94th Congress, 2d Session Senate Report No. 94-1236

TAX REFORM ACT OF 1976

THE COMMITTEE OF CONFERENCE SUBMITTED THE FOLLOWING CONFERENCE REPORT

TO ACCOMPANY

H.R. 10612

SEPTEMBER 14, 1976.—Ordered to be printed

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94TH CONGRESS 2d Session | SENATE | REPORT No. 94–1236

TAX REFORM ACT OF 1976

SEPTEMBER 14, 1976.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 10612]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 33, 42, 47, 50, 51, 53, 57, 60, 61, 64, 65, and 67.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 14, 31, and 40, and agree to the same.

Amendment numbered 1:

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

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

SECTION 1. TABLE OF CONTENTS.

TABLE OF CONTENTS

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

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

TITLE I—SHORT TITLE AND AMENDMENT OF 1954 CODE

SEC. 101. SHORT TITLE.

This Act may be cited as the "Tax Reform Act of 1976".

SEC. 102. 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.

"SEC. 103. CAPITALIZATION AND AMOTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) IN GENERAL.—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. 189. AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

"(a) CAPITALIZATON OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), in the case of an individual or an electing small business corporation (within the meaning of section 1371(b)), no deduction shall be allowed for real property construction period interest and taxes.

"(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			The percentage of such amount allowable for each amortization year shall be the following percentage of such amount
Nonresidential real property	Residential real property (other than low-income housing)	Low-income housing	
1976	1976	1982	25
1977	1979	1983	20
1978	1980	1984	16⅔
1979	1981	1985	14⅔
1980	1982	1986	12½
1981	1983	1987	11⅓
after 1981	after 1983	after 1987	10

"(c) AMORTIZATION YEAR.—

"(1) IN GENERAL.— For purposes of this section, the term 'amortization year' means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowable as a deduction (or until the property is sold or exchanged).

"(2) RULES FOR SALES AND EXCHANGES.—For purposes of paragraph (1)—

"(A) PROPORTION OF PERCENTAGE ALLOWED.—For the amortization year in which the property is sold or exchanged, a proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with the convention used for depreciation purposes with respect to such property. In the case of all other real property, under regulations prescribed by the Secretary, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange.

"(B) UNAMORTIZED BALANCE.—In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under section 1016 for purposes of determining gain or loss.

"(C) CERTAIN EXCHANGES.—An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relates, shall not be treated as an exchange.

"(d) CERTAIN RESIDENTIAL PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit.

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

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—The term 'construction period interest and taxes' means all—

"(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

"(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this chapter for the taxable year in which paid or accrued (determined without regard to this section).

"(2) CONSTRUCTION PERIOD.—The term 'construction period', when used with respect to any real property, means the period—

"(A) beginning on the date on which construction of the building or other improvement begins, and

"(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

"(3) NONRESIDENTIAL REAL PROPERTY.—The term 'nonresidential real property' means real property which is neither residential real property nor low-income housing.

"(4) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means property which is or can reasonably be expected to be—

"(A) residential rental property as defined in section 167 (j)(2)(B), or

"(B) real property described in section 1221(1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

"(5) LOW-INCOME HOUSING.—The term 'low-income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

"(f) TRANSITIONAL RULE FOR 1976.—*In the case of amounts paid or accrued by the taxpayer in a taxable year beginning in 1976, the percentage of such amount allowable for—*

"(1) *the taxable year beginning in 1976 shall be 50 percent, and*

"(2) *each amortization year thereafter shall be 16⅔ percent.*"

(b) CLERICAL AMENDMENT.—*The table of sections for such part VI is amended by adding at the end thereof the following new item:*

"Sec. 189. Amortization of real property construction period interest and taxes."

(c) EFFECTIVE DATE.—*The amendments made by this section shall apply—*

(1) *in the case of nonresidential real property, if the construction period begins after December 31, 1975,*

(2) *in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and*

(3) *in the case of low-income housing, to taxable years beginning after December 31, 1981.*

For purposes of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

And the Senate agree to the same.

Amendment numbered 4:

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

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

SEC. 201. RECAPTURE OF DEPRECIATION ON REAL PROPERTY.

(a) IN GENERAL.—*Subsection (a) of section 1250 (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, 1975.—

(A) IN GENERAL.—*If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—*

"(i) *that portion of the additional depreciation (as defined in subsection (b) (1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or*

"(ii) *the excess of 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 the adjusted basis of such property,*

shall be treated as gain which is ordinary income. 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—*

"(i) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing 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 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower income families, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iii) 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;

"(iv) in the case of section 1250 property with respect to which a loan is made or insured under title V of the Housing Act of 1949, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months; and

"(v) in the case of all other section 1250 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subsection (b)(4).

"(2) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969, AND BEFORE JANUARY 1, 1976.—

"(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1969, and the amount determined under paragraph (1)(A)(ii) exceeds the amount determined under paragraph (1)(A)(i), then the applicable percentage of the lower of—

"(i) that portion of the additional depreciation attributable to periods after December 31, 1969, and before January 1, 1976, in respect of the property, or

"(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the amount determined under paragraph (1)(A)(i),

shall also be treated as gain which is ordinary income. 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—

"(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 with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing 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 1 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).

"(3) 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)(A)(ii) exceeds the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), 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)(A)(ii) over the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i),

shall also be treated as gain which is ordinary income. 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."

(b) PROPERTY DISPOSED OF PURSUANT TO FORECLOSURE PROCEEDINGS.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(10) FORECLOSURE DISPOSITIONS.—If any section 1250 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in paragraph (1)(B), (2)(B), or (3)(B) of subsection (a), as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred, or in the event there are no proceedings, such percentage shall be determined as if the taxpayer ceased to hold such property on the date, determined under regulations prescribed by the Secretary, on which such operation of an agreement or process of law, pursuant to which the disposition occurred, began."

(c) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 1250(f)(2).—Paragraph (2) of section 1250(f) (relating to special rule for property which is substantially improved) is amended to read as follows:

"(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 series of amounts determined for the periods set forth in subsection (a), with the amount for any such period being determined by multiplying—

"(A) the amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subsection (a)(1)(A), in clause (i) or (ii) of subsection (a)(2)(A), or in clause (i) or (ii) of subsection (a)(3)(A), as the case may be, for the section 1250 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

"(B) the applicable percentage for such element for such period.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property."

(2) AMENDMENT OF SECTION 1250(g)(2).—Paragraph (2) of section 1250(g) (relating to special rules for qualified low-income housing) is amended to read as follows:

"(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be determined in a manner similar to that provided by subsection (f)(2)."

(3) AMENDMENT OF SECTION 167(e)(3).—Paragraph (3) of section 167(e) (relating to change in depreciation method with respect to section 1250 property) is amended by striking out "beginning after July 24, 1969," and inserting in lieu thereof "beginning after December 31, 1975,".

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (b)) shall apply for taxable years ending

after December 31, 1975. The amendment made by subsection (b) shall apply with respect to proceedings (and to operations of law) referred to in section 1250(d)(10) of the Internal Revenue Code of 1954 which begin after December 31, 1975

SEC. 201A. AMENDMENT OF SECTION 167(k).

(a) GENERAL RULE.—Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out "January 1, 1976," in paragraph (1) and inserting in lieu thereof "January 1, 1978";

(2) by striking out "$15,000" in paragraph (2)(A) and inserting in lieu thereof "$20,000";

(3) by striking out "the policies of the Housing and Urban Development Act of 1968" in paragraph (3)(B) and inserting in lieu thereof "the Leased Housing Program under section 8 of the United States Housing Act of 1937"; and

(4) by adding the following new subparagraph at the end of paragraph (3):

"(D) REHABILITATION EXPENDITURES INCURRED.—Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1978 and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978."

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall apply to expenditures paid or incurred after December 31, 1975, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made by paragraph (2) of subsection (a) shall apply to expenditures incurred after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5 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:

LIMITATIONS ON DEDUCTIONS FOR EXPENSES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK IN CASE OF CERTAIN ACTIVITIES.

"(a) GENERAL RULE.—In the case of a taxpayer (other than a corporation which is not an electing small business corporation (as defined in section 1371(b))) engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

"(b) AMOUNTS CONSIDERED AT RISK.—

"(1) IN GENERAL.—For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

"(A) the amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

"(B) amounts borrowed with respect to such activity (as determined under paragraph (2)).

"(2) BORROWED AMOUNTS.—For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

"(A) is personally liable for the repayment of such amounts, or

"(B) has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

"(3) CERTAIN BORROWED AMOUNTS EXCLUDED.—For purposes of paragraph (2)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

"(A) has an interest (other than an interest as a creditor) in such activity, or

"(B) has a relationship to the taxpayer specified within any one of the paragraphs of section 267(b).

"(4) EXCEPTION.—Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

"(5) AMOUNTS AT RISK IN SUBSEQUENT YEARS.—If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subsection (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subsection (a)) is allowable as a deduction.

"(c) ACTIVITIES TO WHICH SECTION APPLIES.—

"(1) TYPES OF ACTIVITIES.—This section applies to any taxpayer engaged in the activity of—

"(A) holding, producing, or distributing motion picture films or video tapes,

"(B) farming (as defined in section 464(e)),

"(C) leasing any section 1245 property (as defined in section 1245(a)(3)), or

"(D) exploring for, or exploiting, oil and gas resources,

as a trade or business or for the production of income.

"(2) SEPARATE ACTIVITIES.—For purposes of this section, a taxpayer's activity with respect to each—

"(A) film or video tape,

"(B) section 1245 property which is leased or held for leasing,

"(C) farm, or

"(D) *oil and gas property (as defined under section 614), shall be treated as a separate activity. A partner's interest in a partnership or a shareholder's interest in an electing small business corporation shall be treated as a single activity to the extent that the partnership or an electing small business corporation is engaged in activities described in any subparagraph of this paragraph.*

"(d) *DEFINITION OF LOSS.—For purposes of this section, the term 'loss' means the excess of the deductions allowable under this chapter for the taxable year (determined without regard to this section) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.*"

(b) *CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:*

"*Sec. 465. Deductions limited to amount at risk in case of certain activities.*"

(c) *EFFECTIVE DATES.—*

(1) *IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.*

(2) *SPECIAL TRANSITIONAL RULES FOR MOVIES AND VIDEO TAPES.—*

(A) *IN GENERAL.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to—*

(i) *deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and*

(ii) *deductions attributable to producing or distributing property the principal production of which began before September 11, 1975.*

(B) *EXCEPTION FOR CERTAIN AGREEMENTS WHERE PRINCIPAL PHOTOGRAPHY BEGIN BEFORE 1976.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—*

(i) *on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and*

(ii) the production takes place in the United States. Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(3) SPECIAL TRANSITIONAL RULES FOR LEASING ACTIVITIES.—

(A) RULE FOR LEASES OTHER THAN OPERATING LEASES.—In the case of any activity described in section 465(c)(1)(C) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before January 1, 1976, and

(ii) leases where the property was ordered by the lessor or lessee before January 1, 1976.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(C) SPECIAL RULE FOR OPERATING LEASES.—In the case of a lease described in section 46(e)(3)(B) of the Internal Revenue Code of 1954—

(i) subparagraph (A) shall be applied by substituting "May 1, 1976" for "January 1, 1976" each place it appears therein, and

(ii) subparagraph (B) shall be applied by substituting "April 30, 1976" for "December 31, 1975".

SEC. 202A. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

(a) RECAPTURE RULES.—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. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—If oil or gas property is disposed of after December 31, 1975, the lower of—

"(A) the aggregate amount of expenditures after December 31, 1975, which are allocable to such property and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), 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 interest (in the case of any other disposition), over

"(ii) the adjusted basis of such interest,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITION OF PORTION OF PROPERTY.—For purposes of paragraph (1)—

"(A) *In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.*

"(B) *In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.*

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

"(3) OIL OR GAS PROPERTY.—*The term 'oil or gas property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.*

"(4) SPECIAL RULE FOR PARAGRAPH (1)(A).—*In applying paragraph (1)(A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under section 611 with respect to such interest would have been increased if such costs incurred (after December 31, 1975) had been charged to capital account rather than deducted.*

"(b) SPECIAL RULES UNDER REGULATIONS.—*Under regulations prescribed by the Secretary—*

"(1) *rules similar to the rules of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and*

"(2) *in the case of the sale or exchange of stock in an electing small business corporation (as defined in section 1371(b)), rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a)(1)(A) of this section.*"

(b) PARTNERSHIPS.—*Section 751(c) (relating to definition of unrealized receivables) is amended by striking out "and farm land (as defined in section 1252(a))" and inserting in lieu thereof "farm land (as defined in section 1252(a)), and an oil or gas property (described in section 1254)", and by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)".*

(c) TECHNICAL AMENDMENTS.—

(1) *The following provisions are each amended by striking out "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)"—*

(A) *the second sentence of section 170(e)(1);*
(B) *section 301(b)(1)(B)(ii);*
(C) *section 301(d)(2)(B);*
(D) *section 312(c)(3); and*
(E) *section 453(d)(4)(B).*

(2) *Section 341(e)(12) is amended by striking out "and 1252 (a)" and inserting in lieu thereof "1252(a), and 1254(a)".*

(3) *Section 163(d)(3)(A)(iii) is amended by striking out "and 1250" and inserting in lieu thereof "1250, and 1254".*

(d) *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 new item:*

"Sec. 1254. Gain from disposition of interest in oil or gas property."

(e) *EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1975.*

And the Senate agree to the same.

Amendment numbered 6:

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

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

AMENDMENTS TO FARM LOSS RECAPTURE RULES.

(a) *TERMINATION OF ADDITIONS TO EXCESS DEDUCTIONS ACCOUNT.—Paragraph (2) of section 1251(b) (relating to additions to excess deductions account) is amended by adding at the end thereof the following new subparagraph:*

"(E) TERMINATION OF ADDITIONS.—No amount shall be added to the excess deductions account for any taxable year beginning after December 31, 1975."

(b) *CERTAIN REORGANIZATIONS.—*

(1) Subparagraph (A) of section 1251(b)(5) is amended to read as follows:

"(A) CERTAIN CORPORATE TRANSACTIONS.—

"(i) 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.

"(ii) In the case of a transfer which is described in subsection (d)(3), which is in connection with a reorganization described in section 368(a)(1)(D), and which is not described in clause (i), the transferee corporation shall be deemed to have an excess deductions account in an amount equal to the amount in the excess deductions account of the transferor. The transferor's excess deductions account shall not be reduced by reason of the preceding sentence."

(2) Paragraph (3) of section 1251(b) is amended by adding at the end thereof the following: "In the case of a corporation which has made or received a transfer described in clause (ii) of paragraph (5)(A), subtractions from the excess deductions account shall be determined, in such manner as the Secretary shall prescribe, applying this paragraph to the farm net income, and the amounts described in subparagraph (B), of the transferor corporation and the transferee corporation on an aggregate basis.".

(3) The amendments made by this subsection shall apply to transfers occurring after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, 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:

LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES AND CAPITALIZATION OF CERTAIN ORCHARD AND VINEYARD EXPENSES.

(a) PREPAID EXPENSES.—

(1) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by inserting after section 463 the following new section:

"SEC. 464. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES.

"(a) GENERAL RULE.—In the case of any farming syndicate (as defined in subsection (c)), a deduction (otherwise allowable under this chapter) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed in the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, in the taxable year for which allowable as a deduction (determined without regard to this section).

"(b) CERTAIN POULTRY EXPENSES.—In the case of any farming syndicate (as defined in subsection (c))—

"(1) the cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

"(2) the cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

"(c) FARMING SYNDICATE DEFINED.—

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

"(A) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

"(B) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.

"(2) HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.—For purposes of paragraph (1)(B) the following shall be treated as an

interest which is not held by a limited partner or a limited entrepreneur:

"*(A) in the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,*

"*(B) in the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm.*

"*(C) in the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B), and*

"*(D) any interest held by a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual described in subparagraph (A), (B), or (C) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), or (C).*

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm.

"*(d) EXCEPTIONS.—Subsection (a) shall not apply to—*

"*(1) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or*

"*(2) any amount required to be charged to capital account under section 278.*

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

"*(1) FARMING.—The term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.*

"*(2) LIMITED ENTREPRENEUR.—The term 'limited entrepreneur' means a person who—*

"*(A) has an interest in an enterprise other than a partnership, and*

"*(B) does not actively participate in the management of such enterprise.*"

(2) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by inserting after the item relating to section 463 the following new item:

"*SEC. 464. Limitations on deductions in case of farming syndicates.*".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph

(B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of a farming syndicate in existence on December 31, 1975, and for which there was no change of membership throughout its taxable year beginning in 1976, the amendments made this subsection shall apply to taxable years beginning after December 31, 1976.

(b) ORCHARD AND VINEYARD EXPENSES.—

(1) IN GENERAL.—Section 278 (relating to capital expenditures incurred in planting and developing citrus and almond groves) is amended by striking out subsection (b) and by inserting in lieu thereof the following:

"(b) FARMING SYNDICATES.—Except as provided in subsection (c), in the case of any farming syndicate (as defined in section 464(c)) engaged in planting, cultivating, maintaining, or developing a grove, orchard, or vineyard in which fruit or nuts are grown, any amount—

"(1) which would be allowable as a deduction but for the provisions of this subsection,

"(2) which is attributable to the planting, cultivation, maintenance, or development of such grove, orchard, or vineyard, and

"(3) which is incurred in a taxable year before the first taxable year in which such grove, orchard, or vineyard bears a crop or yield in commercial quantities,

shall be charged to capital account.

