any other law or rule of law which would otherwise prevent such

assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed."

(b) AMENDMENTS TO SECTION 1250.—

(1) Section 1250(d) (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(8) DISPOSITION OF QUALIFIED LOW-INCOME HOUSING.—If section 1250 property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under section 1039, then—

"(A) RECOGNITION LIMIT.—The amount of gain recognized by the transferor under subsection (a) shall not exceed the greater of—

"(i) the amount of gain recognized on the disposition (determined without regard to this section), or

"(ii) the amount determined under subparagraph (B).

"(B) ADJUSTMENT WHERE INSUFFICIENT SECTION 1250 PROPERTY IS ACQUIRED.—With respect to any transaction, the amount determined under this subparagraph shall be the excess of—

"(i) the amount of gain which would (but for this paragraph) be taken into account under subsection (a), over

"(ii) the cost of the section 1250 property acquired in the transaction.

"(C) BASIS OF PROPERTY ACQUIRED.—The basis of property acquired by the taxpayer, determined under section 1039(d), shall be allocated—

"(i) first to the section 1250 property described in subparagraph (E)(i), in the amount determined under such subparagraph, reduced by the amount of gain not recognized attributable to the section 1250 property disposed of,

"(ii) then to any property (other than section 1250 property) to which section 1039 applies, in the amount of its cost, reduced by the amount of gain not recognized except to the extent taken into account under clause (i), and

"(iii) then to the section 1250 property described in subparagraph (E)(ii), in the amount determined thereunder, reduced by the amount of gain not recognized except to the extent taken into account under clauses (i) and (ii).

"(D) ADDITIONAL DEPRECIATION WITH RESPECT TO PROPERTY DISPOSED OF.—The additional depreciation with respect to any property acquired shall include the additional depreciation with respect to the corresponding section 1250 property disposed of, reduced by the amount of gain recognized attributable to such property.

"(E) PROPERTY CONSISTING OF MORE THAN ONE ELEMENT.—There shall be treated as a separate element of section 1250 property—

"(i) that portion of the section 1250 property acquired the cost of which does not exceed the net amount realized (as defined in section 1039(b)) attributable to the section 1250 property disposed of, reduced by the amount of gain recognized (if any) attributable to such property, and

"(ii) that portion of the section 1250 property acquired the cost of which exceeds the net amount realized (as

defined in section 1039(b)) attributable to the section 1250 property disposed of.

"(F) ALLOCATION RULES.—For purposes of this paragraph—

"(i) the amount of gain recognized attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property, reduced by the greater of the adjusted basis of the section 1250 property disposed of or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction, and

"(ii) if any section 1250 property is treated as consisting of more than one element by reason of the application of subparagraph (E) to a prior transaction, then the amount of gain recognized, the net amount realized, and the additional depreciation, with respect to each such element shall be allocated in accordance with regulations prescribed by the Secretary or his delegate.

(2) Section 1250(e) (relating to holding period) is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFIED LOW-INCOME HOUSING.—The holding period of any section 1250 property acquired which is described in subsection (d)(8)(E)(i) shall include the holding period of the corresponding element of section 1250 property disposed of."

(3) Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR QUALIFIED LOW-INCOME HOUSING.—

"(1) AMOUNT TREATED AS ORDINARY INCOME.—If, in the case of a disposition of section 1250 property, the property is treated as consisting of more than one element by reason of the application of subsection (d)(8)(E), and gain is recognized in whole or in part, then the amount taken into account under subsection (a) as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 shall be the sum of the amounts determined under paragraph (2).

"(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be the amount determined by multiplying—

"(A) the amount which bears the same ratio to the lower of the additional depreciation or the gain recognized for the section 1250 property disposed of as the additional depreciation for such element bears to the sum of the additional depreciation for all elements disposed of, by

"(B) the applicable percentage for such element.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1039. Certain sales of low-income housing projects."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to approved dispositions of qualified housing projects (within the

meaning of section 1039 of the Internal Revenue Code of 1954, as added by subsection (a)) after October 9, 1969.

SEC. 911. PER-UNIT RETAIN ALLOCATIONS.

(a) PAYMENTS OF MONEY AND OTHER PROPERTY.—Section 1382(b)(3) (relating to patronage dividends and per-unit retain allocations) is amended to read as follows:

> *"(3) as per-unit retain allocations (as defined in section 1388(f)), to the extent paid in money, qualified per-unit retain certificates (as defined in section 1388(h)), or other property (except nonqualified per-unit retain certificates, as defined in section 1388(i)) with respect to marketing occurring during such taxable year; or".*

(b) CONFORMING AMENDMENT.—Section 1388(f) (relating to per-unit retain allocations) is amended by striking out "other than by payment in money or other property (except per-unit retain certificates)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to per-unit retain allocations made after October 9, 1969.

SEC. 912. FOSTER CHILDREN.

(a) IN GENERAL.—Section 152(b)(2) (relating to rules relating to definition of dependent) is amended by inserting immediately before "shall be treated" the following: ", or a foster child of an individual (if such child satisfies the requirements of subsection (a)(9) with respect to such individual),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to taxable years beginning after December 31, 1969.

SEC. 913. COOPERATIVE HOUSING CORPORATIONS.

(a) STOCK HELD BY GOVERNMENTAL UNITS.—Section 216(b) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

> *"(4) STOCK OWNED BY GOVERNMENTAL UNITS.—For purposes of this subsection, in determining whether a corporation is a cooperative housing corporation, stock owned and apartments leased by the United States or any of its possessions, a State or any political subdivision thereof, or any agency or instrumentality of the foregoing empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities, shall not be taken into account."*

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

SEC. 914. PERSONAL HOLDING COMPANY DIVIDENDS.

(a) DIVIDENDS PAID AFTER CLOSE OF YEAR.—Section 563(b) (relating to personal holding company tax) is amended by striking out "10 percent" in paragraph (2) and inserting in lieu thereof "20 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

SEC. 915. REPLACEMENT OF PROPERTY INVOLUNTARILY CONVERTED WITHIN A 2-YEAR PERIOD.

(a) IN GENERAL.—Section 1033(a)(3)(B) (relating to the period within which property must be replaced) is amended by striking out "one year" in clause (i) and inserting in lieu thereof "2 years."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply only if the disposition of the converted property (within the meaning

of section 1033(a)(2) of the Internal Revenue Code of 1954) occurs after the date of the enactment of this Act.

SEC. 916. CHANGE IN REPORTING INCOME ON INSTALLMENT BASIS.

(a) IN GENERAL.—Section 453(c) (relating to change from accrual to installment basis of reporting) is amended by adding at the end thereof the following new paragraphs:

"(4) REVOCATION OF ELECTION.—An election under paragraph (1) to report taxable income on the installment basis may be revoked by filing a notice of revocation, in such manner as the Secretary or his delegate prescribes by regulations, at any time before the expiration of 3 years following the date of the filing of the tax return for the year of change. If such notice of revocation is timely filed—

"(A) the provisions of paragraph (1) and subsection (a) shall not apply to the year of change or for any subsequent year;

"(B) the statutory period for the assessment of any deficiency for any taxable year ending before the filing of such notice, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of 2 years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such 2-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment; and

"(C) if refund or credit of any overpayment, resulting from the revocation of the election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within one year from such date, by the operation of any law or rule of law (other than section 7121 or 7122), refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within one year from such date. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.

"(5) ELECTION AFTER REVOCATION.—If the taxpayer revokes under paragraph (4) an election under paragraph (1) to report taxable income on the installment basis, no election under paragraph (1) may be made, except with the consent of the Secretary or his delegate, for any subsequent taxable year before the fifth taxable year following the year of change with respect to which such revocation is made."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to an election made for any year of change (as defined in section 453(c)(1) of the Internal Revenue Code of 1954) ending on or after the date of the enactment of this Act, and shall also apply to any such year of change which ended before such date if the 3-year statutory period for assessment of any deficiency for such year has not expired on the date of the enactment of this Act.

SEC. 917. RECOGNITION OF GAIN IN CERTAIN LIQUIDATIONS.

For purposes of applying section 333 (e) and (f) of the Internal Revenue Code of 1954 to a distribution in liquidation of a corporation during 1970, stock (including stock received in respect of such stock by reason of a stock dividend or stock split), or securities received by a qualified

electing shareholder in exchange for his stock in the liquidating corporation shall be considered as having been acquired by the liquidating corporation before January 1, 1954, if—

(1) such stock or securities were acquired by the liquidating corporation after December 31, 1953, from such qualified electing shareholder (or from a person from whom such qualified electing shareholder acquired such stock in the liquidating corporation by gift, bequest, or inheritance) solely in exchange for its stock in a transaction to which section 351 of such Code (or the corresponding provisions of prior law) applied, and

(2) the holding period of such stock or securities in the hands of the liquidating corporation, determined under section 1223(2) of such Code, includes any period before January 1, 1954.

Subtitle B—Miscellaneous Excise Tax Provisions

SEC. 931. CONCRETE MIXERS.

(a) EXEMPTION FROM TAX ON MOTOR VEHICLES.—Section 4063(a) (relating to exemption of specified articles from the tax on motor vehicles) is amended by adding at the end thereof the following new paragraph:

"(5) CONCRETE MIXERS.—The tax imposed under section 4061 shall not apply in the case of—

"(A) any article designed (i) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis and (ii) to be used to process or prepare concrete, and

"(B) parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold after December 31, 1969.

SEC. 932. CONSTRUCTIVE SALE PRICE.

(a) DETERMINATION OF FAIR MARKET PRICE.—Section 4216(b) (relating to constructive sale price) is amended by adding at the end thereof the following new paragraphs:

"(3) FAIR MARKET PRICE IN CASE OF CERTAIN ARTICLES.—Except as provided in paragraph (4), for purposes of paragraph (1)(C), if—

"(A) the manufacturer, producer, or importer of an article regularly sells such article to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer, and

"(B) such distributor regularly sells such article to one or more independent retailers, but does not regularly sell to wholesale distributors,

the fair market price of such article shall be 90 percent of the lowest price for which such distributor regularly sells such article in arm's-length transactions to such independent retailers. The price determined under this paragraph shall not be adjusted for any exclusion

(except for the tax imposed on such article) or readjustments under subsections (a) and (f) and under section 6416(b)(1). If both this paragraph and paragraph (4) apply with respect to an article, the fair market price for such article shall be the lower of the fair market price determined under this paragraph or paragraph (4).

"(4) FAIR MARKET PRICE IN CASE OF CERTAIN OTHER ARTICLES.—For purposes of paragraph (1)(C), if—

"(A) the manufacturer, producer, or importer of an article regularly sells (except for tax-free sales) only to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer,

"(B) the distributor regularly sells (except for tax-free sales) such article only to retailers, and

"(C) the normal method of sales for such articles within the industry by manufacturers, producers, or importers is to sell such articles in arm's-length transactions to distributors,

the fair market price for such article shall be the price at which such article is sold to retailers by the distributor, reduced by a percentage of such price equal to the percentage which (i) the difference between the price for which comparable articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, and the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers, is of (ii) the price at which such wholesale distributors in arm's-length transactions sell such comparable articles to retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustment under subsections (a) and (f) and under section 6416(b)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold after December 31, 1969.

Subtitle C—Miscellaneous Administrative Provisions

SEC. 941. FILING REQUIREMENTS.

(a) IN GENERAL.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1)(A) Every individual having for the taxable year a gross income of $600 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $1,700, or

"(ii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,300 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The $1,700 amount specified in subparagraph (A)(i) shall be increased to $2,300 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,300 amount specified in subparagraph (A)(ii) shall be increased by $600 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(b) TECHNICAL AMENDMENT.—Subsections (b) and (c)(2) of section 151 (relating to allowance of deductions for personal exemptions) are amended by striking out "if a separate return is made by the taxpayer" and inserting in lieu thereof "if a joint return is not made by the taxpayer and his spouse".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1969.

(d) TAXABLE YEARS AFTER 1972.—Effective with respect to taxable years beginning after December 31, 1972, section 6012(a)(1) is amended—

(1) by striking out "$600" each place it appears therein and inserting in lieu thereof "$750";

(2) by striking out "$1,700" each place it appears and inserting in lieu thereof "$1,750"; and

(3) by striking out "$2,300" each place it appears and inserting in lieu thereof "$2,500".

SEC. 942. COMPUTATION OF TAX BY INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—The first sentence of section 6014(b) (relating to regulations; tax not computed by taxpayer) is amended to read as follows: "The Secretary or his delegate shall prescribe regulations for carrying out this section, and such regulations may provide for the application of the rules of this section—

"(1) to cases where the gross income includes items other than those enumerated by subsection (a),

"(2) to cases where the gross income from sources other than wages on which the tax has been withheld at the source is more than $100,

"(3) to cases where the gross income is $10,000 or more,

"(4) to cases where the taxpayer is entitled to the credit provided by section 37 (relating to retirement income credit), or

"(5) to cases where the taxpayer does not elect the standard deduction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

SEC. 943. FAILURE TO MAKE TIMELY PAYMENT OR DEPOSIT OF TAX.

(a) FAILURE TO PAY TAX.—Section 6651 (relating to failure to file tax return) is amended to read as follows:

"SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

"(a) ADDITION TO THE TAX.—In case of failure—

"(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of

chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

"(2) to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

"(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 10 days of the date of the notice and demand therefor, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

"(b) PENALTY IMPOSED ON NET AMOUNT DUE.—For purposes of—

"(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

"(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

"(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

"(c) LIMITATIONS AND SPECIAL RULE.—

"(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—

"(A) With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month to which an addition to tax applies under both paragraphs (1) and (2).

"(B) With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph

(1) of subsection (a) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.

"(2) AMOUNT OF TAX SHOWN MORE THAN AMOUNT REQUIRED TO BE SHOWN.—If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

"(d) EXCEPTION FOR DECLARATIONS OF ESTIMATED TAX.—This section shall not apply to any failure to file a declaration of estimated tax required by section 6015 or to pay any estimated tax required to be paid by section 6153 or 6154."

(b) FAILURE TO MAKE DEPOSIT OF TAX.—Section 6656(a) (relating to penalty for failure to make deposit of taxes) is amended by striking out the first sentence and inserting in lieu thereof the following: "In case of failure by any person required by this title or by regulation of the Secretary or his delegate under this title to deposit on the date prescribed therefor any amount of tax imposed by this title in such government depositary as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty of 5 percent of the amount of the underpayment."

(c) CONFORMING AMENDMENTS.—

(1) Section 3121(k)(1)(F)(i) (relating to definitions of waiver of exemption by religious, charitable, and certain other organizations) is amended by inserting "or pay tax" after "tax return".

(2) Section 3121(k)(1)(G)(i) (relating to definitions of waiver of exemption by religious, charitable, and certain other organizations) is amended by inserting "or pay tax" after "tax return".

(3) Section 3121(k)(1)(H)(i) (relating to definitions of waivers of exemption by religious, charitable, and certain other organizations) is amended by inserting "or pay tax" after "tax return".

(4) Section 5684(d)(2) (relating to cross references for penalties relating to the payment and collection of liquor taxes) is amended by inserting "or pay tax" after "tax return".

(5) The table of sections for subchapter A of chapter 68 is amended by striking out:

"Sec. 6651. Failure to file tax return."

and inserting in lieu thereof:

"Sec. 6651. Failure to file tax return or pay tax."

(6) Section 6653(d) (relating to penalty for failure to pay tax if fraud assessed) is amended by adding "or pay tax" after "such return".

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall apply with respect to returns the date prescribed by law (without regard to any extension of time) for filing of which is after December 31, 1969, and with respect to notices and demands for payment of tax made after December 31, 1969. The amendment made by subsection (b) shall apply with respect to deposits the time for making of which is after December 31, 1969.

SEC. 944. DECLARATIONS OF ESTIMATED TAX BY FARMERS.

(a) RETURN AS DECLARATION OR AMENDMENT.—Section 6015(f) (relating to return considered as declaration or amendment) is amended by striking out "February 15" and inserting in lieu thereof "March 1".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1968.

SEC. 945. PORTION OF SALARY, WAGES, OR OTHER INCOME EXEMPT FROM LEVY.

(a) IN GENERAL.—Section 6334(a) (relating to enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(8) SALARY, WAGES, OR OTHER INCOME.—If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to levies made 30 days or more after the date of the enactment of this Act.

SEC. 946. INTERESTS AND PENALTIES IN CASE OF CERTAIN TAXABLE YEARS.

(a) INTEREST ON UNDERPAYMENT.—Notwithstanding section 6601 of the Internal Revenue Code of 1954, in the case of any taxable year ending before the date of the enactment of this Act, no interest on any underpayment of tax, to the extent such underpayment is attributable to the amendments made by this Act, shall be assessed or collected for any period before the 90th day after such date.

(b) DECLARATIONS OF ESTIMATED TAX.—In the case of a taxable year beginning before the date of the enactment of this Act, if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by this Act, such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after the 30th day after such date of enactment. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015, 6154, 6654, and 6655 of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by this Act. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 or 6154 of such Code (whichever is applicable), an installment payment of estimated tax is required to be made by the taxpayer.

Subtitle D—United States Tax Court

SEC. 951. STATUS OF TAX COURT.

Section 7441 (relating to the status of the Tax Court) is amended to read as follows:

"SEC. 7441. STATUS.

"There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court."

SEC. 952. APPOINTMENT; TERM OF OFFICE.

(a) Subsection (b) of section 7443 (relating to appointment of Tax Court judges) is amended by adding at the end thereof the following new sentence: "No individual shall be a judge of the Tax Court unless he is appointed to that office before attaining the age of 65."

(b) Subsection (e) of such section (relating to terms of office of Tax Count judges) is amended to read as follows:

"(e) TERM OF OFFICE.—The term of office of any judge of the Tax Court shall expire 15 years after he takes office."

SEC. 953. SALARY.

Section 7443(c) (relating to salaries of Tax Court judges) is amended to read as follows:

"(c) SALARY.—

"(1) Each judge shall receive salary at the same rate and in the same installments as judges of the district courts of the United States.

"(2) For rate of salary and frequency of installment see section 135, title 28, United States Code, and section 5505, title 5, United States Code."

SEC. 954. RETIREMENT.

(a) Subsection (b) of section 7447 (relating to time of retirement) is amended to read as follows:

"(b) RETIREMENT.—

"(1) Any judge shall retire upon attaining the age of 70.

"(2) Any judge who has attained the age of 65 may retire any time after serving as judge for 15 years or more.

"(3) Any judge who is not reappointed following the expiration of the term of his office may retire upon the completion of such term, if (A) he has served as a judge of the Tax Court for 15 years or more and (B) not earlier than 9 months preceding the date of the expiration of the term of his office and not later than 6 months preceding such date, he advised the President in writing that he was willing to accept reappointment to the Tax Court.

"(4) Any judge who becomes permanently disabled from performing his duties shall retire.

Section 8335(a) of title 5 of the United States Code (relating to automatic separation from the service) shall not apply in respect of judges."

(b) Subsection (d) of such section (relating to retired pay) is amended to read as follows:

"(d) RETIRED PAY.—Any individual who—

"(1) retires under paragraph (1), (2), or (3) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate which bears the same ratio to the rate of the salary payable to a judge during such period as the number of years he has served as judge bears to 10; except that the rate of such retired pay shall not be more than the rate of such salary for such period; or

"(2) retires under paragraph (4) of subsection (b) and elects under subsection (e) to receive retired pay under this subsection shall receive retired pay during any period at a rate—

"(A) equal to the rate of the salary payable to a judge during such period if before he retired he had served as a judge not less than 10 years; or

"(B) one-half of the rate of the salary payable to a judge during such period if before he retired he had served as a judge less than 10 years.

Such retired pay shall begin to accrue on the day following the day on which his salary as judge ceases to accrue, and shall continue to accrue during the remainder of his life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge. In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, that portion of the aggregate number of years he has served as a judge which is a fractional part of 1 year shall be eliminated it if is less than 6 months, or shall be counted as a full year if it is 6 months or more."

(c) Subsection (g) of such section is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) EFFECT OF ELECTING RETIRED PAY.—In the case of any individual who has filed an election to receive retired pay under subsection (d)—

"(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

"(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to him under subsection (d) or from any other salary, pay, or compensation payable to him, for any period beginning after the day on which such election is filed; and

"(C) such individual shall be paid the lump-sum credit computed under section 8331(8) of title 5 of the United States Code upon making application therefor with the Civil Service Commission."

(d) Section 7447 (relating to retirement) is amended by adding at the end thereof the following new subsection:

"(h) RETIREMENT FOR DISABILITY.—

"(1) Any judge who becomes permanently disabled from performing his duties shall certify to the President his disability in writing. If the chief judge retires for disability, his retirement shall not take effect until concurred in by the President. If any other judge retires for disability, he shall furnish to the President a certificate of disability signed by the chief judge.

"(2) Whenever any judge who becomes permanently disabled from performing his duties does not retire and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President shall declare such judge to be retired."

(e) Section 7447 (relating to retirement) is further amended as follows:

(1) Paragraph (4) of subsection (a) is repealed.

(2) Paragraph (1) of subsection (g) is amended by striking out "Civil Service Retirement Act" and inserting in lieu thereof "civil service retirement laws" and by striking out "such Act applies" and inserting in lieu thereof "such civil service retirement laws apply".

SEC. 955. SURVIVORS.

(a) Section 7448(b) (relating to election of survivor annuities) is amended to read as follows:

"(b) ELECTION.—Any judge may by written election filed while he is a judge (except that in the case of an individual who is not reappointed following expiration of his term of office, it may be made at any time before the day after the day on which his successor takes office) bring himself within the purview of this section. In the case of any judge other than the chief judge the election shall be filed with the chief judge; in the case of the chief judge the election shall be filed as prescribed by the Tax Court."

(b) Section 7448 (relating to survivor annuities) is further amended as follows:

(1) Subsections (d), (h), and (r) are each amended by striking out "Civil Service Retirement Act" the last place it appears in each such subsection and inserting in lieu thereof in each such place "civil service retirement laws".

(2) Subsections (d) and (n) are each amended by striking out "section 3 of the Civil Service Retirement Act (5 U.S.C. 2253)" and inserting in lieu thereof in each such place "section 8332 of title 5 of the United States Code".

(3) Subsection (m) is amended by striking out "section 1(c) of the Civil Service Retirement Act (5 U.S.C. 2251(c))" and inserting in lieu thereof "section 2107 of title 5 of the United States Code".

(4) Subsection (r) is amended by striking out "a waiver filed under section 7447(g)(3)" and inserting in lieu thereof "an election filed under section 7447(e)".

SEC. 956. POWERS.

Section 7456 (relating to powers of the Tax Court) is amended by adding at the end thereof the following new subsection:

"(d) INCIDENTAL POWERS.—The Tax Court and each division thereof shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

It shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States."

SEC. 957. TAX DISPUTES INVOLVING $1,000 OR LESS.

(a) Part II of subchapter C of chapter 76 (relating to Tax Court procedure) is amended by renumbering section 7463 as 7464, and by inserting after section 7462 the following new section:

"SEC. 7463. DISPUTES INVOLVING $1,000 OR LESS.

"(a) IN GENERAL.—In the case of any petition filed with the Tax Court for a redetermination of a deficiency where neither the amount of the deficiency placed in dispute, nor the amount of any claimed overpayment, exceeds—

"(1) $1,000 for any one taxable year, in the case of the taxes imposed by subtitle A and chapter 12, or

"(2) $1,000, in the case of the tax imposed by chapter 11,

at the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings in the case shall be conducted under this section. Notwithstanding the provisions of section 7453, such proceedings shall be conducted in accordance with such rules of evidence, practice, and procedure as the Tax Court may prescribe. A decision, together with a brief summary of the reasons therefor, in any such case shall satisfy the requirements of sections 7459(b) and 7460.

"(b) FINALITY OF DECISIONS.—A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any other court and shall not be treated as a precedent for any other case.

"(c) LIMITATION OF JURISDICTION.—In any case in which the proceedings are conducted under this section, notwithstanding the provisions of sections 6214(a) and 6512(b), no decision shall be entered redetermining the amount of a deficiency, or determining an overpayment, except with respect to amounts placed in dispute within the limits described in subsection (a) and with respect to amounts conceded by the parties.

"(d) DISCONTINUANCE OF PROCEEDINGS.—At any time before a decision entered in a case in which the proceedings are conducted under this section becomes final, the taxpayer or the Secretary or his delegate may request that further proceedings under this section in such case be discontinued. The Tax Court, or the division thereof hearing such case, may, if it finds that (1) there are reasonable grounds for believing that the amount of the deficiency placed in dispute, or the amount of an overpayment, exceeds the applicable jurisdictional amount described in subsection (a), and (2) the amount of such excess is large enough to justify granting such request, discontinue further proceedings in such case under this section. Upon any such discontinuance, proceedings in such case shall be conducted in the same manner as cases to which the provisions of sections 6214(a) and 6512(b) apply.

"(e) AMOUNT OF DEFICIENCY IN DISPUTE.—For purposes of this section, the amount of any deficiency placed in dispute includes additions to the tax, additional amounts, and penalties imposed by chapter 68, to the extent that the procedures described in subchapter B of chapter 63 apply."

(b) The table of sections for part II of subchapter C of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7463. Disputes involving $1,000 or less.
"Sec. 7464. Provisions of special application to transferees."

SEC. 958. COMMISSIONERS.