"(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to amounts allowable as deductions (without regard to this section) attributable to a grove, orchard, or vineyard which was replanted after having been lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty.".

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 278 is amended to read as follows:

"SEC. 278. CAPITAL EXPENDITURES INCURRED IN PLANTING AND DEVELOPING CITRUS AND ALMOND GROVES; CERTAIN CAPITAL EXPENDITURES OF FARMING SYNDICATES.".

(B) Subsection (a) of section 278 (relating to general rule) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1975. The amendments made by this subsection shall not apply in the case of a grove, orchard, or vineyard referred to in the amendment made by subsection (b)(1) which was planted or replanted on or before December 31, 1975. For purposes of the preceding sentence, a tree or vine which, on or before December 31, 1975, was planted at a place other than the grove, orchard, or vineyard of the taxpayer but which, on such date, was owned by the taxpayer (or with respect to which the taxpayer had a binding contract to purchase) shall be treated as planted on December 31, 1975, in the grove, orchard, or vineyard of the taxpayer.

(c) METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.—

(1) GENERAL RULE.—

(A) Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 447. METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

"(a) GENERAL RULE.—Except as otherwise provided by law, the taxable income from farming of—

"(1) a corporation engaged in the trade or business of farming, or

"(2) a partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership,

shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

"(b) PREPRODUCTIVE PERIOD EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'preproductive period expenses' means any amount which is attributable to crops, animals, or any other property having a crop or yield during the preproductive period of such property.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) to taxes and interest, and

"(B) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

"(3) PREPRODUCTIVE PERIOD DEFINED.—For purposes of this subsection, the term 'preproductive period' means—

"(A) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

"(B) in the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

"(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an electing small business corporation (within the meaning of section 1371(b)),

"(2) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

"(3) a corporation the gross receipts of which meet the requirements of subsection (e).

"(d) MEMBERS OF THE SAME FAMILY.—For purposes of subsection (c)(2)—

"(1) the members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal

descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

"(2) stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

"(3) if 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as 'first corporation') is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation.

For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

"(e) CORPORATIONS HAVING GROSS RECEIPTS OF $1,000,000 OR LESS.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one corporation.

"(f) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(1) such change shall be treated as having been made with the consent of the Secretary,

"(2) for purposes of section 481(a)(2), such change shall be treated as a change not initiated by the taxpayer, and

"(3) under regulations prescribed by the Secretary, the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

"(g) CERTAIN ANNUAL ACCRUAL ACCOUNTING METHODS.—

"(1) IN GENERAL.—If—

"(A) for its 10 taxable years ending with its first taxable year beginning after December 31, 1975, a corporation used an annual accrual method of accounting with respect to its trade or business of farming,

"(B) such corporation raises crops which are harvested not less than 12 months after planting, and

"(C) such corporation has used such method of accounting for all taxable years intervening between its first taxable year beginning after December 31, 1975, and the taxable year,

such corporation may continue to employ such method of accounting for the taxable year with respect to its trade or business of farming.

"(2) ANNUAL ACCRUAL METHOD OF ACCOUNTING DEFINED.—For purposes of paragraph (1), the term 'annual accrual method

of accounting' means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive expenses incurred during the taxable year are charged to harvested crops or deducted in determining the taxable income for such years.

"(3) CERTAIN REORGANIZATIONS.—For purposes of this subsection, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation computed its taxable income from such trade or business on an annual accrual method."

(B) The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 447. Method of accounting for corporations engaged in farming."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(3) ELECTION TO CHANGE FROM STATIC VALUE METHOD TO ACCRUAL METHOD OF ACCOUNTING.—

(A) IN GENERAL.—If—

(i) a corporation has computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 taxable years ending with its first taxable year beginning after December 31, 1975,

(ii) such corporation raises crops which are harvested not less than 12 months after planting, and

(iii) such corporation elects, within one year after the date of the enactment of this Act and in such manner as the Secretary of the Treasury or his delegate prescribes, to change to the annual accrual method of accounting (within the meaning of section 447(g)(2) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1976,

such change shall be treated as having been made with the consent of the Secretary of the Treasury, and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of the Internal Revenue Code of 1954 to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(B) COORDINATION WITH SECTION 447 OF THE CODE.—A corporation which elects under subparagraph (A) to change to the annual accrual method of accounting shall, for purposes of section 447(g) of the Internal Revenue Code of 1954, be deemed to be a corporation which has computed its taxable income on an annual accrual method of accounting for its 10 taxable years ending with its first taxable year beginning after December 31, 1975.

(C) CERTAIN CORPORATE REORGANIZATIONS.—For purposes of this paragraph, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its taxable income from such trade or business on such accrual and static value method.

And the Senate agree to the same.

Amendment numbered 8:

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

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

TREATMENT OF PREPAID INTEREST.

(a) GENERAL RULE.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection:

"(g) PREPAID INTEREST.—

"(1) IN GENERAL.—If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Secretary, is properly allocable to any period—

"(A) with respect to which the interest represents a charge for the use or forbearance of money, and

"(B) which is after the close of the taxable year in which paid,

shall be charged to capital account and shall be treated as paid in the period to which so allocable.

"(2) EXCEPTION.—This subsection shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer to the extent that, under regulations prescribed by the Secretary, such payment of points is an established business practice in the area in which such indebtedness is incurred, and the amount of such payment does not exceed the amount generally charged in such area."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts paid after December 31, 1975, in taxable years ending after such date.

(2) CERTAIN AMOUNTS PAID BEFORE 1977.—The amendment made by subsection (a) shall not apply to amounts paid before January 1, 1977, pursuant to a binding contract or written loan commitment which existed on September 16, 1975 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer.

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with the following amendments:

Strike out the matter proposed to be stricken by the Senate amendment and on page 60, after line 12, of the House bill insert the following:

SEC. 206. LIMITATION ON INTEREST DEDUCTION.

(a) IN GENERAL.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(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) $10,000 ($5,000, 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 the amount (if any) by which the deductions allowable under this section (determined without regard to this subsection) and sections 162, 164(a)(1) or (2), or 212 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the $10,000 amount specified in subparagraph (A) shall be zero.

"(2) CARRYOVER OF DISALLOWED INVESTMENT INTEREST.—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.";

(2) by adding at the end of paragraph (3)(A) the following new sentence: "If the taxpayer has investment interest for the taxable year to which this subsection (as in effect before the Tax Reform Act of 1976) applies, the amount of the net investment income taken into account under this subsection shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction the numerator of which is the excess of the investment interest for the taxable year over the investment interest to which such prior provision applies, and the denominator of which is the investment interest for the taxable year.";

(3) by striking out "limitations in paragraphs (1) and (2)(A)" in paragraph (3)(E) and inserting in lieu thereof "limitation in paragraph (1)";

(4) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(5) by adding at the end of paragraph (5) (as so redesignated) the following:

For taxable years beginning after December 31, 1975, this paragraph shall be applied on an allocation basis rather than a specific item basis."; and

(6) by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE WHERE TAXPAYER OWNS 50 PERCENT OR MORE OF ENTERPRISE.—

"(A) GENERAL RULE.—*In the case of any 50 percent owned corporation or partnership, the $10,000 figure specified in paragraph (1) shall be increased by the lesser of—*

"(i) *$15,000, or*

"(ii) *the interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection with the acquisition of the interest in such corporation or partnership.*

In the case of a separate return by a married individual, $7,500 shall be substituted for the $15,000 figure in clause (1).

"(B) OWNERSHIP REQUIREMENTS.—*This paragraph shall apply with respect to indebtedness only if the taxpayer, his spouse, and his children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be.*"

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—*Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.*

(2) INDEBTEDNESS INCURRED BEFORE SEPTEMBER 11, 1975.—*In the case of indebtedness attributable to a specific item of property which—*

(A) *is for a specified term, and*

(B) *was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer,*

the amendments made by this section shall not apply, but section 163(d) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in section 163(d)(3)(A) of such Code) for any taxable year as is not taken into account under section 163(d) of such Code, as amended by this Act, by reason of the last sentence of section 163(d)(3)(A) of such Code, shall be taken into account for purposes of applying such section as in effect before the date of enactment of this Act with respect to interest on indebtedness referred to in the preceding sentence.

And the Senate agree to the same.

Amendment numbered 10:

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

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

AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY.

(a) IN GENERAL.—*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. 280. CERTAIN EXPENDITURES INCURRED IN PRODUCTION OF FILMS, BOOKS, RECORDS, OR SIMILAR PROPERTY.

(a) GENERAL RULE.—Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) and except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this chapter shall be allowed as deductions only in accordance with the provisions of subsection (b).

"(b) PRORATION OF PRODUCTION COST OVER INCOME PERIOD.—Amounts referred to in subsection (a) are deductible only for those taxable years ending during the period during which the taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period.

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

"(1) FILM.—The term 'film' means any motion picture film or video tape.

"(2) SOUND RECORDING.—The term 'sound recording' means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied."

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 280. Certain expenditures incurred in production of films, books, records, or similar property."

(c) EFFECTIVE DATE.—The amendment made by this section applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 12:

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

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

BASIS LIMITATION FOR AND RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.

(a) BASIS LIMITATIONS—

(1) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules applicable to gain or loss on disposition of property) is amended by redesignating section 1056 as section 1057, and by inserting after section 1055 the following new section:

"SEC. 1056. BASIS LIMITATION FOR PLAYER CONTRACTS TRANSFERRED IN CONNECTION WITH THE SALE OF A FRANCHISE.

"(a) GENERAL RULE.—If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

"(1) the adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

"(2) the gain (if any) recognized by the transferor on the transfer contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of section 337 (a), shall be treated as recognized to the extent recognized by the transferor's shareholders.

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

"(1) to an exchange described in section 1031 (relating to exchange of property held for productive use or investment), and

"(2) to property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of section 1014(a)).

"(c) TRANSFEROR REQUIRED TO FURNISH CERTAIN INFORMATION.— Under regulations prescribed by the Secretary, the transfer shall, at the times and in the manner provided in such regulations, furnish to the Secretary and to the transferee the following information:

"(1) the amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subsection (a),

"(2) the amount which the transferor believes to be the gain referred to in paragraph (2) of subsection (a), and

"(3) any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

"(d) PRESUMPTION AS TO AMOUNT ALLOCABLE TO PLAYER CONTRACTS.—In the case of any sale or exchange described in subsection (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Secretary that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration of contracts for the services of athletes is not a proper allocation."

(2) CLERICAL AMENDMENT.—The tables of sections for such part VI is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1056. Basis limitation for player contracts transferred in connection with the sale of a franchise.
"Sec. 1057. Cross references."

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to sales or exchanges of franchises after December 31, 1975, in taxable years ending after such date.

(b) RECAPTURE.—

(1) IN GENERAL.—Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR PLAYER CONTRACTS.—

"(A) IN GENERAL.—For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the greater of—

"(i) the previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

"(ii) the previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

"(B) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—For purposes of subparagraph (A)(i), the term 'previously unrecaptured depreciation' means the excess (if any) of—

"(i) the sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses with respect to such player contracts acquired at the time of such acquisition, over

"(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior disposition of such player contracts acquired upon acquisition of the franchise.

"(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means—

"(i) the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer, over

"(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior disposition of such player contracts acquired upon acquisition of the franchise.

"(D) PLAYER CONTRACT.—For purposes of this paragraph, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167."

(2) EFFECTIVE DATE.—The amendment made by this subsection applies to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 13:

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

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

CERTAIN PARTNERSHIP PROVISIONS.

(a) DOLLAR LIMITATION WITH RESPECT TO ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.—Subsection (d) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.—In the case of a partnership, the dollar limitation contained in the first sentence of subsection (b) shall apply with respect to the partnership and with respect to each partner."

(b) CLARIFICATION OF TREATMENT OF PARTNERSHIP SYNDICATION FEES, ETC.—

(1) IN GENERAL.—Part I of subchapter K of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new section:

"SEC. 709. TREATMENT OF ORGANIZATION AND SYNDICATION FEES.

"(a) GENERAL RULE.—Except as provided in subsection (b), no deduction shall be allowed under this chapter to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership.

"(b) AMORTIZATION OF ORGANIZATION FEES.—

"(1) DEDUCTION.—Amounts paid or incurred to organize a partnership may, at the election of the partnership, (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in section 165.

"(2) ORGANIZATIONAL EXPENSES DEFINED.—The organizational expenses to which paragraph (1) applies, are expenditures which—

"(A) are incident to the creation of the partnership;

"(B) are chargeable to capital account; and

"(C) are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life."

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following:

"Sec. 709. Treatment of organization and syndication fees."

(3) DETERMINATION OF AMOUNTS CHARGEABLE TO CAPITAL ACCOUNT.—Section 707(c) (relating to guaranteed payments) is amended by striking out "and section 162(a)" and inserting in lieu thereof "and, subject to section 263, for purposes of section 162(a)".

(c) ITEMS MUST BE ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 706(c)(2) (relating to disposition of less than entire interest) is amended by striking out "or with respect to a partner whose interest is reduced" and inserting in lieu thereof "or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner's interest, gift, or otherwise)".

(2) CERTAIN PROVISIONS OF SUBCHAPTER K MAY NOT BE OVERRIDDEN BY PARTNERSHIP AGREEMENT.—Subsection (a) of section 704 (relating to effect of partnership agreement) is amended by striking out "except as otherwise provided in this section" and inserting in lieu thereof "except as otherwise provided in this chapter".

(3) CROSS REFERENCES.—

(A) Section 704 is amended by adding at the end thereof the following:

"(f) CROSS REFERENCE.—

"For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see section 706(c)(2)."

(B) Section 761 (relating to terms defined) is amended by adding at the end thereof the following:

"(e) CROSS REFERENCE—

"For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see sections 704(b) and 706(c)(2)."

(d) DETERMINATION OF PARTNER'S DISTRIBUTIVE SHARES.—Subsection (b) of section 704 (relating to distributive share determined by income or loss ratio) is amended to read as follows:

"(b) DETERMINATION OF DISTRIBUTIVE SHARE.—A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

"(1) the partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or

"(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect."

(e) TREATMENT OF PARTNERSHIP LIABILITIES WITH RESPECT TO WHICH THE PARTNER IS NOT PERSONALLY LIABLE.—Section 704(d) (relating to limitation on allowance of losses) is amended by adding at the end thereof the following new sentences:

"For purposes of this subsection, the adjusted basis of any partner's interest in the partnership shall not include any portion of any partnership liability with respect to which the partner has no personal liability. The preceding sentence shall not apply with respect to any activity to which section 465 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to any partnership the principal activity of which is investing in real property (other than mineral property)."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply in the case

of partnership taxable years beginning after December 31, 1975.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall apply in the case of partnership taxable years beginning after December 31, 1976.

(3) SECTION 709(b) OF THE CODE.—Section 709(b) of the Internal Revenue Code of 1954 (as added by the amendment made by subsection (b)(1) of this section) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 15:

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

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

MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX.

(a) IN GENERAL.—Subsection (a) of section 56 (relating to minimum tax for tax preferences) is amended to read as follows:

"(a) GENERAL RULE.—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 15 percent of the amount by which the sum of the items of tax preference exceeds the greater of—

"(1) $10,000, or

"(2) the regular tax deduction for the taxable year (as determined under subsection (c))."

(b) CONFORMING CHANGES.—

(1) Section 56(b) (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is amended to read as follows:

"(c) REGULAR TAX DEDUCTION DEFINED.—For the purposes of this section, the term 'regular tax deduction' means an amount equal to one-half of (or in the case of a corporation, an amount equal to) 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 72(m)(5)(B), 402(e), 408(f), 531, and 541), reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment credit),

"(4) section 40 (relating to expenses of work incentive program),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to general tax credit),

"(7) section 44 (relating to purchase of new principal residence), and

"(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment)."

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (b))."

(B) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) INTANGIBLE DRILLING COSTS.—The excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs.

Paragraph (1), (3), and (11) shall not apply to a corporation."

(C) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease) is amended to read as follows:

"(3) ACCELERATED DEPRECIATION ON LEASED PERSONAL PROPERTY.—With respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is subject to a lease, the amount by which—

"(A) the deduction allowable for the taxable year for depreciation or amortization, exceeds

"(B) the 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.

For purposes of subparagraph (B), useful life shall be determined as if section 167(m)(1) (relating to asset depreciation range) did not include the last sentence thereof."

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—

Section 57(b) is amended to read as follows:

"(b) EXCESS ITEMIZED DEDUCTIONS.—

"(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(A) deductions allowable in arriving at adjusted gross income,

"(B) the standard deduction provided by section 141,

"(C) the deduction for personal exemptions provided by section 151,

"(D) the deduction for medical, dental, etc., expenses provided by section 213, and

"(E) the deduction for casualty losses described in section 165(c)(3),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

"(2) SPECIAL RULE FOR TRUSTS AND ESTATES.—In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

"(A) under section 642(c) (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

"(B) under section 642(d), 642(e), 642(f), 651(a), 661(a), or 691; or

"(C) for costs paid or incurred in connection with the administration of the trust or estate;

shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at an adjusted gross income.

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (11) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(11)."