Section 7456(c) (relating to Tax Court commissioners) is amended to read as follows:

"(c) COMMISSIONERS.—The chief judge may from time to time appoint commissioners who shall proceed under such rules and regulations as may be promulgated by the Tax Court. Each commissioner shall receive the

same compensation and travel and subsistence allowances provided by law for commissioners of the United States Court of Claims."

SEC. 959. NOTICE OF APPEAL.

(a) Section 7483 (relating to petition for review) is amended to read as ollows:

"SEC. 7483. NOTICE OF APPEAL.

"Review of a decision of the Tax Court shall be obtained by filing a notice of appeal with the clerk of the Tax Court within 90 days after the decision of the Tax Court is entered. If a timely notice of appeal is filed by one party, any other party may take an appeal by filing a notice of appeal within 120 days after the decision of the Tax Court is entered."

(b) The table of sections for subchapter D of chapter 76 is amended by striking out the item relating to section 7483 and inserting in lieu thereof the following:

"Sec. 7483. Notice of appeal."

SEC. 960. CONFORMING AMENDMENTS.

(a) Section 6214(a) (relating to jurisdiction to determine increased deficiencies, etc.) is amended by striking out "The Tax Court" and inserting in lieu thereof "Except as provided by section 7463, the Tax Court".

(b) Section 6512(b)(1) (relating to jurisdiction to determine overpayments) is amended by striking out "If the Tax Court" and inserting in lieu thereof "Except as provided by paragraph (2) and by section 7463, if the Tax Court".

(c) Sections 7447(a)(1) and 7448(a)(1) (relating to retirement and survivor annuities) are each amended by striking out "Tax Court of the United States" and inserting in lieu thereof "United States Tax Court".

(d) Section 7447(a)(5) (relating to periods of service) is amended by striking out "or as a member of the Board." and inserting in lieu thereof ", as judge of the Tax Court of the United States, or as a member of the Board of Tax Appeals."

(e) Section 7448(n) (relating to includible service) is amended by inserting after "Tax Appeals" the following: ", as a judge of the Tax Court of the United States,".

(f) Section 7463 (relating to rules of practice, procedure, and evidence) is amended by striking out "The" and inserting in lieu thereof "Except in the case of proceedings conducted under section 7463, the".

(g) Section 7471(c) (relating to travel and subsistence allowances of commissioners) is amended to read as follows:

"(c) COMMISSIONERS.—

"For compensation and travel and subsistence allowances of commissioners of the Tax Court, see section 7456 (c)."

(h)(1) Section 7481 (relating to date when Tax Court decision becomes final) is amended—

(A) by striking out so much of such section as precedes paragraph (2) thereof and inserting in lieu thereof the following:

"(a) REVIEWABLE DECISIONS.—Except as provided in subsection (b), the decision of the Tax Court shall become final—

"(1) TIMELY NOTICE OF APPEAL NOT FILED.—Upon the expiration of the time allowed for filing a notice of appeal, if no such notice has been duly filed within such time; or";

(B) by striking out "PETITION FOR REVIEW" in the heading of paragraph (2) and inserting in lieu thereof "APPEAL";

(C) by striking out "petition for review" each place it appears in the text of paragraph (2) and inserting in lieu thereof "appeal"; and

(D) by adding at the end thereof the following new subsection:

"(b) NONREVIEWABLE DECISIONS.—The decision of the Tax Court in a proceeding conducted under section 7463 shall become final upon the expiration of 90 days after the decision is entered."

(2) Section 7482(c) (relating to courts of review) is amended—

(A) by striking out "section 2074 of title 28" in paragraph (2) and inserting in lieu thereof "section 2072 of title 28";

(B) by striking out the second sentence of paragraph (2); and

(C) by striking out "petition" in paragraph (4) and inserting in lieu thereof "notice of appeal".

(3) Section 7485 (relating to bond to stay assessment and collection) is amended—

(A) by striking out "PETITION FOR REVIEW" in the heading of subsection (a) and inserting in lieu thereof "NOTICE OF APPEAL";

(B) by striking out "petition for review" each place it appears in the text of subsection (a) and inserting in lieu thereof "notice of appeal"; and

(C) by striking out "review bond" in paragraph (2) of subsection (a) and inserting in lieu thereof "appeal bond".

(i)(1) Section 7487 (relating to cross references) is amended to read as follows:

"SEC. 7487. CROSS REFERENCES.

"(1) Nonreviewability.—For nonreviewability of Tax Court decisions in small claims cases, see section 7463(b).

"(2) Transcripts.—For authority of the Tax Court to fix fees for transcript of records, see section 7474."

(2) The last item in the table of sections for subchapter D of chapter 76 (relating to court review of Tax Court decisions) is amended to read as follows:

"Sec. 7487. Cross references."

(j) Section 7701(a)(27) (relating to definition of Tax Court) is amended by striking out "Tax Court of the United States" and inserting in lieu thereof "United States Tax Court".

SEC. 961. CONTINUATION OF STATUS.

The United States Tax Court established under the amendment made by section 951 is a continuation of the Tax Court of the United States as it existed prior to the date of enactment of this Act, the judges of the Tax Court of the United States immediately prior to the date of enactment of this Act shall become the judges of the United States Tax Court upon the enactment of this Act, and no loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Tax Court of the United States before the date of enactment of this Act shall result from the enactment of this Act.

SEC. 962. EFFECTIVE DATES.

(a) The amendments made by sections 951, 953, 954 (c) and (e), 955, 956, 958, and 960 (c), (d), (e), (g), and (j) shall take effect on the date of enactment of this Act.

(b) The amendment made by section 952(a) shall apply to judges appointed after the date of enactment of this Act.

(c) *The amendment made by section 952(b) shall take effect on the date of enactment of this Act, except that—*

(1) the term of office being served by a judge of the Tax Court on that date shall expire on the date it would have expired under the law in effect on the day preceding the date of enactment of this Act; and

(2) a judge of the Tax Court on the date of enactment of this Act may be reappointed in the same manner as a judge of the Tax Court hereafter appointed.

(d) *The amendments made by subsections (a), (b), and (d) of section 954 shall apply to—*

(1) all judges of the Tax Court retiring on or after the date of enactment of this Act, and

(2) all individuals performing judicial duties pursuant to section 7447(c) or receiving retired pay pursuant to section 7447(d) on the day preceding the date of enactment of this Act.

Any individual who has served as a judge of the Tax Court for 18 years or more by the end of one year after the date of the enactment of this Act may retire in accordance with the provisions of section 7447 of the Internal Revenue Code of 1954 as in effect on the day preceding the date of the enactment of this Act. Any individual who is a judge of the Tax Court on the date of the enactment of this Act may retire under the provisions of section 7447 of such Code upon the completion of the term of his office, if he is not reappointed as a judge of the Tax Court and gives notice to the President within the time prescribed by section 7447(b) of such Code (or if his term expires within 6 months after the date of enactment of this Act, gives notice to the President before the expiration of 3 months after the date of enactment of this Act), and shall receive retired pay at a rate which bears the same ratio to the rate of the salary payable to a judge as the number of years he has served as a judge of the Tax Court bears to 15; except that the rate of such retired pay shall not exceed the rate of the salary of a judge of the Tax Court. For purposes of the preceding sentence the years of service as a judge of the Tax Court shall be determined in the manner set forth in section 7447(d) of such Code.

(e) *The amendments made by sections 957 and 960(a), (b), (f), and (i) shall take effect one year after the date of enactment of this Act.*

(f) *The amendments made by sections 959 and 960(h) shall take effect 30 days after the date of the enactment of this Act. In the case of any decision of the Tax Court entered before the 30th day after the date of the enactment of this Act, the United States Courts of Appeals shall have jurisdiction to hear an appeal from such decision, if such appeal was filed within the time prescribed by Rule 13(a) of the Federal Rules of Appellate Procedure or by section 7483 of the Internal Revenue Code of 1954, as in effect at the time the decision of the Tax Court was entered.*

TITLE X—INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Social Security Amendments of 1969".

SEC. 1002. INCREASE IN OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS.

(a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1967 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
.....	$16.20	$55.40 or less	.....	$76	$64.00	$96.00
$16.21	16.84	56.50	$77	78	65.00	97.50
16.85	17.60	57.70	79	80	66.40	99.60
17.61	18.40	58.80	81	81	67.70	101.60
18.41	19.24	59.90	82	83	68.90	103.40
19.25	20.00	61.10	84	85	70.80	106.50
20.01	20.64	62.20	86	87	71.60	107.40
20.65	21.28	63.30	88	89	72.80	109.20
21.29	21.88	64.50	90	90	74.20	111.30
21.89	22.28	65.60	91	92	76.50	115.30
22.29	22.68	66.70	93	95	76.80	115.20
22.69	23.08	67.80	96	96	78.00	117.00
23.09	23.44	69.00	97	97	79.40	119.10
23.45	23.76	70.20	98	99	80.80	121.20
23.77	24.20	71.50	100	101	82.80	125.50
24.21	24.60	72.60	102	102	83.50	125.30
24.61	25.00	73.80	103	104	84.90	127.40
25.01	25.48	76.10	105	106	86.40	129.60
25.49	25.92	76.30	107	107	87.80	131.70
25.93	26.40	77.50	108	109	89.20	133.80
26.41	26.94	78.70	110	113	90.60	135.90
26.95	27.48	79.90	114	118	91.90	137.90
27.47	28.00	81.10	119	122	93.30	140.00

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I (Primary insurance benefit under 1939 Act, as modified)		II (Primary insurance amount under 1967 Act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
$—						
$8.01	$28.68	$82.30	$123	$127	$94.70	$142.10
28.69	29.25	83.60	128	132	96.20	144.30
29.26	29.68	84.70	133	136	97.50	146.30
29.69	30.36	85.90	137	141	98.80	148.20
30.37	30.92	87.20	142	146	100.20	150.50
30.93	31.56	88.40	147	150	101.70	152.60
31.57	32.00	89.50	151	155	103.00	154.50
32.01	32.60	90.80	156	160	104.50	156.80
32.61	33.20	92.00	161	164	105.80	158.70
33.21	33.88	93.30	165	169	107.20	160.80
33.89	34.50	94.40	170	174	108.00	162.90
34.51	35.00	95.60	175	178	110.00	165.00
35.01	35.80	96.80	179	183	111.40	167.10
35.81	36.40	98.00	184	188	112.70	169.10
36.41	37.08	99.30	189	193	114.20	171.30
37.09	37.60	100.50	194	197	115.60	173.40
37.61	38.20	101.60	198	202	116.90	175.40
38.21	39.12	102.90	203	207	118.40	177.60
39.13	39.68	104.10	208	211	119.80	179.70
39.69	40.33	105.20	212	216	121.00	181.50
40.34	41.12	106.50	217	221	122.50	183.80
41.13	41.76	107.70	222	225	123.90	185.90
41.77	42.44	108.90	226	230	125.30	188.00
42.45	43.20	110.10	231	235	126.70	190.10
43.21	43.76	111.40	236	239	128.20	192.30
43.77	44.44	112.60	240	244	129.50	195.20
44.45	44.88	113.70	245	249	130.80	196.20
44.89	45.60	115.00	250	253	132.30	198.40
		116.20	254	258	133.70	200.40
		117.30	259	263	134.90	202.40
		118.60	264	267	136.40	204.60
		119.80	268	272	137.80	206.70
		121.00	273	277	139.20	208.80
		122.20	278	281	140.60	210.90
		123.40	282	286	142.00	213.00
		124.70	287	291	143.50	215.20
		125.80	292	295	144.70	217.00
		127.10	296	300	146.20	219.30
		128.30	301	305	147.60	221.40
		129.40	306	309	148.90	223.30
		130.70	310	314	150.40	225.60
		131.90	315	319	151.70	227.60
		133.00	320	323	153.00	229.50
		134.30	324	328	154.50	231.80
		135.50	329	333	155.90	233.80
		136.80	334	337	157.40	236.10
		137.90	338	342	158.60	237.90
		139.10	343	347	160.00	240.00
		140.40	348	351	161.50	242.20
		141.50	352	356	162.80	244.20
		142.80	357	361	164.30	246.40
		144.00	362	365	165.60	248.40
		145.10	366	370	166.90	250.30
		146.40	371	376	168.40	252.60
		147.60	376	379	169.80	254.70
		148.90	380	384	171.30	256.90
		150.00	385	389	172.50	258.70
		151.20	390	393	173.90	260.80
		152.50	394	398	175.40	263.10
		153.60	399	403	176.70	265.00
		154.90	404	407	178.20	267.30
		156.00	408	412	179.40	269.10
		157.10	413	417	180.70	271.00
		158.20	418	421	182.00	273.00

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1967 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$159.40	$482	$486	$183.40	$340.80
		160.60	487	491	184.60	344.80
		161.60	492	496	185.90	348.80
		162.80	497	440	187.30	350.40
		163.90	441	445	188.50	352.40
		165.00	446	450	189.80	354.40
		166.20	451	454	191.20	356.00
		167.30	455	459	192.40	358.00
		168.40	460	464	193.70	360.00
		169.50	465	468	195.00	361.60
		170.70	469	473	196.40	363.60
		171.80	474	478	197.60	365.60
		172.90	479	482	198.90	367.20
		174.10	483	487	200.30	369.20
		175.20	488	492	201.50	371.20
		176.30	493	496	202.80	372.80
		177.50	497	501	204.20	374.80
		178.60	502	506	205.40	376.80
		179.70	507	510	206.70	378.40
		180.80	511	515	208.00	380.40
		182.00	516	520	209.30	382.40
		183.10	521	524	210.60	384.00
		184.20	525	529	211.90	386.00
		185.40	530	534	213.30	388.00
		186.50	535	538	214.50	389.60
		187.60	539	543	215.80	391.60
		188.80	544	548	217.20	393.60
		189.90	549	553	218.40	395.60
		191.00	554	556	219.70	396.80
		192.00	557	560	220.80	398.40
		193.00	561	563	222.00	399.60
		194.00	564	567	223.10	401.20
		195.00	568	570	224.30	402.40
		196.00	571	574	225.40	404.00
		197.00	575	577	226.60	405.20
		198.00	578	581	227.70	406.80
		199.00	582	584	228.90	408.00
		200.00	585	588	230.00	409.60
		201.00	589	591	231.20	410.80
		202.00	592	595	232.20	412.40
		203.00	596	598	233.50	413.60
		204.00	599	602	234.60	415.20
		205.00	603	605	235.80	416.40
		206.00	606	609	236.60	418.00
		207.00	610	612	238.10	419.20
		208.00	613	616	239.20	420.80
		209.00	617	620	240.40	422.40
		210.00	621	623	241.50	423.60
		211.00	624	627	242.70	425.20
		212.00	628	630	243.80	426.40
		213.00	631	634	245.00	428.00
		214.00	635	637	246.10	429.20
		215.00	638	641	247.30	430.80
		216.00	642	644	248.40	432.00
		217.00	645	648	249.60	433.60
		218.00	649	660	250.70	434.40".

(b)(1) Section 203(a) of such Act is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) when two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1970 on the basis of the wages and self-employment income of such insured individual and at least one such person was so entitled for December 1969 on the basis of such wages and self-employment income, such total of benefits for January 1970 or any subsequent month shall not be reduced to less than the larger of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), as in effect prior to the enactment of the Social Security Amendments of 1969 (and prior to January 1, 1970), for each such person for such month, by 115 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10;

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B), and (ii) if section 202(k)(2)(A) was applicable in the case of any such benefits for January 1970, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for January 1970, or".

(2) Notwithstanding any other provision of law, when two or more persons are entitled to monthly insurance benefits under title II of the Social Security Act for any month after 1969 on the basis of the wages and self-employment income of an insured individual (and at least one of such persons was so entitled for a month before January 1971 on the basis of an application filed before 1971), the total of the benefits to which such persons are entitled under such title for such month (after the application of sections 203(a) and 202(q) of such Act) shall be not less than the total of the monthly insurance benefits to which such persons would be entitled under such title for such month (after the application of such sections 203(a) and 202(q)) without regard to the amendment made by subsection (a) of this section.

(c) Section 215(b)(4) of such Act is amended by striking out "January 1968" each time it appears and inserting in lieu thereof "December 1969".

(d) Section 215(c) of such Act is amended to read as follows:

"Primary Insurance Amount Under 1967 Act

"(c)(1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the enactment of the Social Security Amendments of 1969.

"(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223 before January 1970, or who died before such month."

(e) The amendments made by this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1969 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1969.

(f) If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act for December 1969 and became entitled to old-age insurance benefits under section 202(a) of such Act for January 1970, or he died in such month, then, for purposes of section 215 (a)(4) of the Social Security Act (if applicable), the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based.

SEC. 1003. INCREASE IN BENEFITS FOR CERTAIN INDIVIDUALS AGE 72 AND OVER.

(a)(1) Section 227(a) of the Social Security Act is amended by striking out "$40" and inserting in lieu thereof "$46", and by striking out "$20" and inserting in lieu thereof "$23".

(2) Section 227(b) of such Act is amended by striking out "$40" and inserting in lieu thereof "$46".

(b)(1) Section 228(b)(1) of such Act is amended by striking out "$40" and inserting in lieu thereof "$46".

(2) Section 228(b)(2) of such Act is amended by striking out "$40" and inserting in lieu thereof "$46", and by striking out "$20" and inserting in lieu thereof "$23".

(3) Section 228(c)(2) of such Act is amended by striking out "$20" and inserting in lieu thereof "$23".

(4) Section 228(c)(3)(A) of such Act is amended by striking out "$40" and inserting in lieu thereof "$46".

(5) Section 228(c)(3)(B) of such Act is amended by striking out "$20" and inserting in lieu thereof "$23".

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1969.

SEC. 1004. MAXIMUM AMOUNT OF A WIFE'S OR HUSBAND'S INSURANCE BENEFIT.

(a) Section 202(b)(2) of the Social Security Act is amended to read as follows:

"(2) Except as provided in subsection (q), such wife's insurance benefit for each month shall be equal to one-half of the primary insurance amount of her husband (or, in the case of a divorced wife, her former husband) for such month."

(b) Section 202(c)(3) of such Act is amended to read as follows:

"(3) Except as provided in subsection (q), such husband's insurance benefit for each month shall be equal to one-half of the primary insurance amount of his wife for such month."

(c) Sections 202(e)(4) and 202(f)(5) of such Act are each amended by striking out "whichever of the following is the smaller: (A) one-half of the primary insurance amount of the deceased individual on whose wages and self-employment income such benefit is based, or (B) $105" and inserting in lieu thereof "one-half of the primary insurance amount of the deceased

individual on whose wages and self-employment income such benefit is based".

(d) The amendments made by subsections (a), (b), and (c) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1969.

SEC. 1005. ALLOCATION TO DISABILITY INSURANCE TRUST FUND.

(a) Section 201(b)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "1967, and so reported," and inserting in lieu thereof the following: "1967, and before January 1, 1970, and so reported, and (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and so reported,".

(b) Section 201(b)(2) of such Act is amended —

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "1967," and inserting in lieu thereof the following: "1967, and before January 1, 1970, and (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969,".

SEC. 1006. DISREGARDING OF RETROACTICE PAYMENT OF OASDI BENEFIT INCREASE.

Notwithstanding the provisions of sections 2(a)(10), 402(a)(7), 1002(a)(8), 1402(a)(8), and 1602(a) (13) and (14) of the Social Security Act, each State, in determining need for aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of such Act, shall disregard (and the plan shall be deemed to require the State to disregard), in addition to any other amounts which the State is required or permitted to disregard in determining such need, any amount paid to an individual under title II of such Act (or under the Railroad Retirement Act of 1937 by reason of the first proviso in section 3(e) thereof), in any month after December 1969, to the extent that (1) such payment is attributable to the increase in monthly benefits under the old-age, survivors, and disability insurance system for January or February 1970 resulting from the enactment of this title, and (2) the amount of such increase is paid separately from the rest of the monthly benefit of such individual for January or February 1970.

SEC. 1007. DISREGARDING OF INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE.

In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act, there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after March 1970 and before July 1970 who also receives in such month a monthly insurance benefit under title II of such Act which is increased as a result of the enactment of the other provisions of this title, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under section 1006), shall exceed the sum of the aid or assistance which would

have been received by him for such month under such plan as in effect for March 1970, plus the monthly insurance benefit which would have been received by him in such month without regard to the other provisions of this title, by an amount equal to $4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise).

And the Senate agree to the same.

W. D. MILLS,
HALE BOGGS,
JOHN C. WATTS,
AL ULLMAN,
JOHN W. BYRNES,
JAMES B. UTT,
JACKSON E. BETTS,
Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON P. ANDERSON,
ALBERT GORE,
HERMAN E. TALMADGE,
WALLACE F. BENNETT,
JACK MILLER,
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 amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws submit the following in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The conference has agreed to a substitute for both the Senate amendment and the House bill. The following statement explains the principal differences between the effect of the House bill and the effect of the substitute agreed to in conference:

TITLE I—TAX EXEMPT ORGANIZATIONS [1]

SUBTITLE A—PRIVATE FOUNDATIONS

1. Excise tax based on investment income (sec. 4940 of the code)

The House bill imposes a tax of 7.5 percent on the net investment income of a private foundation for each taxable year.

The Senate amendment substitutes for the House provision an annual audit-fee tax of one-tenth of 1 percent (one-fifth of 1 percent for 1970) of the noncharitable assets of a private foundation, but in no event less than $100.

The conference substitute (sec. 101(b) of the substitute and sec. 4940 of the code) provides a tax of 4 percent of the net investment income of each foundation for the taxable year.

2. Prohibitions against self-dealing (sec. 4941 of the code)

Both the House bill and the Senate amendment impose taxes on the following acts of self-dealing:

(*a*) The sale, exchange, or leasing of properties between a private foundation and a disqualified person,

(*b*) The lending of money or other extension of credit between such persons,

(*c*) The furnishing of goods, services, or facilities between such persons,

(*d*) The payment of compensation by a private foundation to a disqualified person,

(*e*) The transfer to or use by, or for the benefit of, disqualified persons of the income or assets of a private foundation, and

(*f*) Agreement by a private foundation to make any payment of money or other property to a Government official (other than an agreement to employ such individual for certain periods after termination of Government service).

[1] All references to titles, subtitles, and sections of the bill, unless otherwise specified, will use the designation in the conference substitute.

The Senate amendment adds a seventh category to the term "self-dealing." It specifies that payment by a private foundation of any of the taxes imposed under the new provisions added by the bill upon any disqualified person constitutes self-dealing.

The conference substitute (sec. 101(b) of the substitute and sec. 4941(d)(1) of the code) omits this category in view of the fact that such payments are already considered to be self-dealing by paragraph (*e*) referred to above.

The conferees also agree with the statement appearing in the report of the Senate Committee on Finance to the effect that where stock is bought or sold by the foundation in order to manipulate the price of the stock for the benefit of a disqualified person (as referred to below), then the foundation's assets have been used for the "benefit of a disqualified person" within the meaning of paragraph (*e*) above.

The term "disqualified person", as it appears in both the House bill and the Senate amendment, includes a substantial contributor to the foundation. A substantial contributor under the House bill is anyone who (with his spouse) contributes more than $5,000 in any one year or who (with his spouse) contributes more than anyone else in any one year, even though less than $5,000.

The Senate amendment modifies the definition of substantial contributor to mean any person who contributes more than $5,000 to a private foundation if such amount is more than 2 percent of the contributions received by the foundation before the end of the year in which the foundation receives the contribution of the person.

The conference substitute (sec. 101(a) of the substitute and sec. 507(d)(2) of the code) follows the Senate amendment.

The Senate amendment also modifies the definition of a disqualified person in other respects. The House bill provides that a general partner of a substantial contributor is also to be treated as a disqualified person. The Senate substitute limits this to an owner of more than 20 percent of the profits interest of a partnership.

The conference subsitute (sec. 101(b) of the substitute and sec. 4946(a)(1) of the code) follows the Senate amendment.

The House bill provides that a disqualified person includes a member of the family (within the meaning of sec. 341(d) of the code) of a substantial contributor, foundation manager or certain other persons. Included in the definition in section 341(d) is a brother or sister (and any of their descendants) of any of the foregoing persons. The Senate amendment omit such brothers and sisters and their descendants from the definition of the term "family."

The conference substitute (sec. 101(b) of the substitute and sec. 4946(d) of the code) follows the Senate amendment.

Under both the House bill and the Senate amendment a violation of the self-dealing provision results in an annual tax on the self-dealer of 5 percent of the amount involved in the violation. If the self-dealing is not corrected within an appropriate length of time, then a tax of 200 percent of the amount involved is imposed on the self-dealer. If the foundation manager is knowingly involved in the self-dealing, a tax

of 2.5 percent initially is imposed upon him (subject to a maximum of $10,000). Where the foundation manager refuses to agree to the correction of the initial transaction, a tax of 50 percent of the amount involved is imposed (subject to a maximum of $10,000). In the case of repeated or willful violations, the tax imposed on the self-dealer or foundation managers may be doubled. (A third level of tax may also be assessed as described below in "Change of Status".)

The Senate amendment provides that the tax on the foundation manager who knowingly participates in the self-dealing is not to apply unless the violation is willful and is not due to reasonable cause. In addition, the amendment provides that the burden of proof that a violation by a foundation manager is "knowing" is to be upon the Government to the same extent as in civil fraud in present law.