(4) SPECIAL RULES FOR TIMBER.—

(A) PREFERENCE REDUCTION FOR TIMBER.—Section 57(a)(9) is amended by adding at the end thereof the following new subparagraph:

"(C) PREFERENCE REDUCTION FOR TIMBER.—In the case of a corporation, the amount of the tax preference under subparagraph (B) shall be reduced (but not below zero) by the sum of—

"(i) one-third of the corporation's timber preference income (as defined in subsection (e)), plus

"(ii) $20,000,

but in no event shall this reduction exceed the amount of timber preference income."

(B) REGULAR TAX DEDUCTION ADJUSTMENTS FOR TIMBER.—Section 56 is amended by adding at the end thereof the follow new subsections:

"(*d*) *Regular Tax Deduction Adjustment for Timber.*—*In the case of a corporation, the regular tax deduction (as determined under subsection (c)) shall be reduced by an amount equal to the lesser of—*

"(*1*) *one-third of the amount determined under subsection (c) without regard to this subsection, or*

"(*2*) *the preference reduction for timber determined under section 57(a)(9)(C).*

"(*e*) *Tax Carryover for Timber.*—

"(*1*) *In general.*—*In the case of a corporation, if for any taxable year, including a taxable year beginning before January 1, 1976—*

"(*A*) *the taxes imposed by this chapter (computed without regard to this part and without regard to the tax imposed by section 531) which, under regulations prescribed by the Secretary, are attributable to income from timber, reduced by the sum of the credits allowable under—*

"(*i*) *section 33 (relating to foreign tax credit),*

"(*ii*) *section 38 (relating to investment credit), and*

"(*iii*) *section 40 (relating to expenses of work incentive programs), exceed*

"(*B*) *the items of tax preference (as determined under section 57),*

then the excess of the taxes described in subparagraph (A) over the items of tax preference shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which such excess may be carried.

"(*2*) *Limitation.*—*The amount of any carryover under paragraph (1) which may be deducted in a taxable year shall be limited to—*

"(*A*) *the excess of—*

"(*i*) *the amount of timber preference income for the taxable year (as defined in section 57(e)), over*

"(*ii*) *the amount determined under section 57(a)(9)(C) for the taxable year,*

"(*B*) *reduced by the excess of—*

"(*i*) *the regular tax deduction for the taxable year (as determined under subsection (c) without regard to this subsection), over*

"(*ii*) *the amount determined under subsection (d) for the taxable year.*"

(*C*) *Timber preference income defined.*—*Section 57 is amended by adding at the end thereof the following new subsection:*

"(*e*) *Timber Preference Income Defined.*—*For purposes of this part, the term 'timber preference income' means the sum of—*

"(*1*) *the gains referred to in section 631(a) and section 631(b),*

"(*2*) *long-term capital gains on timber, and*

"(*3*) *gains on the sale of timber included in paragraph 1231(b)(2),*

multiplied by the fraction determined in paragraph 57(a)(9)(B)."

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 56 shall be applied by substituting $5,000 for $10,000 each place it appears.",

(2) by striking out "$30,000" each place it appears in subsections (b) and (c)(2) and inserting in lieu thereof "$10,000", and

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

"(h) REGULATIONS TO INCLUDE TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this subtitle for any taxable year."

"(i) CORPORATION DEFINED.—Except as provided in subsection (d)(2), for purposes of this part, the term 'corporation' does not include an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)."

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) SECTION 21 NOT TO APPLY.—For purposes of section 21 of the Internal Revenue Code of 1954, the amendments made by this section shall not be treated as a change in a rate of tax.

(g) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided by paragraph (4), the amendments made by this section shall apply to items of tax preference for taxable years beginning after December 31, 1975.

"(2) TAX CARRYOVER.—Except as provided in paragraph (4) and in section 56(e) of the Internal Revenue Code of 1954, the amount of any tax carryover under section 56(c) of such Code from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

(3) SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation which is not an electing small business corporation or a personal holding company the tax imposed by section 56 of such Code for taxable years beginning in 1976, is an amount equal to the sum of—

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of the enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of a taxpayer which is a financial institution to which section 585 or 593 of the Internal Revenue Code of 1954 applies, the amendments made by this section shall apply only to taxable years beginning after December 31, 1977, and paragraph (2) shall be applied by substituting "January 1, 1978" for "January 1, 1976" and by substituting "December 31, 1977" for "December 31, 1975".

And the Senate agree to the same.

Amendment numbered 16:

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

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

SEC. 302. MAXIMUM TAX AMENDMENTS.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

"SEC. 1348. 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.

"(a) GENERAL RULE.—If for any taxable year an individual has personal service 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 highest amount of taxable income on which the rate of tax does not exceed 50 percent,

"(2) 50 percent of the amount by which his personal service taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, 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 personal service taxable income.

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

"(1) PERSONAL SERVICE INCOME.—

"(A) IN GENERAL.—The term 'personal service income' means any income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b) or which is an amount received as a pension or annuity.

"(B) EXCEPTIONS.—The term 'personal service income' does not include any amount—

"(i) to which section 72(m)(5), 402(a)(2), 402(e), 403(a)(2)(A), 408(e)(2), 408(e)(3), 408(e)(4), 408(e)(5), 408(f), or 409(c) applies; or

"(ii) any amount which is includible in gross income under section 409(b) because of the redemption of a bond which was not tendered before the close of the taxable year in which the registered owner attained age 70½.

"(2) PERSONAL SERVICE TAXABLE INCOME.—The personal service 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 personal service net income bears to his adjusted gross income, over

"(B) *the sum of the items of tax preference (as defined in section 57) for the taxable year.*

For purposes of subparagraph (A), the term 'personal service net income' means personal service 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 striking out the item relating to section 1348 and inserting in lieu thereof the following:*

"Sec. 1348. 50-percent maximum rate on personal service income."

(c) CONFORMING AMENDMENTS.—*Section 1304(b)(5) is amended by striking out "earned" and inserting in lieu thereof "personal service".*

(d) EFFECTIVE DATE.—*The amendments made by this section apply to taxable years beginning after December 31, 1976.*

And the Senate agree to the same.

Amendment numbered 17:

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

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

EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

SEC. 401. EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS.

(a) GENERAL TAX CREDIT.—

(1) 1-YEAR EXTENSION OF CREDIT.—*Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".*

(2) TECHNICAL AMENDMENTS.—

(A) *The heading and subsection (a) of section 42 (relating to allowance of taxable income credit) are amended to read as follows:*

"SEC. 42. GENERAL TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—*In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—*

"(1) *2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000; or*

"(2) *$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.*"

(B) *Paragraph (1) of section 42(c) (relating to special rule for married individuals filing separate returns) is amended to read as follows:*

"(1) IN GENERAL.—*Notwithstanding subsection (a), in the case of a married individual who files a separate return for the tax-*

able year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$4,500' for '$9,000'."

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. General tax credit."

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $2,100 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,050 in the case of a married individual filing a separate return.".

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

"(1) $2,800 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,400 in the case of a married individual filing a separate return."

(3) FILING REQUIREMENTS.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 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), is not a surviving spouse (as defined in section 2(a)),

and for the taxable year has a gross income of less than $2,450,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,850, or

"(iii) 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 $3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) 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 amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(c) EARNED INCOME CREDIT.—

(1) EXTENSION OF CREDIT.—

(A) Section 209(b) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1978".

(B) Subsections (a) and (b) of section 43 (relating to earned income credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000."

(2) DEFINITION OF ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 43(c)(1) (relating to definition of eligible individual) is amended to read as follows:

"(A) maintains a household (within the meaning of section 44A(f)(1)) in the United States which is the principal place of abode of that individual and—

"(i) a child of that individual if such child meets the requirements of section 151(e)(1)(B) (relating to additional exemptions for dependents), or

"(ii) a child of that individual who is disabled (within the meaning of section 72(m)(7)) and with respect to whom that individual is entitled to claim a deduction under section 151; and".

(d) WITHHOLDING AMENDMENTS.—

(1) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with

tables prescribed by the Secretary. With respect to wages paid prior to January 1, 1978, the tables so prescribed shall be the same as the tables prescribed under this section which were in effect on January 1, 1976. With respect to wages paid after December 31, 1977, the Secretary shall prescribe new tables which shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made to subsections (b) and (c) of section 141 by the Tax Reform Act of 1976. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b) (1)."

(2) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph was in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

(3) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,400 ($2,400 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

(e) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1977. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1976. The amendments made by subsection (d) shall apply to wages paid after September 14, 1976.

SEC. 402. REFUNDS OF EARNED INCOME CREDIT DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) Subsection (d) of section 2 of the Revenue Adjustment Act of 1975 is amended by striking out "which begins prior to July 1, 1976,".

(b) Subsection (g) of section 2 of such Act is amended to read as follows:

"(g) EFFECTIVE DATES.—The amendments made by this section (other than by subsection (d)) apply to taxable years ending after December 31, 1975, and before January 1, 1978. Subsection (d) applies to taxable years ending after December 31, 1975."

And the Senate agree to the same.

Amendment numbered 18:

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

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

TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

SEC. 501. REVISION OF TAX TABLES FOR INDIVIDUALS.

(a) IN GENERAL.—Section 3 (relating to optional tax tables for individuals) is amended to read as follows:

"SEC. 3. TAX TABLES FOR INDIVIDUALS HAVING TAXABLE INCOME OF LESS THAN $20,000.

"(a) GENERAL RULE.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual whose taxable income for such year does not exceed $20,000, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

"(b) TAX TREATED AS IMPOSED BY SECTION 1.—For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1."

(b) CONFORMING AMENDMENTS.—

(1) Section 4 (relating to rules for optional tax) is hereby repealed.

(2) Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended—

(A) by striking out "PAYING OPTIONAL TAX OR" in the heading; and

(B) by striking out "elects to pay the optional tax imposed by section 3, or if he" in such section.

(3) Subsection (a) of section 144 (relating to election of standard deduction) is amended to read as follows:

"(a) METHOD OF ELECTION.—The standard deduction shall be allowed if the taxpayer so elects in his return, and the Secretary shall prescribe the manner of signifying such election in the return.".

(4) Subsection (c) of section 144 is amended—

(A) by striking out paragraph (2);

(B) by inserting "or" at the end of paragraph (1); and

(C) by redesignating paragraph (3) as paragraph (2).

(5) Subsection (d) of section 144 is hereby repealed.

(6) Section 1211(b)(3) (relating to computation of taxable income for purposes of limitation on capital losses) is amended by striking out the last sentence thereof.

(7) Section 1304(b) (relating to certain provisions inapplicable for income averaging) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(8) Section 6014(a) (relating to tax not computed by taxpayer) is amended—

(A) by striking out in the first sentence "entitled to elect to pay the tax imposed by section 3" and inserting in lieu thereof "entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))"; and

(B) by striking out in the second sentence "pay the tax imposed by section 3" and inserting in lieu thereof "take the standard deduction".

(9) Paragraph (5) of section 6014(b) is amended to read as follows:

"(5) to cases where the taxpayer does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers)."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the items relating to sections 3 and 4 and inserting in lieu thereof:

"Sec. 3. Tax tables for individuals having taxable income of less than $20,000."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out "paying optional tax or" in the item relating to section 36.

SEC. 502. DEDUCTION FOR ALIMONY ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.

(a) IN GENERAL.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) ALIMONY.—The deduction allowed by section 215."

(b) CONFORMING AMENDMENT.—The first sentence of subparagraph (A) of section 3402(m)(2) (relating to withholding allowances based on itemized deductions) is amended by striking out "under section 62" and inserting in lieu thereof "under section 62 (other than paragraph (13) thereof)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 503. REVISION OF RETIREMENT INCOME CREDIT.

(a) IN GENERAL.—Section 37 (relating to retirement income) is amended to read as follows:

"SEC. 37. CREDIT FOR THE ELDERLY.

"(a) GENERAL RULE.—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) SECTION 37 AMOUNT.—For purposes of subsection (a)—

"(1) IN GENERAL.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

"(2) INITIAL AMOUNT.—The initial amount is—

"(A) $2,500 in the case of a single individual,

"(B) $2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

"(C) $3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

"(D) $1,875 in the case of a married individual filing a separate return.

"(3) REDUCTION.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

"(A) under title II of the Social Security Act,

"(B) under the Railroad Retirement Act of 1935 or 1937, or

"(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

"(c) LIMITATIONS.—

"(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(A) $7,500 in the case of a single individual,

"(B) $10,000 in the case of a joint return, or

"(C) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

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

"(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(2) MARITAL STATUS.—Marital status shall be determined under section 143.

"(3) JOINT RETURN.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) ELECTION OF PRIOR LAW WITH RESPECT TO PUBLIC RETIREMENT SYSTEM INCOME.—

"(1) IN GENERAL.—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

"(2) *ONE SPOUSE AGE 65 OR OVER.—In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.*

"(3) *COMPUTATION OF CREDIT.—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).*

"(4) *RETIREMENT INCOME.—For purposes of this subsection, the term 'retirement income' means—*

"(A) *in the case of an individual who has attained age 65 before the close of the taxable year, income from—*

"(i) *pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which are exempt from tax under section 501(a)),*

"(ii) *interest,*

"(iii) *rents,*

"(iv) *dividends,*

"(v) *bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and*

"(vi) *an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b), or*

"(B) *in the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system (as defined in paragraph (8)(A)),*

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(5) *LIMITATION ON RETIREMENT INCOME.—For purposes of this subsection, the amount of retirement income shall not exceed $2,500 less—*

"(A) *the reduction provided by subsection (b)(3), and*

"(B) *in the case of any individual who has not attained age 72 before the close of the taxable year—*

"(i) *if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8)(B)) in excess of $900 received by such individual in the taxable year, or*

"(ii) *if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of $1,200 but not in excess of $1,700, and the amount of earned income so received in excess of $1,700.*

"(6) LIMITATION IN CASE OF MARRIED INDIVIDUALS.—*In the case of a joint return, paragraph (5) shall be applied by substituting '$3,750' for '$2,500'. The $3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than $2,500 may be assigned to either spouse.*

"(7) LIMITATION IN THE CASE OF SEPARATE RETURNS.—*In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting '$1,875' for '$2,500'.*

"(8) DEFINITIONS.—*For purposes of this subsection—*

"(A) PUBLIC RETIREMENT SYSTEM DEFINED.—*The term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.*

"(B) EARNED INCOME.—*The term 'earned income' has the meaning assigned to such term by section 911(b), except that such term does not include any amount received as a pension or annuity.*

"(f) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—*No credit shall be allowed under this section to any nonresident alien.*"

(b) TECHNICAL AMENDMENTS.—

(1) *Section 904 (relating to limitation on foreign tax credit), as amended by this Act, is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:*

"(g) COORDINATION WITH CREDIT FOR THE ELDERLY.—*In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly).*"

(2) *Section 6014(a) (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.*

(3) *Section 6014(b) is amended—*

(A) *by striking out paragraph (4),*

(B) *by redesignating paragraph (5) (as amended by section 501(b)(9)) as paragraph (4), and*

(C) *by inserting "or" at the end of paragraph (3).*

(4) *Sections 41(b)(2), 42(b)(2), 46(a)(3)(C), and 50A(a)(3)(C) are each amended by striking out "retirement income" and inserting in lieu thereof "credit for the elderly".*

(5) *The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:*

"Sec. 37. Credit for the elderly."

SEC. 504. CREDIT FOR CHILD CARE EXPENSES.

(a) Allowances of Credit for Child Care Expenses.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44A. EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to credit for the elderly),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to general tax credit), and

"(7) section 44 (relating to purchase of new principal residence).

"(c) DEFINITIONS OF QUALIFYING INDIVIDUAL AND EMPLOYMENT-RELATED EXPENSES.—For purposes of this section—

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

"(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

"(2) EMPLOYMENT-RELATED EXPENSES.—

"(A) IN GENERAL.—The term 'employment-related expenses' means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

"(i) expenses for household services, and

"(ii) expenses for the care of a qualifying individual.

"(B) EXCEPTION.—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

"(*d*) DOLLAR LIMIT ON AMOUNT CREDITABLE.—*The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection* (*a*) *shall not exceed—*

"(*1*) *$2,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or*

"(*2*) *$4,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.*

"(*e*) EARNED INCOME LIMITATION.—

"(*1*) IN GENERAL.—*Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection* (*a*) *shall not exceed—*

"(*A*) *in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or*

"(*B*) *in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.*

"(*2*) SPECIAL RULE FOR SPOUSE WHO IS A STUDENT OR INCAPABLE OF CARING FOR HIMSELF.—*In the case of a spouse who is a student or a qualifying individual described in subsection* (*c*) (*1*) (*C*), *for purposes of paragraph* (*1*), *such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—*

"(*A*) *$166 if subsection* (*d*) (*1*) *applies for the taxable year, or*

"(*B*) *$333 if subsection* (*d*) (*2*) *applies for the taxable year.*

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

"(*f*) SPECIAL RULES.— *For purposes of this section—*

"(*1*) MAINTAINING HOUSEHOLD.—*An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual* (*or, if such individual is married during such period, is furnished by such individual and his spouse*).

"(*2*) MARRIED COUPLES MUST FILE JOINT RETURN.—*If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection* (*a*) *only if the taxpayer and his spouse file a joint return for the taxable year.*

"(*3*) MARITAL STATUS.—*An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.*

"(*4*) CERTAIN MARRIED INDIVIDUALS LIVING APART.—*If—*

"(*A*) *an individual who is married and who files a separate return—*

"(*i*) *maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and*

"(*ii*) *furnishes over half of the cost of maintaining such household during the taxable year, and*

"(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

"(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

"(A) a child (as defined in section 151(e)(3)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

"(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

"(6) PAYMENTS TO RELATED INDIVIDUALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of section 3121(b).

"(7) STUDENT.—The term 'student' means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

"(8) EDUCATIONAL ORGANIZATION.—The term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii).

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

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44A. Expenses for household and dependent care services necessary for gainful employment."

(b) REPEAL OF DEDUCTION FOR CHILD CARE EXPENSES.—

(1) IN GENERAL.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 214.

(c) TECHNICAL AMENDMENTS.—

(1) Section 213(f) (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "a deduction under section 214" and inserting in lieu thereof "a credit under section 44A".

(2) Section 6096(b) (defining income tax liability) is amended by striking out "and 44" and inserting in lieu thereof ", 44, and 44A".

(3) Paragraph (4) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) may take into account tax credits to which employees are entitled."

SEC. 505. CHANGES IN EXCLUSIONS FOR SICK PAY AND CERTAIN MILITARY, ETC., DISABILITY PENSIONS.

(a) SICK PAY.—Subsection (d) of section 105 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

"(d) CERTAIN DISABILITY PAYMENTS.—

"(1) IN GENERAL.—In the case of a taxpayer who—

"(A) has not attained age 65 before the close of the taxable year, and

"(B) retired on disability and, when he retired, was permanently and totally disabled,

gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

"(2) LIMITATION.—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of $100.

"(3) PHASEOUT OVER $15,000.—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds $15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over $15,000.

"(4) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subsection, marital status shall be determined under section 143.

"(5) PERMANENT AND TOTAL DISABILITY DEFINED.—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful ac-

tivity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

"(6) JOINT RETURN.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013.

"(7) COORDINATION WITH SECTION 72.—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years."

(b) CERTAIN MILITARY, ETC., DISABILITY PENSIONS.—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TERMINATION OF APPLICATION OF SUBSECTION (a)(4) IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a) (4) shall not apply in the case of any individual who is not described in paragraph (2).

"(2) INDIVIDUALS TO WHOM SUBSECTION (a)(4) CONTINUES TO APPLY.—An individual is described in this paragraph if—

"(A) on or before September 24, 1975, he was entitled to receive any amount described in subsection (a)(4),

"(B) on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a)(4) or under a binding written commitment to become such a member,

"(C) he receives an amount described in subsection (a) (4) by reason of a combat-related injury, or

"(D) on application therefor, he would be entitled to receive disability compensation from the Veterans' Administration.

"(3) SPECIAL RULES FOR COMBAT-RELATED INJURIES.—For purposes of this subsection, the term 'combat-related injury' means personal injury or sickness—

"(A) which is incurred—

"(i) as a direct result of armed conflict,

"(ii) while engaged in extrahazardous service, or

"(iii) under conditions simulating war; or

"(B) which is caused by an instrumentality of war.

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subsection (a) (4) shall be the amounts which he receives by reason of a combat-related injury.

"(4) AMOUNT EXCLUDED TO BE NOT LESS THAN VETERANS' DISABILITY COMPENSATION.—*In the case of any individual described in paragraph (2), the amounts excludable under subsection (a) (4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefor, would be entitled to receive as disability compensation from the Veterans' Administration.*"

(c) SPECIAL RULE FOR EXISTING PERMANENT AND TOTAL DISABILITY CASES.—*In the case of any individual who—*

(1) retired before January 1, 1976,

(2) either retired on disability or was entitled to retire on disability, and

(3) on January 1, 1976, was permanently and totally disabled (within the meaning of section 105(d)(5) of the Internal Revenue Code of 1954),

such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section).

(d) SPECIAL RULE FOR COORDINATION WITH SECTION 72.—*In the case of an individual who—*

(1) retired on disability before January 1, 1976, and

(2) on December 31, 1975, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1954,

for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years.

SEC. 506. MOVING EXPENSES.

(a) DECREASE IN MILEAGE TEST FROM 50 MILES TO 35 MILES.—*Paragraph (1) of section 217(c) (relating to conditions for allowance of deduction for moving expenses) is amended by striking out "50 miles" each place it appears and inserting in lieu thereof "35 miles".*

(b) INCREASE IN DOLLAR AMOUNTS.—

(1) CERTAIN EXPENSES OF TRAVELING, MEALS, AND LODGING AFTER OBTAINING EMPLOYMENT.—The first sentence of subparagraph (A) of section 217(b)(3) (relating to dollar limits) is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(2) AGGREGATE DOLLAR LIMIT.—The second sentence of subparagraph (A) of section 217(b)(3) is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(3) SEPARATE RETURNS.—The second sentence of subparagraph (B) of section 217(b)(3) (relating to dollar limits in the case of husband and wife) is amended to read as follows: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$750' for '$1,500', and by substituting '$1,500' for '$3,000'."

(c) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—*Section 217 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:*

"(g) *RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station—*

"*(1) the limitations under subsection (c) shall not apply;*

"*(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be required by the Secretary of Defense or the Secretary of Transportation, as the case may be; and*

"*(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the moving expenses of his spouse and dependents—*

"*(A) as if his spouse commenced work as an employee at a new principal place of work at such location;*

"*(B) for purposes of subsection (b)(3), as if such place of work was within the same general location as the member's new principal place of work, and*

"*(C) without regard to the limitations under subsection (c).*"

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1976.

SEC. 507. TAX REVISION STUDY.

(a) STUDY.—The Joint Committee on Taxation shall make a full and complete study and investigation with respect to simplifying and indexing the tax laws of the United States. Such study and investigation shall include a consideration of whether the rates of tax can be reduced by repealing any or all tax deductions, exemptions, or credits.

(b) REPORT.—Before July 1, 1977, the Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations, including recommendations for legislation.

SEC. 508. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this title shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 19:

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

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

BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

SEC. 601. DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES, ETC.

(a) NONDEDUCTIBILITY OF CERTAIN EXPENSES.—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. 280A. DISALLOWANCE OF CERTAIN EXPENSES IN CONNECTION WITH BUSINESS USE OF HOME, RENTAL OF VACATION HOMES, ETC.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an electing small business corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

"(b) EXCEPTION FOR INTEREST, TAXES, CASUALTY LOSSES, ETC.—Subsection (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

"(c) EXCEPTIONS FOR CERTAIN BUSINESS OR RENTAL USE; LIMITATION ON DEDUCTIONS FOR SUCH USE.—

"(1) CERTAIN BUSINESS USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—

"(A) as the taxpayer's principal place of business,

"(B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

"(C) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

"(2) CERTAIN STORAGE USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

"(3) RENTAL USE.—Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subsection (e)).

"(4) LIMITATION ON DEDUCTIONS.—In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

"(A) the gross income derived from such use for the taxable year, over

"(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

"(d) USE AS RESIDENCE.—

"(1) IN GENERAL.—For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

"(A) 14 days, or

"(B) 10 percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

"(2) PERSONAL USE OF UNIT.—For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day if, for any part of such day, the unit is used—

"(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person;

"(B) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

"(C) by any individual (other than an employee with respect to whose use section 119 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

The Secretary shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

"(e) EXPENSES ATTRIBUTABLE TO RENTAL.—

"(1) IN GENERAL.—In any case where a taxpayer who is an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this chapter with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

"(2) EXCEPTION FOR DEDUCTIONS OTHERWISE ALLOWABLE.—This subsection shall not apply with respect to deductions which would be allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was rented.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) DWELLING UNIT DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'dwelling unit' includes a house, apartment, condominium, mobile home, boat, or similar

property, and all structures or other property appurtenant to such dwelling unit.

"(B) EXCEPTION.—The term 'dwelling unit' does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

"(2) PERSONAL USE BY ELECTING SMALL BUSINESS CORPORATION.—In the case of an electing small business corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting 'any shareholder of the electing small business corporation' for 'the taxpayer' each place it appears.

"(3) COORDINATION WITH SECTION 183.—If subsection (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

"(A) section 183 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

"(B) such year shall be taken into account as a taxable year for purposes of applying subsection (d) of section 183 (relating to 5-year presumption).

"(g) SPECIAL RULE FOR CERTAIN RENTAL USE.—Notwithstanding any other provision of this section or section 183, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

"(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

"(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 280A. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 602. DEDUCTIONS FOR ATTENDING FOREIGN CONVENTIONS.

(a) NONDEDUCTIBILITY OF CERTAIN EXPENSES.—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) FOREIGN CONVENTIONS.—

"(1) DEDUCTIONS WITH RESPECT TO NOT MORE THAN 2 FOREIGN CONVENTIONS PER YEAR ALLOWED.—If any individual attends more than 2 foreign conventions during his taxable year—

"(A) he shall select not more than 2 of such conventions to be taken into account for purposes of this subsection, and

"(B) no deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under subparagraph (A)) shall be allowed under section 162 or 212.

"(2) DEDUCTIBLE TRANSPORTATION COST CANNOT EXCEED COST OF COACH OR ECONOMY AIR FARE.—In the case of any foreign conven-

tion, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under section 162 or 212 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting 'first class' for 'coach or economy'.

"(3) TRANSPORTATION COSTS DEDUCTIBLE IN FULL ONLY IF AT LEAST ONE-HALF OF THE DAYS ARE DEVOTED TO BUSINESS RELATED ACTIVITIES.—In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of paragraph (2)) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

"(4) DEDUCTIONS FOR SUBSISTENCE EXPENSES NOT ALLOWED UNLESS THE INDIVIDUAL ATTENDS TWO-THIRDS OF BUSINESS ACTIVITIES.—In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

"(A) a deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least 6 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

"(B) a deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least 3 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding subparagraphs (A) and (B), a deduction for subsistence expenses of all of the days or half days, as the case may be, of the convention shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least 6 hours of scheduled business activities and each such half day consists of at least 3 hours of scheduled business activities.

"(5) DEDUCTIBLE SUBSISTENCE COSTS CANNOT EXCEED PER DIEM RATE FOR UNITED STATES CIVIL SERVANTS.—In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under section 5702(a) of title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FOREIGN CONVENTION DEFINED.—The term 'foreign convention' means any convention, seminar, or similar meet-

ing held outside the United States, its possessions, and the Trust Territory of the Pacific.

"(*B*) *SUBSISTENCE EXPENSES DEFINED.—The term 'subsistence expenses' means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.*

"(*C*) *ALLOCATION OF EXPENSES IN CERTAIN CASES.—In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.*

"(*D*) *SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—This subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual.*

"(*7*) *REPORTING REQUIREMENTS.—No deduction shall be allowed under section 162 or 212 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—*

"(*A*) *a written statement signed by the individual attending the convention which includes—*

"(*i*) *information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,*

"(*ii*) *a program of the scheduled business activities of the convention, and*

"(*iii*) *such other information as may be required in regulations prescribed by the Secretary; and*

"(*B*) *a written statement signed by an officer of the organization or group sponsoring the convention which includes—*

"(*i*) *a schedule of the business activities of each day of the convention,*

"(*ii*) *the number of hours which the individual attending the convention attended such scheduled business activities, and*

"(*iii*) *such other information as may be required in regulations prescribed by the Secretary.*

(*b*) *EFFECTIVE DATE.—The amendments made by this section shall apply to conventions beginning after December 31, 1976.*

SEC. 603. CHANGE IN TAX TREATMENT OF QUALIFIED STOCK OPTIONS.

(a) IN GENERAL.—Section 422(b) (defining qualified stock option) is amended by inserting "and before May 21, 1976 (or, if it meets the requirements of subsection (c)(7), granted to an individual after May 20, 1976)," after "section 424(c)(3)(A)),".

(b) CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.—Section 422(c) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.—For purposes of subsection (b), an option granted after May 20, 1976, meets the requirements of this paragraph—

"(A) if such option is granted to an individual pursuant to a written plan adopted before May 21, 1976, or

"(B) if such option is a new option substituted, in a transaction to which section 425(a) applies, for an old option which was granted before May 21, 1976, or which met the requirements of subparagraph (A).

An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981."

(c) RESTRICTED STOCK OPTIONS MUST BE EXERCISED BEFORE MAY 21, 1981.—Section 424(c)(3) (relating to special rules for restricted stock options) is amended by adding at the end thereof the following new sentence: "An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1975.

SEC. 604. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) IN GENERAL.—For purposes of section 162(a) of the Internal Revenue Code of 1954, in the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this section, for any period during such a taxable year in which he was a State legislator—

(1) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

(b) LEGISLATIVE DAYS.—For purposes of subsection (a), a legislative day during any taxable year for any individual shall be any day during such year on which (1) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or (2) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(c) LIMITATION.—*The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this section shall not exceed the amount claimed for such purpose under a return (or amended return) filed before May 21, 1976.*

(d) MAKING AND EFFECT OF ELECTION.—*An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.*

SEC. 605. DEDUCTION FOR GUARANTEES OF BUSINESS BAD DEBTS TO GUARANTORS NOT INVOLVED IN BUSINESS.

(a) REPEAL OF SECTION 166(f).—*Section 166 (relating to bad debts) is amended by striking out subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.*

(b) CONFORMING AMENDMENT.—*Paragraph (1) of section 81 (relating to certain increases in suspense accounts) is amended by striking out "section 166(g)" in the text and inserting in lieu thereof "section 166(f)".*

(c) EFFECTIVE DATE.—*The amendments made by this section shall apply to guarantees made after December 31, 1975, in taxable years beginning after such date.*

And the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, 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:

ACCUMULATION TRUSTS

SEC. 701. ACCUMULATION TRUSTS.

(a) REVISION OF METHOD OF TAXING ACCUMULATION DISTRIBUTION FROM TRUSTS.—

(1) *Section 667 (relating to denial of refund to trusts; authorization of credit to beneficiaries) is amended to read as follows:*

"SEC. 667. TREATMENT OF AMOUNTS DEEMED DISTRIBUTED BY TRUST IN PRECEDING YEARS.

"(a) GENERAL RULE.—*The total of the amounts which are treated under section 666 as having been distributed by a 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, with respect to any tax-exempt interest to which section 103 applies, under section 662(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, and

"(2) a partial tax determined as provided in subsection (b) of this section.

"(b) TAX ON DISTRIBUTION.—

"(1) IN GENERAL.—The partial tax imposed by subsection (a) (2) shall be determined—

"(A) by determining 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,

"(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

"(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

"(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a) (2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under sections 666(b) and (c).

"(2) TREATMENT OF LOSS YEARS.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

"(3) CERTAIN PRECEDING TAXABLE YEARS NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1), if 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.

"(4) EFFECT OF OTHER ACCUMULATION DISTRIBUTIONS.—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

"(5) 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.

"*(c) SPECIAL RULE FOR MULTIPLE TRUSTS.—*

"*(1) IN GENERAL.—If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as 'third trust') is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumulation distribution from such third trust.*

"*(2) ACCUMULATION DISTRIBUTIONS FROM TRUST NOT TAKEN INTO ACCOUNT UNLESS THEY EQUAL OR EXCEED $1,000.—For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds $1,000.*"

(2) Section 666 (relating to accumulation distribution allocated to preceding years) is amended by adding at the end thereof the following new subsection:

"*(e) DENIAL OF REFUND TO TRUSTS AND BENEFICIARIES.—No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section.*"

(3) Section 668 (relating to treatment of amounts deemed distributed in preceding years) is hereby repealed.

(b) INCOME ACCUMULATED BEFORE CHILD ATTAINS AGE OF 21 YEARS NOT TO BE SUBJECT TO THE THROWBACK RULE.—Subsection (b) of section 665 (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: "For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21."

(c) NO ACCUMULATION DISTRIBUTION WHERE DISTRIBUTIONS DO NOT EXCEED ACCOUNTING INCOME.—Section 665(b) (defining accumulation distribution), as amended by subsection (b), is amended by adding at the end thereof the following new sentence: "If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year."

(d) REPEAL OF SPECIAL CAPITAL GAIN THROWBACK.—

(1) Section 669 (relating to treatment of capital gain deemed distributed in preceding years) is hereby repealed.

(2) Paragraph (1) of section 665(e) (defining preceding taxable year) is amended—

(A) by striking out subparagraph (C),

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

(C) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; and".

(3) Section 665 (definitions applicable to subpart D) is amended by striking out subsections (f) and (g).

(e) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"SEC. 644. SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—If—

"(A) a trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than 2 years after the date of the initial transfer of the property in trust by the transferor, and

"(B) the fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includible gain realized on such sale or exchange.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any includible gain realized on the sale or exchange of any property shall be equal to the sum of—

"(A) the excess of—

"(i) the tax which would have been imposed under this chapter for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includible gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

"(ii) the tax actually imposed under this chapter for such taxable year on the transferor, plus

"(B) if such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under section 6621.

"(3) TAXABLE YEAR FOR WHICH TAX IMPOSED.—The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

"(4) TAX TO BE IN ADDITION TO OTHER TAXES.—The tax imposed by this subsection for any taxable year of the trust shall be in

addition to any other tax imposed by this chapter for such taxable year.

"(b) DEFINITION OF INCLUDIBLE GAIN.—For purposes of this section, the term 'includible gain' means the lesser of—

"(1) the gain realized by the trust on the sale or exchange of any property, or

"(2) the excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the basis of such property immediately after such transfer.