The conference substitute (secs. 101(b) and (l) of the substitute and sec. 4941(a) of the code) follows the Senate amendment.

The Senate amendment provides that in the case of leases and loans outstanding on October 9, 1969, and also where under arrangements in existence prior to that date, goods and services or facilities were shared by a private foundation and a disqualified person, such transactions are not to constitute self-dealing if the foundation receives terms at least as favorable as terms offered to third parties in arm's-length transactions. Under the amendment these existing arrangements can continue for a period up to 10 years.

The conference substitute (sec. 101(l)(2) of the substitute) follows the Senate amendment but includes within the term "loan," reference to "extension of credit."

The Senate amendment provides that where a private foundation and disqualified person, together owned on October 9, 1969, more than 20 percent of the voting stock of a company, then the foundation may make fair-market-value sales of that stock or nonvoting stock to disqualified persons before January 1, 1975, so long as the sales do not bring the combined holdings of the voting stock below 20 percent. After that date, such sales may be made to disqualified persons only if the stock has to be disposed of in order to avoid violating the excess business holdings rules, described below.

The conference substitute (sec. 101 (l)(2) of the substitute) follows the Senate amendment.

The House bill and the Senate amendment both require as a condition of tax exemption that a foundation's governing instrument conform to the new provisions added by this bill (regarding the rules relating to self-dealing, distribution of income, excess business holdings, investments jeopardizing charitable purpose, and taxable expenditures). Both the House bill and the Senate amendment give existing organizations until 1972 to modify their governing instruments in the respects set out above (or longer if it is impossible to conform their governing instruments by that time.)

The House bill and Senate amendment also contain savings clauses permitting fair-price sales of existing holdings to disqualified persons under certain circumstances. The Senate amendment also provides that an organization's governing instrument need not prohibit activities which are permitted to it under the excess business holdings savings clauses.

The conference substitute (sec. 101 (l)(6) of the substitute) follows the Senate amendment and extends it to activities permitted under any other of the special savings clauses.

3. Taxes on failure to distribute income (sec. 4942 of the code)

Both the House bill and the Senate amendment provide for the imposition of taxes on a private foundation where it does not distribute currently an amount equal to all of its income, or if higher, an amount equal to a specified percentage of the value of its assets (other than those assets currently being used in the active conduct of the foundation's exempt activities).

Both the House bill and the Senate amendment provide that a tax of 15 percent of the undistributed amount is to be imposed where there has been a failure to distribute by the end of the taxable year after the income is earned (unless certain exceptions apply). If the distribution of the remaining amount is not made during the "correction period", a tax of 100 percent of the amount not distributed is then imposed.

The minimum amount which must be paid out, for years beginning in 1970, is the greater of the adjusted net income or 5 percent of the assets (the Secretary or his delegate is authorized in certain years to make changes in this percentage based upon changes in money rates and investment yields).

The Senate amendment changes this percentage to 6 percent.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(e) of the code) follows the Senate amendment.

Both the House bill and the Senate amendment do not apply the minimum investment return for the years 1970 and 1971.

In addition, the Senate amendment provides that the minimum investment return is not to be more than 3.5 percent in 1972, 4 percent in 1973, 4.5 percent in 1974, 5 percent in 1975, and 5.5 percent in 1976.

The conference substitute (sec. 101(l)(3) of the substitute) provides that the minimum investment return is not to be more than 4.5 percent in 1972, 5 percent in 1973, and 5.5 percent in 1974.

The Senate amendment allows foundations to make deficiency distributions (along the lines of deficiency dividend procedures presently allowable to personal holding companies) if failure to distribute is due to failure to properly value the assets and is not willful but is due to reasonable cause.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(a) of the code) follows the Senate amendment.

Under the House bill the tax on investment income and any tax on unrelated business income reduce the amount of the required current distribution only when the foundation's income exceeds the minimum percentage for that year.

The Senate amendment allows the audit-fee tax and any tax on unrelated business income as deductions in determining the amount of income which must be distributed currently.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(d) of the code) follows the Senate amendment.

The Senate amendment makes it clear that reasonable administrative expenses in operating a private foundation are also to be treated as qualifying distributions.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(g) of the code) follows the Senate amendment.

Loans to individuals which are related to the exempt purpose for which a private foundation was established (for example, student loans) have generally been considered as qualifying distributions at the time the loan was made. The Senate amendment also provides that when the loan is repaid (or when amounts are received from the sale of assets previously used for charitable purposes) these amounts should be treated as income, for purposes of the minimum distribution requirement, to the extent the private foundation had previously treated the amounts as expenditures which were qualifying distributions. (This rule also applies where an amount previously set aside and treated as a qualifying distribution at that time is no longer needed for the purpose for which it was set aside.)

The conference substitute (sec. 101(b) of the substitute and sec. 4942(f) of the code) follows the Senate amendment.

The House bill provides that where a private foundation spends more than the minimum required distributable amount in a given year, the excess expenditures over this amount are to be treated as qualifying expenditures in the next 5 years. The Senate amendment makes it clear that the distributions in years before the first taxable year beginning after December 31, 1969, are not to be taken into account for purposes of applying this 5-year carryover rule.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(i) of the code) follows the Senate amendment.

The Senate amendment provides that where written commitments have been made before October 9, 1969, by one private foundation to another private foundation, the grants made by December 31, 1974, under such commitments are to be treated as qualifying distributions if the foundation to which the distributions are made is not controlled by the granting foundation. For the grant to be so treated, however, it must be made for the charitable, educational, or other purpose consistent with the basis for the organization's exemption.

The conference substitute (sec. 101(l)(3) of the substitute) follows the Senate amendment but provides that the written commitment must have been made before May 27, 1969.

The Senate amendment provides that if a corporation redeems existing excess business holdings of a private foundation, such a redemption is not to be treated as essentially the equivalent of a dividend for purposes of determining the foundation's income that must be distributed.

The conference substitute (sec. 101(l)(3) of the substitute) follows the Senate amendment.

4. Taxes on excess business holdings (sec. 4943 of the code)

The House bill as a general rule limits to 20 percent the combined ownership of a corporation's voting stock which may be held by a foundation and all disqualified persons together. However, if someone else can be shown to have control of the business, the 20-percent limit is raised to 35 percent. Excess holdings acquired by gift or bequest in the future under the House bill generally must be disposed of within 5 years.

The House bill provides that the 20-percent limit referred to above (or the 35-percent limit if applicable) needs to be met with respect to

existing holdings only after the lapse of a 10-year period. The House bill also provides certain interim requirements of progressive partial divestiture at the end of 2 years and at the end of 5 years.

The Senate amendment provides that in the case of present holdings the combined holdings of a private foundation and all disqualified persons in any one business (if at present in excess of 50 percent) must generally be reduced to 50 percent by the end of the 10 years after the date of enactment of the bill. However, where the combined holdings now exceed 75 percent, an additional 5 years is allowed before the 50-percent limit must be reached. Present holdings in excess of 20 percent but less than 50 percent need not be decreased but also may not be increased.

The conference substitute (sec. 101(b) of the substitute and sec. 4943(c)(4) of the code) provides that where existing holdings are in excess of 50 percent but are not in excess of 75 percent, a 10-year period is to be available before the holdings must be reduced to 50 percent. If the holdings are more than 75 percent but not over 95 percent, the reduction to 50 percent need not occur for a 15-year period. If the foundation itself holds more than 95 percent of a corporation's stock, the reduction to 50 percent need not occur until the lapse of a 20-year period. The excess time provided above the 10 years in the second case is not to be available if a disqualified person having 15 percent or more of the stock of the corporation objects to this additional time for disposition of the excess holdings.

If at the end of the 10, 15, or 20-year period referred to above, the foundation and all disqualified persons together have holdings not in excess of 50 percent and the foundation has holdings of not more than 25 percent, then no further divestiture is required in order for the taxes on excess holdings not to apply. If the disqualified persons together hold no more than 2 percent of the stock, then the foundation is not subject to the 25-percent limit of the preceding sentence (however, the 50-percent total still applies to the combined holdings at the end of this first period); then the foundation is to have 15 additional years to bring its holdings of the stock in question down to 35 percent without imposition of any tax under this provision.

The House bill and the Senate amendment both permit fair price sales by a private foundation to disqualified persons in the case of existing excess business holdings without tax consequences.

Under the Senate amendment fair market value exchanges and other dispositions are also permitted under the same conditions as in the case of sales.

The conference substitute (sec. 101(l)(2) of the substitute) follows the Senate amendment.

5. Taxes on investments which jeopardize charitable purpose (sec. 4944 of the code)

At present a private foundation loses its tax exemption if its accumulated income is invested in such a manner as to jeopardize the carrying out of its charitable purposes. The House bill and the Senate amendment provide that unless this test is met with respect to all of its assets (not merely its accumulated income), a foundation will be subject to a special tax.

The House bill provides that where a foundation invests in a manner which would jeopardize the carrying out of its charitable purposes a tax is to be imposed equal to 100 percent of the investment.

The Senate amendment provides an initial tax on private foundations of 5 percent of the amount involved, and an initial tax on the foundation manager, where he knowingly jeopardizes the carrying out of the foundation's exempt purposes, of 5 percent (up to a maximum of $5,000 on the manager). The Senate amendment also modifies the second level tax where the jeopardy situation is not corrected by providing a 25-percent tax on the foundation and a 5-percent tax on the foundation manager who refuses to take action to correct the situation. (In the case of the foundation manager, this sanction may not exceed $10,000.)

The conference substitute (sec. 101(b) of the substitute and sec. 4944 of the code) follows the Senate amendment.

6. Taxes on taxable expenditures (sec. 4945 of the code)

Among the activities which under the House bill give rise to taxable expenditures are those to influence the outcome of any public election.

The Senate amendment modifies this to prohibit expenditures for the purpose of influencing the outcome of any specific public election.

The conference substitute (sec. 101(b) of the substitute and sec. 4945(d) of the code) follows the Senate amendment.

Both the House bill and the Senate amendment provide for taxes on expenditures where the private foundations spend money on activities generally referred to as lobbying expenditures. The House bill prohibits expenditures on attempts to influence legislation through attempts to affect the opinion of the general public.

The Senate amendment taxes expenditures where attempts are made to influence legislation by attempting to cause members of the general public to propose, support, or oppose legislation.

The conference substitute (sec. 101(b) of the substitute and sec. 4945(e) of the code) follows the House provision except that the managers on the part of the House desire to make it clear that in retaining this languge it is not intended to prevent the examination of broad social, economic, and similar problems of the type the Government could be expected to deal with ultimately, even though this would not permit lobbying on matters hich have been proposed for legislative action. In addition, the conferees are in accord with the Senate Finance Committee's report language regarding the application of this provision to noncommercial educational broadcasting.

The House bill attempts to influence legislation through private communications with persons who participate in the formation of legislation other than through making available the results of nonpartisan analysis or research (except that private foundations could communicate with respect to their own tax-exempt status, etc.).

The Senate amendment would tax attempts to influence legislation through communications with Government personnel who may participate in the formation of legislation except in the case of technical advice or assistance provided to a governmental body in response to a written request by such body or person. In addition, an exception is provided where the activity consists of making available nonpartisan analysis, study, or research and an exception is also provided for

communications with respect to the tax-exempt status, etc., of the foundation itself.

The House bill provides that where a foundation invests in a 4945(e) of the code) follows the Senate amendment except that in the case of technical advice or assistance provided to a governmental body in response to a written request by such body or member of such body, the substitute limits the request which can be made of this type to requests by the body itself or a subdivision such as a committee of such body and provides that the response can be given only to such body or subdivision.

The House bill provides for the imposition of taxes on expenditures for grants to organizations other than public charities unless the granting organization becomes responsible for how the money is spent and for providing information to the Secretary or his delegate regarding the expenditures.

Under the Senate amendment this expenditure responsibility does not make the granting foundation an insurer of the activity of the organization to which it makes a grant, if it uses reasonable efforts and establishes adequate procedures so that the funds will be used for public charitable purposes. In effect, this provides a "prudent man" standard in such cases and would permit, for example, without imposition of tax, situations where an organization to whom the grant is made supplies a certified audit as to the purpose of the expenditures.

The conference substitute (sec. 101(b) of the substitute and sec. 4945(h) of the code) follows the Senate amendment.

The House bill provides that voter registration drives are to be permitted where: (1) the organization's principal activity is nonpartisan political activity; (2) the organization's nonpartisan political activities are carried on in five or more States; (3) substantially all of the support (other than gross investment income) normally comes from five or more independent exempt organizations or from the general public; and (4) no more than 25 percent of the support (other than gross investment income) may normally come from any one exempt organization.

The Senate amendment provides that voter registration drives are to be permitted where: (1) the organization's activities are nonpartisan; (2) the organization's activities are carried on in more than one State; (3) substantially all of the support (other than gross investment income) normally comes from three or more independent exempt organizations, government, or the general public; (4) no more than 40 percent of the support (other than gross investment income) may come from any one exempt organization in 5 consecutive years; and (5) voter registration drive contributions may not be subject to the condition that they be used in only one specific election period.

The conference substitute (sec. 101(b) of the substitute and sec. 4945(f) of the code) provides that voter registration drives are to be permitted where: (1) the organization's principal activities are nonpartisan; (2) the organization's activities are carried on in five or more States; (3) not over 50 percent of the organization's support is derived from gross investment income; (4) no more than 25 percent of the

support (other than gross investment income) may come from any one exempt organization in 5 consecutive years; and (5) voter registration drive contributions may not be subject to the condition that they may be used in only one specific election period.

Under the House bill there is one level of taxation in the case of expenditures for activities representing taxable expenditures. A tax equal to 100 percent of the amount improperly spent is provided plus a tax on the foundation manager who knowingly makes the improper expenditure of 50 percent of that amount.

The Senate substitute provides an initial tax of 10 percent of the amount improperly spent (plus a tax of 2½ percent up to a maximum of $5,000 on the foundation manager who knowingly makes the improper expenditure). The second tax (100 percent) is to apply later only if the foundation fails to correct the earlier improper action to the extent possible. In addition, the second level (50 percent) tax on the manager (up to a maximum of $10,000) is to apply later only if he refuses to agree to the correction.

The conference substitute (sec. 101(b) of the substitute and secs. 4945(a), (b), and (c) of the code) follows the Senate amendment except that if full recovery of the expenditure is not possible, then (in order to avoid the second-level tax) the foundation must take such additional corrective action as may be prescribed by regulations.

7. Disclosure and publicity requirements (secs. 6033, 6034, 6056, 6104, 6652, 6685, and 7207 of the code)

The House bill provides that every exempt organization (whether or not a private foundation) must file an annual information return, except where the Secretary or his delegate determines that this is unnecessary for efficient tax administration.

The Senate amendment provides two exceptions from this provision. First it exempts churches and their integrated auxiliary organizations and associations or conventions of churches from the requirement of filing this annual information return (where the church or its auxiliary organization, etc., is engaged in an unrelated trade or business, however, it would still be required to file an unrelated business income tax return). The integrated auxiliary organizations to which this applies include the church's religious school, youth group, and men's and women's clubs.

The Senate amendment also exempts from the requirement for filing the annual information return any organization that normally has gross receipts of $5,000 or less where the organization is of a type not required to file an information return under present law. (As under the House bill, in addition to these two exempt categories the Secretary or his delegate can exempt other types of organizations from the filing requirement if he concludes that the information is not of significant value.)

The conference substitute (sec. 101(d) of the substitute and sec. 6033(a) of the code) follows the Senate amendment except that it also exempts from the filing requirement any religious order with respect to its exclusively religious activities (but not including any educational, charitable, or other exempt activities which would serve as a basis of exemption under section 501(c)(3) if an organization which is not a religious organization is required to report with respect to such activities).

The House bill requires that there be shown on each information return the names and addresses of all substantial contributors, directors, trustees, and other management officials, and of highly compensated employees. Compensation and other payments to managers and highly compensated employees also must be shown.

The Senate amendment differs from the House bill provision only in that it does not require the names and addresses of substantial contributors to be disclosed to the public in the case of exempt organizations other than private foundations. (Such organizations would, however, still be required to disclose these names to the Internal Revenue Service.)

The conference substitute (sec. 101(e) of the substitute and sec. 6104(b) of the code) follows the Senate amendment.

The Senate amendment provides that private foundations with at least $5,000 of assets at any time during the year are required to file an annual report providing information in addition to that previously described. The principal additional information consists of lists of assets showing book and market values, lists of grants (including amounts and purposes thereof), and grantees' names, as well as other information. In addition to this information being filed with the Service, a copy of this annual report must be made available to any citizen at the foundation's office for at least 180 days and the foundation must publicize its availability.

The conference substitute (secs. 101(d) and (e) of the substitute and secs. 6056, 6104, 6652, 6685, and 7207 of the code) follows the Senate amendment.

8. Termination of private foundation status and certain other rules with respect to sec. 501(c)(3) organizations (secs. 507 and 508 of the code)

The House bill provides that an organization which was a private foundation for its last taxable year ending before May 27, 1969, or becomes one subsequently may not change its status unless it repays to the Government the aggregate tax benefits (with interest) which have resulted from its tax-exempt status. (This tax may be abated, however, as described below.) The tax benefits to be repaid in these cases are the net increases in income, estate, and gift taxes which would have been imposed upon the organization and all substantial contributors if the organization had been liable for income taxes and if its contributors had not received deductions for contributions to the organization.

If a private foundation is required to pay this tax or volunteers to pay this tax in order to change its status, the Secretary or his delegate may then abate any part of the tax which has not been paid if the foundation (1) distributes all of its assets to organizations which had been public charities for 5 years or (2) itself operates for at least 5 years as a section 501(c)(3) organization which is not a private foundation.

The Senate amendment modifies this provision in several respects: (1) it provides that an existing private foundation need not go through the "change of status" process if it becomes a public charity by the end of its first taxable year beginning after December 31, 1969; (2) if the foundation intends to change its status by acting as a public charity for 5 years it must notify the Secretary or his delegate in

advance of its intention to do so as well as demonstrate at the end of the period that it has fully lived up to the appropriate requirements; (3) where the private foundation volunteers to change its status by acting in all respects as a public charity for at least 5 years, the foundation is to be classified as a public charity during the 5-year period (should the organization fail to act as a public charity during that period it would lose its status as of that date as a public charity but it would still be subject to the "change of status" rules during this period); (4) the tax on the change of status may be abated if the Secretary or his delegate is satisfied that corrective action to preserve the foundation's assets for charity has been taken by the State attorney general or other appropriate State official under the supervision of the appropriate courts.

The conference substitute (sec. 101(a) of the substitute and sec. 507 of the code) follows the Senate amendment.

The House bill provides that new exempt organizations (those coming into existence after May 26, 1969) must notify the Secretary or his delegate if they claim exempt status under section 501(c)(3). It also requires that they and existing organizations notify the Secretary or his delegate if they claim to be other than private foundations. In addition, the House bill provides that the Treasury Department may exempt from either or both of these notification requirements the following: churches (or conventions and associations of churches), schools and colleges, and any other class of organization where the Treasury determines that full compliance is not necessary for efficient administration.

The Senate amendment modifies the House bill in several respects. It provides that the organizations which must notify the Service as to their exempt status are those coming into existence after October 9, 1969, rather than after May 26, 1969; it provides that churches, their integrated auxiliaries and conventions or associations of churches are not in any event to be required to claim exempt status in order to be exempt from tax, nor are they to be required to file with the Secretary or his delegate in order to avoid classification as private foundations; and it exclude from these notice rules those educational or public charitable organizations whose gross receipts normally are $5,000 or less. In addition, the Senate amendment requires special information returns to be filed by exempt organizations upon their liquidation, dissolution, or substantial contraction.

The conference substitute (sec. 101(a) of the substitute and sec. 508 of the code) follows the Senate amendment.

9. Private foundation defined (sec. 509 of the code)

The House bill in general defines private foundations as organizations described in section 501(c)(3) of the code other than:

(1) Organizations contributions to which may be deducted to the extent of 30 percent (or 50 percent under the bill) of an individual's income;

(2) Broadly publicly supported organizations; and

(3) Organizations organized and operated exclusively for the benefit of one or more of the types of organizations described in (1) or (2) above which are controlled by one or more of these organizations or are operated in connection with one of them and are not controlled by disqualified persons; and

(4) Organizations organized and operated exclusively for testing for public safety.

The Senate amendment in general provides that an organization which would meet all of the tests of the third category described above except that it is operated in connection with more than one organization, nevertheless may qualify where all of the organizations it operates in connection with are educational organizations.

The conference substitute (sec. 101(a) of the substitute and sec. 509(a) of the code) follows the Senate amendment except that it provides that an organization which meets all of the tests of the third category described above except that it is operated in connection with two or more specific organizations may qualify where all of the specific organizations are the type of organizations described in (1) or (2) above.

The Senate amendment also provides that a foundation which is run in conjunction with an organization exempt under paragraphs (4), (5), or (6) of section 501(c) (such as a social welfare, labor, or agricultural organization, business league, or real estate board, etc.) which is publicly supported is to be treated as meeting the publicly supported tests for purposes of being a public charity rather than a private foundation.

The conference substitute (sec. 101(a) of the substitute and sec. 509(a) of the code) follows the Senate amendment.

10. Private operating foundation defined (sec. 4942(j) of the code)

The House bill provides that an operating foundation is a private foundation substantially all of whose income is spent directly for the active conduct of its activities representing the purpose or function for which it is organized and operated. The foundation must also meet one of two other tests. The first of these alternative tests requires that substantially more than half of the assets of the foundation must be devoted directly to the activities for which it is organized or to functionally related businesses. The second alternative covers cases where the organization normally receives substantially all of its support (other than gross investment income) from five or more exempt organizations or private individuals. In this case not more than 25 percent of the foundation's support (other that gross investment) may be received from any of these exempt organizations.

Under the Senate amendment, in addition to the categories that meet the private operating foundation definition under the House bill, another category also qualifies. The new category is a private foundation substantially all of whose income is spent directly for the active conduct of its activities representing the purpose or function for which it is organized and operated and where the organization's endowment based upon a rate of return of 80 percent of the minimum investment rate (for purposes of minimum distribution requirement) is no more than adequate to meet its current operating expenses.

The conference substitute (sec. 101(b) of the substitute and sec. 4942(j)(3) of the code) follows the Senate amendment but modifies the rate of return referred to above to 66⅔ percent.

11. Hospitals (sec. 501 of the code)

The House bill provides that hospitals, if they meet all the other requirements of section 501(c)(3), are exempt under that provision, whether or not they provide charitable services on a no-cost or low-cost basis. The Senate amendment strikes out these provisions.

The conference substitute (sec. 101(j) of the substitute and sec. 501(c)(3) of the code) follows the Senate amendment.

SUBTITLE B—OTHER TAX-EXEMPT ORGANIZATIONS

1. Unrelated debt-financed income (sec. 514 of the code)

The House bill provides that all exempt organizations' income from "debt-financed" property which is unrelated to their charitable function is to be subject to tax in the proportion in which the property is financed by the debt. Capital gains on the sale of debt-financed property also are taxed. Exceptions are made for property to be used for an exempt purpose of the organization within a reasonable time and also for property acquired by gift or inheritance under certain conditions. Special exceptions are also provided for the sale of annuities and for debts insured by the Federal Housing Administration to finance low- and moderate-income housing.

The Senate amendment makes minor or technical modifications in the House bill.

The conference substitute (sec. 121(d) of the substitute and sec. 514 of the code) in general follows the Senate amendment.

2. Tax on unrelated business income (secs. 511 and 512 of the code)

The House bill extends the unrelated business income tax to all exempt organizations (except U.S. instrumentalities). The bill contains several administrative provisions including one providing that no audit of a church, its integrated auxiliaries or convention or association of churches is to be made unless the principal internal revenue officer for the region believes the church may be engaged in a taxable activity. Churches will not be subject to tax under this provision for 6 years on businesses they now own.

The Senate amendment among other technical provisions provides that the unrelated business income tax is not to apply to a religious order or to an educational institution maintained by such religious orders or by a State that has held unrelated businesses which provide services under licenses issued by a Federal regulatory agency for 10 years or more, if the unrelated business distributes not less than 90 percent of its earnings each year and it is established to the satisfaction of the Secretary or his delegate that rates and other charges for services charged by such a business are fully competitive with, and do not exploit, similar businesses operated in the same general area.

The conference substitute (sec. 121(b)(2)(C) of the substitute and secs. 511 and 512 of the code) follows the Senate amendment except that it does not extend this provision to educational institutions maintained by a State.

The fact that an unrelated business income tax is payable by an organization is not intended to mean that the organization should, or should not, retain its exemption. This is to be determined on the basis of the organization's overall activities without regard to the fact that some of its activities are subject to the unrelated business income tax.

3. Taxation of investment income of social, fraternal and similar organizations (sec. 512 of the code)

The House bill provides for the taxation (at regular corporate rates) of the investment income of social clubs, fraternal beneficiary

associations and employee beneficiary associations. In the case of the income of fraternal beneficiary associations and employees beneficiary associations this tax does not apply, however, to the extent the income is set aside to be used only for the exempt insurance function of these organizations or for charitable purposes. In any year such an amount is taken out of the setaside and used for any other purpose, however, this amount becomes subject to tax at that time.

The Senate amendment modifies the House bill by excluding fraternal beneficial associations from the tax on investment income. It also provides a new category of exemption for fraternal beneficiary associations where the fraternal activities are largely religious, charitable, or educational in nature but where no insurance is provided for the members.

The conference substitute (sec. 121(b) of the substitute and sec. 512 of the code) follows the Senate amendment.

The Senate amendment extends the exemption from the investment income tax available in the House bill for fraternal beneficiary associations and employees beneficiary associations in the case of amounts set aside for charitable purposes to social clubs. The Senate amendment also provides that the tax on investment income is not to apply to the gain from the sale of assets used by the organizations in the performance of their exempt functions to the extent that the proceeds are reinvested in assets used for such exempt functions beginning 1 year before the date of the sale and ending 3 years after that date.

The conference substitute (sec. 121(b) of the substitute and sec. 512 of the code) follows the Senate amendment.

4. Interest, rent and royalties from controlled corporations (sec. 512 of the code)

The House bill provides that where a tax-exempt organization owns more than 80 percent of a taxable subsidiary, interest, annuities, royalties, and rents received by it are to be treated as "unrelated business income" and subject to tax. The deductions connected with the production of this income are allowed.

The Senate amendment makes minor and technical modifications in the House bill.

The conference substitute (sec. 121(b) of the substitute and sec. 512 of the code) generally follows the Senate amendment with minor modifications.

5. Limitation on deductions of nonexempt membership organizations (sec. 277 of the code)

The House bill provides that in the case of a taxable membership organization, the deductions for expenses incurred in supplying services, facilities, or goods to the members is to be allowed only to the extent of the income received from these members.

The Senate amendment modifies this provision to exclude from its application organizations which receive prepaid dues income as consideration for services and also securities and commodity exchanges organized on a membership basis. The Senate amendment also provides a carryover to succeeding years of the cost of furnishing services, facilities or goods to members where this exceeds the income from members. It also treats as income received from members income received from institutes and trade shows. The Senate Amendment further postpones the effective date of this provision until 1971.

The conference substitute (sec. 121(b) of the substitute and sec. 277 of the code) follows the Senate amendment except that, in the case of institutes and trade shows it limits the treatment described above to those institutes and trade shows which are primarily for the education of members.

6. Income from advertising, etc., activities (sec. 513 of the code)

The House bill provides that the term "trade or business" for purposes of the tax on unrelated business income includes any activity which is carried on for the production of income from the sale of goods or the performance of services. It further indicates that for this purpose an activity does not lose its identity as a trade or business merely because it is carried on within a larger aggregate of similar businesses which may, or may not, be related to the exempt purposes of the organization.

The Senate amendment provides that the provision should apply only in the case of advertising in the case of a sale by a hospital pharmacy of drugs to persons other than hospital patients and to the operation of a racetrack by an exempt organization.

The conference substitute (sec. 121(c) of the substitute and sec. 513 of the code) follows the House bill except that it provides that where an activity carried on for profit constitutes an unrelated trade or business no part of it is to be excluded from such classification merely because it does not result in profit.

TITLE II—INDIVIDUAL DEDUCTIONS

SUBTITLE A—CHARITABLE CONTRIBUTIONS

1. 50-percent charitable contribution deductions (sec. 170(b) of the code)

The House bill generally increases the limitation on the charitable contribution deduction for individual taxpayers from 30 percent of adjusted gross income to 50 percent. However, the 50-percent limit is not available with respect to property in which there is unrealized appreciation in value.

The Senate amendment provides that the taxpayer's cost or other basis for property contributed to public charities is to be eligible for the 50 percent limitation and that only the appreciation element in the donated property is to come under the 30 percent limitation.

The conference substitute (sec. 201(a) of the substitute and sec. 170(b) of the code) follows the House bill except that it provides that where a taxpayer makes a contribution to a public charity of property which has appreciated in value the taxpayer may deduct such contributions of property under the 50 percent limitation if he elects to take the unrealized appreciation in value into account for tax purposes.

Under the House bill contributions to private foundations are subject to the 20-percent charitable contribution limitation.

Under the Senate amendment contributions to a private operating foundation, and contributions to a private nonoperating foundation which distributes the contributions it receives to public charities or to private operating foundations within 1 year following the year of receipt, qualify for the 50 percent limitation (30 percent in the case of gifts of appreciated property).

The conference substitute (sec. 201(a) of the substitute and section 170(b) of the code) follows the Senate amendment except that it provides that in the case of contributions to private nonoperating foundations, the contribution such foundations receive must be distributed to public charities or private operating foundations within 2½ months following the year of receipt if the 50 percent limitation (or the 30 percent limitation as the case may be) is to apply.

2. Repeal of the unlimited charitable deduction (secs. 170(b)(1)(C), (f)(6), and (g) of the code)

The House bill eliminates the unlimited charitable contribution deduction for years beginning after 1974. During the interim period an increasing limitation is placed on the amount by which the deduction may reduce an individual's taxable income. For taxable years beginning in 1970, the total charitable deduction (for those qualifying under this provision) is not to be allowed to reduce the individual's taxable income to less than 20 percent of his adjusted gross income. This percentage is increased by 6 percentage points a year for the years 1971 through 1974. Corresponding downward adjustments are made in the percentage of a taxpayer's income which must be given to charity (or paid in income taxes) in 8 out of the 10 preceding taxable years in order to qualify for the extra charitable deduction during the interim period.

The Senate amendment modifies the House bill to provide that two rules are not to apply in the case of a person qualifying for the extra charitable contribution deduction: (1) the 30-percent limit on gifts of appreciated property and (2) the appreciated property rule which takes the appreciation into account for tax purposes in the case of gifts of property which would give rise to a long-term capital gain is sold.

The conference substitute (sec. 201(a) of the substitute and secs. 170(b)(1)(C), (f)(6), and (g) of the code) follows the Senate amendment.

3. Charitable contributions of appreciated property (sec. 170(e) of the code)

The House bill in the case of charitable contributions of appreciated property takes this appreciation into account for tax purposes in five types of situations. These are as follows:

(1) Appreciation is taken into account in the case of gifts to a private foundation other than an operating foundation and other than a private foundation which within 1 year distributes an amount equivalent to the total amount of gifts of appreciated property;

(2) Appreciation is taken into account in the case of property (such as inventory or works of art created by the donor) which would give rise to ordinary income if sold;

(3) Appreciation is taken into account in the case of gifts of tangible personal property (such as paintings, art objects, and books not produced by the donor) which would result in capital gain if the property were sold.

(4) Appreciation is taken into account in the case of gifts of future interests in property (such as a remainder interest in trust) which would result in capital gain if the property were sold.

(5) The cost or other basis of property in the case of a so-called bargain sale to charity is allocated between the portion of the property which is "sold" to the charity and the portion which is "given" to the charity on the basis of the fair market value of each portion.

The Senate amendment deleted categories (3), (4), and (5) listed above.

The conference substitute (sec. 201(a) of the substitute and sec. 170(e) of the code) follows the House bill except that in the case of category (3), listed above, it does not take appreciation in value into account in the case of gifts of tangible personal property (which would result in capital gain if the property were sold) where the use of the property is related to the exempt function of the donee. In addition, the conference substitute does not take appreciation into account in the case of category (4) referred to above relating to gifts of future interests in property.

The House bill provides that the amendments relating to charitable contributions generally apply to contributions paid after December 31, 1969.

The Senate amendment modifies this effective date to provide that in the case of a gift of a letter or memorandum or similar property, the charitable contribution amendments are to apply to contributions paid after December 31, 1968.

The conference substitute (sec. 201(g)(1)(B) of the substitute) follows the Senate amendment except that it changes the date to July 25, 1969.

4. Two-year charitable trust (sec. 673(b) of the code)

No substantive change is made by the Senate amendment in the House bill.

5. Gifts of the use of property (sec. 170(f)(3) of the code)

The House bill provides that a charitable deduction is not to be allowed for contributions to charity of less than the taxpayer's entire interest in property.

The Senate amendment modifies the House bill by providing that:

(1) A deduction is to be allowed for contributions of a remainder interest in real property;

(2) A charitable deduction is to be allowed where an outright gift is made of an undivided interest in property;

(3) The amendments are to apply to gifts made after October 9, 1969, (the House bill applies to gifts made after April 22, 1969).

The conference substitute (sec. 201(a) of the substitute and sec. 170(f)(3) of the code) follows the Senate amendment except that in the case of the first modification referred to above the charitable deduction is allowed only for contributions of remainder interests in real property consisting of personal residences or farms.

The conferees on the part of both Houses intend that a gift of an open space easement in gross is to be considered a gift of an undivided interest in property where the easement is in perpetuity.

6. Charitable contribution by estates and trusts (sec. 642(c) of the code)

The House bill denies nonexempt trusts a deduction for the amount of their current income set aside for charity. The House bill also denies this deduction to estates.

The Senate amendment makes the following modifications in the House provision:

(1) In the case of estates it restores the set aside deduction;

(2) It restores the set aside deduction in the case of pooled income funds under which a person transfers property to a public charity which places the property in a investment pool and then pays the donor (or perhaps another person) the income attributable to the property for his life. The set-aside deduction is restored in this case to the extent the pool accumulates capital gains for the benefit of charity. The set aside deduction also is restored in the case of certain trusts in existence on October 9, 1969, and trusts established by wills in existence on October 9, 1969, in specified circumstances.

The conference substitute (sec. 201(b) of the substitute and sec. 642(c) of the code) follows the Senate amendment.

7. Charitable remainder trusts (secs. 170(f), 664, 2055(e), 2106(a), 2522(c) of the code)

The House bill limits the availability of the charitable contribution deduction for income, estate, and gift tax purposes in the case of a charitable gift of a remainder interest in trusts to situations where the trust specifies the annual amount which is to be paid to the noncharitable income beneficiary in dollar terms (annuity trust) or as a fixed percentage of the value of the trust's assets as determined each year (unitrust).

The Senate amendment retains the treatment described above with the following modifications:

(1) When a person transfers property to a charity which places the property in a pooled income fund, a charitable contribution deduction is to be allowed to the donor determined by reference to the highest rate of return from the particular pool or fund in which the investment is placed during the 3 years prior to the contribution.

(2) In the case of a gift of a remainder interest in real property to charity it is provided that in determining the value of the gift straight line depreciation or cost depletion is to be taken into account.

(3) The unitrust and annuity trust rules of the House bill are modified by providing that the trust instrument need not require the full distribution of the stated amount to the income beneficiary so long as the distribution of the full current income (other than capital gains) is required. In addition, an annuity trust or unitrust must be required to distribute each year 5 percent of the value of its assets or the amount of trust income if lower. The value of a charitable remainder in an annuity trust or unitrust is to be determined on the basis of the higher of a 5-percent payout to the income beneficiary or the amount of the stated payout.

(4) Although the new charity remainder trust rules generally apply for estate tax purposes in the case of decedents dying after December 31, 1969, it is provided that the new rules are to be inapplicable with respect to wills in existence on October 9, 1969, under specified circumstances and also in the case of certain transfers in trusts prior to October 10, 1969.

(5) The new charitable remainder trust rules apply for income and gift tax purposes in the case of transfers in trusts and gifts made after October 9, 1969 (under the House bill this date is April 22, 1969).

The conference substitute (secs. 201 (a), (d), and (e) of the substitute and secs. 170(f), 664, 2055(e), 2106(a), and 2522(c) of the code) follows the Senate amendment with the following modifications:

(1) No. 2 above is modified to provide that given today's money rates and investment returns, the value of the charitable gift is to be computed on the basis of a 6-percent discount rate, except that the Secretary or his delegate may vary this amount as money rates and investment returns change.

(2) No. 3 above is modified to make the provision that the trust may distribute the lesser of the stated payout or the trust income inapplicable to annuity trusts and to provide that in the case of unitrusts this flexibility of payment may not be discretionary with the trustee.

(3) The new rules are made applicable for income and gift tax purposes in the case of transfers in trusts and gifts after July 31, 1969.

8. Charitable income trust with noncharitable remainders (secs. 170(f), 2055(e), 2106(e), 2106(a), and 2522(c) of the code)

The House bill generally provides that a charitable contribution deduction for income and gift tax purposes is not to be allowed where a person gives an income interest to charity in trust unless he is taxable on the trust income. Even in this case the charitable deduction is not to be allowed unless the charity income interest is in the form of a guaranteed annuity or is a fixed percentage (payable annually) of the value of the trust property (as determined each year). In addition, a charitable deduction for estate tax purposes is denied for gifts of income interest in trust.

The Senate amendment provides that the rules described above (other than the requirement that the gift take the form of a guaranteed annuity or fixed percentage payout) are to be inapplicable for gift and estate tax purposes. In addition, the Senate amendment provides that this provision is to apply for income and gift tax purposes with respect to transfers of property to a trust after October 9, 1969 (under the House bill this date is April 22, 1969).

The conference substitute (secs. 201 (a) and (d) of the substitute and secs. 170(f), 2055(e), 2106(a), 2522(c) of the code) follows the Senate amendment except that the October 9, 1969 date is changed to July 31, 1969.

9. Limitation on nonexempt trusts (secs. 508 and 4947 of the code)

The House bill generally imposes on nonexempt charitable trusts the same requirements and restrictions which are made applicable to private foundations (i.e., those provisions relating to self-dealing, retention of excess business holdings, and the making of speculative investments or taxable expenditures, but not the current income payout requirement except where all of the interests in the trust are charitable).

The House bill also provides that a charitable contribution deduction (for income, gift and estate tax purposes) for a contribution to charity in trust would not be allowed unless the trust instrument prevents the trust from violating these requirements or restrictions.

The Senate amendments make the following modifications in the House provision:

(1) The stock ownership and speculative investment requirements are not to apply to split-interest trusts (i.e., trusts having a noncharitable income beneficiary and a charitable remainder beneficiary or vice versa) (A) in cases where charity is only an income beneficiary and the beneficial interest of charity in the trust is less than 60 percent of the value of the trust property and (B) in cases where the only interest of charity in the trust is as a remainderman (in the latter case the stock ownership and speculative investment requirements are to become applicable at the time the remainder interest comes into possession).

(2) In the case of a trust created before January 1, 1970, the requirement that the governing instruments of the trust must be conformed in order for a charitable contribution deduction to be available is to apply in the case of contributions in years beginning after 1971 (under the House bill these changes would apply to contributions in years beginning after 1969).

The conference substitute (sec. 101 of the substitute and secs. 508 and 4947 of the code) follows the Senate amendment.

SUBTITLE B—FARM LOSSES, ETC.

1. Gain from disposition of property used in farming where farm losses offset nonfarm income (sec. 1251 of the code)

The House bill in effect converts capital gains into ordinary income to the extent a taxpayer's farm losses (above limitations) have been offset against nonfarm income. Under the House bill a taxpayer is required to maintain an "excess deductions account" to record his farm losses. In the case of individuals, farm losses would be added to EDA only if the taxpayer has more than $50,000 of nonfarm income for the year and only to the extent the farm losses for the year exceed $25,000. Limitations are placed on the extent to which farm losses would be recaptured on the sale of farm land with reference to amounts spent for soil and water conservation and land clearing. To the extent of the gain on farm property which would be treated under these rules as ordinary income, there would be a reduction in the taxpayer's excess deduction account. The limitations described above do not apply where the taxpayer follows generally applicable (accrual) accounting rules.

The Senate amendment contained a substitute for the House provision which, in general, provided that farm losses may be offset against nonfarm income only to the extent of 50 percent of the farm losses. The remaining half of the farm deductions may be taken in subsequent years to the extent that ordinary farm income exceeds farm deductions. In the case of all taxpayers, the deduction of farm losses against nonfarm income is limited in the manner described above only if the taxpayer has more than $50,000 of nonfarm income and, in addition, only to the extent the farm loss for the year exceeds $25,000.

The conference substitute (sec. 211 of the substitute and sec. 1251 of the code) follows the House bill except that it makes the dollar limitations described above also applicable to subchapter S corporations in cases where none of the shareholders of the corporation who are individuals have farm losses.

2. Depreciation recapture (sec. 1245(a) of the code)

The Senate amendment makes no substantive change in the House bill.

3. Holding period for livestock (sec. 1231(b) of the code)

The House bill provides that livestock, in order to be eligible for capital gains treatment upon sale (in the case of animals held for draft, dairy, breeding or sporting purposes) must have been held by the taxpayer for at least a year after the animal would have normally been used for draft, dairy, breeding or sporting purposes.

The Senate amendment provides that in order for any gain on the sale of horses or cattle to result in capital gain where the animals are held for draft, dairy, breeding, or sporting purposes, the horses or cattle must have been held for at least 2 years. The gain on the sale of other types of livestock held for one of these purposes would continue to be subject to the 1-year holding period presently in existing law.

The conference substitute (sec. 212(b) of the substitute and sec. 1231(b) of the code) follows the Senate amendment.

4. Exchange of livestock of different sexes (sec. 1031 of the code)

The House bill contains no comparable provision.

The Senate amendment provides that for purposes of applying the tax-free like kind exchange rules of present law, livestock of different sexes are not property of a like kind.

The conference substitute (sec. 212(c) of the substitute and sec. 1031 of the code) follows the Senate amendment.

5. Hobby losses (secs. 183 and 270 of the code)

The House bill replaces the present hobby loss provision with a rule which disallows the deduction of losses from an activity carried on by the taxpayer where the activity is not carried on with "a reasonable expectation of profit." An activity would be presumed to have been carried on without this expectation of profit where the losses from the activity were greater than $25,000 in 3 out of 5 years.

The Senate amendment makes a series of modifications in this provision:

(1) In lieu of the test of "a reasonable expectation of profit" the Senate amendment substitutes the test of "not engaged in for profit."

(2) The Senate amendment restricts the applicability of the hobby loss provision to individual taxpayers and subchapter S corporations.

(3) The Senate amendment provides that deductions will not be disallowed under this provision for items which presently may be deducted without regard to whether the taxpayer incurs them in a trade or business or for the production of income (for example, the capital gains deduction and the deduction for certain State and local taxes).

(4) The Senate amendment allows deductions in the case of an activity not engaged in for profit to the extent income is earned from such an activity.

(5) In lieu of the presumption in the House provision to the effect that the activity constitutes a hobby where there are losses of $25,000 or more in 3 out of 5 years, the Senate amendment

substitutes a presumption that the taxpayer is not engaged in carrying on the activity as a hobby if he has profits in 2 out of 5 years (or in the case of an activity which in major part consists of the breeding, training, showing, or racing of horses if he has profits in 2 out of 7 years).

The conference substitute (sec. 213 of the substitute and sec. 183 of the code) follows the Senate amendment except for the effective date relating to the presumption described in No. 5 above.

6. Gain from the disposition of farm land (sec. 1252 of the code)

There is no comparable provision in the House bill.

The Senate amendment provides for the recapture of soil and water conservation expenditures and land clearing expenditures made with respect to farm land where the land is disposed of within 5 years after it was acquired. If the land is sold within 6 to 9 years after it is acquired the amount of the expenditures recaptured is reduced by 20 percent a year. There is no recapture if the land is disposed of 10 years or more after it is acquired.

The conference substitute (sec. 214 of the substitute and sec. 1252 of the code) follows the Senate amendment.

7. Crop insurance proceeds (Sec. 451 of the code)

There is no comparable House provision.

The Senate amendment provides that, at his election, a cash basis farmer whose crops have been damaged or destroyed and who receives crop insurance proceeds in compensation for his loss may elect to defer the reporting of these proceeds for Federal income tax purposes until the year following the year of the damage or destruction, if he normally would have reported the income from the sale of the crops in a year after the receipt of the insurance proceeds.

The conference substitute (sec. 215 of the substitute and sec. 451 of the code) follows the Senate amendment.

8. Capitalization of cost of planting citrus groves (sec. 278 of the code)

There is no comparable House provision.

The Senate amendment provides that the expenditures of purchasing, planting, cultivating, maintaining, or developing a citrus grove must be capitalized if they are incurred within 4 years after the grove is planted. This capitalization rule is not to apply to expenditures incurred in replanting a citrus grove which was damaged or destroyed by freeze, drought, disease, pest or casualty.

The conference substitute (sec. 216 of the substitute and sec. 278 of the code) follows the Senate amendment.

SUBTITLE C—INTEREST (SEC. 163 OF THE CODE)

The House bill limits the deduction allowed individuals for interest on funds borrowed for investment purposes (but not interest incurred in a trade or business). Under this provision, a taxpayer's deduction for investment interest is to be limited to the amount of his net investment income (dividends, interest, rents, etc.), plus the amount of his long-term capital gains, plus $25,000. Investment interest in excess of $25,000 first is offset against net investment income and then is offset against long-term capital gain income (before the 50 percent capital gains deduction which is reduced by the amount of

investment interest which offsets capital gains). A carryover of disallowed interest is allowed so that the disallowed interest can be used to offset investment income (and capital gains) in subsequent years.

The Senate amendment deleted this provision.

The conference substitute (sec. 221 of the substitute and sec. 163 of the code) follows the House provision with the modifications set forth below:

(1) A deduction is to be allowed for excess investment interest to the extent of 50 percent of the excess interest. Appropriate modification is made for the carryover of excess investment interest which may not be currently deducted (the carryover is not allowed against capital gains but the capital gains deduction allowable in subsequent years reduces the amount of any further carryover).

(2) Capital gains which are used to offset investment interest are treated as ordinary income for purposes of the alternative capital gains tax, the capital gains deduction and the minimum tax for tax preferences.

(3) The interest limitation is to apply in the case of partnerships only at the partner level and in the case of subchapter S corporations only at the shareholder level. The $25,000 floor is not to apply in the case of trusts.

(4) In computing the amount of investment income against which investment interest may be offset it is provided that depreciation may be taken into account on a straight-line basis and depletion may be taken into account on a cost basis.

(5) Amounts treated as ordinary income upon the sale of investment assets as a result of the recapture rules are to be treated as income against which investment interest may be offset for purposes of this provision.

(6) Interest on indebtedness incurred with respect to property which is being constructed and which will be used in a trade or business when the construction is completed is to be considered as interest incurred in a trade or business rather than investment interest for purposes of this provision.

(7) It is provided that the above rules are not to apply to investment interest, investment income or expenses attributable to a specific item of property if the indebtedness with respect to the property (A) is for a specified term and (B) was incurred before December 17, 1969, or is incurred on or after that date pursuant to a binding written contract or commitment.

(8) The limitation on the deduction of interest is not to apply to taxable years beginning prior to 1972.

SUBTITLE D—MOVING EXPENSES (SECS. 217 AND 82 OF THE CODE)

The House bill extends the present moving expense deduction to cover three additional types of job-related moving expenses:

(1) Traveling, meals, and lodging expenses for premove house-hunting trips;

(2) Expenses for meals and lodging in the general location of the new job location for a period of up to 30 days after obtaining employment; and

(3) Expenses incident to the sale of a residence or a settlement of a lease at the old job location or to the purchase of a residence or the acquisition of a lease at the new job location. A limitation of $2,500 is placed on the deduction allowed for these three additional categories of moving expenses. In addition, expenses for house hunting trips and temporary living expenses may not account for more than $1,000 of the $2,500. The House bill provides that the 39-week test is to be waived if the taxpayer is unable to satisfy it due to circumstances beyond his control. In addition, the House bill requires that reimbursements of moving expenses must be included in gross income.

The Senate amendment modifies the House bill in the following respects:

(1) The moving expense deduction (both the categories which are deductible under present law and those made deductible by this bill) are extended to self-employed persons. However, the period of time the self-employed person is required to work at the new location is extended from 39 to 78 weeks.

(2) The moving expense deduction which may be claimed by a husband and wife, both of whom work, is limited to the amount which could be claimed if only one were employed.

(3) The Senate amendment provides that the taxpayer's new principal place of work must be located at least 20 miles (the same as under existing law instead of the 50 miles as provided by the House bill) farther from his former residence than his former place of work. However, the distance between the two points is to be the shortest of the more commonly traveled routes between these two points rather than the distance between the two points.

The conference substitute (sec. 231 of the substitute and secs. 217 and 82 of the code) follows the Senate amendment except that it substitutes a 50-mile test for the 20-mile test referred to in No. 3 above. In addition, the conference substitute permits taxpayers who move before July 1, 1970, pursuant to notices received from their employers on or before December 19, 1969, to apply the provisions of existing law rather than the new provisions.

TITLE III—MINIMUM TAX; ADJUSTMENTS PRIMARILY AFFECTING INDIVIDUALS

SUBTITLE A—MINIMUM TAX (SEC. 56, 57 AND 58 OF THE CODE)

The House bill requires individuals with substantial amounts of otherwise tax-free income to pay significant amounts of tax through the use of two basic provisions: a limit on tax preferences which requires the individual taxpayer to aggregate his taxable income and his tax-free income and to include at least one-half of this amount in his tax base; and an allocation of deductions under which individual taxpayers are required to allocate their personal itemized expenses between taxable and nontaxable income, disallowing those deductions attributable to the nontaxable income.

The Senate amendment substitute for the two House provisions provides a minimum tax on preference income made equally applicable

to individuals and corporations. Under the Senate amendment tax preference income, after the deduction of a $30,000 exemption and after the deduction of the taxpayer's regular Federal income tax, is taxed at a 10-percent rate. Appropriate adjustment is made for net operating losses. The items of tax preference included in the base of the 10-percent tax under the Senate amendment are as follows:

(1) excess investment interest;

(2) accelerated depreciation on personal property subject to a net lease in excess of straight line depreciation;

(3) accelerated depreciation on real property in excess of straight line depreciation;

(4) amortization of rehabilitation expenditures in excess of straight line depreciation;

(5) amortization of certified pollution control facilities in excess of accelerated depreciation;

(6) amortization of railroad rolling stock over accelerated depreciation;

(7) in the case of qualified stock options, the excess of the fair market value of the stock at the time of the exercise of the option over the option price of the stock.