"(c) CHARACTER OF INCLUDIBLE GAIN.—For purposes of subsection (a)—

"(1) the character of the includible gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

"(2) the portion of the includible gain subject to the provisions of section 1245 and section 1250 shall be determined in accordance with regulations prescribed by the Secretary.

"(d) SPECIAL RULE FOR SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(e) EXCEPTIONS.—Subsection (a) shall not apply to property—

"(1) acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014), or

"(2) acquired by a pooled income fund (as defined in section 642(c)(5)), or

"(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d)(2) and (3)), or

"(4) if the sale or exchange of the property occurred after the death of the transferor.

"(f) SPECIAL RULE FOR INSTALLMENT SALES.—If the trust elects to report income under section 453 on any sale or exchange to which subsection (a) applies, under regulations prescribed by the Secretary—

"(1) subsection (a) shall be applied as if each installment were a separate sale or exchange of property to which such subsection applies, and

"(2) the term 'includible gain' shall not include any portion of an installment received by the trust after the death of the transferor."

(2) EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.—Section 641 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.—

"(1) GENERAL RULE.—For purposes of this part, the taxable income of a trust does not include the amount of any includible gain as defined in section 644(b) reduced by any deductions properly allocable thereto.

"(2) CROSS REFERENCE.—

"For the taxation of any includible gain, see section 644.".

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of subsection (a)(2), and subparagraph (B) of subsection (b)(2), of section 1302 (definition of average-able income; related definitions) are each amended by striking out "668(a)" and inserting in lieu thereof "667(a)".

(2) Section 6401(b) (relating to excessive credits), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "wages)," and inserting in lieu thereof "wages) and", and by striking out "and 667(b) (relating to taxes paid by certain trusts)".

(3) Section 6401(b) (relating to excessive credits), as amended by the Tax Reduction Act of 1975, is amended by striking out "lubricating oil)," and inserting in lieu thereof "lubricating oil), and", and by striking out "and section 667(b) (relating to taxes paid by certain trusts)".

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the items relating to sections 667, 668, and 669 and inserting in lieu thereof the following:

"Sec. 667. Treatment of amounts deemed distributed by trust in preceding years."

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 644. Special rule for gain on property transferred to trust at less than fair market value.".

(h) EFFECTIVE DATES.—The amendments made by subsections (a), (b), (c), (d), and (f) of this section shall apply to distributions made in taxable years beginning after December 31, 1975. The amendments made by subsection (e) of this section shall apply to transfers in trust made after May 21, 1976.

And the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, 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:

CAPITAL FORMATION

SEC. 801. EXTENSION OF $100,000 LIMITATION ON USED PROPERTY FOR 4 YEARS.

Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1981".

SEC. 802. EXTENSION OF 10 PERCENT CREDIT FOR 4 YEARS AND FIRST-IN-FIRST-OUT TREATMENT OF INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

"*(a) GENERAL RULE.—*

"*(1) FIRST-IN-FIRST-OUT RULE.—The amount of the credit allowed by section 38 for the taxable year shall be an amount equal to the sum of—*

"*(A) the investment credit carryovers carried to such taxable year,*

"*(B) the amount of the credit determined under paragraph (2) for such taxable year, plus*

"*(C) the investment credit carrybacks carried to such taxable year.*

"*(2) AMOUNT OF CREDIT FOR CURRENT TAXABLE YEAR.—*

"*(A) 10 PERCENT CREDIT.—Except as otherwise provided in subparagraph (B), in the case of a property described in subparagraph (D), the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).*

"*(B) ADDITIONAL CREDIT.—In the case of a corporation which elects (at such time, in such form, and in such manner as the Secretary prescribes) to have the provisions of this subparagraph apply, the amount of the credit determined under this paragraph shall be an amount equal to—*

"*(i) 11 percent of the qualified investment (as determined under subsections (c) and (d)), plus*

"*(ii) an additional percent (not in excess of one-half percent) of the qualified investment (as determined under such subsections) equal in amount to the amount determined under section 301(e) of the Tax Reduction Act of 1975.*

An election may not be made to have the provisions of this subparagraph apply unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975.

"*(C) 7 PERCENT CREDIT.—In the case of property not described in subparagraph (D), the amount of credit determined under this paragraph for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).*

"*(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—*

"*(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1981,*

"*(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981, and*

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1981.

For purposes of applying clause (ii) of subparagraph (B), the date "December 31, 1976," shall be substituted for the date "January 21, 1975," each place it appears in this subparagraph.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a)) are each amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(2) Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

"(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—

"(1) IN GENERAL.—If the sum of the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A) plus the amount determined under subsection (a)(1)(B) for the taxable year exceeds the amount of the limitation imposed by subsection (a)(3) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), such excess attributable to the amount determined under subsection (a)(1)(B) shall be—

"(A) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) an investment credit carryover to each of the 7 taxable years following the unused credit year,

and, subject to the limitations imposed by paragraphs (2) and (3), shall be taken into account under the provisions of subsection (a)(1) in the manner provided in such subsection. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried and then to each of the other 9 taxable years to the extent, because of the limitations imposed by paragraphs (2) and (3), such unused credit may not be taken into account under subsection (a)(1) for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this paragraph shall be applied—

"(A) by substituting '10 taxable years' for '7 taxable years' in subparagraph (B), and by substituting '13 taxable years' for '10 taxable years', and '12 taxable years' for '9 taxable years' in the preceding sentence, and

"(B) by carrying such an investment credit carryover to a later taxable year (than the taxable year to which it would, but for this subparagraph, be carried) to which it may be carried if, because of the amendments made by section 801(b)

(2) of the Tax Reform Act of 1976, carrying such carryover to the taxable year to which it would, but for this subparagraph, be carried would cause a portion of an unused credit from an unused credit year ending after December 31, 1970 to expire.

"(2) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under subsection (a)(1) for any preceding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of—

"(A) the amounts determined under subparagraphs (A) and (B) of subsection (a)(1) for such taxable year, plus

"(B) the amounts which (by reason of this subsection) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) LIMITATION ON CARRYOVERS.—The amount of the unused credit which may be taken into account under subsection (a)(1)(A) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of the amounts which, by reason of this subsection, are carried to such taxable year and are attributable to taxable years preceding the unused credit year."

(3) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended by striking out "subsection (a)(1)(C)" and inserting in lieu thereof "subsection (a)(2)(C)".

(4) Paragraph (1) of section 46(e) (relating to limitations with respect to certain persons) is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(3)".

(5) The first sentence of section 46 (f)(8) (relating to prohibition of immediate flowthrough of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(6) Subsection (f) of section 48 (relating to estates and trusts) is amended by striking out "section 46(a)(2)" and inserting in lieu thereof "section 46(a)(3)".

(7) Section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "section 46(a)(1)(B)" each place it appears and inserting in lieu thereof "section 46(a)(2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 803. EMPLOYEE STOCK OWNERSHIP PLANS.

(a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Section 46 (f) (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR ADDITIONAL CREDIT.—If the taxpayer makes an election under subparagraph (B) of subsection (a)(2), for a taxable year beginning after December 31, 1975, then, notwithstanding the prior paragraphs of this subsection, no credit shall be allowed by section 38 in excess of the amount which would be allowed without regard to the provisions of subparagraph (B) of subsection (a)(2) if—

"(A) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by rea-

son of any portion of such credit which results from the transfer of employer securities or cash to an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975;

"(B) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan; or

"(C) any portion of the amount of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders."

(b) SPECIAL RULES.—

(1) Paragraph (4) of section 46(f) is amended—

(A) by striking out "paragraphs (1) and (2)" in subparagraph (A) and inserting in lieu thereof "paragraphs (1), (2), and (9)";

(B) by striking out "paragraph (1) or (2)" each place it appears in subparagraph (A) and inserting in lieu thereof "paragraph (1), (2), or (9)"; and

(C) by striking out "paragraph (2)," in subparagraph (B)(ii) and inserting in lieu thereof "paragraph (2) or the election described in paragraph (9),".

(2) Section 401(a) (relating to qualified pension, etc., plans) is amended by adding after paragraph (20) the following new paragraph:

"(21) A trust forming part of an employee stock ownership plan which satisfies the requirements of section 301(d) of the Tax Reduction Act of 1975 shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in subsection (d)(6) or (e)(3) of section 301 of the Tax Reduction Act of 1975."

(3) Section 1504(a) is amended by striking out "dividends." at the end thereof and inserting in lieu thereof "dividends, employer securities within the meaning of section 301(d)(9)(A) of the Tax Reduction Act of 1975, or qualifying employer securities within the meaning of section 4975(e)(8) while such securities are held under an employee stock ownership plan which meets the requirements of section 301(d) of such Act or section 4975(e)(7), respectively."

(4) Section 415(e)(5) is amended by striking out "For purposes of this subsection," and inserting in lieu thereof "For purposes of this section,".

(c) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL CREDIT.—Section 301(d) of the Tax Reduction Act of 1975 is amended—

(1) by adding at the end of paragraph (3) the following sentence: "For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such

participant's compensation within the meaning of section 415 (c) (3) of such Code for such year.",

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

"(A) in the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year, and

"(B) in the case of a taxable year beginning after December 31, 1976—

"(i) to transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46(c) and (d) of such Code) of the employer for the taxable year,

"(ii) except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

"(iii) in the case of an employer whose credit (as determined under section 46(a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

"(I) to effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

"(II) to effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.",

(3) by deleting paragraph (8) and inserting in lieu thereof the following:

"(8)(A) Except as provided in subparagraph (B)(iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

"(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

"(i) the employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

"(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees' trust or plan), or

"(iii) if the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess such portion.

"(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

"(i) the employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

"(ii) notwithstanding the provisions of paragraph (12) the employer may deduct such portion subject to the limitations of section 404 of such Code.",

(4) by striking out "in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954)" in paragraph (9)(A) and inserting in lieu thereof "a member of a controlled group of corporations which includes the employer (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(a)(4) and (e)(3)(C) of such Code)", and

(5) by adding at the end thereof the following new paragraphs:

"(13)(A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first $100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e)(3)) and 5 percent of any amount in excess of the first $100,000 of such amount.

"(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay so much of the amounts paid or incurred by the employer during the taxable year as expenses of administering the plan as does not exceed the smaller of—

"(i) the sum of 10 percent of the first $100,000 and 5 percent of any amount in excess of $100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, or

"(ii) $100,000,

"(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c)(1) of the Employee Retirement Income Security Act of 1974 if—

"(A) the contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code,

"(B) the application for such a determination is filed with the Secretary not later than 90 days after the date on which the claim is made for credit under section 38, and

"(C) the contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401(a) of such Code."

(d) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.—Section 301 of the Tax Reduction Act of 1975 (relating to increase in investment credit) is amended by adding at the end thereof the following new subsections:

"(e) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.—

"(1) GENERAL RULE.—For purposes of clause (ii) of section 46(a)(2)(B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

"(2) ELECTION; BASIC PLAN REQUIREMENTS.—No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

"(3) EMPLOYER CONTRIBUTION.—On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claim that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46(a)(2)(B)(ii) of such Code, to transfer employer securities (as defined in subsection (d)(9)(A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the require-

ments of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

"*(4) REQUIREMENTS RELATING TO MATCHING EMPLOYEE CONTRIBUTIONS.—*

"*(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—*

"*(i) each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,*

"*(ii) the contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and*

"*(iii) the contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46(a)(2)(B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d)(9)(A)).*

"*(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.*

"*(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employer contributions as a condition of participation in the plan.*

"*(D) Employee contributions under the plan must meet the requirements of section 401(a)(4) (relating to contributions).*

"*(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amounts so allocated shall be deemed to be allocated under subsection (d)(3).*

"*(f) RECAPTURE.—*

"*(1) GENERAL RULE.—Amounts transferred to a plan under subsection (d)(6) or (e)(3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—*

"*(A) amounts so transferred with respect to a taxable year are segregated from other plan assets, and*

"(B) *separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.*

"(2) *Coordination with other law.—Notwithstanding any other law or rule of law, an amount withdrawn by the employer will neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—*

"(A) *amounts described in paragraph (1), or*

"(B) *employer amounts transferred under subsection (e) (3) to the plan which are not matched by matching employee contributions or which are in excess of the limitations of section 415 of such Code,*

nor will the withdrawal of any such amount be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974."

(e) CLERICAL AMENDMENT.—

(1) *The heading of section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "11-PERCENT" and inserting in lieu thereof "ADDITIONAL".*

(2) *Section 301(d) of the Tax Reduction Act of 1975 is amended by—*

(A) *striking out "A corporation" in paragraph (1) and inserting in lieu thereof "Except as expressly provided in subsections (e) and (f), a corporation";*

(B) *inserting "or subsection (e) (3)" in paragraph (7) (A) immediately after "(6)";*

(C) *striking out "this subsection" in paragraph (10) and substituting in lieu thereof "this subsection and subsections (e) and (f)"; and*

(D) *striking out "this subsection" each time it appears in paragraph (11) and substituting in lieu thereof "this subsection or subsection (e) or (f)".*

(f) LIMITATIONS ON CONTRIBUTIONS.—

(1) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—*Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:*

"(6) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLAN.—

"(A) *In the case of an employee stock ownership plan (as defined in subparagraph (B)), under which no more than one-third of the employer contributions for a year are allocated to the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B) (iv)), or employees described in subparagraph (B) (iii), the amount described in subsection (c) (1) (A) (as adjusted for such year pursuant to subsection (d) (1)) for a year with respect to any participant shall be equal to the sum of (i) the amount described in subsection (c) (1) (A) (as so adjusted) determined without regard to this paragraph and (ii) the lesser of the amount*

determined under clause (i) or the amount of employer securities contributed to the employee stock ownership plan.

"*(B) For purposes of this paragraph—*

"*(i) the term 'employee stock ownership plan' means a plan which meets the requirements of section 4975(e)(7) or section 301(d) of the Tax Reduction Act of 1975,*

"*(ii) the term 'employer securities' means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7), qualifying employer securities within the meaning of section 4975(e)(8), but only if they are described in section 301(d)(9)(A) of the Tax Reduction Act of 1975, or, in the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975, employer securities within the meaning of section 301(d)(9)(A) of such Act,*

"*(iii) an employee described in this clause is any participant whose compensation for a year exceeds an amount equal to twice the amount described in subsection (c)(1)(A) for such year (as adjusted for such year pursuant to subsection (d)(1)), determined without regard to subparagraph (A) of this paragraph, and*

"*(iv) an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.*".

(2) CONFORMING AMENDMENT.—Paragraph (3)(B) of section 415(e) (relating to defined contribution plan fraction) is amended by inserting "determined without regard to paragraph (6) of such subsection)" after "employer".

(g) WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX.—If—

(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1954 (as it existed before the date of enactment of this Act) apply for such taxable year, and

(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flowthrough of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.

(h) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply for taxable years beginning after December 31, 1974.

(2) EXCEPTIONS.—

(A) Section 301(e) of the Tax Reduction Act of 1975, as added by subsection (d), shall apply for taxable years beginning after December 31, 1976.

(B) The amendments made by subsection (a) and (b)(1) shall apply for taxable years beginning after December 31, 1975.

(C) The amendments made by subsections (b)(4) and (f) shall apply for years beginning after December 31, 1975.

SEC. 804. INVESTMENT CREDIT IN THE CASE OF MOVIE AND TELEVISION FILMS.

(a) SPECIAL RULES FOR MOVIE AND TELEVISION FILMS.—Section 48 (relating to definitions and special rules for purposes of the investment credit) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) MOVIE AND TELEVISION FILMS.—

"(1) ENTITLEMENT TO CREDIT.—

"(A) IN GENERAL.—A credit shall be allowable under section 38 to a taxpayer with respect to any motion picture film or video tape—

"(i) only if such film or tape is new section 38 property (determined without regard to useful life) which is a qualified film, and

"(ii) only to the extent that the taxpayer has an ownership interest in such film or tape.

"(B) QUALIFIED FILM DEFINED.—For purposes of this subsection, the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment or for educational purposes. Such term does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature.

"(C) OWNERSHIP INTEREST.—For purposes of this subsection, a person's 'ownership interest' in a qualified film shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such film.

"(2) APPLICABLE PERCENTAGE TO BE 66⅔.—Except as provided in paragraph (3), the applicable percentage under section 46(c)(2) for any qualified film shall be 66⅔ percent.

"(3) ELECTION OF 90-PERCENT RULE.—

"(A) IN GENERAL.—If the taxpayer makes an election under this paragraph, the applicable percentage under section 46(c)(2) shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 would equal or exceed 90 percent of the basis of the film.

"(B) MAKING OF ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply for the taxable year for which it is made and for all subsequent taxable years and may be revoked only with the consent of the Secretary.

"(C) WHO MAY ELECT.—If for any prior taxable year paragraph (2) of this subsection applied to the taxpayer or any related business entity, or if for the taxable year paragraph (2) applies to any related business entity, an election under this paragraph may be made by the taxpayer only with the consent of the Secretary.

"(D) RELATED BUSINESS ENTITY.—Two or more corporations, partnerships, trusts, estates, proprietorships, or other entities shall be treated as related business entities if 50 percent or more of the beneficial interest in each of such entities is owned by the same or related persons (taking into account only persons who own at least 10 percent of such beneficial interest). For purposes of this subparagraph, a person is a related person to another person if—

"(i) such persons are component members of a controlled group of corporations (within the meaning of section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)), or

"(ii) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for these purposes a family of an individual includes only his spouse and minor children.