(8) bad debt deductions of financial institutions to the extent they exceed the additions to the bad debt reserves which would have been allowed if the institution had always computed its reserve for bad debts on the basis of its own loss experience;

(9) depletion costs to the extent they exceed the cost or other basis for the property involved;

(10) intangible drilling expenses (other than in the case of dry holes) in cases where the taxpayer's income for the taxable year exceeds $3 million;

(11) capital gains in the case of individuals to the extent of one-half of the gains and in the case of corporations to the extent of 18/48th of the gain.

Special rules are provided in the case of estates or trusts, multiple corporations, subchapter S corporations, regulated investment companies, real estate investment trusts and in the case of husbands and wives filing separate returns.

The conference substitute (sec. 301 of the substitute and secs. 56, 57, and 58 of the code) follows the Senate amendment with the following adjustments:

(1) the preference item for excess investment interest applies only to individuals, subchapter S corporations, and personal holding companies, and only until 1972 when the interest limitation deduction provision becomes applicable.

(2) the preference relating to accelerated depreciation on personal property subject to a net lease applies only in the case of individuals, subchapter S corporations, and personal holding companies;

(3) the preference relating to intangible drilling and development costs is deleted, but the cost or other basis on which the depletion deduction preference is computed does not include such costs.

SUBTITLE B—INCOME AVERAGING (SEC. 1301–1305 OF THE CODE)

The House bill lowers the percentage by which an individual's income must increase before the averaging provision is available from 33⅓ to 20 percent. The House bill also extends income averaging to long-term capital gains, income from wagering, and income from gifts. The House bill denies a taxpayer who elects averaging both the benefit of the limitation on tax in the case of a distribution from an accumulation trust and the maximum tax on earned income.

The Senate amendment modifies the provisions of the House bill by restoring existing law regarding the types of income eligible for averaging. (This makes averaging unavailable to long-term capital gains, income from wagering, and income from gifts.) The Senate amendment also modifies the House bill by permitting a taxpayer receiving accumulation trust distributions to elect income averaging but excludes the trust distribution from the income eligible for averaging.

The conference substitute (sec. 311of the substitute and secs. 1302 and 1304(b) of the code) follows the House bill but adopts the Senate amendment rule with respect to distributions from accumulation trusts. It also provides that taxpayers electing income averaging may not also make use of the alternative capital gains rate. The conference substitute further provides that the maximum tax on earned income is to be unavailable to taxpayers electing averaging.

SUBTITLE C—RESTRICTED PROPERTY (SECS. 83, 402(b) AND 403(c) OF THE CODE)

The House bill provides that a person who receives compensation in the form of property, such as stock, which is subject to a restriction generally is to be taxed on the value of the property at the time of its receipt unless his interest is subject to a substantial risk of forfeiture. In this latter case, he is to be taxed on the value of the property at the time the risk of forfeiture is removed. The restrictions on the property are not taken into account in determining its value except in cases where the restriction by its terms will never lapse.

The Senate amendment generally accepts the House provision but makes a series of modifications, the more important of which are as follows:

(1) The amendment permits employees receiving property subject to forfeitable restrictions to treat the receipt of the property under these conditions as the receipt of property not subject to forfeitable conditions, and pay tax on the basis of the unrestricted value of the property at that time. If, subsequently, the employee's right to the property is forfeited, he would not, if he elects this option, be eligible for a refund of the tax previously paid or receive any deduction for the amount forfeited.

(2) The amendment further provides that if restricted stock (or other property) is exchanged in a tax-free exchange for other stock or property subject to substantially the same restrictions, the exchange is not to cause the holder of the stock to become

taxable, and the stock received in the exchange is to be treated as restricted property. The same principle is applied where stock not subject to the restricted property provision because of the effective date is exchanged in a tax-free exchange. The stock received in the exchange in this case is not to be treated as subject to the new restricted property rules if it is subject to substantially the same restrictions as the stock given up. This also applies to stock received on a tax-free conversion of convertible stock or securities.

(3) The amendment provides rules for deductions for the employer with respect to restricted property and nonexempt trusts.

(4) The amendment makes it clear that the amount subject to tax in the case of nonexempt trusts and nonqualified annuities when the employee's interest becomes nonforfeitable is the value at that time of his interest in the trust (or the then value of the annuity contract).

(5) Under the amendment, the restricted property provision does not apply where property is transferred before May 1, 1970 (rather than February 1, 1970, as under the House bill), pursuant to a written plan adopted and approved before July 1, 1969.

The conference substitute (sec. 321 of the substitute and secs. 83, 402(b) and 403(c) of the code) follows the Senate amendment.

SUBTITLE D—ACCUMULATION TRUSTS, MULTIPLE TRUSTS, ETC. (SECS. 663, 665–669, 677 AND 6401 OF THE CODE)

The House bill provides that in the case of accumulation trusts (including multiple trusts), the beneficiaries are to be taxed on the distributions of accumulated income in substantially the same manner as if the income had been distributed to the beneficiaries when it was earned by the trust. The taxes paid by the trust on the income, in effect, are considered as paid by the beneficiary for this purpose. A shortcut method of computing the tax on accumulated income is provided under which the tax attributable to the distribution is, in effect, averaged over the number of years in which the income was earned by the trust.

The Senate amendment, among other technical provisions, makes the following substantive modifications in the House provision:

(1) In the case of capital gains an unlimited throwback rule is provided for those gains allocated to the corpus of an accumulation trust. This provision does not apply to any trust so long as it distributes its ordinary income currently.

(2) An interest charge is provided to cover the tax payments which are deferred by the income beneficiaries (to the extent their taxes exceed those paid by the trust) as a result of the use of accumulation trusts.

(3) The accumulation trust rules are not applied to distributions made to a beneficiary before January 1, 1972, from a trust which was in existence on December 31, 1969, if the beneficiary elects to have existing law apply to the distributions. If the beneficiary is the beneficiary of more than one such trust, he may designate only one trust for which this provision is to

apply. However, where a person is a beneficiary of two trusts, one of which is for the lifetime benefit of a surviving spouse, then both trusts qualify under this provision.

The conference substitute (secs. 331 and 332 of the substitute and secs. 663, 665–669, 677, and 6401 of the code) generally follows the Senate technical amendments and the amendment relating to capital gains (described in No. (1) above). The conference substitute also provides for a delay until 1972 of the application of the throwback rules in the case of capital gain distributions where the person is a beneficiary of only one trust and such trust was in existence on December 31, 1969, or in the case of two such trusts where one is for the lifetime benefit of a surviving spouse. The conference substitute does not adopt the Senate amendment provision relating to interest charges (described in No. (2) above) or the broader exception until 1972 (described in No. (3) above).

HOUSE PROVISION OMITTED FROM CONFERENCE SUBSTITUTE—OTHER DEFERRED COMPENSATION (SEC. 331 OF THE HOUSE BILL)

The House bill continues to tax deferred compensation as under present law when it is received but, to the extent the deferred compensation exceeds $10,000 a year, it taxes the income at rates which would be applicable had the income been received when earned. This result is accomplished by determining the tax that would apply had the income been received over the employee's entire period of service with the employer or over the period to which the deferred compensation is properly attributable. An alternative method bases the tax on the average income for the 3 highest years during the last 10 of the earning period. The Senate amendment does not contain this provision.

The conference substitute does not contain this provision.

TITLE IV—ADJUSTMENTS PRIMARILY AFFECTING CORPORATIONS

SUBTITLE A—MULTIPLE CORPORATIONS (SECS. 1561–1564, 46, 48, 179, AND 804 OF THE CODE)

The House bill provides that a group of controlled corporations may have only one of each of a number of special provisions designed to aid small corporations. The most important of these are the surtax exemption and the accumulated earnings credit. A controlled group of corporations is limited to one $25,000 surtax exemption and one $100,000 accumulated earnings credit after an 8-year transitional period (in which the additional surtax exemptions in excess of one are reduced by $3,125 in each of the years 1969 through 1976). The House bill also modifies the present definition of a brother-sister controlled corporation.

The Senate amendment, in addition to certain technical changes, modifies the House bill by providing a 5-year transitional period, reducing the additional surtax exemption by $5,000 in each of the years 1970 through 1974.

The conference substitute (sec. 401(b) of the substitute and sec. 1564 of the code) provides a 6-year transitional period, reducing the surtax exemptions in excess of one by $4,167 in each of the years 1970 through 1975. In other respects the conference substitute follows the Senate amendment.

SUBTITLE B—DEBT-FINANCED CORPORATE ACQUISITIONS AND RELATED PROBLEMS

1. Interest on indebtedness incurred by corporation to acquire stock or assets of another corporation (sec. 279 of the code)

In general the House bill disallows a deduction for interest on bonds issued in connection with the acquisition of a corporation where the bonds have specified characteristics which make them more closely akin to equity.

The disallowance rule only applies to bonds and debentures issued by a corporation to acquire stock in another corporation or to acquire at least two-thirds of the assets of another corporation. In addition, the disallowance rule only applies to bonds or debentures which have three characteristics:

(1) The bonds are subordinated to the corporation's trade creditors;

(2) The bonds are convertible into stock or are issued as an investment unit including warrants;

(3) The ratio of debt to equity of the acquiring corporation (including affiliated corporations) is more than 2:1 or the annual interest expense on its indebtedness is not covered at least three times over by its earnings.

An exception to the interest disallowance rule is provided for up to $5 million of interest per year on obligations to which the interest disallowance rule would otherwise apply. The amount of this exception is reduced by interest on debt used for acquisition purposes which are not subject to the disallowance rule.

The Senate amendment adopts the basic House provision but makes a series of modifications, the most important of which are as follows:

(1) The interest disallowance rule does not apply unless the ratio of debt to equity exceeds 4:1 or the annual interest expense on the indebtedness of the corporation is not covered at least two times over by its earnings.

(2) The exception in the House bill for up to $5 million of interest under the Senate amendment takes into account only interest on obligations issued after December 31, 1967.

(3) The amendment provides that the interest disallowance rule applies where a corporation acquires at least two-thirds of the assets (excluding money) used in the business carried on by another corporation (i.e., operating assets) rather than where it acquired two-thirds of a company's "total" assets (as under the House bill).

(4) The amendment provides that the subordination test referred to above includes any obligation which is expressly subordinated in right of payment to any substantial amount of the corporation's unsecured indebtedness.

(5) The amendment provides that the interest disallowance rule is no longer to apply after a corporation, for a period of at least 3 consecutive years, has brought itself down below the 4:1 debt-equity ratio and the interest charges over the 3-year period are covered more than two times by the earnings of the corporation.

(6) This provision is made applicable to indebtedness incurred after October 9, 1969 (rather than May 27, 1969, as in the House bill). The provision also is made inapplicable where stock or assets of a corporation were acquired pursuant to a binding contract entered into before this effective date.

The conference substitute (sec. 411 of the substitute and sec. 279 of the code) follows the Senate amendment with the following modification:

The 2:1 debt-equity ratio of the House bill was adopted and the earnings ratio whereby the interest expense must be covered at least three times over, as contained in the House bill, was adopted except that in computing earnings for this purpose depreciation and amortization charges are not to be taken into account.

2. Installment method (sec. 453(b) of the code)

The House bill provides that where bonds have interest coupons attached, are in registered form or have other features which make them readily tradable in the market, these bonds are to be considered as payments in the year of sale for purposes of the installment sales provision. The House bill also would deny the use of the installment method unless the payment of the principal of the loan or the payment of the principal of the loan and the interest taken together are spread relatively evenly over the installment period. This requirement would be satisfied if at least 5 percent of the principal was paid by the end of the first quarter, 15 percent by the end of the second quarter and 40 percent by the end of the third quarter.

The Senate amendment made three changes in the House bill:

(1) The amendment excludes from the category of bonds or debentures in registered form (which otherwise would be considered as payments received in the year of sale) bonds or debentures which the taxpayer establishes will not be readily tradeable in the established securities market.

(2) The amendment makes the new rules effective with respect to sales occurring after October 9, 1969 (rather than after May 27, 1969, as in the House bill). In addition, the amendment provides that the new rules are not to apply to sales made pursuant to a binding contract entered into before October 9, 1969.

(3) The amendment deletes the provision of the House bill denying the use of the installment method unless the the payments are spread relatively evenly over the installment period.

The conference substitute (sec. 412 of the substitute and sec. 453(b) of the code) follows the Senate amendment except that the effective date of May 27, 1969, contained in the House bill is substituted for the October 9, 1969, date in the Senate amendment.

3. Bonds and other evidences of indebtedness (sec. 1232 of the code)

The House bill provides that the bondholder and issuing corporation are generally to be treated in a consistent manner with respect to original issue discount. Bondholders are to include the original issue discount in income ratably over the life of the bond. This rule applies to the original bondholder and subsequent bondholders. (Issuing corporations already take deductions ratably under this period.) Corporations issuing bonds in registered form are to furnish

the bondholder and the Government with an annual information return indicating the amount of the original issue discount to be included in income for the year in question.

The Senate amendment provides an exception to the rule set forth above in the case of life insurance companies which already accrue discount on a basis which produces essentially the same result. The Senate amendment also limits the application of this rule in cases where the bonds are issued for property to situations where either the bond is a part of an issue which is traded on an established securities market or the property for which the bond is issued consists solely of securities which are so traded.

The Senate amendment makes these rules applicable to debt obligations issued after October 9, 1969 (instead of after May 27, 1969, as under the House bill). In addition the new rules are made inapplicable to debt obligations issued after this effective date which are issued pursuant to a binding contract entered into on or before October 9, 1969.

The conference substitute (sec. 413 of the substitute and sec. 1232 of the code) follows the Senate amendment except that the effective date of the provision (and also for the binding contract rule) is the date contained in the House bill, namely May 27, 1969.

4. Limitation on deduction of bond premium on repurchase (sec. 249 of the code)

The House bill provides that a corporation which repurchases its convertible indebtedness at a premium may deduct only that part of the premium which represents the cost of borrowing and not that portion attributable to the conversion feature. Generally, the deduction is limited to the normal call premium for nonconvertible corporate debt except where the corporation can satisfactorily demonstrate that a larger amount of the premium is related to the cost of the borrowing.

The Senate amendment accepts the House bill provision but makes it apply to repurchases of convertible indebtedness after October 9, 1969 (instead of after April 22, 1969, as in the House bill).

The conference substitute (sec. 414 of the substitute and sec. 249 of the code) follows the House provision.

5. Treatment of certain corporate interests as stock or indebtedness (sec. 385 of the code)

The House bill does not contain a comparable provision.

The Senate amendment provides a statutory authorization for the Treasury Department to issue regulatory guidelines distinguishing between debt and equity. The factors which may be taken into account in these guidelines include the following:

(1) Whether there is a written unconditional promise to pay on demand or on a specified date a sum certain in money in return for an adequate consideration in money or moneys worth, and to pay a fixed rate of interest;

(2) Whether there is a subordination to, or preference over, any indebtedness of the corporation;

(3) The ratio of debt to equity of the corporation;

(4) Whether there is convertibility into the stock of the corporation; and

(5) The relationship between the holdings of stock in the corporation and the holdings of the interest in question.

The conference substitute (sec. 415 of the substitute and sec. 385 of the code) follows the Senate amendment.

SUBTITLE C—STOCK DIVIDENDS (SECS. 301 AND 305 OF THE CODE)

The House bill provides that a stock dividend is to be taxable if one group of shareholders receives a distribution in cash and there is an increase in the proportionate interest of other shareholders in the corporation. In addition, the distribution of convertible preferred stock is to be taxable unless it does not cause this result. The House bill gives the Treasury Department regulatory authority to treat as distributions changes in conversion ratios, systematic redemptions, and other transactions that have the effect of creating disproportionate distributions. The House bill also provides that stock dividends on preferred stock (except antidilution distributions on convertible preferred stock) are taxable.

The Senate amendment makes a series of modifications in the House bill, which are as follows:

(1) The amendment provides a de minimis rule under which the disproportionate distribution rules are not to apply to certain distributions which increase the proportionate interest of shareholders, if the distribution and all prior distributions during the prior 36 months do not increase the proportionate interest of shareholders by more than one-tenth of 1 percent.

(2) Generally, under the House bill and the Senate amendment, the provisions apply to distributions made after January 10, 1969 (or in certain cases, after April 22, 1969). The House bill contains a transitional rule for stock dividends paid on stock that was outstanding on the effective date or issued pursuant to a contract binding on the effective date. The Senate amendment provides that where a corporation had two classes of stock outstanding for at least a year before the effective date, but had not prior to the effective date used them in a way which would have given rise to tax under the new rules, the corporation cannot begin after the effective date making disproportionate distributions of the kind covered by the bill (without the distributions becoming subject to tax).

(3) If the transitional rule applies where two classes of stock were in existence before the effective date, one convertible into the other and one paying cash dividends and the other paying stock dividends, the Senate amendment provides that a corporation that qualifies for the transitional rule is to be able to continue issuing one class of stock, and the stock which may be issued in such a case is to be the largest of the two classes. The Senate amendment also specifically permits a corporation that qualifies for the transitional rule to issue nonconvertible preferred stock, and convertible preferred stock that has full antidilution protection.

(4) The Senate amendment also contains a transitional rule under which existing law continues to apply to stock dividends paid before 1991 on preferred stock issued before the effective date.

(5) Under the Senate amendment, a special rule is provided for corporations with specified capital stock which are subject to the transitional rule for disproportionate distributions. These corporations would be permitted to issue before 1975 certain kinds of stock not otherwise permitted to be issued under the transitional rule.

The conference substitute (sec. 421 of the substitute and sec. 305 of the code) follows the Senate amendment except that the rules referred to in numbers (1) and (5) above were omitted from the substitute.

SUBTITLE D—FINANCIAL INSTITUTIONS

1. Commercial banks—Reserves for losses on loans (sec. 585 of the code)

The House bill limits the deduction allowed commercial banks for additions to bad-debt reserves to the amount called for on the basis of their own bad-debt loss experience. The House provision also permits new banks to take bad-debt deductions during the first 10 years of their existence on the basis of the industrywide average. In addition, the House provision permits banks (and other financial institutions to carry back net operating losses for 10 years instead of 3 years as under present law.

The Senate amendment provides that in the future the deduction allowed commercial banks for additions to bad-debt reserves is to be limited to 1.8 percent of eligible loans, or the amount called for on the basis of their own experience as indicated by losses for the current year and the 5 preceding years. Banks presently below the 1.8-percent reserve will be permitted to bring their reserves up to this level over a 5-year period. Banks with bad-debt reserves in excess of 1.8 percent of eligible loans are not to be permitted to add to these reserves unless additions are justified on the basis of their own experience. However, these banks will not be required to reduce their existing level of reserves. Moreover, they will be allowed in any event to deduct their actual bad debt losses during the year.

The Senate amendment deleted the 10-year industry average for new banks and the 10-year carryback of net operating losses.

The conference substitute (sec. 431 of the substitute and sec. 585 of the code) follows the Senate provision relating to the bad-debt reserve for the next 6 years, at which time the addition to the reserve will be limited to 1.2 percent of eligible loans for 6 years, then .6 percent for 6 additional years, after which the addition to the bad-debt reserve is to be based on the bank's own bad-debt loss experience. The conference substitute follows the House provision permitting banks to carry back net operating losses for 10 years, except that it changes the effective date to December 31, 1975.

The Senate amendment added a provision not contained in the House bill which allows banks for cooperatives a 10-year carryback for net operating losses.

The conference substitute (sec. 431 of the substitute and sec. 172 of the code) follows the Senate amendment.

2. Small business investment companies, etc.—reserve for losses on loans (sec. 586 of the code)

No substantive change is made by the Senate amendment in the House bill.

3. Mutual savings banks, savings and loan associations, etc. (secs. 593, 596, and 7701(a) of the code)

The House bill revises the tax treatment of mutual savings banks, cooperative banks, and savings and loan associations in a number of ways. It amends the special bad-debt reserve provisions by eliminating the 3-percent method and reducing the present 60-percent method to 30 percent gradually over a 10-year period.

The Senate amendment also eliminates the 3-percent method and reduces the 60-percent method to 50 percent over a 4-year period.

The conference substitute (sec. 432 of the substitute and sec. 593 of the code) provides that the 60-percent method is to be reduced to 40 percent over a 10-year period.

The Senate amendments among other technical modifications provides that the intercorporate dividends-received deduction is to be allocated between the portion of the income subject to tax and the portion which is allowed as a bad-debt reserve deduction. The effect is to disallow the portion of the dividends-received deduction equal to the percentage of taxable income allowed as a bad-debt deduction, and thus not taxed. The Senate amendment also gives mutual savings banks and savings and loan institutions the option of computing their bad-debt reserves under the commercial bank formula (with certain modifications relating to their reserve accounts) in lieu of their special bad-debt reserve formulas.

The conference substitute (secs. 432 and 434 of the substitute and secs. 593, 596, and 7701(a) of the code) follows these provisions of the Senate amendment.

4. Treatment of bonds held by financial institutions (sec. 582 of the code)

The House bill provides parallel treatment for gains and losses derived by financial institutions on transactions in corporate and governmental bonds and other evidences of indebtedness. Under the bill, financial institutions treat net gains from these transactions as ordinary income, instead of as capital gains, and they continue to treat net losses from such transactions as ordinary losses in the same manner as under present law.

The Senate amendment provides the same rule for indebtedness acquired after July 11, 1969. However, in the case of indebtedness held by financial institutions on or before that date, this indebtedness, if sold at a gain, is to continue to receive capital gains treatment if the gain is realized within 13 years (until July 11, 1982), but only if it is a net capital gain, taking into consideration transactions in all such securities in any year.

The conference substitute (sec. 433 of the bill and sec. 582 of the code) provides a transitional rule for bonds held by banks on July 11, 1969. The gains on or before July 11, 1969, receive capital gains treatment and the gains after July 11, 1969, receive ordinary income treatment. This will be determined when the bonds are sold based pro rata on the number of days before July 12, 1969, and afterward.

5. Mergers of savings and loan associations (sec. 593(f) of the code)

The House bill does not include this provision.

The Senate amendment provides that in those cases where section 381 applies (relating to carryovers in certain corporate acquisitions

which qualify as tax-free reorganizations or liquidations), the bad-debt reserves are not to be restored to income (i.e., the provision of sec. 593(f) are not applicable)

The conference substitute (sec. 432 of the substitute and sec. 593(f) of the code) follows the Senate amendment.

6. Foreign deposits in U.S. banks (secs. 861 and 2104(c) of the code)

The House bill provides that in the case of deposits in U.S. banks, the special income and estate tax rules regarding U.S. bank deposits (including deposits with savings and loan associations and certain amounts held by insurance companies) of foreign persons are to continue until the end of 1975. As a result, income from deposits in the United States by nonresident alien individuals and foreign corporations which is not effectively connected with a U.S. business will be exempt from U.S. income tax until the end of 1975.

The Senate amendment revises the treatment of U.S. bank deposits of foreign persons to provide the same treatment for deposits in U.S. branches of a foreign bank as now exists in the case of deposits in U.S. banks.

The conference substitute (sec. 435 of the substitute and secs. 861 and 2104(c) of the code) follows the Senate amendment.

SUBTITLE E—DEPRECIATION ALLOWED REGULATED INDUSTRIES; EARNINGS AND PROFITS ADJUSTMENT FOR DEPRECIATION

1. Depreciation allowed regulated industries (sec. 167 of the code)

The House bill provides that in the case of certain listed regulated industries (the furnishing or sale of electrical energy, water, sewage disposal services, gas through a local distribution system, telephone services, and transportation of gas by pipeline) a taxpayer is not permitted to use accelerated depreciation unless it "normalizes" the current income tax reduction resulting from the use of such accelerated depreciation. (Normalization involves the utility retaining the current tax reduction and using this money in lieu of capital that would otherwise have to be obtained from equity investments or borrowing.)

This rule is not to apply in the case of a taxpayer that is at present flowing through the tax reduction to earnings for purposes of computing its allowable expenses on its regulated books of account. Also, if the taxpayer is now using straight line depreciation as to any public utility property it may not change to accelerated depreciation as to that property.

The Senate amendment makes the following changes in the House bill: (*a*) oil pipelines are removed from and steam transporters and distributors and Comsat are added to the categories of utilities to which the provision applies; (*b*) where a company was in the process of changing methods of depreciation or methods of keeping its regulated books of account, the company is treated as having changed if it had filed a timely request for permission to change before August 1, 1969, or had changed in its regulated books of account for its July 1969 accounting period; (*c*) several technical changes are made to insure that the normalization requirement is not avoided by those to whom the bill applies; (*d*) an election is

permitted to be made within 180 days after the date of enactment by a company at present on flowthrough to come under the rules of the bill; and (*e*) a special provision permits a company under specified circumstances to avoid the rules of the bill by changing from normalization to flowthrough.

The conference substitute (sec. 441 of the substitute and sec. 167(l) of the code) follows the Senate amendment except that the special provision referred to in (*e*) above is stricken and the 180-day election (item (*d*), above) is modified to apply to new property and not to replacement property. Even in the case of new property, however, the right to change over from the flowthrough method is to be available only to the extent the new property increases the productive or operational capacity of the company.

2. Treatment of depreciation for earnings and profits (sec. 312 of the code)

The House bill provides that, in computing its earnings and profits (on the basis of which a distribution is treated as a dividend or as a nontaxable return of capital), a corporation is to deduct depreciation on the straight-line method or similar ratable method.

The Senate amendment provides that this rule is not to apply in determining the earnings and profits of a foreign corporation less than 20 percent of whose income is from the United States.

The conference substitute (sec. 442 of the substitute and sec. 312(m) of the code) follows the Senate amendment.

TITLE V—ADJUSTMENTS AFFECTING INDIVIDUALS AND CORPORATIONS

SUBTITLE A—NATURAL RESOURCES

1. Percentage depletion rates (sec. 613 of the code)

The House bill reduces the percentage depletion rate for oil and gas from 27½ to 20 percent and makes percentage depletion unavailable in the case of foreign oil and gas wells. In addition, the percentage depletion rates applicable to other minerals are reduced by approximately 25 percent (except for domestic gold, silver, oil shale, copper, and iron ore, which are left at the present rate of 15 percent).

The Senate amendment makes the following changes in the treatment of percentage depletion:

(1) The percentage depletion rate for both domestic and foreign oil and gas wells is reduced from 27½ to 23 percent.

(2) The percentage depletion rate for molybdenum is increased from 15 to 23 percent.

(3) The 50 percent of taxable income limitation on the percentage depletion allowance is increased to 70 percent in the case of gold, silver, and copper, and is increased to 65 percent in the case of oil and gas produced by a taxpayer whose aggregate gross income from oil and gas wells is less than $3 million.

(4) For purposes of percentage depletion, minerals other than sodium chloride extracted from brine pumped from a saline perennial lake within the United States are not to be considered minerals from an inexhaustible source (in which case percentage depletion would not be allowable). Thus the specific percentage depletion rates are to be available with respect to these minerals.

The conference substitute (sec. 501 of the substitute and sec. 613 of the code) makes the following changes in the treatment of percentage depletion:

(1) The percentage depletion rate for both domestic and foreign oil and gas wells is reduced from 27½ to 22 percent.

(2) In the case of other minerals which presently receive percentage depletion at a rate of 23 percent, the rate is reduced to 22 percent. Molybdenum is included in the category of minerals subject to the 22-percent depletion rate.

(3) In the case of those minerals which presently receive percentage depletion at a rate of 15 percent, the rate is reduced to 14 percent (except in the case of domestic gold, silver, oil shale, copper, and iron ore).

(4) For percentage depletion purposes, minerals other than sodium chloride, extracted from brine pumped from a saline perennial lake within the United States are not be be considered minerals from an inexhaustible source.

2. Treatment processes in the case of oil shale (sec. 613(c)4 of the code)

No substantive change is made by the Senate amendment in the House bill.

3. Mineral production payments (sec. 636 of the code)

The House bill provides that carved-out production payments and retained payments (including ABC transactions) are to be treated as loans by the owner of the production payment to the owner of the mineral property. In the case of a carved-out production payment the payment is to be treated as a mortgage loan on the mineral property (rather than as an economic interest in the property). In the case of retained production payments the payment is to be treated as a purchase money mortgage loan (rather than as an economic interest in the mineral property).

The Senate amendment makes the following modifications in the House provision:

1. These rules are to apply to mineral production payments created on or after October 9, 1969, other than to payments created before January 1, 1971, pursuant to a binding contract entered into before October 9, 1969. (In the House bill April 22, 1969, was used instead of October 9, 1969.)

(2) Taxpayers may elect to apply the new rules to carved-out payments (i.e., treat them as loans) if they were sold during and after the taxpayer's last taxable year ending prior to October 9, 1969.

(3) It is provided that the new rules relating to carved out production payments are not to apply (except for percentage depletion and foreign tax credit purposes) to payments sold during the part of the taxpayer's year which occurs on or after October 9, 1969, to the extent the payments offset a net operating loss which otherwise would have occurred in the taxable year. The amount of carved out production payments qualifying for this treatment, plus the amount of payments sold by the taxpayer in the prior part of his taxable year, however, may not exceed the amount of carved out payments sold by him during his preceding taxable year. (The House bill allowed payments to

be carved out during the part of the taxable year occurring after the effective date of this provision to the extent of the exploration, drilling, or development costs incurred during the portion of the taxpayer's taxable year prior to the effective date.)

The conference substitute (sec. 503 of the substitute and sec. 636 of the code) follows the Senate amendment except that the October 9, 1969, date in the basic effective date and the transition rules is changed to August 7, 1969.

4. Exploration expenditures (secs. 615 and 617 of the code)

The House bill provides that insofar as future mining exploration expenditures are concerned, the general recapture rules of present law are to apply (under which exploration expenditures previously deducted are recaptured when a mine reaches the producing stage, generally by disallowing an appropriate portion of the depletion deduction with respect to the mine). Taxpayers may continue to deduct expenditures for foreign (and oceanographic) exploration to the extent permitted under the limited provision of present law (generally up to a maximum of $400,000). The House provision applies to mining exploration expenditures made after July 22, 1969.

The Senate amendment modifies the House provision to make it applicable to exploration expenditures made after December 31, 1969.

The conference substitute (sec. 504 of the substitute and secs. 615 and 617 of the code) follows the Senate amendment.

5. Continental shelf areas (sec. 638 of the code)

The House bill does not contain a comparable provision.

The Senate amendment provides that for purposes of applying the income and employment tax provisions of the code with respect to mines, oil and gas wells, and other natural deposits, the term "United States" includes the seabed and subsoil of the submarine areas adjacent to the territorial waters of the United States over which the United States has exclusive rights under international law with respect to the exploration and exploitation of natural resources. A similar definition of the term "foreign country" also is provided.

The conference substitute (sec. 505 of the substitute and sec. 638 of the code) follows the Senate amendment.

6. Foreign tax credit with respect to certain foreign mineral income (secs. 901 and 904 of the code)

The House bill provides that a taxpayer who uses the per country limitation on the foreign tax credit and who reduces his U.S. tax on U.S. income by reason of a loss from a foreign country is to have the resulting tax benefit recaptured when income is subsequently derived from the foreign country involved. The House bill also imposes a separate foreign tax credit limitation on foreign mineral income so that excess credits from this source cannot be used to reduce U.S. tax on other foreign income. In other words, the foreign tax credit allowed on mineral income from a foreign country is limited to the amount of U.S. tax on that income. This limitation applies generally where the foreign country receives mineral royalties with respect to the property or where it has substantial mineral rights in the properties. Excess credits can be carried over under normal foreign tax credit carryover rules and credited against U.S. tax in other years on the foreign mineral income from the same country.

The Senate amendment deletes these provisions of the House bill.

The conference substitute (sec. 506 of the substitute and secs. 901 and 904 of the code) provides that a foreign tax credit is not to be allowed for foreign taxes imposed on foreign mineral income considered on a country-by-country basis to the extent the foreign tax is attributable to the percentage depletion allowance granted by the United States. Thus, excess foreign tax credits attributable to the percentage depletion allowance on mineral income from a foreign country cannot reduce U.S. tax payable on other foreign income. For this purpose mineral income includes income from extraction, processing, transportation, distribution, and sales of the primary products derived from the mineral or the mineral itself. This rule applies to taxable years beginning after December 31, 1969. Taxpayers who previously elected the overall limitation on the foreign tax credit may revoke the election without the consent of the Treasury Department for the taxpayer's first taxable year beginning after 1969.

SUBTITLE B—CAPITAL GAINS AND LOSSES

1. Increase in alternative capital gains tax (sec. 1201 of the code)

The House bill repeals the 27½ percent (including the surcharge) alternative capital gains tax rate for noncorporate taxpayers effective with respect to sales on other dispositions after July 25, 1969. As a result, after that date noncorporate taxpayers are to include one-half of their net long-term capital gains in income without regard to their tax rate bracket. Given the rate schedules in the House bill, this means a top capital gains rate of 32½ percent in 1972 and subsequent years for those in the top bracket rate of 65 percent. In addition, the House bill increases the alternative capital gains rate which is applied to a corporation's net long-term capital gains from the present 27½ percent rate (including the surcharge) to 30 percent. This change applies to sales and other dispositions occurring after July 31, 1969.

The Senate amendment makes the following modifications in the House provision:

(1) In the case of noncorporate taxpayers the alternative rate continues to apply to up to $140,000 of capital gains. The $140,000 limit on the amount of capital gains qualifying for the alternative rate is reduced to the extent the taxpayer's tax preferences exceed $10,000.

(2) The changes made by these provisions are to apply to taxable years beginning after December 31, 1969. In addition in the case of noncorporate taxpayers the maximum effective rate on capital gains not eligible for the 25-percent alternative rate is phased in over a 3-year period. The present rate of 27½ percent (including the surcharge) is increased to 28¾ percent for 1970, to 31 percent for 1971, and then to 35 percent for 1972. In the case of corporations the full 30 percent rate is not effective until 1971. In 1970 a special rate of 28 percent applies.

(3) The present 25-percent capital gains tax rate continues to apply in the case of binding contracts in effect on October 9, 1969.

(4) The present 25-percent alternate rate also continues to apply to installment payments received after 1969 pursuant to sales made before October 10, 1969. Furthermore, the 25-percent rate continues to apply to distributions from corporations made prior to October 10, 1970, which are made pursuant to plans of complete liquidation adopted before October 10, 1969.

The conference substitute (sec. 511 of the substitute and sec. 1201 of the code) follows the Senate amendment with the following modifications:

(1) In the case of noncorporate taxpayers, it is provided that $50,000 of long-term capital gains continue to qualify for the alternative capital gains rate without regard to the amount of the taxpayer's tax preferences.

(2) In the case of noncorporate taxpayers the rate of tax on capital gains not eligible for the 25-percent alternative rate is increased to 29½ percent for 1970, to 32½ percent for 1971, and then to 35 percent for 1972.

(3) The continuation of the 25-percent alternative tax rate in the case of payments received pursuant to certain binding contracts and installment sales (described in Nos. 3 and 4 above) is limited to amounts received before 1975.

2. Capital losses of corporations (sec. 1212 of the code)

The House bill does not contain a comparable provision.

The Senate amendment provides a 3-year capital loss carryback for corporations which is in addition to the 5-year capital loss carryforward presently allowed corporations. The 3-year carryback is not available for foreign expropriation capital losses for which a special 10-year carryforward is presently available or for losses incurred by, or to be used by, a subchapter S corporation. The "quickie" refund procedure presently available in the case of net operating loss carrybacks (under which the refund is made after only a preliminary check by the Internal Revenue Service on the appropriateness of the refund) is made available in the case of the 3-year capital loss carryback. This provision applies to capital losses sustained in taxable years beginning after December 31, 1969.

The conference substitute (sec. 512 of the substitute and sec. 1212 of the code) follows the Senate amendment.

3. Capital losses of individuals (sec. 1211 of the code)

The House bill provides that only 50 percent of an individual's long-term capital losses may be offset against his ordinary income up to the $1,000 limit. Thus, $2,000 of losses are required to obtain the full $1,000 offset. (Short-term capital losses, however, continue to be fully deductible within the $1,000 limitation.) In addition, the deduction of capital losses against ordinary income for married persons filing separate returns is limited to $500 for each spouse (rather than the $1,000 presently allowed).

The Senate amendment retains the treatment provided by the House bill except that it is made applicable for taxable years beginning after December 31, 1969 (rather than July 25, 1969, as under the House bill).

The conference substitute (sec. 513 of the substitute and sec. 1211(b) of the code) follows the Senate amendment.

4. Letters, memorandums, etc. (secs. 1221(3) and 1231(b)(1)(c) of the code)

The House bill provides that letters, memorandums, and similar property (or collections thereof) are not to be treated as capital assets if they are held by the taxpayer whose personal efforts created the property or for whom the property was prepared or produced (or by a person who received the property as a gift from the person who created it). Gains from the sale of these letters and memorandums, accordingly, are to be taxed as ordinary income, rather than as capital gains.

The Senate amendment modifies this provision of the House bill to make it applicable to sales or other disposition of ~~these~~ letters, memorandums, etc., occurring after December 31, 1968 (rather than July 25, 1969, as provided by the House bill).

The conference substitute (sec. 514 of the substitute and cses. 1221(3) and 1231(b)(1)(c) of the code) follows the House bill.

5. Total distribution from qualified pension, etc., plans (secs. 402(a), 403(a)(2), and 72(n) of the code)

The House bill limits the extent to which capital gains treatment is to be allowed for lump-sum distributions from qualified employee trusts (qualified pension, profit sharing, stock bonus, and annuity plans). Amounts attributable to employer contributions for plan years beginning after 1969 are treated as ordinary income. All other amounts received in the lump-sum distribution continue to be accorded capital gains treatment if received in one taxable year upon separation from employment or death. A special 5-year "forward" averaging is provided for the amounts to be treated as ordinary income. The tax on this amount may be recomputed at the end of 5 years by including one-fifth of the ordinary income amount in gross income for the 5 taxable years. If the recomputed tax determined in this manner results in a lower tax than previously paid, the taxpayer would be entitled to a refund.

The Senate amendment deletes this provision from the bill.

The conference substitute (sec. 515 of the substitute and secs. 402(a), 403(a)(2), and 72(n) of the code) follows the House provision whereby employer contributions to qualified pension, profit sharing, stock bonus, and annuity plans for plan years beginning after 1969 are to be treated as ordinary income when received in a lump-sum distribution. The amounts to be treated as ordinary income, however, are to be eligible for a special 7-year "forward" averaging. In addition, the amounts received by the employee as compensation (other than deferred compensation) during the taxable year the lump-sum distribution is received and the capital gains portion of the lump-sum distribution are not to be taken into account for the calculation of the tax on the ordinary income portion of the distribution under the 7-year special averaging procedure. There is no recomputation or refund procedure.

6. Sales of life estates, etc. (sec. 1001 of the code)

The House bill provides that the entire amount received on the sale or other disposition of a life (or term of years) interest in property or an income interest in trust, if such interest was acquired by gift, bequest, inheritance, or a transfer in trust, is to be taxable, rather than only the excess of the amount received over the seller's basis for his interest.

The provision does not, however, change present law in the situation where there is a sale or other disposition of a life (or term of years) interest in property or an income interest in trust where such sale is a part of a single transaction in which the entire interest in the property is transferred to another person or to two or more other persons jointly.

The Senate amendment makes the provision applicable to sales or other dispositions after October 9, 1969, rather than with respect to sales or other dispositions made after July 25, 1969, as under the House bill.

The conference substitute (sec. 516(a) of the substitute and sec. 1001 of the code) follows the Senate amendment.

7. Certain casualty losses under section 1231 (sec. 1231 of the code)

The House bill modifies the treatment of casualty losses and casualty gains (under sec. 1231) to provide that casualty (or theft) losses with respect to depreciable property and real estate used in a trade or business and capital assets held for the production of income are to be consolidated with casualty (or theft) gains with respect to this type of property. If the casualty losses exceed the casualty gains, the net loss is treated as an ordinary loss without regard to whether there may be noncasualty gains under section 1231. If, however, the casualty gains exceed the casualty losses, the net gain is treated as a section 1231 gain and must be consolidated with other gains and losses under section 1231.

The Senate amendment includes personal assets in this netting of casualty gains and casualty losses and applies the new rules to taxable years beginning after December 31, 1969, rather than July 25, 1969, the effective date under the House bill.

The conference substitute (sec. 516(b) of the substitute and sec. 1231 of the code) follows the Senate amendment.

8. Transfers of francheses, trademarks, and trade names (sec. 1253 of the code)

The House bill denies a franchisor capital gains treatment on the transfer of a franchise if he retains any significant power, right, or continuing interest with respect to the subject matter of the franchise. If the franchise agreement includes significant rights or restrictions which are subject to the franchisor's approval on a continuing basis, or if the franchisor's conduct constitutes participation in the commercial or economic activities of the franchise, the franchisor is regarded as having retained a significant power, right, or continuing interest.

The Senate amendment makes more specific the rules of the House bill and extends these rules to trademarks and trade names. A "franchise" includes "an agreement which gives one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area." A "significant power, right, or continuing interest" includes, but is not limited to, a right to disapprove any assignment; a right to terminate at will; a right to prescribe standards of quality; a right to require exclusive sale or advertising of products or services of the transferor; a right to require exclusive purchases of supplies and equipment from the transferor; and a right to payments contingent on productivity if such payments constitute a substantial element under the transfer agreement.

Under the Senate amendment, contingent payments are treated as ordinary income and are deductible by the transferee as trade or business expenses.

The Senate amendment also provides rules with respect to initial payments (including a lump sum or fixed amount payable in installments). If the transaction is treated as a sale, the transferor treats an initial payment as proceeds from the sale of a capital asset (except in the case of a dealer). The transferee is not entitled to depreciation or amortization deductions for the payment made to the transferor if the intangible asset does not have an ascertainable useful life. If, however, the transfer is a license, the transferor treats the initial payment as ordinary income, and the transferee treats it as a deductible expense over the period to which the payment is attributable but in no event over more than 10 years.

The Senate amendment excludes transfers of a franchise to engage in professional sports.

The Senate amendment provides that in the case of transfers before the effective date, the transferee may elect to deduct payments which would be deductible under the new rules (as if the transfer had occurred after the effective date), but only with respect to payments made in taxable years ending after December 31, 1969.

The conference substitute (sec. 516(c) of the substitute and sec. 1253 of the code) follows the Senate amendment, except that the transferee may elect to deduct only contingent payments made in taxable years ending after December 31, 1969, and beginning before January 1, 1980, with respect to transfers before the effective date.

9. House provision omitted—holding period of capital assets (sec. 1222 of the code)

The House bill extends the holding period for long-term capital gain treatment from 6 to 12 months.

The Senate amendment restores the 6-month holding period of present law.

The conference substitute follows the Senate amendment.

SUBTITLE C—REAL ESTATE DEPRECIATION (SECS. 167 AND 1250 OF THE CODE)

The House bill provides that the 200 percent declining balance and sum of the years digits methods of real estate depreciation are to be limited to new residential housing. To qualify for this accelerated depreciation, at least 80 percent of the income from the building must be derived from rentals of residential units.

Other new real estate, including commercial and industrial buildings, under the House bill is limited to the 150-percent declining balance depreciation method.

In the case of used buildings (including housing acquired in the future), the House bill limits depreciation on future acquisitions to straight line depreciation.

Under the House bill, a special 5-year amortization deduction is provided in the case of expenditures made on or after July 25, 1969, for the rehabilitation of buildings for low-cost rental housing. This rapid amortization is to be available only where the property is held for occupancy by families and individuals of low or moderate income

determined in a manner consistent with the policies of the Housing and Urban Development Act of 1968. The aggregate rehabilitation may not exceed $15,000 per dwelling unit and the sum of the rehabilitation expenditures (over a 2-year period) must exceed $3,000 per dwelling unit.

The House bill also provides that accelerated depreciation taken in the future in excess of allowable straight-line depreciation is to be recaptured as ordinary income to the extent of the gain occurring upon subsequent sale of real estate.

The Senate amendment made a series of modifications in the House bill, the more important of which are as follows:

(1) 150 percent declining balance depreciation is allowed on used residential housing with a useful life of 30 years or more and 125 percent declining balance depreciation is allowed with respect to used residential rental housing with a useful life of 20 to 30 years (all other used assets acquired after July 24, 1969, are limited to straight line depreciation).

(2) The Senate amendment modifies the recapture rules by providing a reduction of 1 percent per month in the amount to be recaptured after the property has been held for 60 full months in the case of residential housing and in the case of all other real property after the property has been held for 10 years.

(3) The changes in the recapture rules are not to apply in the case of federally assisted projects (such as the FHA 221(d)(3) and 236 programs) or to other publicly assisted housing programs under which the return to the investor is limited on a comparable basis. These projects are to be subject to the present recapture rules which provide for a recapture of the depreciation in full if the sale occurs in the first 12 months and for a phaseout of the recapture of the excess of accelerated over straight-line depreciation after 20 months. The recapture is reduced at the rate of 1 percent per month until 120 months after which no recapture applies. These recapture rules of existing law will continue to apply only with respect to such property constructed, reconstructed, or acquired before January 1, 1975.

(4) The Senate amendment modifies the House bill to allow accelerated depreciation under pre-existing law with respect to a building constructed after July 25, 1969, if the taxpayer had filed with the appropriate local government authority, before July 25, 1969, an initial application for permission to construct, and if construction of such property is begun within 1 year after the date the initial application was filed.

(5) The Senate amendment applies the new recapture rules to depreciation attributable to periods after December 31, 1969 (rather than to periods after July 24, 1969, as under the House bill).

(6) The Senate amendment applies the existing recapture rules where the sale of the property was subject to a binding contract in existence prior to October 9, 1969, even though the transfer takes place after that date.

(7) The Senate amendment provides that the special 5-year amortization deduction for rehabilitation expenditures is to apply only with respect to such expenditures made before December 31, 1974.

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The conference substitute (sec. 521 of the substitute and secs. 167 and 1250 of the code), generally follows the Senate amendment with the following modifications:

(1) The conference substitute permits 125 percent declining balance depreciation on used residential rental property with a useful life of 20 years or more acquired after July 24, 1969. All other used real property acquired after July 24, 1969 (other than that acquired pursuant to pre-July 25, 1969, contracts), is limited to straight line depreciation.

(2) The conference substitute modifies the recapture rules pertaining to residential housing by allowing a 1-percent-per-month reduction in the amount to be recaptured as ordinary income after the property has been held for 100 full months. Other real property is subject to full recapture, thus eliminating the phaseout of recapture after 10 years for nonhousing under the Senate amendment.

(3) The conference substitute applies the existing recapture rules where the sale of the property was subject to a binding contract in existence prior to July 25, 1969, even though the transfer took place after that date.

(4) The conference substitute deletes the Senate amendment (No. 4 above) which would allow accelerated depreciation under existing law if the taxpayer had filed an application to construct with the appropriate local government authority before July 25, 1969.

SUBTITLE D—SUBCHAPTER S CORPORATIONS (SEC. 1379 OF THE CODE)

Both the House bill and the Senate amendment provide limitations similar to those contained in the retirement plans for individuals (the so-called H.R. 10-type plans) with respect to contributions made by subchapter S corporations to the retirement plans for individuals who are "shareholder-employees." Under the bill, a shareholder-employee must include in his income the contributions made by the corporation under a qualified plan on his behalf to the extent contributions exceed 10 percent of his salary or $2,500, whichever is less.

The Senate amendment makes the following modifications in the House provision:

(1) The definition of a shareholder-employee is changed from an employee or officer who owns more than 5 percent of the corporation's stock to one who holds 10 percent or more.

(2) The provision is not to apply until taxable years beginning after 1970. The House bill would apply this provision to taxable years beginning after 1969.

The conference substitute (sec. 531 of the substitute and sec. 1379 of the code) follows the Senate amendment deferring the application of this provision to 1971. The conference substitute, however, does not follow the Senate amendment changing the percentage relating to the definition of a shareholder-employee.

E. HOUSE PROVISION OMITTED—COOPERATIVES (SEC. 531 OF THE HOUSE BILL)

The House bill requires cooperatives to revolve out patronage dividends and per unit retains within 15 years from the time the written

notice of allocation was made or the per unit retain certificate was issued. In addition, the percentage of patronage allocations which must be paid out currently in cash or by qualified check are increased under the House bill from 20 to 50 percent. The additional 30 percent is to be paid with respect to the current allocation or in redemption of prior allocations. The increase in the required payout is phased in ratably over a 10-year period.

The Senate amendment omits this provision.

The conference substitute omits this provision.

The conference noted that the Treasury Department and congressional staffs had been requested by the Committee on Finance to study problems in the tax treatment of cooperatives, particularly as to whether cooperatives engage in activities which are unrelated to the purpose for which special tax treatment is given and that a report had been requested on this subject. The conferees requested that this report be made by January 1, 1972.

TITLE VI—STATE AND LOCAL OBLIGATIONS

1. Arbitrage bonds (sec. 103(d) of the code)

The House bill provides for the taxation of arbitrage bonds issued by State or local governments. The bill provides that, under regulations issued by the Secretary or his delegate, any arbitrage obligation is not to be treated as a tax-exempt State or local government bond.

The Senate amendment makes four modifications in the House bill:

(1) The amendment defines arbitrage bonds as obligations issued where all or a major part of the proceeds can be reasonably expected to be used (directly or indirectly) to acquire securities or obligations which may be reasonably expected, at the time of the issuance of the State and local obligation, to produce a yield which is materially higher than the yield on the State or local governmental bond issue.

(2) Arbitrage bonds are defined as not including issues where a major part of all of the proceeds of the issue are reasonably expected to be used to provide permanent financing for real property used, or to be used, for residential purposes where the yield on the Government obligation at the time of issue is not expected to be substantially lower than the yield on the permanent financing.

(3) An obligation is not treated as an arbitrage bond solely because the proceeds of the issue may for a temporary period be invested in higher yield securities or other obligations until the proceeds are used for the purpose for which the State or local government bonds were issued. Nor are obligations to be classified as arbitrage bonds where the proceeds of the Government issue may be invested in higher yield securities which are part of a reasonable reserve or replacement fund so long as this fund does not exceed 15 percent of the total issue (unless the issuer establishes that a higher amount is necessary).