For purposes of this subparagraph, the term 'beneficial interest' means voting stock in the case of a corporation, profits interest or capital interest in the case of a partnership, or beneficial interest in the case of a trust or estate.

"(4) PREDOMINANT USE TEST; QUALIFIED INVESTMENT.—In the case of any qualified film—

"(A) section 48(a)(2) shall not apply, and

"(B) in determining qualified investment under section 46(c)(1), there shall be issued (in lieu of the basis of the property) an amount equal to the qualified United States production costs (as defined in paragraph (5)).

"(5) QUALIFIED UNITED STATES PRODUCTION COSTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified United States production costs' means with respect to any film—

"(i) direct production costs allocable to the United States, plus

"(ii) if 80 percent or more of the direct production costs are allocable to the United States, all other production costs other than direct production costs allocable outside the United States.

"(B) PRODUCTION COSTS.—For purposes of this subsection, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation (other than participations described in clause (vi)) for services performed by actors, production personnel, directors, and producers,

"(iii) costs of 'first' distribution of prints,

"(iv) the cost of the screen rights and other material being filmed,

"(v) 'residuals' payable under contracts with labor organizations, and

"(vi) participations payable as compensation to actors, production personnel, directors, and producers.

Participations in all qualified films placed in service by a taxpayer during a taxable year shall be taken into account under clause (vi) only to the extent of the lesser of 25 percent of each such participation or 12½ percent of the aggregate qualified United States production costs (other than costs described in clauses (v) and (vi) of this subparagraph) for such films, but taking into account for both the 25 percent limit and 12½ percent limit no more than $1,000,000 in participations for any one individual with respect to any one film. For purposes of this subparagraph (other than clauses (v) and (vi) and the preceding sentence), costs shall be taken into account only if they are capitalized.

"(C) DIRECT PRODUCTION COSTS.—For purposes of this paragraph, the term 'direct production costs' does not include items referred to in clause (i), (iv), (v), or (vi) of subparagraph (B). The term also does not include advertising and promotional costs and such other costs as may be provided in regulations prescribed by the Secretary.

"(D) ALLOCATION OF DIRECT PRODUCTION COSTS.—For purposes of this paragraph—

"(i) Compensation for services performed shall be allocated to the country in which the services are performed, except that payments to United States persons for services performed outside the United States shall be allocated to the United States. For purposes of the preceding sentence, payments to an electing small business corporation (within the meaning of section 1371) or a partnership shall be considered payments to a United States person only to the extent that such payments are included in the gross income of a United States person other than an electing small business corporation or partnership.

"(ii) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

"(iii) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (ii).

"(6) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

(b) *OVERESTIMATION OF USEFUL LIFE AND DISPOSITIONS WHERE 90-PERCENT RULE APPLIES.—Section 47 (a) (relating to certain dispositions, etc., of section 38 property) is amended by adding after paragraph (6) the following new paragraph:*

"(7) *MOTION PICTURE FILMS AND VIDEO TAPES.—*

"(A) *DISPOSITION WHERE DEPRECIATION EXCEEDS 90 PERCENT OF BASIS OR COST.—A qualified film (within the meaning of section 48(k)(1)(B)) which has an applicable percentage determined under section 48(k)(3) shall cease to be section 38 property with respect to the taxpayer at the close of the first day on which the aggregate amount allowable as a deduction under section 167 equals or exceeds 90 percent of the basis or cost of such film (adjusted for any partial dispositions).*

"(B) *OTHER DISPOSITIONS.—In the case of a disposition of the exclusive right to display a qualified film which has an applicable percentage determined under section 48(k)(3) in one or more mediums of publication or exhibition in one or more specifically defined geographical areas over the remaining initial period of commercial exploitation of the film or tape in such geographical areas, the taxpayer shall be considered to have disposed of all or part of such film or tape and shall recompute the credit earned on all of his basis or cost or on that part of the basis or cost properly allocable to that part of the film or tape disposed of. In the case of an affiliated group of corporations, a transfer within the affiliated group shall not be treated as a disposition until there is a transfer outside the group. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given to such term by section 1504 (determined as if section 1504(b) did not include paragraph (3) thereof). For purposes of this paragraph, section1504(a) shall be applied by substituting '05 percent' for '80 percent' each place it appears.".*

(c) *ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS—.*

(1) *GENERAL RULE FOR DETERMINING USEFUL LIFE, PREDOMINANT FOREIGN USE, ETC.—In the case of a qualified film (within the meaning of section 48(k)(1)(B) of the Internal Revenue Code of 1954) placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e)(2) applies—*

(A) *the applicable percentage under section 46(c)(2) of such Code shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property (adjusted for any partial dispositions),*

(B) *for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code),*

(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

(D) section 47(a)(7) of such Code shall apply.

(2) ELECTION OF 40-PERCENT METHOD.—

(A) IN GENERAL.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

(B) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1954 shall apply to all qualified films described in subparagraph (A) with the following modifications:

(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code, there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

(ii) paragraph (2) shall be applied by substituting "100 percent" for "66⅔ percent", and

(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

(C) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(D) THE TAXPAYER MUST CONSENT TO JOIN IN CERTAIN PROCEEDINGS.—No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1954 with respect to any film covered by such election.

(3) ELECTION TO HAVE CREDIT DETERMINED IN ACCORDANCE WITH PREVIOUS LITIGATION.—

(A) IN GENERAL.—A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made.

(B) WHO MAY ELECT.—A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1975, with respect to any film.

(C) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph—

(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

(ii) subsection 48(k) of the Internal Revenue Code of 1954 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e)(2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning befor January 1, 1975, and as to which an election under subsection (e)(2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

(D) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act, by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable.

(d) ENTITLEMENT TO CREDIT.—Paragraph (1) of section 48(k) of the Internal Revenue Code of 1954 (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1974.

(2) ELECTION MAY ALSO APPLY TO PROPERTY DESCRIBED IN SECTION 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1954 and which is placed in service in taxable years beginning before January 1, 1975.

SEC. 805. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(g) 50 PERCENT CREDIT IN THE CASE OF CERTAIN VESSELS.—

"(1) IN GENERAL.—In the case of a qualified withdrawal out of the untaxed portion of a capital gain account or out of ordinary income account in a capital construction fund established under

section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), for—

"(A) the acquisition, construction, or reconstruction of a qualified vessel, or

"(B) the acquisition, construction, or reconstruction of barges or containers which are part of the complement of a qualified vessel and to which subsection (f)(1)(B) of such section 607 applies,

for purposes of section 38 there shall be deemed to have been made (at the time of such withdrawal) a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)), whichever is appropriate, with respect to property which is section 38 property.

"(2) AMOUNT OF CREDIT.—For purposes of paragraph (1), the amount of the qualified investment shall be 50 percent of the applicable percentage of the qualified withdrawal referred to in paragraph (1), or the amount of the qualified progress expenditures shall be 50 percent of such withdrawal, as the case may be. For purposes of determining the amount of the credit allowable by reason of this subsection for any taxable year, the limitation of subsection (a)(3) shall be determined without regard to subsection (d)(1)(A) of such section 607.

"(3) COORDINATION WITH SECTION 38.—The amount of the credit allowable by reason of this subsection with respect to any property shall be the minimum amount allowable under section 38 with respect to such property. If, without regard to this subsection, a greater amount is allowable under section 38 with respect to such property, then such greater amount shall apply and this subsection shall not apply.

"(5) DEFINITIONS.—Any term used in section 607 of the Merchant Marine Act, 1970, shall have the same meaning when used in this subsection.

"(6) NO INFERENCE.—Nothing in this subsection shall be construed to infer that any property described in this subsection is or is not section 38 property, and any determination of such issue shall be made as if this section had not been enacted."

"(4) COORDINATION WITH SECTION 47.—Section 47 shall be applied—

"(A) to any property to which this subsection applies, and

"(B) to the payment (out of the untaxed portion of a capital gain account or out of the ordinary income account of a capital construction fund established under section 607 of the Merchant Marine Act, 1936) of the principal of any indebtedness incurred in connection with property with respect to which a credit was allowed under section 38.

For purposes of section 47, any payment described in subparagraph (B) of the preceding sentence shall be treated as a disposition occurring less than 3 years after the property was placed in service; but, in the case of a credit allowable without regard to this subsection, the aggregate amount which may be recaptured by reason of this sentence shall not exceed 50 percent of such credit.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in subparagraph (B),

the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975, in the case of property placed in service after such date.

(2) SECTION 46(g)(4).—Section 46(g)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning after December 31, 1975.

SEC. 806. ADDITIONAL NET OPERATING LOSS CARRYOVER YEARS; LIMITATIONS ON NET OPERATING LOSS CARRYOVERS.

(a) IN GENERAL.—Section 172(b)(1)(B) is amended by adding at the end thereof the following new sentence: "Except as provided in subparagraphs (C), (D), (E) and (F), a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss."

(b) REGULATED TRANSPORTATION CORPORATIONS.—

(1) IN GENERAL.—Section 172(b)(1)(C) is amended by adding at the end thereof the following new sentence: "For any taxable year ending after December 31, 1975, the preceding sentence shall be applied by substituting '9 taxable years' for '7 taxable years'."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 172(g) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

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

"(C) in the case of a net operating loss carryover from a loss year ending after December 31, 1975, subparagraphs (A) and (B) shall be applied by substituting '8th taxable year' for '6th taxable year' and '9th taxable year' for '7th taxable year.'"

(c) ELECTION TO FOREGO CARRYBACK PERIOD.—Section 172(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(E) Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1975. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(d) INSURANCE COMPANIES.—

(1) LIFE INSURANCE COMPANIES.—

(A) IN GENERAL.—Paragraph (1) of section 812(b) is amended by adding at the end thereof the following new sentence:

"In the case of an operations loss for any taxable year ending after December 31, 1975, this paragraph shall be applied by substituting '7 taxable years' for '5 taxable years'."

(B) *Election to forego carryback periods.—Section 812 (b) is amended by adding at the end thereof the following new paragraph:*

"(3) *Election for operations loss carrybacks.—In the case of a loss from operations for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year.*"

(2) *Mutual Insurance Companies.—*

(A) *In general.—Section 825(d) is amended to read as follows:*

"(d) *Years to Which Carried.—*

"(1) *In general.—The unused loss for any taxable year shall be—*

"(A) *an unused loss carryback to each of the 3 taxable years preceding the loss year, and*

"(B) *an unused loss carryover to each of the 5 taxable years following the loss year.*

In the case of an unused loss for a taxable year ending after December 31, 1975, such unused loss shall be an unused loss carryover to each of the 7 taxable years following the loss year.

"(2) *Election for unused loss carrybacks.—In the case of an unused loss for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the unused loss for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year.*"

(e) *Amendment of Section 382.—Section 382 (relating to special limitations on net operating loss carryovers) is hereby amended to read as follows:*

"*SEC. 382. SPECIAL LIMITATIONS ON NET OPERATING LOSS CARRYOVERS.*

"(a) *Certain Acquisitions of Stock of a Corporation.—*

"(1) *In general.—If—*

"(A) *on the last day of a taxable year of a corporation,*

"(B) *any one or more of the persons described in paragraph (4)(B) own, directly or indirectly, a percentage of the total fair market value of the participating stock or of all the stock of the corporation which exceeds by more than 60 percentage points the percentage of such stock owned by such person or persons at—*

"(i) *the beginning of such taxable year, or*

"(ii) *the beginning of the first or second preceding taxable year, and*

"(C) *such increase in percentage points is attributable to—*

"(i) *a purchase by such person or persons of such stock, or of the stock of another corporation owning stock in*

such corporation, or of an interest in a partnership or trust owning stock in such corporation,

"*(ii) an acquisition (by contribution, merger, or consolidation) of an interest in a partnership owning stock in such corporation, or an acquisition (by contribution, merger, or consolidation) by a partnership of such stock,*

"*(iii) an exchange to which section 351 (relating to transfer to corporation controlled by transferor) applies, or an acquisition by a corporation of such stock in an exchange in which section 351 applies to the transferor,*

"*(iv) a contribution to the capital of such corporation,*

"*(v) a decrease in the amount of such stock outstanding or in the amount of stock outstanding of another corporation owning stock in such corporation (except a decrease resulting from a redemption to pay death taxes to which section 303 applies),*

"*(vi) a liquidation of the interest of a partner in a partnership owning stock in such corporation, or*

"*(vii) any combination of the transactions described in clauses (i) through (vi),*

then the net operating loss carryover, if any, from such taxable year and the net operating loss carryovers, if any, from prior taxable years to such taxable year and subsequent taxable years of such corporation shall be reduced by the percentage determined under paragraph (2),

"*(2) REDUCTION OF NET OPERATING LOSS.—The reduction applicable under paragraph (1) shall be the sum of the percentages determined by multiplying—*

"*(A) by three and one-half the increase in percentage points (including fractions thereof) in excess of 60 and up to and including 80, and*

"*(B) by one and one-half the increase in percentage points (including fractions thereof) in excess of 80.*

The reduction under this paragraph shall be determined by reference to the increase in percentage points of the total fair market value of the participating stock or of all the stock, whichever increase is greater.

"*(3) MINIMUM OWNERSHIP RULE.—Notwithstanding the provisions of paragraph (1), a net operating loss carryover from a taxable year shall not be reduced under this subsection if, at all times during the last half of such taxable year, any of the persons described in paragraph (4)(B) (determined on the last day of the taxable year referred to in paragraph (1)(A)) owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the corporation. For purposes of the preceding sentence, persons owning stock of a corporation on the last day of its first taxable year shall be considered to have owned such stock at all times during the last half of such first taxable year.*

"*(4) OPERATING RULES.—For purposes of this subsection—*

"*(A) DEFINITION OF PURCHASE.—The term 'purchase' means an acquisition of stock the basis of which is determined by reference to its cost to the holder thereof.*

"(B) DESCRIPTION OF PERSON OR PERSONS.—The person or persons referred to in paragraph (1)(B) shall be the 15 persons (or such lesser number as there are persons owning the stock on the last day of the taxable year) who own the greatest percentage of the total fair market value of all the stock on the last day of that year, except that if any other person owns the same percentage of such stock at such time as is owned by one of the 15 persons, that other person shall also be included. If any of the persons are so related that the stock owned by one is attributed to the other under the rules specified in subparagraph (C), such persons shall be considered as only one person solely for the purpose of selecting the 15 persons (more or less) who own the greatest percentage of the total fair market value of all the stock.

"(C) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein.

"(D) SHORT TAXABLE YEARS.—If one of the taxable years of the corporation referred to in paragraph (1)(B) is a short taxable year, then such paragraph and paragraph (6) shall be applied by substituting 'first, second, or third' for 'first or second' each time such phrase occurs.

"(5) EXCEPTIONS.—This subsection shall not apply to a purchase or other acquisition of stock (or of an interest in a partnership or trust owning stock in the corporation)—

"(A) from a person whose ownership of stock would be attributed to the holder by application of paragraph (4)(C) to the extent that such stock would be so attributed;

"(B) if (and to the extent) the basis thereof is determined under section 1014 or 1023 (relating to property acquired from a decedent), or section 1015(a) or (b) (relating to property acquired by gift or transfers in trust);

"(C) by a security holder or creditor in exchange for the relinquishment or extinguishment in whole or part of a claim against the corporation, unless the claim was acquired for the purpose of acquiring such stock;

"(D) by one or more persons who were full-time employees of the corporation at all times during the period of 36 months ending on the last day of the taxable year of the corporation (or at all times during the period of the corporation's existence, if shorter);

"(E) by a trust described in section 401(a) which is exempt from tax under section 501(a) and which benefits exclusively the employees (or their beneficiaries) of the corporation, including a member of a controlled group of corporations (within the meaning of section 1563(a) determined without regard to section 1563(a)(4) and (e)(3)(C)) which includes such corporation;

"(F) by an employee stock ownership plan meeting the requirements of section 301(d) of the Tax Reduction Act of 1975; or

"(G) in a recapitalization described in section 368(a)(1)(E).

"(6) SUCCESSIVE APPLICATIONS OF SUBSECTION.—If—

"(A) a net operating loss carryover is reduced under this subsection at the end of a taxable year of a corporation, and

"(B) any person described in paragraph (4)(B) who owns stock of the corporation on the last day of such taxable year does not own, on the last day of the first or second succeeding taxable year of the corporation, a greater percentage of the total fair market value of the participating stock or of all the stock of the corporation than such person owned on the last day of such taxable year,

then, for purposes of applying this subsection as of the end of the first or second succeeding taxable year (as the case may be), stock owned by such person at the end of such succeeding taxable year shall be considered owned by such person at the beginning of the first or second preceding taxable year. Other rules relating to the manner and extent of successive applications of this section in the case of increases in ownership and transfers of stock by the persons described in paragraph (4)(B) shall be prescribed by regulations issued by the Secretary.

"(b) REORGANIZATIONS.—

"(1) IN GENERAL.—If one corporation acquires the stock or assets of another corporation in a reorganization described in section 368(a)(1)(A), (B), (C), (D) (but only if the requirements of section 354(b)(1) are met), or (F), and if—

"(A) the acquiring or acquired corporation has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, and

"(B) the shareholders (immediately before the reorganization) of such corporation (the 'loss corporation'), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 40 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation,

then the net operating loss carryover (if any) of the loss corporation from the taxable year which includes the date of the acquisition, and the net operating loss carryovers (if any) of the loss corporation from prior taxable years to such taxable year and subsequent taxable years, shall be reduced by the percentage determined under paragraph (2).