(4) This provision of the amendment is effective with respect to obligations issued after October 9, 1969 (after July 11, 1969, under the House bill).

The conference substitute (sec. 601 of the substitute and sec. 103(d) of the code), follows the Senate amendment except that in the case of the modification described in No. (2) above the permanent financing for real property is limited to real property used, or to be used, for residential purposes for the personnel of an educational institution of higher learning.

2. House provision omitted from conference substitute—election to issue taxable bonds and information reporting (secs. 6056 and 6685 of the code under the Senate amendment)

The House bill provides that States and local governments can voluntarily relinquish the tax exemption with respect to given debt security issues and in these cases the Secretary or his delegate is to pay a fixed percentage of the interest yield on each such issue. The fixed percentage may vary within a range of 30 to 40 percent of the yield up to 1975 and from 25 to 40 percent of the yield thereafter.

The Senate amendment deletes this provision of the House bill. It substitutes a requirement that every person who receives or accrues $600 or more of tax exempt State and local government bond interest or who is required to file an income tax return is to report the amounts of any tax-exempt State or local government bond interest he receives.

The conference substitute omits both the provision of the House bill and the provision of the Senate amendment.

TITLE VII—EXTENSION OF TAX SURCHARGE AND EXCISE TAXES; TERMINATION OF INVESTMENT CREDIT

1. Extension of tax surcharge (secs. 51(a) and 963(b) of the code)

The Senate amendment makes no substantive change in this provision of the House bill.

2. Continuation of excise taxes on communication services and automobiles (secs. 4061(a), 6412(a), and 4251 of the code)

The Senate amendment makes no substantive change in this provision of the House bill.

3. Termination of investment credit (sec. 49 of the code)

The House bill provides that the investment credit is not to be available with respect to property, the physical construction, reconstruction, or erection of which is begun after April 18, 1969, or which is acquired by the taxpayer after that date. The House bill contains essentially the same transition rules as were contained in the bill which suspended the investment credit in 1966. This includes transition rules relating to an equipped building, a plant facility, the construction of machinery or equipment, and certain contracts or leases with third parties requiring the construction of machinery or equipment. Other transitional rules were also included in the House bill.

The Senate amendment made a series of modifications in the transition rules provided by the House bill. The more important of these are as follows:

(1) The investment credit is made available where the site of a plant facility was acquired before April 19 to construct a refinery and substantial expenditures for the acquisition of pipeline were incurred before that date.

(2) The investment credit is made available where under a binding contract or contract to lease entered into before April 18, a lessor or lessee is obligated to construct or acquire property specified in documents related to the lease or contract which were filed with a Federal regulatory agency before April 19.

(3) The investment credit is made available in the case of property which a taxpayer must construct or acquire in order to carry out a pre-April 19,1969, contract with a person who must take substantially all of the production from the property over its useful life. The property must be specified in the binding contract or must be extractive property with respect to which a series of specified requirements are satisfied.

(4) The House bill makes the investment credit available in the case of barges where the oceangoing vessel with respect to which the barges are to be used is eligible for the investment credit. The number of barges qualifying is limited to the number specified in binding contracts with the Maritime Administration. The Senate amendment modifies this provision to make the credit available where the barges are specified in a pre-April 19 application for mortgage or construction loan insurance filed with the Secretary of Commerce or when more than 50 percent of the barges planned to be used with the vessel qualify under the binding contract or other transitional rules.

(5) The House bill makes available the investment credit in the case of certain new design projects where certain conditions are met. The Senate amendment modifies these conditions to provide that fixed-price binding contracts may allow for price changes due to material costs in addition to those due to pay increases and also increases from 50 to 60 percent the amount of the production of the new design products to be delivered before 1973 which must be covered by the binding contracts.

(6) The House bill phases out the investment credit available in 1971 through 1974 by reducing the rate of the investment credit by 0.1 of 1 percentage point a month during this period. Under the Senate amendment the investment credits are to be available at the full 7 percent rate if the property is placed in service before 1979.

(7) The House bill limits the amount of unused credits from prior years which may be carried over and used in 1969 and subsequent years generally by providing that no more than 20 percent of the carryovers available at the end of 1968 may be used in any one year. The Senate amendment adopts this feature of the House bill but provides an additional 3-year carryforward period for unused investment credits to the extent these credits cannot be used in the year solely because of the special 20-percent limitation.

(8) The amendment exempts from the repeal of the investment credit up to $20,000 of investment in eligible property.

(9) The amendment provides that the investment credit is to be available for certain property which a taxpayer places in service to carry out a local organization's plan for works of improvement within the meaning of the Watershed Protection and Flood Prevention Act.

(10) An exception to the repeal of the investment credit is provided for certain investments in depressed areas.

The conference substitute (sec. 703 of the substitute and sec. 49 of the code) generally follows the Senate amendment but deletes the items referred to in paragraphs 1, 8, 9, and 10 and moves the termination date for property placed in service back from before 1979 to before 1976 (par. 6 referred to above).

4. Amortization of pollution control facilities (sec. 169 of the code)

Under the House bill, a taxpayer is allowed to amortize any certified pollution control facility over a period of 60 months. The amortization replaces the depreciation deduction, but the additional first year 20-percent depreciation allowance still is available.

The Senate amendment made the following changes in the provision of the House bill:

(1) The amendment limits the amortization deduction to pollution control facilities added to plants which were in operation on December 31, 1968.

(2) Under the House provision it is necessary for the appropriate Federal authority to certify to the Treasury Department that the facility meets minimum performance standards which are to be promulgated by the Federal authority from time to time and which must take technological advances into account and specify the tolerance of such pollutants and contaminants as is appropriate. The amendment modifies this to provide that the Federal authorities are not to establish effluent standards for water or emission standards for air but rather are to set national guidelines for the standards to be specified by the States.

(3) The 5-year amortization deduction is to apply only to those facilities placed in service before January 1, 1975.

(4) The 5-year amortization deduction is limited to the proportion of the cost of the property attributable to the first 15 years of its normal useful life. Where property has a normal useful life of more than 15 years one portion of the facility is to be amortized over the 5-year period and the remaining portion is to receive regular depreciation based upon the entire normal useful life of the property.

The conference substitute (sec. 704 of the substitute and sec. 169 of the code) follows the Senate amendment.

5. Amortization of certain railroad rolling stock, etc. (secs. 184, 185 and 263(e) of the code)

The House bill provides that a domestic common carrier by railroad, subject to regulation by the Interstate Commerce Commission, may elect to amortize its rolling stock (other than locomotives) over a 7-year period. This treatment is available in the case of rolling stock acquired after July 31, 1969. Rolling stock constructed by the taxpayer after that date also is eligible for the 7-year amortization provision.

The Senate amendment substitutes a broader provision which differs from the House provision in the following respects:

(1) Instead of 7-year amortization of new rolling stock, the Senate amendment provides for a 5-year amortization of new rolling stock, including locomotives.

(2) The 5 year (or 4 year described below) amortization referred to above is available with respect to the rolling stock of all railroads, switching, and terminal companies all of whose stock is owned by railroads and rolling stock of lessors who lease to railroads. The 5 (or 4) year amortization provision is not available, however, in the case of rolling stock owned and used by companies other than railroads or rolling stock leased to companies other than railroads.

(3) Rolling stock placed in service during 1969 and owned by a railroad (or a 95-percent-owned subsidiary of a railroad) is eligible for 4-year amortization to the extent of any unrecovered costs as of January 1, 1970. Rolling stock placed in service in 1969 and owned by a lessor is not eligible.

(4) The 5-year amortization provision applies to qualified rolling stock placed in service before January 1, 1975.

(5) For purposes of the amortization provision, property placed in service at any time during 1970 by a railroad (or 95-percent-owned subsidiary of a railroad) is presumed to be placed in service on December 31, 1969. For 1970 in the case of a lessor and for subsequent years for railroads and for lessors, the question of when the rolling stock is placed in service is to depend upon the depreciation convention generally followed by the taxpayer.

(6) The Secretary of the Treasury is to issue regulations indicating particular classes of cars or locomotives which are not in short supply. Rolling stock in these specific classes which is placed in service after 1972 or 30 days after the regulations become effective, whichever is later, are not eligible for the 5-year amortization writeoff.

(7) The Senate amendment treats the cost of repairs as an expense in all cases where such costs in any 12-month period do not exceed 20 percent of the original basis of the unit involved.

(8) The Senate amendment also adds a new provision which provides railroads with an option to amortize railroad gradings and tunnel bores on the basis of a 50-year life. Under present law, railroads capitalize these costs but have not been able to depreciate them because of uncertainties as to the length of their useful lives.

The railroad property which would be amortized would include only improvements resulting from excavating (including tunneling), constructing embankments, clearings, diverting of roads and streams, sodding of slopes, and all similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track.

The conference substitute (secs. 705 and 706 of the substitute and secs. 184, 185, and 263(e) of the code) follows the Senate amendment except that the amortization provisions relating to railroad grading and tunnel bores apply only to such property the original use of which commences after December 31, 1968. Improvements to existing gradings and bores are to be treated as a separate item of such property for purposes of the provisions.

6. Amortization of certain coal mine safety equipment (sec. 187 of the code)

The House bill does not contain this provision.

The Senate amendment provides that a taxpayer may elect 5-year amortization for certified coal mine safety equipment. This is in lieu of the depreciation deduction with respect to this equipment.

Certified coal mine safety equipment for this purpose means electric face equipment which is required in order to comply with the Federal Coal Mine Health and Safety Act of 1969, which is certified by the Secretary of Interior, and which is placed in service within 6 years after the operative date of title III of that act. Property placed in service in connection with used electric face equipment also is eligible for this 5-year amortization when certified by the Secretary of Interior as property which makes such used equipment permissible under that act.

The conference substitute (sec. 707 of the substitute and sec. 187 of the code) follows the Senate amendment, but applies it to taxable years ending after December 31, 1969 (instead of years ending after date of enactment). In addition, under the substitute, the coal mine safety equipment eligible for the amortization must be placed in service before January 1, 1975.

TITLE VIII—ADJUSTMENT OF TAX BURDEN FOR INDIVIDUALS

1. Personal exemption (secs. 151 and 6013(b) of the code)

The House bill does not change the present $600 personal exemption.

The Senate amendment increases the personal exemption to $700 in 1970 and $800 in 1971.

The conference substitute (sec. 801 of the substitute and sec. 151 of the code) increases the personal exemption to $625 for calendar year 1970 (by increasing it to $650 on July 1, 1970, for withholding purposes), to $650 for 1971, to $700 for 1972, and to $750 for 1973 and thereafter.

2. Increase in standard deduction (sec. 141 of the code)

The House bill increases the present 10-percent standard deduction with a $1,000 ceiling to 13 percent with a $1,400 ceiling in 1970, to 14 percent with a $1,700 ceiling in 1971, and to 15 percent with a $2,000 ceiling for 1972 and thereafter.

The Senate amendment does not increase the percentage standard deduction.

The conference substitute (sec. 802 of the substitute and sec. 141 of the code) increases the percentage standard deduction to 13 percent with a $1,500 ceiling in 1971, to 14 percent with a $2,000 ceiling in 1972, and to 15 percent with a $2,000 ceiling for 1973 and thereafter.

3. Low-income allowance (sec. 141 of the code)

The House bill replaces the present minimum standard deduction with a low-income allowance of $1,100. In 1970 only, the excess of the low-income allowance over the present minimum standard deduction is reduced $1 for every $2 of income above the new nontaxable levels. Thereafter, there is no reduction in the $1,100 minimum standard deduction.

The Senate amendment substitutes a $1,000 low-income allowance for the $1,100 in the House bill and, in 1970 only, reduces the entire amount by $1 for every $4 of income in excess of the nontaxable levels provided by the amendment.

The conference substitute (sec. 802 of the substitute and sec. 141 of the code) follows the House bill low-income allowance provision for 1970 and provides a $1,050 allowance in 1971 with a reduction in the excess over the present minimum standard deduction by $1 for every $15 of income above the nontaxable levels. For 1972 and thereafter the low-income allowance is $1,000 with no reduction.

4. Tax treatment of single persons (sec. 1 of the code)

The House bill provides that widows and widowers regardless of age and single persons age 35 or over are to use the head-of-household rate schedule, and surviving spouses are to use the joint return rates as long as they have dependent children under age 19 or attending school.

The Senate amendment substitutes for the House provision a new rate schedule for single persons which provides a tax that is no more than 20 percent in excess of that paid on a joint return with the same amount of taxable income and provides a new head-of-household rate schedule half way between the schedule applicable to joint returns and the new schedule applicable to single persons. The Senate amendment does not extend surviving spouse treatment beyond the 2 years provided in present law.

The conference substitute (sec. 803 of the substitute and sec. 1 of the code) follows the Senate amendment.

5. 50 percent maximum rate on earned income (sec. 1348 of the code)

The House bill provides that the maximum marginal tax rate applicable to an individual's earned income is not to exceed 50 percent.

The Senate amendment does not contain this provision.

The conference substitute (sec. 804 of the substitute and new sec. 1348 of the code) generally follows the House 50-percent rate limit on earned income except that the 50-percent limit is applicable to earned income reduced by tax preferences in excess of $30,000 in the current year or the average tax preferences in excess of $30,000 for the current year and the prior 4 years, whichever is greater. Tax preferences for this purpose are the same as those applicable to individuals under the minimum tax.

6. Collection on income tax at source on wages (sec. 3402 of the code)

The House bill requires the Secretary of the Treasury to prescribe withholding rates and tables incorporating the low-income allowance, the higher standard deduction, the reduced tax rates, and, for the first 6 months of 1970, the 5-percent surcharge.

The Senate amendment provides that withholding is to incorporate the low-income allowance, the higher personal exemption, the new tax rates for single persons, and the 5-percent surcharge.

The conference substitute (sec. 805(a) of the substitute and sec. 3402(a) of the code) provides percentage method withholding tables (and requires the Secretary of the Treasury to prescribe wage bracket tables) which incorporate: for 1970, the low-income allowance (with a phaseout), the 5-percent surcharge for the first 6 months, and the $650 personal exemption for the second 6 months; for 1971, the low-income allowance (with a phaseout), the $650 personal exemption, the 13-

percent standard deduction (with a $1,500 ceiling) and the new tax rates for single persons; for 1972 the low-income allowance (with no phaseout), the $700 personal exemption, the 14-percent standard deduction (with a $2,000 ceiling) and the new tax rates for single persons. For 1973 and thereafter withholding is further changed to reflect the $750 personal exemption and the 15 percent standard deduction (with a $2,000 ceiling).

7. Provision for flexibility in withholding procedures (sec. 3402(h) of the code)

The House bill does not contain a provision dealing with flexibility in withholding procedures.

The Senate amendment permits the Secretary of the Treasury to authorize withholding methods which provide substantially the same amount of withholding as the present methods or withhold the correct amount of tax for the entire year. Withholding on the basis of cumulative wages and on the basis of annualized wages is specifically permitted.

The conference substitute (sec. 805(d) of the substitute and sec. 3402(h) of the code) follows the Senate amendment.

8. Additional withholding allowances for excess itemized deductions (sec. 3402(m) of the code)

The House bill does not contain a provision dealing with withholding allowances.

The Senate amendment permits a taxpayer to claim estimated itemized deductions which are higher than those for the prior year if he can demonstrate that there is a reasonable expectation that the deductions will be higher in the current year.

The Senate amendment changes the level for determining itemized deductions above which an allowance is permitted. It is changed from from 10 percent of the first $7,500 of wages and 17 percent of the excess, to 15 percent of all wages. In addition, the Senate amendment changes present law to permit a withholding allowance to be claimed where a fractional allowance of one-half or more results.

The conference substitute (sec. 805(e) of the substitute and sec. 3402(m) of the code) follows the Senate amendment except that it substitutes $750, the amount of the personal exemption under the substitute in 1973, for the $600 amount in the Senate amendment and present law.

9. Certification of nontaxability for withholding tax purposes (sec. 3402 of the code)

The House bill contains no provision dealing with certification of nontaxability.

The Senate amendment provides that an individual is not to be subject to withholding of income tax if he certifies to his employer that he expects to have no Federal income tax liability for the year and, in fact, had no income tax liability for the preceding year.

The conference subsitute (sec. 805(f) of the substitute and sec. 3402 of the code) follows the Senate amendment.

10. Withholding on supplemental unemployment benefits (sec. 3402 of the code)

The House bill contains no provision concerning withholding on supplemental unemployment benefits.

The Senate amendment requires the payor of taxable supplemental unemployment compensation benefits to withhold Federal income tax from these payments.

The conference substitute (sec. 805(g) of the substitute and sec. 3402 of the code) follows the Senate amendment.

11. Voluntary withholding on payments not defined as wages (sec. 3402 of the code)

The House bill contains no provision concerning withholding on nonwage payments.

The Senate amendment provides that employers or other payors must withhold income tax on taxable pension and annuity payments when the payee requests withholding. In the case of payments for services not defined as wages (or other payments where the Secretary of the Treasury finds withholding would be appropriate) the payor and payee may agree to withholding.

The conference substitute (sec. 805(g) of the substitute and sec. 3402 of the code) follows the Senate amendment.

12. House provisions omitted—individual income tax rates (sec. 1 of the code and sec. 804 of the bill)

The House bill reduces tax rates by at least 1 percentage point in all brackets, reducing tax by at least 5 percent in all brackets.

The Senate amendment does not reduce tax rates generally. Selected rate reductions are made for single persons and heads-of-households (as indicated above).

The conference substitute follows the Senate amendment.

TITLE IX—MISCELLANEOUS PROVISIONS

SUBTITLE A—MISCELLANEOUS INCOME TAX PROVISIONS

1. Exclusion of additional living expenses (sec. 123 of the code)

The House bill does not include this provision.

The Senate amendment provides that in the case of an individual whose residence is destroyed or damaged by fire, storm or other casualty, gross income does not include amounts received under an insurance contract for reimbursement for living expenses incurred by the taxpayer and members of his household as the result of the loss of use or occupancy of a residence. The amendment allows the exclusion only to the extent that the amounts received do not exceed the excess of actual living expenses (for the taxpayer and members of his household) resulting from the loss of the use of the residence over the normal living expenses which would have been incurred by the taxpayer (for himself and members of his household) during this period.

The conference substitute (sec. 901 of the substitute and sec. 123 of the code) follows the Senate amendment.

2. Deductibility of treble damage payments, fines, penalties, etc. (secs. 162 (c), (f), and (g) of the code)

The House bill does not include this provision.

The Senate amendment codifies court decisions that deductions are not to be allowed for fines or similar penalties paid to a government for the violation of any law. It also denies deductions for three other types of expenditures: two-thirds of treble damage payments under

the antitrust laws, deductions for bribes of public officials (whether or not foreign officials), and other unlawful bribes or "kickbacks."

Under the Senate amendment, deductions are denied for treble damage payments under the antitrust laws only where there has been a conviction in a criminal prosecution (or a plea of guilty or nolo contendere). This is also true of the provisions relating to bribes and kickbacks other than to public officials. Illegal bribes and kickbacks with respect to public officials are in a different category, however, and deductions for such payments are denied in accordance with the treatment which is already accorded bribes of or kickbacks to foreign governmental officials or employees.

The provisions of the Senate amendment relating to antitrust treble damage payments apply to amounts paid or incurred after December 31, 1969, with regard to convictions after that date. The provisions as to fines and penalties paid to a government and illegal payments to government officials and employees apply to all taxable years to which the code applies. The provisions as to other bribes and kcikbacks apply to payments made after the date of enactment.

The conference substitute (sec. 902 of the bill and sec. 162 (c), (f), and (g) of the code) follows the Senate amendment.

3. Deductibility of accrued vacation pay (sec. 97 of the Technical Amendments Act of 1958)

The House bill contains no comparable provision.

The Senate amendment postpones for 2 years the effective date of Revenue Ruling 54-608. As a result, deductions for accrued vacation pay, if computed by an accounting method consistently followed, will not be denied for any taxable year ending before January 1, 1971, solely because the liability to a specific person for vacation pay cannot be clearly estimated or the amount computed with reasonable accuracy.

The conference substitute (sec. 903 of the substitute) follows the Senate amendment.

4. Deduction of recoveries of antitrust damages, etc. (sec. 186 of the code)

The House bill contains no comparable provision.

The Senate amendment provides that in the case of losses resulting from patent infringement, breach of contract, breach of fiduciary duty, or an antitrust injury for which there is a recovery under section 4 of the Clayton Act, a special deduction is to be allowed which has the effect of reducing the amounts required to be included in income to the extent that the losses to which they relate did not give rise to a tax benefit. This result is accomplished by providing, in effect, that the amount includable in gross income is to be the compensatory amount reduced by the amount of the losses which have not been recovered for tax purposes which were sustained as a result of the compensable injury.

The compensatory amount for this purpose means the amount of the award, settlement, or recovery reduced by the amounts paid or incurred in securing it. The unrecovered losses are the net operating losses for the year to the extent the losses are attributable to the compensable injury, reduced by the net operating losses which are allowed as offsets against income in other years.

This provision applies only to recoveries (which are includible in taxable income) for actual economic injury and not for additional amounts. In the case of treble damage recoveries under section 4 of the Clayton Act, for example, the provision applies to that part of the recovery which represents the economic injury and not to the other part which is punitive in nature.

The conference substitute (sec. 904 of the substitute and sec. 186 of the code) follows the Senate amendment.

5. Corporations using appreciated property to redeem their own stock (sec. 311 of the code)

The House bill contains no similar provision.

The Senate amendment provides that if a corporation distributes property to a shareholder in redemption of part or all of the shareholder's stock and the property distributed has appreciated in value in the hands of the distributing corporation, gain is to be recognized to the extent of this appreciation. This provision applies whether or not the redemption is classified as a dividend, but it does not apply to redemptions in complete or partial liquidation of the corporation or to redemptions in a tax-free reorganization or splitoff (secs. 355 and 356).

The conference substitute (sec. 905 of the substitute and sec. 311 of the code) generally follows the Senate amendment except that certain additional exceptions and transitional rules are provided. These include the following:

(1) The provision is made inapplicable to distributions in complete termination of the interest of a shareholder owning at least 10 percent of the stock, distributions of stock of a 50 percent or more owned subsidiary, distributions pursuant to an antitrust decree, redemptions under section 303 of the code, certain redemption distributions to private foundations, and distributions by regulated investment companies.

(2) The transitional rules make the provision inapplicable to contracts in existence on November 30, 1969, and written offers which were made before December 1, 1969, or are made pursuant to a ruling request filed with the Internal Revenue Service or a registration statement filed with the Securities and Exchange Commission before that date. Such offers must not be revocable by their express terms.

The Treasury Department and congressional staff were requested to analyze this provision both from the standpoint of whether any tax avoidance possibilities still remain and also from the standpoint as to whether the changes made by this provision constituted hardships in any areas.

6. Reasonable accumulations by corporations (sec. 537 of the code)

The House bill does not contain a comparable provision.

The Senate amendment provides that for purposes of the accumulated earnings tax (sec. 531 et seq. of the code), the reasonable needs of the business (sec. 537 of the code) are to include the amount needed (or reasonably anticipated to be needed) in the year of death and in later years to accomplish a section 303 redemption. It is also provided that the reasonable needs of the business include the amounts

needed (or reasonably anticipated to be needed) to redeem from private foundations stock held, or received pursuant to a will or irrevocable trust treated as binding on October 9, 1969, which constitutes excess business holdings.

It is further provided that no inference is to be drawn with respect to earlier years as a result of distributions in redemption to which this provision is applicable.

The conference substitute (sec. 906 of the substitute and sec. 537 of the code) adopts the Senate amendment except that this provision is made effective with respect to the accumulated earnings tax in taxable years ending after May 26, 1969 (rather than October 9, 1969 as in the Senate amendment).

7. Special contingency reserves of insurance companies (secs. 805(e) and 810(c) of the code)

The House bill does not include a comparable provision.

The Senate amendment provides that in computing the taxable income of a life insurance company a deduction is to be allowed for interest paid on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained to provide for insurance on retired lives, for premium stabilization, or for a combination of the two. A similar amendment is also made to the life insurance company provisions relating to the items taken into account as reserves for purposes of the so-called "phase II" tax imposed on life insurance company income (i.e., the tax on gains from operations other than investment income).

The conference substitute (sec. 907(a) of the bill and sec. 805(e) and 810(c) of the code) follows the Senate amendment.

8. Spinoff by life insurance companies (sec. 815 of the code)

The House bill does not contain a comparable provision.

The Senate amendment permits the spinoff of a second tier ordinary business subsidiary by a life insurance company to the parent holding company without the application of phase III tax consequences at that time, but in a manner designed to preserve the potential application of a phase III tax. The phase III tax continues to apply as if the spinoff had not been made and as if distributions to the holding company by the ordinary business corporation were channeled through the life insurance company. The sale or other disposition of the stock of the ordinary business subsidiary is treated as reducing the shareholders surplus account or policyholders surplus account of the life insurance company. These effects are limited to the amount of the fair market value of the stock of the ordinary business corporation at the time of the spinoff.

This provision applies only where a life insurance company has, at all times since December 31, 1957, owned all of the stock of the business subsidiary which is spun off to the parent holding company. The phase III tax does not apply (except to the extent of any post-1957 contributions to capital of the business subsidiary) at the time of the spinoff but will continue to apply to distributions by (or the sale of stock of) the ordinary business subsidiary.