"(2) REDUCTION OF NET OPERATING LOSS CARRYOVER.—

"(A) OWNERSHIP OF 20 PERCENT OR MORE.—If such shareholders own less than 40 percent, but not less than 20 percent, of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the percentage equal to the number of percentage points (including fractions thereof) less than 40 percent, multiplied by three and one-half.

"(B) OWNERSHIP OF LESS THAN 20 PERCENT.—If such shareholders own less than 20 percent of the total fair market value of the participating stock or of all the stock of the acquiring

corporation, the reduction applicable under paragraph (1) shall be the sum of—

"(i) the percentage that would be determined under subparagraph (A) if the shareholders owned 20 percent of such stock, plus

"(ii) the percentage equal to the number of percentage points (including fractions thereof) of such stock less than 20 percent, multiplied by one and one-half.

The reduction under this paragraph shall be determined by reference to the lesser of the percentage of the total fair market value of the participating stock or of all the stock of the acquiring corporation owned by such shareholders.

"(3) LOSSES OF CONTROLLED CORPORATIONS.—For purposes of this subsection—

"(A) HOLDING COMPANIES.—If, immediately before the reorganization, the acquiring or acquired corporation controls a corporation which has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, the acquiring or acquired corporation, as the case may be, shall be treated as the loss corporation (whether or not such corporation is a loss corporation). The reduction, if any, so determined under paragraph (2) shall be applied to the losses of such controlled corporation.

"(B) TRIANGULAR REORGANIZATIONS.—Except as otherwise provided in paragraph (5), if the shareholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such shareholders shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the fair market value of the participating stock and of all the stock, respectively, of the controlling corporation owned by such shareholders.

"(4) SPECIAL RULES.—For purposes of applying paragraph (1)(B)—

"(A) CERTAIN RELATED TRANSACTIONS.—If, immediately before the reorganization—

"(i) one or more shareholders of the loss corporation own stock of such corporation which such shareholder acquired during the 36-month period ending on the date of the acquisition in a transaction described in paragraph (1) or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), and

"(ii) such shareholders own more than 50 percent of the total fair market value of the stock of another corporation a party to the reorganization.

or any such shareholder is a corporation controlled by another corporation a party to the reorganization, then such shareholders shall not be treated as shareholders of the loss corporation with respect to such stock.

"(B) CERTAIN PRIOR OWNERSHIP OF LOSS CORPORATION.—If, immediately before the reorganization, the acquiring or acquired corporation owns stock of the loss corporation, then paragraph (1)(B) shall be applied by treating the shareholders of the loss corporation as owning an additional amount of the total fair market value of the participating stock and of all the stock of the acquiring corporation, as a result of owning stock in the loss corporation, equal to the total fair market value of the participating stock and of all the stock of the loss corporation, respectively, owned (immediately before the reorganization) by the acquiring or acquired corporation. This subparagraph shall not apply to stock of the loss corporation owned by the acquiring or acquired corporation if such stock was acquired by such corporation within the 36-month period ending on the date of the reorganization in a transaction described in subsection (a)(1)(C) (unless excepted by subsection (a)(5)); or to a reorganization described in section 368(a)(1)(B) or (C) to the extent the acquired corporation does not distribute the stock received by it to its own shareholders.

"(C) CERTAIN ASSET ACQUISITIONS.—If a loss corporation receives stock of the acquiring corporation in a reorganization described in section 368(a)(1)(C) and does not distribute such stock to its shareholders, paragraph (1)(B) shall be applied by treating the shareholders of the loss corporation as owning (immediately after the reorganization) such undistributed stock in proportion to the fair market value of the stock which such shareholders own in the loss corporation.

"(5) CERTAIN STOCK-FOR-STOCK REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(B) in which the acquired corporation is a loss corporation—

"(A) STOCK WHICH IS EXCHANGED.—Paragraphs (1)(B) and (2) shall be applied by reference to the ownership of stock of the loss corporation (rather than the acquiring corporation) immediately after the reorganization. Shareholders of the loss corporation who exchange stock of the loss corporation shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the loss corporation acquired in the exchange by the acquiring corporation which is equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the acquiring corporation owned (immediately after the reorganization) by such shareholders.

"(B) STOCK WHICH IS NOT EXCHANGED.—Stock of the loss corporation owned by shareholders immediately before the reorganization which was not exchanged in the reorganization shall be taken into account in applying paragraph (1)(B). For purposes of the preceding sentence, the acquiring corporation (or a corporation controlled by the acquiring corporation) shall not be treated as a shareholder of the loss corporation with respect to stock of the loss corporation acquired in a transaction described in paragraph (1), or in

subsection (a)(1)(C) (unless excepted by subsection (a)(5)), during the 36-month period ending on the date of the exchange.

"(C) TRIANGULAR EXCHANGES.—For purposes of applying the rules in this paragraph, if the shareholders of the loss corporation receive stock of a corporation controlling the acquiring corporation, such shareholders shall be treated as owning a percentage of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, which such shareholders own of the controlling corporation immediately after the reorganization.

"(6) EXCEPTIONS.—The limitations in this subsection shall not apply—

"(A) if the same persons own substantially all the stock of the acquiring corporation and of the other corporation in substantially the same proportions; or

"(B) to a net operating loss carryover from a taxable year if the acquiring or acquired corporation owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the loss corporation at all times during the last half of such taxable year.

for purposes of subparagraph (A), if the acquiring or acquired corporation is controlled by another corporation, the shareholders of the controlling corporation shall be considered as also owning the stock owned by the controlling corporation in that proportion which the total fair market value of the stock which each shareholder owns in the controlling corporation bears to the total fair market value of all the stock in the controlling corporation.

"(c) RULES RELATING TO STOCK.—For purposes of this section—

"(1) The term 'stock' means all shares of stock, except stock which—

"(A) is not entitled to vote,

"(B) is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent,

"(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

"(D) is not convertible into another class of stock.

"(2) The term 'participating stock' means stock (including common stock) which represents an interest in the earnings and assets of the issuing corporation which is not limited to a stated amount of money or property or percentage of paid-in capital or par value, or by any similar formula.

"(3) The Secretary shall prescribe regulations under which—

"(A) stock or convertible securities shall be treated as stock or participating stock, or

"(B) stock (however denoted) shall not be treated as stock or participating stock,

by reason of conversion and call rights, rights in earnings and assets, priorities and preferences as to distributions of earnings or assets, and similar factors."

(f) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 368.—Section 368(c) (relating to the definition of control) is amended by striking out "and this part," and inserting in lieu thereof "this part, and part V,".

(2) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on certain carryovers) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED INVESTMENT CREDITS, WORK INCENTIVE PROGRAM CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.

"In the case of a change of ownership of a corporation in the manner described in section 382 (a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212."

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (b), (c), and (d) shall apply to losses incurred in taxable years ending after December 31, 1975.

(2) For purposes of applying sections 382(a) and 383 (as it relates to section 382(a)) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), the amendments made by subsections (e) and (f) shall take effect for taxable years beginning after June 30, 1978, except that the beginning of the taxable years specified in clause (ii) of section 382(a)(1)(B) of such Code, as so amended, shall be considered to be the later of:

(A) the beginning of such taxable years, or

(B) January 1, 1978.

(3) Sections 382(b) and 383 (as it relates to section 382(b) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f)), shall apply (and such sections as in effect prior to such amendment shall not apply) to reorganizations pursuant to a plan of reorganization adopted by one or more of the parties thereto on or after January 1, 1978. For purposes of the preceding sentence, a corporation shall be considered to have adopted a plan of reorganization on the date on which a resolution of the board of directors is passed adopting the plan or recommending its adoption to the shareholders, or on the date on which the shareholders approve the plan of reorganization, whichever is earlier.

SEC. 807. SMALL FISHING VESSEL CONSTRUCTION RESERVES.

In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two net tons—

(1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;

(2) which is owned by a citizen of the United States;

(3) which has a home port in the United States; and

(4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, 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:

SMALL BUSINESS PROVISIONS

SEC. 901. SMALL BUSINESS PROVISIONS.

(a) IN GENERAL.—Subsections (a), (b), (c), and (d) of section 11 (relating to tax imposed on corporations) are amended to read as follows:

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation. The tax shall consist of a normal tax computed under subsection (b) and a surtax computed under subsection (c).

"(b) NORMAL TAX.—The normal tax is equal to—

"(1) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable income, and

"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, the sum of—

"(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(B) 22 percent of so much of the taxable income as exceeds $25,000.

"(c) SURTAX.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is—

"(1) $25,000 in the case of a taxable year ending after December 31, 1977, or

"(2) $50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1978,

except that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in the case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

(b) MUTUAL INSURANCE COMPANIES.—

(1) IN GENERAL.—Section 821(a)(1) (relating to mutual insurance companies) is amended to read as follows:

(1) NORMAL TAX.—A normal tax equal to—

"(A) in the case of a taxable year ending after December 31, 1977, 22 percent of the mutual insurance company taxable income, or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser, or

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978—

"(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds $25,000,

or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser; plus".

(2) SMALL COMPANIES.—Section 821(c)(1)(A) (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) NORMAL TAX.—A normal tax equal to—

"(i) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable investment income, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser, or

"(ii) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, 20 percent of so much of the taxable investment income as does not exceed $25,000, plus 22 percent of so much of the taxable investment income as exceeds $25,000, or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus".

(c) CONFORMING AMENDMENTS.—

(1) Section 1561(a) (relating to certain multiple tax benefits in the case of certain controlled corporations) is amended by adding at the end thereof the following new sentence: "In applying section 11(b)(2), the first $25,000 of taxable income and the second $25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated."

(2) Subsection (f) of section 21 (relating to change in surtax exemption treated as a change in a rate of tax) is amended by striking out "Tax Reduction Act of 1975" and all that follows and inserting in lieu thereof the following: "Tax Reduction Act of 1975 in the surtax exemption and any change under section 11(d) in the surtax exemption shall be treated as a change in a rate of tax."

(3) Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by striking out subsection (h).

(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on December 23, 1975. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1974. The amendments made by subsection (c) shall apply to taxable years ending after December 31, 1975.

And the Senate agree to the same.

Amendment number 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, 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:

CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—FOREIGN TAX PROVISIONS AFFECTING INDIVIDUALS ABROAD

SEC. 1011. INCOME EARNED ABROAD BY UNITED STATES CITIZENS LIVING OR RESIDING ABROAD.

(a) REDUCTION OF LIMITATIONS ON AMOUNT EXCLUDABLE.—Paragraph (1) of section 911(c) (relating to limitations on amount of exclusion) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $15,000.

"(B) EMPLOYEES OF CHARITABLE ORGANIZATIONS.—If any individual performs qualified charitable services during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(C) SPECIAL RULE.—If any individual performs qualified charitable services and other services during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of subparagraph (A) with respect to such earned income) exceed $15,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.

"(D) QUALIFIED CHARITABLE SERVICES.—For purposes of this subsection, the term 'qualified charitable services' means services performed by an employee for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501(c)(3)."

(b) ADDITIONAL LIMITATIONS ON EXCLUSION.—

(1) DISALLOWANCE OF FOREIGN TAX CREDIT WITH RESPECT TO EXCLUDED AMOUNTS.—The last sentence of subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection."

(2) DISALLOWANCE OF EXCLUSION FOR INCOME RECEIVED OTHER THAN IN COUNTRY WHERE EARNED.—Section 911(c) (relating to special rules for earned income from sources without the United States) is amended by adding at the end thereof the following new paragraph:

"(8) REQUIREMENT AS TO PLACE OF RECEIPT.—No amount received by an individual during the taxable year which constitutes earned income (entitled to the exclusion under subsection (a)) attributable to services performed in a foreign country or countries shall be excluded under subsection (a) if such amount is received by such individual outside of the foreign country or countries where such services were performed and if one of the purposes is the avoidance of any tax imposed by such foreign country or countries on such amount."

(3) INCLUSION OF EARNED INCOME IN COMPUTATION OF RATE OF TAX.—Section 911 (relating to earned income from sources without the United States) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) AMOUNT EXCLUDED UNDER SUBSECTION (a) INCLUDED IN COMPUTATION OF TAX.—

"(1) COMPUTATION OF TAX.—If for any taxable year an individual has earned income which is excluded from gross income under subsection (a), the tax imposed by section 1 or section 1201 shall be the excess of—

"(A) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net taxable income, over

"(B) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net excluded earned income.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'net taxable income' means an amount equal to the sum of the amount of taxable income for the taxable year plus the amount of net excluded earned income of such individual for such taxable year; and

"(B) the term 'net excluded earned income' means the excess of the amount of earned income excluded under subsection (a) for the taxable year over the amount of the deductions disallowed with respect to such excluded earned income for such taxable year under subsection (a).

"(e) SECTION NOT TO APPLY.—

"(1) IN GENERAL.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply.

"(2) EFFECT OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary."

(c) ALLOWANCE OF FOREIGN TAX CREDITS TO INDIVIDUALS TAKING STANDARD DEDUCTION.—Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is

amended by striking out "sections 32, 33, and" and inserting in lieu thereof "sections 32 and".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES.

(a) ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.—

(1) IN GENERAL.—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

"(g) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

"(3) DURATION OF ELECTION.—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

"(4) TERMINATION OF ELECTION.—An election under this subsection shall terminate at the earliest of the following times:

"(A) REVOCATION BY TAXPAYERS.—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

"(B) DEATH.—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

"(C) LEGAL SEPARATION.—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

"(D) TERMINATION BY SECRETARY.—At the time provided in paragraph (5).

"(5) *TERMINATION BY SECRETARY.—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—*

"(A) *to keep such books and records,*

"(B) *to grant such access to such books and records, or*

"(C) *to supply such other information,*

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

"(6) *ONLY ONE ELECTION.—If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.*

"(h) *JOINT RETURN, ETC., FOR YEAR IN WHICH NONRESIDENT ALIEN BECOMES RESIDENT OF UNITED STATES.—*

"(1) *IN GENERAL.—If—*

"(A) *any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such taxable year,*

"(B) *at the close of such taxable year, such individual is married to a citizen or resident of the United States, and*

"(C) *both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation,*

then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

"(2) *ONLY ONE ELECTION.—If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.*"

(2) *CLERICAL AMENDMENT.—Section 871(g) (relating to cross references) is amended by adding at the end thereof the following new paragraph:*

"(7) For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013."

(b) *TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.—*

(1) *IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended by adding at the end thereof the following new section:*

"SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.

"(a) *GENERAL RULE.—In the case of a citizen or resident of the United States who is married to a nonresident alien individual and who has community income for the taxable year, such community income shall be treated as follows:*

"(1) *Earned income (within the meaning of section 911(b)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services,*

"(2) *Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5),*

"(3) *Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and*

"(4) *All other such community income shall be treated as provided in the applicable community property law.*

"(b) EXCEPTION WHERE ELECTION UNDER SECTION 6013(g) IS IN EFFECT.—*Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.*

"(c) DEFINITIONS AND SPECIAL RULES.—*For purposes of this section—*

"(1) COMMUNITY INCOME.—*The term 'community income' means income which, under applicable community property laws, is treated as community income.*

"(2) COMMUNITY PROPERTY LAWS.—*The term 'community property laws' means the community property laws of a State, a foreign country, or a possession of the United States.*

"(3) DETERMINATION OF MARITAL STATUS.—*The determination of marital status shall be made under section 143(a).*"

(2) REPEAL OF SECTION 981.—*Subpart H of part III of subchapter N of chapter 1 (relating to election as to treatment of income subject to foreign community property laws) is hereby repealed.*

(3) CLERICAL AMENDMENTS.—

(A) *The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:*

"Sec. 879. Tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual."

(B) *The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart G.*

(c) DUE DATE FOR FILING ESTIMATED TAX RETURNS IN THE CASE OF CERTAIN NONRESIDENT ALIENS.—*Subsection (a) of section 6073 (relating to time for filing declarations of estimated tax by individuals) is amended by adding at the end thereof the following sentence:* "*In the case of a nonresident alien described in section 6072(c), the requirements of section 6015 shall be deemed to be first met no earlier than after April 1 and before June 2 of the taxable year.*".

(d) EFFECTIVE DATES.—*The amendments made by subsection (a) shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1976.*

SEC. 1013. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES TO BE TAXED CURRENTLY TO GRANTOR.

(a) TAXATION OF INCOME TO GRANTOR OF TRUST.—Subpart E of part I of subchapter J of chapter 1 (relating to grantors and others treated as substantial owners) is amended by adding at the end thereof the following new section:

"SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

"(a) TRANSFEROR TREATED AS OWNER.—

"(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4)) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of any portion of such trust.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply—

"(A) TRANSFERS BY REASON OF DEATH.—To any transfer by reason of the death of the transferor.

"(B) TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.

"(b) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

"(1) subsection (a) applies to a trust for the transferor's taxable year, and

"(2) subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

"(c) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

"(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

"(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

"(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

"(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or

accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

"(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

"(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

"(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).".

(b) GRANTOR TO BE TREATED AS OWNER.—Subsection (b) of section 678 (relating to persons other than grantors treated as substantial owners) is amended by striking out everything after "modified," and inserting in lieu thereof "if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section.".