The conference substitute (sec. 907(b) of the substitute and sec. 815 of the code) follows the Senate amendment.

9. Loss carryover of insurance company on change of form of organization or nature of insurance business (sec. 844 of the code)

The House bill does not include a comparable provision.

The Senate amendment permits an insurance company to carry over and deduct a net operating loss when its insurance company tax status changes. However, this provision forestalls any tax advantage by limiting the net operating loss which may be carried over to the lesser of the loss carryover as computed under the rules applicable to the company before the change or the loss carryover as computed under the rules which apply to the company after the change.

Where a casualty insurance company changes from a mutual to a stock company, the Senate amendment further provides that in computing the loss carryover allowable under the stock company rules the deduction for dividends paid to policyholders is denied.

The conference substitute (sec. 907(c) of the substitute and sec. 844 of the code) follows the Senate amendment, except that only 25 percent of the deduction for dividends paid to policyholders is denied for purposes of the loss carryover computation where a casualty insurance company changes from a mutual to a stock company.

10. Mutual funds under periodic payment plans (sec. 851(f) of the code)

The House bill does not include this provision.

The Senate amendment adds a provision to the regulated investment company provisions, the effect of which is to preclude a periodic payment plan from being treated as a corporation, partnership or trust where the bank custodian can purchase shares only in a single specified fund. Instead, the mutual fund shares are to be treated as owned directly by the investor with the bank custodian acting as a nominee. The new provision does not apply in the case of a unit investment trust which is a segregated asset account under the insurance laws or regulations of a State.

The conference substitute (sec. 908 of the bill and sec. 851(f) of the code) follows the Senate amendment.

11. Foreign base company income (sec. 954(b)(4) of the code)

There is no comparable provision in the House bill.

The Senate amendment revises the exception from foreign base company income to provide that foreign base company income does not include any item of income received by a foreign corporation if it is established to the satisfaction of the Treasury Department that neither the creation nor organization (or acquisition) of the controlled foreign corporation in the particular foreign country nor the transaction giving rise to the income in question has as one of its significant purposes a substantial reduction of income or similar taxes.

The conference substitute (sec. 909 of the substitute and sec. 954(b)(4) of the code) follows the Senate amendment.

12. Deferral of gain upon the sale of certain low-income housing (sec. 1039 of the code)

There is no comparable provision in the House bill.

The Senate amendment provides that no gain is to be recognized to the initial investor in federally assisted housing projects where the properties are sold to the occupant or a tax-exempt organization managing the property, but only to the extent that the investor reinvests the proceeds from the sale in other similar Government-

assisted housing. In this case, the taxpayer's basis for the project is carried over and becomes part or all of his basis for the new project in which the funds are invested (depending upon whether or not he also invests additional funds in the second project). The holding period of the first property is taken into account in determining how long the second property is held in this case, but only to the extent the proceeds from sale of the old project are reinvested in the new project. This provision also applies to certain State-assisted projects.

The conference substitute (sec. 910 of the bill and sec. 1039 of the code) follows the Senate amendment except as it relates to State-assisted projects.

13. Cooperative per unit retain allocations paid in cash (sec. 1382(b) of the code)

The House bill does not include this provision.

The Senate amendment provides that a cooperative can deduct or exclude from gross income per unit retain allocations whether they are paid in qualified per unit retain certificates (as under existing law) or whether they are paid in money (or other property).

The conference substitute (sec. 911 of the substitute and sec. 1382(b)(3) of the code) follows the Senate amendment.

14. Inclusion of foster children in the definition of dependents (sec. 152(b)(2) of the code)

The House bill does not include this provision.

The Senate amendment redefines the rules relating to the definition of a dependent (sec. 152(b)(2)) to enable foster parents to claim additional exemptions for dependent foster children on the same terms as for natural children. Thus, a foster child may have gross income for a year in excess of $600 (if the child is less than 19 years of age or is a student) without the taxpayer losing the dependency exemption for the child, provided he continues to furnish more than one-half of the foster child's support.

The conference substitute (sec. 912 of the substitute and sec. 152(b)(2) of the code) follows the Senate amendment except that the provision is made applicable to taxable years beginning after December 31, 1969 (rather than after the date of enactment as in the Senate amendment).

15. Cooperative housing corporations (sec. 216(b) of the code)

The House bill does not include a comparable provision.

The Senate amendment provides that, in determining whether a corporation is a cooperative housing corporation, no account is to be taken of stock owned and apartments leased by governmental entities empowered to acquire shares in a cooperative housing corporation for the purpose of providing housing facilities. The effect of the amendment is to allow individual tenant-stockholders to deduct their proportionate share of interest and taxes even though more than 20 percent of the cooperative housing corporation's income is derived from a governmental entity.

The conference substitute (sec. 913 of the substitute and sec. 216(b) of the code) follows the Senate amendment, except that it is made applicable to taxable years beginning after December 31, 1969 (instead of after December 31, 1968, as in the Senate amendment).

16. Personal holding company dividends (sec. 563(b) of the code)

The House bill does not include this provision.

The Senate amendment provides that in computing the personal holding company tax, a taxpayer may elect to take a deduction for dividends paid on or before the 15th day of the third month following the close of its taxable year, provided that the dividend deduction may not exceed 20 percent (instead of 10 percent as under present law) of the dividends paid by the corporation during the year.

The conference substitute (sec. 914 of the substitute and sec. 563(b) of the code) follows the Senate amendment, except that it is made effective for taxable years beginning after December 31, 1969 (the Senate amendment does not contain an effective date).

17. Replacement of property involuntarily converted within a 2-year period (sec. 1033(a)(3)(B) of the code)

The House bill does not include this provision.

The Senate amendment modifies the rule of existing law that no gain is recognized if property is compulsorily or involuntarily converted into replacement property which is similar or related in use or service, provided the property is replaced within 1 year after the year in which the involuntary conversion occurred, to allow a 2-year period for the replacement.

The conference substitute (sec. 915 of the substitute and sec. 1033(a)(3)(B) of the code) follows the Senate amendment.

18. Change in reporting income on installment basis (sec. 453 of the code)

The House bill does not include this provision.

The Senate amendment modifies the installment reporting provision of present law to allow a taxpayer to retroactively revoke an election to report on the installment basis. For this treatment to be available, the taxpayer must file a notice of revocation within 3 years following the date of the filing of the tax return for the year the installment method was elected. The revocation would apply to the year installment reporting was elected and subsequent years. Interest would not be allowed, however, on any refunds or credits resulting from a revocation.

The conference substitute (sec. 916 of the substitute and sec. 453 of the code) follows the Senate amendment with a modification prohibiting, within 5 years, a new election to report on the installment basis except with the consent of the Secretary or his delegate.

19. Recognition of gain in certain liquidations (sec. 333 of the code)

The House bill does not include this provision.

The Senate amendment provides that for purposes of the 1-month liquidation rule of section 333 of the code, securities transferred to a controlled corporation after December 31, 1953, solely in exchange for stock in a tax-free transfer under section 351 will be treated as acquired by the corporation before that date, if they were acquired before that date by the person making the transfer. The amendment applies only to liquidations occurring prior to 1971.

The conference substitute (sec. 916 of the substitute) follows the Senate amendment, except that this provision is made applicable only during calendar year 1970.

SUBTITLE B—MISCELLANEOUS EXCISE TAX PROVISIONS

1. Application of excise taxes on trucks to concrete mixers (sec. 4063 of the code)

The House bill does not include a comparable provision.

The Senate amendment provides an exemption from the manufacturers' excise tax on trucks in the case of articles designed to be mounted on an automobile truck trailer or semitrailer chassis which are designed to be used primarily to process or prepare concrete. In addition, an exemption is provided for parts and accessories designed primarily to be used in connection with the use of these concrete mixers.

The conference substitute (sec. 931 of the substitute and sec. 4063 of the code) follows the Senate amendment, except that this provision is made applicable to articles sold after December 31, 1969 (rather than June 30, 1968, as under the Senate amendment).

2. Constructive sale price (sec. 4216 of the code)

The House bill does not include a comparable provision.

The Senate amendment adds two constructive price rules to the excise tax provisions dealing with situations where a manufacturer or importer regularly sells an article subject to excise tax to an affiliated corporation and that corporation regularly sells the article to independent retailers but does not regularly sell to wholesale distributors.

The first of these rules provides that the fair market price of the article is to be 90 percent of the lowest price for which the subsidiary corporation regularly sells the article in arms-length transactions to independent retailers.

The second rule provides that where the distributor regularly sells only to retailers and the normal method of sales in the industry is by arms-length sales to distributors, the fair market price of the article is to be the price at which the article is sold to retailers by the affiliated distributor reduced by a percentage equal to the markup used by independent distributors in that industry.

The conference substitute (sec. 932 of the substitute and sec. 4216 of the code) follows the Senate amendment with minor modifications, except that the provision is made applicable to articles sold after December 31, 1969 (rather than January 1, 1969).

SUBTITLE C—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

1. Filing requirements for individuals (sec. 6012 of the code)

The House bill does not include this provision.

The Senate amendment raises the income levels at which an individual is required to file a tax return to correspond to the new nontaxable levels under the Senate amendment.

The conference substitute (sec. 941 of the substitute and sec. 6012 of the code) adopts the principle of the Senate amendment that the filing requirement should generally correspond to the nontaxable levels of income and raises the income level at which a return must be filed to correspond generally with the nontaxable levels under the conference substitute: For 1970, 1971, and 1972 the income level up to which returns are not required is $1,700 for a single person and $2,300

for a married couple filing jointly. These amounts are increased $600 for each additional personal exemption to which the taxpayer or married couple filing jointly are entitled. In 1973 and thereafter, when the increase in the personal exemption and the low income allowance are fully effective, the income levels are $1,750 for a single person and $2,500 for a married couple filing jointly, plus $750 for each additional personal exemption.

2. Computation of tax by Internal Revenue Service (sec. 6014 of the code)

The House bill removes some of the present limitations with respect to the type of taxpayer who may elect to have his tax computed by the Internal Revenue Service. The House bill removes the $5,000 income limitation of present law and permits the use of the optional tax table containing the minimum standard deduction in computing the tax for married taxpayers filing separate returns. In addition, the House bill permits the Secretary of the Treasury to issue regulations under which the tax computation may take account of the retirement income credit and the marital status of the taxpayer and may extend the election to any taxpayer regardless of the specified limitations.

The Senate amendment modifies the House bill in the following manner:

(1) Those present law limitations which remain are specifically listed and the Secretary of the Treasury is permitted to waive them by regulation. The Secretary may issue regulations which permit the taxpayer to request that the Internal Revenue Service compute his tax without regard to the amount or the source of his adjusted gross income and without regard to whether he claims the retirement income credit or whether he itemizes or takes the standard deduction.

(2) The Senate amendment also substitutes $7,500 for the $5,000 amount under present law and removes the restriction on taking into account the marital status of the taxpayer and the use of the optional tax table for married taxpayers filing separate returns. The Internal Revenue Service is permitted to compute the tax for persons with income above $7,500 if it so decides.

The conference substitute (sec. 942 of the substitute and sec. 6014 of the code) follows the Senate amendment but substitutes $10,000 for the $7,500 amount under the Senate amendment.

3. Penalties for failure to pay tax or make deposits (sec. 6651 of the code)

The House bill does not include this provision.

The Senate amendment provides a penalty for failure to pay income tax when due. The penalty is 5 percent of the amount of the tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month while the failure continues, not exceeding 25 percent in total. In the case of failure to pay income tax shown on a return when due, the penalty is imposed on the amount shown in the return less amounts that have been withheld, estimated tax payments, partial payments, and other applicable credits. In the case of failure to pay a deficiency within 10 days of the date of notice and demand, the penalty is imposed on the tax stated in the notice

reduced by the amount of any partial payments. The penalty is not to be imposed in any case if it is shown that the failure to pay the tax or the deficiency is due to reasonable cause and not to willful neglect.

With respect to failure to make deposits of tax, the Senate amendment changes the 1-percent-per-month penalty to a flat 5-percent penalty.

The conference substitute (sec. 943 of the substitute and sec. 6651 of the code) generally follows the Senate amendment but reduces the penalty for failure to pay income tax to one-half of 1 percent per month limited to a total of 25 percent.

4. Declarations of estimated tax by farmers (sec. 6015 of the code)

The House bill does not include this provision.

The Senate amendment advances the due date for filing of tax returns by farmers and fishermen in order to be excused from filing declarations of estimated tax from February 15 to March 15.

The conference substitute (sec. 944 of the substitute and sec. 6015 of the code) advances this date from February 15 to March 1.

5. Portion of salary, wages, or other income exempt from levy (sec. 6334 of the code)

The House bill does not include this provision.

The Senate amendment provides that if the taxpayer is required by a court judgment to contribute to the support of his minor children, his salary, wages, or other income to the extent necessary to comply with the judgment is exempt from levy to pay Federal taxes. The provision applies only if the court decree providing for the support of minor children is entered prior to the date of the levy.

The conference substitute (sec. 945 of the substitute and sec. 6334 of the code) follows the Senate amendment.

6. Interest and penalties in case of certain taxable years

The House bill does not include this provision.

The Senate amendment provides relief from interest and penalties with respect to payments of estimated tax where this results from understatement of tax because of the repeal of the investment credit or extension of the surcharge.

The conference substitute (sec. 946 of the substitute) provides relief from interest and penalties with respect to underpayments of tax and payments of estimated tax where this results from understatement of tax because of any amendments made by this act. If a taxpayer is required to pay any additional amount of estimated tax, as a result of changes made by this act, such amount is to be paid ratably over the taxpayer's remaining estimated tax installment dates for his taxable year.

SUBTITLE D—U.S. TAX COURT

1. Article I status for Tax Court and provision for small claims cases (secs. 7441, 7443 (b), (c), and (e) and 7447 of the code)

The House bill does not include this provision.

The Senate amendment makes the following changes in the Tax Court provisions of the code:

(1) The Tax Court is established as a court under Article I of the Constitution;

(2) The term of office is established as 15 years from the date the judge takes office;

(3) A judge may not be appointed for the first time after reaching age 65;

(4) The provisions in the code dealing with the salaries of Tax Court judges are altered so as to make applicable the statutory provisions dealing with salaries of district court judges, but no actual change in the salary provisions is made;

(5) The provisions regarding retirement are revised to require, among other provisions, retirement at age 70 whether or not the judge has completed 10 years of service at that time;

(6) As in the case of the district court, a judge may retire at age 65 if he has served 15 years, but he may retire at a younger age with 15 years of service if he is available for reappointment at the conclusion of his term but is not reappointed;

(7) A Tax Court judge may retire if he is permanently disabled;

(8) An election to provide for survivors' benefits may be made at any time during service as a judge instead of only at the specific times now set forth;

(9) The Tax Court is given powers regarding contempt, and the carrying out of its writs, orders, etc., equivalent to those which Congress has previously given to the district courts;

(10) A small claims procedure is established, for deficiencies or overpayments not exceeding $1,000 in any year and estate tax deficiencies under $1,000, under which the decision is to be based upon a brief summary opinion instead of formal findings of fact, is not to be a precedent for future cases and is not to be reviewable upon appeal;

(11) Commissioners can be used by the Tax Court in the small claims cases and are to be paid at the same rate as commissioners of the Court of Claims;

(12) Changes are made as to time for appeal and terminology in order to conform the code provisions to the Federal Rules of Appellate Procedure;

(13) The U.S. Tax Court, as established by this act, is a continuation of the existing Tax Court of the United States and the act is to have no effect upon existing litigation, jurisdiction, etc.

The conference substitute (secs. 951–962 of the substitute and secs. 7441, 7443 (b), (c), and (e) and 7447 of the code) follows the Senate amendment. The conferees believe the Tax Court should sit in a greater number of cities than the 50 in which it presently sits so as to ease the burdens imposed on taxpayers who must travel substantial distances in order to take advantage of the new small claims procedures.

E. SENATE PROVISIONS OMITTED

1. Income earned abroad (sec. 910 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment reduces from $20,000 or $25,000 to $6,000 the amount of earned income received from abroad which a U.S. citizen who is a bona fide resident of a foreign country or who is abroad for 17

out of 18 months may exclude from income in computing his U.S. income tax.

This provision is omitted from the conference substitute.

2. Deductions for medical care, medicine, and drugs for individuals who have attained the age of 65 (sec. 914 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment eliminates the 3 and 1 percent floors applicable to medical and drug expenses of individuals age 65 and over.

The conference substitute omits this provision.

3. Transportation expenses of handicapped individuals (sec. 915 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides a tax deduction for transportation expenses incurred in getting to and from work, up to $600 a year, for certain handicapped persons. The deduction is available to taxpayers using the standard deduction. A handicapped person to be eligible for this deduction may prove his disability by presenting a certificate from a State vocational rehabilitation agency. The certificate must indicate he has a disability that is expected to last for a continuous period of long and indefinite duration that prevents him from using public transportation without undue hardship or danger.

The conference substitute omits this provision.

4. Tax credit for certain expenses of higher education (sec. 917 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides an income tax credit for certain expenses of higher education to the individual incurring the expenses. The credit is limited to a maximum of $325 a year and is reduced by 2 percent of the amount by which the adjusted gross income of the taxpayer exceeds $15,000.

The conference substitute omits this provision.

5. Special tax treatment for property acquired with funds obtained through violation of criminal laws (sec. 921 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment denies capital gains tax treatment on the sale or exchange of property that directly or indirectly was purchased or financed in whole or in part with money or other property which was obtained through violation of the criminal laws of the United States or the District of Columbia. In addition the provision allows only straight line depreciation for such property.

The conference substitute omits this provision.

6. Elimination of child's insurance benefit payments in determining support (sec. 922 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides that amounts received by an individual as a child's insurance benefit under the Social Security Act is not to be taken into account in determining whether the child has received more than half of his support from the taxpayer.

The conference substitute omits this provision.

7. Reporting of medical payments (sec. 944 of Senate amendment)

No such provision is contained in the House bill.

The Senate amendment requires the filing of information returns for payments of $600 or more to a supplier of medical goods and services including doctors and dentists. The information return requirement also applies to bills for services by doctors, dentists, etc., which are reimbursed by the insurance company or other organizations to the patient.

The conference substitute omits this provision.

8. Reimbursement of taxpayer's costs in certain cases (sec. 945 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides that once a taxpayer accepts a deficiency or an overpayment, or has received a notification that there is no change in his initial tax liability, then if there is a subsequent determination which is not more favorable to the Government, the taxpayer is to be reimbursed for all costs he incurs in connection with the second deficiency or reduction in overpayment proposed.

The conference substitute omits this provision.

9. Reimbursement of certain costs of litigation (sec. 948 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides for awarding costs to the prevailing party in a Tax Court proceeding. In the case where the Tax Court determines the deficiency was assessed without good cause or for purposes of harassment, costs may include reasonable attorney fees and costs of expert witnesses.

The conference substitute omits this provision.

10. Statistics based on ZIP code areas (sec. 949 of the Senate amendment)

No such provision is contained in the House bill.

The Senate amendment provides that the publication of statistics of income and the compilation of statistics for special studies are not to contain statistics classified in any way by a coding system for the delivery of mail (i.e., the ZIP code), except for statistics made available on an official basis to a Federal, State, or local agency or instrumentality (which may not publish or disclose such information).

The conference substitute omits this provision.

F. PROTECTION OF AMERICAN INDUSTRY AND LABOR

This Senate provision, not in the House bill, would have authorized the President to impose limitations on imports when he finds that an imported product is disrupting the domestic market or causing injury to domestic-producing interests and when the exporting country is imposing restrictions of any kind on imports of articles produced in the United States. The conference substitute does not include this provision. This provision is extraneous to the subject of tax reform and for that reason was not included in the conference substitute. It was not considered on its merits one way or the other. The problems to which the amendment was addressed will be the subject of extensive hearings by the Committee on Ways and Means early next year.

TITLE X—INCREASE IN SOCIAL SECURITY BENEFITS

The Senate amendment added to the House bill a new title X (the "Social Security Amendments of 1969") increasing social security benefits and making related changes in the OASDI and public assistance programs.

1. Benefit increase and related OASDI provisions

The Senate amendment increased regular OASDI benefits by 15 percent with a minimum primary insurance amount of $100, beginning January 1970, and provided a similar (15 percent) increase in the special payments for certain individuals aged 72 and older who have no coverage or whose coverage is insufficient to qualify for regular benefits. In addition, it eliminated the $105 limitation on wife's, husband's, widow's, and widower's insurance benefits, revised the allocation of tax receipts between the OASI and DI trust funds, and raised from $7,800 to $12,000 (beginning January 1973) the social security earnings base for benefit and tax purposes.

Although the House bill itself had no corresponding provisions, H.R. 15095 (which passed the House on December 15, 1969) contained provisions which are the same as those in the Senate amendment except that (*a*) the minimum primary insurance amount is left at $64 (the figure which results from simply applying the 15-percent increase to the existing $55 minimum), and (*b*) the earnings base is not raised above its present level of $7,800.

The conference substitute (secs. 1002 through 1005) follows H.R. 15095; i.e., it retains, with technical modifications, those benefit increase provisions of the Senate amendment which are also contained in H.R. 15095 and omits those provisions (the specially increased minimum PIA and the higher earnings base) which are not.

2. Public assistance provisions

The Senate amendment also contained provisions designed to assure that at least a part of the OASDI benefit increase will be reflected in the total income of public assistance recipients; under these provisions each State is required, in determining need under any of the public assistance programs, to disregard any retroactive social security benefit increase payments (including those made under future laws as well as those resulting from this increase), and in addition to disregard $7.50 per month of the income of each adult public assistance recipient or (if the State is already satisfying this requirement) to otherwise provide at least a $7.50 increase in the amount of such recipient's aid or assistance.

The conference substitute contains provisions which are similar in intent to those in the Senate amendment.

Under section 1006 of the conference substitute, each State is required (in determining the need of its public assistance recipients) to disregard any retroactive payment of the OASDI benefit increase provided by the bill for January and February 1970, which is expected to be paid (by separate check) in April; but this requirement would be limited to the situation created by the bill and would not apply to any retroactive payments which may result from future laws.

Under section 1007 of the conference substitute, each State is also required (in determining the need of its public assistance recipients)

to assure that every recipient of aid or assistance under any of its adult public assistance programs who also receives an OASDI benefit which is increased under the bill will realize an increase in the total of his public assistance and OASDI benefit payments equal to $4 a month (or the amount of the increase in his OASDI benefit if less), whether such increase in his total payments is brought about by disregarding a portion of his OASDI benefit or otherwise (e.g., by raising the State's standard of assistance for all recipients under the program involved). This requirement is made applicable only to months before July 1970 in order to allow the Congress time to consider the matter in connection with its work on major welfare proposals early next year.

The 15-percent OASDI benefit increase will mean an average $9.50 increase to those beneficiaries also eligible for public assistance under the programs of aid or assistance to the aged, blind, and disabled. This increase is more than sufficient to meet the requirement (discussed above) that all such persons have their total incomes raised by $4 a month. Moreover, for practically all States, the savings from the remaining $5.50 will be sufficient to raise the incomes of those not receiving OASDI benefits by $4 a month; and the conferees hope that the States will do so.

Senate provision omitted—social security retirement age

The Senate amendment contained a provision making qualified individuals eligible for actuarially reduced OASDI benefits at age 60, instead of at age 62 as under present law, to be effective upon a determination by the President that it is desirable to expand consumer purchasing power by making additional persons eligible for such benefits. The conference substitute omits this provision.

MISCELLANEOUS SENATE PROVISIONS OMITTED

1. Submittal of Federal funds budget information to the Congress

The House bill did not contain this provision.

The Senate amendment requires the President to send a report to Congress to accompany the budget and each supplemental appropriation request in which he describes the extent to which the request will result directly or indirectly in a surplus or deficit in the Federal funds portion of the budget or an increase or decrease in the national debt of the United States. The supporting factors and circumstances which form the basis for the effects on the debt and Federal funds budget also are to be presented in the report. The report is to be sent to the Committees on Appropriations and Ways and Means of the House of Representatives and the Committees on Appropriations and Finance of the Senate.

The conference substitute omits this provision.

2. Presidential Commission on Philanthropic Activities

The House bill did not contain this provision.

The Senate amendment creates a Presidential Commission on Philanthropic Activities to study whether the national interest requires philanthropic and similar tax-exempt activity and the effect of the internal revenue laws on such activity.

The conference substitute omits this provision.

3. Securities and Exchange registration of tax-exempt securities

The House bill did not contain this provision.

The Senate amendment exempts States and municipalities from the requirement that they register with the Securities and Exchange Commission any industrial development bonds which they propose to issue if the issue qualifies for tax exemption under the tax laws including both the $1 and $5 billion exemptions.

The conference substitute omits this provision. Nevertheless, the conferees are concerned at the time required and costs involved in these small issues of industrial revenue bonds. It recommends to the Securities and Exchange Commission that it give serious consideration to expediting its consideration of these issues and reducing the the registration requirements and costs of these small industrial revenue bond issues.

(4) *Capitol Guide Service*

The House bill did not contain this provision.

The Senate amendment establishes within the Congress of the United States an organization to be known as the Capitol Guide Service. This organization is to provide, without charge, guided tours of the interior of the U.S. Capitol Building for the education and enlightment of the general public.

The conference substitute omits this provision.

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