(c) TREATMENT OF CAPITAL GAINS AND LOSSES OF CERTAIN FOREIGN TRUSTS.—

(1) FOREIGN TRUSTS CREATED BY UNITED STATES PERSONS TREATED LIKE OTHER FOREIGN TRUSTS.—Subparagraph (C) of section 643(a)(6) (relating to distributable net income in case of foreign trusts) is amended by striking out "foreign trust created by a United States person" and inserting in lieu thereof "foreign trust".

(2) TRANSITIONAL RULE FOR FOREIGN TRUSTS.—Section 643(a)(6) is amended by adding at the end thereof the following new subparagraph:

"(D) Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202."

(d) RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—

(1) Section 6048 (relating to returns as to creation of or transfers to certain foreign trusts) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ANNUAL RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—Each taxpayer subject to tax under section 679 (relating to foreign trusts having one or more United States beneficiaries) for his taxable year with respect to any trust shall make a return with respect to such trust for such year at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.".

(2) Section 6677(a) (relating to failure to file information returns with respect to certain foreign trusts) is amended by strik-

ing out "to a trust" and inserting in lieu thereof "to a trust (or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)".

(e) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart E of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 679. Foreign trusts having one or more United States beneficiaries."

(2) Subsection (d) of section 643 is hereby repealed.

(3) Subsection (d) of section 6048 (as redesignated by subsection (d)) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violation of this section, see sections 6677 and 7203."

(4) The heading of section 6048 is amended to read as follows:

"SEC. 6048. RETURNS AS TO CERTAIN FOREIGN TRUSTS.".

(5) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6048 and inserting in lieu thereof the following:

"Sec. 6048. Returns as to certain foreign trusts."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (c)) shall apply to taxable years ending after December 31, 1975, but only in the case of—

(A) foreign trusts created after May 21, 1974, and

(B) transfers of property to foreign trusts after May 21, 1974.

(2) CHANGES IN CAPITAL GAIN RULES FOR FOREIGN TRUSTS.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1975.

SEC. 1014. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

(a) TAX TO INCLUDE SPECIAL INTEREST CHARGE.—Section 667(a) (as amended by section 701 of this Act) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a foreign trust, the interest charge determined as provided in section 668.".

(b) COMPUTATION OF SPECIAL INTEREST CHARGE.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trusts) is amended by adding at the end thereof the following new section:

"SEC. 668. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a), the interest charge is an amount equal to 6 percent of

the partial tax computed under section 667(b) multiplied by a fraction—

"(1) the numerator of which is the sum of the number of taxable years between each taxable year to which the distribution is allocated under section 666(a) and the taxable year of the distribution (counting in each case the taxable year to which the distribution is allocated but not counting the taxable year of the distribution), and

"(2) the denominator of which is the number of taxable years to which the distribution is allocated under section 666(a).

"(b) LIMITATION.—The total amount of the interest charge shall not, when added to the total partial tax computed under section 667 (b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666 (b) or (c)) in respect of which such partial tax was determined.

"(c) SPECIAL RULES.—

"(1) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.

"(2) TRANSITIONAL RULE.—For purposes of this section, undistributed net income existing in a trust as of January 1, 1977, shall be treated as allocated under section 666(a) to the first taxable year beginning after December 31, 1976."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"SEC. 668. Interest charge on accumulation distributions from foreign trusts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1015. EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.

(a) AMENDMENT OF SECTION 1491.—Section 1491 (relating to imposition of tax) is amended to read as follows:

"SEC. 1491. IMPOSITION OF TAX.

"There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the sum of—

"(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

"(B) the amount of the gain recognized to the transferor at the time of the transfer."

(b) AMENDMENTS OF SECTION 1492.—Section 1492 (relating to nontaxable transfers) is amended—

(1) by striking out in paragraph (3) "section 367(d) applies." and inserting in lieu thereof "section 367 applies; or" and

(2) by adding at the end thereof the following new paragraph:

"(4) To a transfer for which an election has been made under section 1057."

(c) ELECTION TO TREAT AS TAXABLE EXCHANGE.—Part IV of subchapter O of chapter 1 (relating to special rules for determining gain or loss on disposition of property) is amended by redesignating section 1057 as section 1058 and by inserting after section 1056 the following new section:

"SEC. 1057. ELECTION TO TREAT TRANSFER TO FOREIGN TRUST, ETC., AS TAXABLE EXCHANGE.

"In lieu of payment of the tax imposed by section 1491, the taxpayer may elect (for purposes of this subtitle), at such time and in such manner as the Secretary may prescribe, to treat a transfer described in section 1491 as a sale or exchange of property for an amount equal in value to the fair market value of the property transferred and to recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for determining gain) of such property in the hands of the transferor.".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the last item thereof and inserting in lieu thereof:

"Sec. 1057. Election to treat transfer to foreign trust, etc., as taxable exchange.
"Sec. 1058. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after October 2, 1975.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

SEC. 1021. AMENDMENT OF PROVISION RELATING TO INVESTMENT IN UNITED STATES PROPERTY BY CONTROLLED FOREIGN CORPORATIONS.

(a) EXCEPTIONS TO DEFINITION OF UNITED STATES PROPERTY.—Section 956(b)(2) (relating to exceptions to definition of United States property) is amended by striking out "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (H), and by inserting after subparagraph (E) the following new subparagraphs:

"(F) the stock or obligations of a domestic corporation which is neither a United States shareholder (as defined in section 951 (b)) of the controlled foreign corporation, nor a domestic corporation, 25 percent or more of the total combined voting power of which, immediately after the acquisition of any stock in such domestic corporation by the controlled foreign corporation, is owned, or is considered as being owned, by such United States shareholders in the aggregate;

"(G) any movable property (other than a vessel or aircraft) which is used for the purpose of exploring for, developing, re-

moving, or transporting resources from ocean waters or under such waters when used on the Continental Shelf of the United States; and".

(b) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 958(b) (relating to rules for determining stock ownership) is amended—

(1) by striking out "954(d)(3)," the first place it appears and inserting in lieu thereof "954(d)(3), 956(b)(2),";

(2) by striking out "954(d)(3)," the second place it appears and inserting in lieu thereof "954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(b)(2),"; and

(3) by adding at the end thereof the following new sentence: "Paragraphs (1) and (4) shall not apply for purposes of section 956(b)(2) to treat stock of a domestic corporation as not owned by a United States shareholder."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. In determining for purposes of any taxable year referred to in the preceding sentence the amount referred to in section 956(a)(2)(A) of the Internal Revenue Code of 1954 for the last taxable year of a corporation beginning before January 1, 1976, the amendments made by this section shall be deemed also to apply to such last taxable year.

SEC. 1022. REPEAL OF EXCLUSION FOR EARNINGS OF LESS DEVELOPED COUNTRY CORPORATIONS FOR PURPOSES OF SECTION 1248.

(a) AMENDMENT OF SECTION 1248(d).—Paragraph (3) of section 1248(d) (relating to exclusion from earnings and profits of gain from certain sales or exchanges of stock in certain foreign corporations) is amended to read as follows:

"(3) LESS DEVELOPED COUNTRY CORPORATIONS UNDER PRIOR LAW.—Earnings and profits of a foreign corporation which were accumulated during any taxable year beginning before January 1, 1976, while such corporation was a less developed country corporation under section 902(d) as in effect before the enactment of the Tax Reduction Act of 1975.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 1023. EXCLUSION FROM SUBPART F OF CERTAIN EARNINGS OF INSURANCE COMPANIES.

(a) IN GENERAL.—Paragraph (3) of section 954(c) (relating to foreign personal holding company income) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(C) dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d)(3)) derived from

investments made by an insurance company of an amount of its assets equal to one-third of its premiums earned on insurance contracts (other than life insurance and annuity contracts) during the taxable year (as defined in section 832(b)(4)) which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d)(3)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

SEC. 1024. SHIPPING PROFITS OF FOREIGN CORPORATIONS.

(a) CERTAIN SHIPPING OPERATIONS.—Subsection (b) of section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL EXCLUSION FOR FOREIGN BASE COMPANY SHIPPING INCOME.—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection) shall be excluded from foreign base company income if derived by a controlled foreign corporation from, or in connection with, the use (or hiring or leasing for use) of an aircraft or vessel in foreign commerce between two points within the foreign country in which such corporation is created or organized and such aircraft or vessel is registered."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES

SEC. 1031. REQUIREMENT THAT FOREIGN TAX CREDIT BE DETERMINED ON OVERALL BASIS.

(a) OVERALL LIMITATION ON FOREIGN TAX CREDIT.—Section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"SEC. 904. LIMITATION ON CREDIT.

"(a) LIMITATION.—The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

"(b) TAXABLE INCOME FOR PURPOSES OF COMPUTING LIMITATION.—For purposes of subsection (a), the taxable income in the case of an

individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

"(c) *CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—Any amount by which all taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States.*

"(d) *APPLICATION OF SECTION IN CASE OF CERTAIN INTEREST INCOME AND DIVIDENDS FROM A DISC OR FORMER DISC.—*

"(1) *IN GENERAL.—The provisions of subsections (a), (b), and (c) shall be applied separately with respect to each of the following items of income:*

"(A) *the interest income described in paragraph (2),*

"(B) *dividends from a DISC or former DISC (as defined in section 992(a)) to the extent such dividends are treated as income from sources without the United States, and*

"(C) *income other than the interest income described in paragraph (2) and dividends described in subparagraph (B).*

"(2) *INTEREST INCOME TO WHICH APPLICABLE.—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—*

"(A) *derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States,*

"(B) *derived in the conduct by the taxpayer of a banking, financing, or similar business,*

"(C) *received from a corporation in which the taxpayer (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the taxpayer is a member) owns, directly or indirectly, at least 10 percent of the voting stock, or*

"(D) *received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a*

corporation in which the taxpayer owned at least 10 percent of the voting stock.

For purposes of subparagraph (C), stock owned, directly or indirectly, by or for a foreign corporation, shall be considered as being proportionately owned by its shareholders.

"*(e) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS FOR TAXPAYERS ON THE PER-COUNTRY LIMITATION.—*

"*(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to a taxpayer who is on the per-country limitation for his last taxable year beginning before January 1, 1976.*

"*(2) CARRYOVERS TO YEARS BEGINNING AFTER DECEMBER 31, 1975.—In the case of any taxpayer to whom this subsection applies, any carryover from a taxable year beginning before January 1, 1976, may be used in taxable years beginning after December 31, 1975, to the extent provided in subsection (c), but only to the extent such carryover could have been used in such succeeding taxable years if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.*

"*(3) CARRYBACKS TO YEARS BEGINNING BEFORE JANUARY 1, 1976.—In the case of any taxpayer to whom this subsection applies, any carryback from a taxable year beginning after December 31, 1975, may be used in taxable years beginning before January 1, 1976, to the extent provided in subsection (c), but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.*

"*(4) APPLICATION OF LIMITATIONS.—For purposes of this subsection—*

"*(A) the overall limitation shall be applied before the per-country limitation, and*

"*(B) where the amount of any carryback or carryover is reduced by the overall limitation, the reduction shall be allocated to the amounts carried from each country or possession in proportion to the taxes paid or accrued to such country or possession in the taxable year from which such amount is being carried.*

"*(f) CROSS REFERENCE.—*

"For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b)."

(b) CONFORMING AMENDMENTS.—

(1) Sections 901(a), 901(b), and 960(b) are amended by striking out "applicable limitation" each place it appears and inserting in lieu thereof "limitation".

(2) Subparagraph (B) of section 243(b)(3) is amended to read as follows:

"*(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the election under section 901(a) (relating to allowance of foreign tax credit), and".*

(3) Paragraph (3) of section 1351(d) is amended to read as follows:

"(3) FOREIGN TAXES.—For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed.".

(4) Section 1503(b)(1) is amended by striking out ", and if for the taxable year an election under section 904(b)(1) (relating to election of overall limitation on foreign tax credit) is in effect".

(5) Sections 383, 6038(b)(1)(A), and 6501(i) are each amended by striking out "section 904(d)" each place it appears therein and inserting in lieu thereof "section 904(c)".

(6) Subsection (e) of section 907 (relating to transitional rules) is amended—

(A) by striking out "(d) and (e) of section 904" in paragraphs (1) and (2) and inserting in lieu thereof "(d) and (e) of section 904 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976)";

(B) by striking out "section 904(a)(1)" in paragraph (2) and inserting in lieu thereof "section 904(a)(1) (as so in effect)"; and

(C) by striking out "section 904(e)(2)" in paragraph (2)(A) and inserting in lieu thereof "section 904(e)(2) (as so in effect)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) EXCEPTION FOR CERTAIN MINING OPERATIONS.—In the case of a domestic corporation or includible corporation in an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which has as of October 1, 1975—

(A) been engaged in the active conduct of the trade or business of the extraction of minerals (of a character with respect to which a deduction for depletion is allowable under section 613 of such Code) outside the United States or its possessions for less than 5 years preceding the date of enactment of this Act,

(B) had deductions properly apportioned or allocated to its gross income from such trade or business in excess of such gross income in at least 2 taxable years,

(C) 80 percent of its gross receipts are from the sale of such minerals, and

(D) made commitments for substantial expansion of such mineral extraction activities,

the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in taxable years beginning before January 1, 1979, by any corporation to which this paragraph applies, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(3) EXCEPTION FOR INCOME FROM POSSESSIONS.—In the case of gross income from sources within a possession of the United States (and the deductions properly apportioned or allocated thereto),

the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in a possession of the United States in taxable years beginning before January 1, 1979, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(4) CARRYBACKS AND CARRYOVERS IN THE CASE OF MINING OPERATIONS AND INCOME FROM A POSSESSION.—In the case of a taxpayer to whom paragraph (2) or (3) of this subsection applies, section 904(e) of such Code shall apply except that "January 1, 1979" shall be substituted for "January 1, 1976" each place it appears therein. If such a taxpayer elects the overall limitation for a taxable year beginning before January 1, 1979, such section 904(e) shall be applied by substituting "the January 1, of the last year for which such taxpayer is on the per-country limitation" for "January 1, 1976" each place it appears therein.

SEC. 1032. RECAPTURE OF FOREIGN LOSSES.

(a) IN GENERAL.—Section 904 (as amended by section 1031 of this Act) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) RECAPTURE OF OVERALL FOREIGN LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall foreign loss for any taxable year, that portion of the taxpayer's taxable income from sources without the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent (or such larger percent as the taxpayer may choose) of the taxpayer's taxable income from sources without the United States for such succeeding taxable year,

shall be treated as income from sources within the United States (and not as income from sources without the United States).

"(2) OVERALL FOREIGN LOSS DEFINED.—For purposes of this subsection, the term 'overall foreign loss' means the amount by which the gross income for the taxable year from sources without the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) DISPOSITIONS.—

"(A) *IN GENERAL.—For purposes of this chapter, if property which has been used predominantly without the United States in a trade or business is disposed of during any taxable year—*

"(i) *the taxpayer, notwithstanding any other provision of this chapter (other than paragraph (1)), shall be deemed to have received and recognized taxable income from sources without the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall foreign losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and*

"(ii) *paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.*

In determining for purposes of this subparagraph whether the predominant use of any property has been without the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

"(B) *DISPOSITION DEFINED AND SPECIAL RULES.—*

"(i) *For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property whether or not gain or loss is recognized on the transfer.*

"(ii) *Any taxable income recognized solely by reason of subparagraph (A) shall have the same characterization it would have had if the taxpayer had sold or exchanged the property.*

"(iii) *The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect taxable income recognized solely by reason of subparagraph (A).*

"(C) *EXCEPTIONS.—Notwithstanding subparagraph (B), the term 'disposition' does not include—*

"(i) *a disposition of property which is not a material factor in the realization of income by the taxpayer, or*

"(ii) *a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).*

"(4) *DETERMINATION OF FOREIGN OIL RELATED LOSS WHERE SECTION 907 APPLIES.—In the case of a corporation to which section 907 (b)(1) applies, the foreign oil related loss shall be the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—*

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.".

(b) COORDINATION WITH SECTION 907.—Section 907 is amended—

(1) by striking out the last sentence of subsection (b) (as amended by section 1035(b)), and

(2) by striking out subsection (f), and by redesignating subsection (g) as subsection (f).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b)(2) shall apply to losses sustained in taxable years beginning after December 31, 1975, and the amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975.

(2) OBLIGATIONS OF FOREIGN GOVERNMENTS.—The amendments made by subsection (a) shall not apply to losses on the sale, exchange, or other disposition of bonds, notes, or other evidences of indebtedness issued before May 14, 1976, by a foreign government or instrumentality thereof for the acquisition of property located in that country or stock of a corporation (created or organized in or under the laws of that foreign country) or indebtedness of such corporation.

(3) SUBSTANTIAL WORTHLESSNESS BEFORE ENACTMENT.—The amendments made by subsection (a) shall not apply to losses incurred on the loss from stock or indebtedness of a corporation in which the taxpayer owned at least 10 percent of the voting stock and which has sustained losses in 3 out of the last 5 taxable years beginning before January 1, 1976, which has sustained an overall loss for those 5 years, and with respect to which the taxpayer has terminated or will terminate all operations by reason of sale, liquidation, or other disposition before January 1, 1977, of such corporation or its assets.

(4) LIMITATION BASED ON DEFICIT IN EARNINGS AND PROFITS.—If paragraph (3) would apply to a taxpayer but for the fact that the loss is sustained after December 31, 1976, and if the loss is sustained in a taxable year beginning before January 1, 1979, the amendments made by subsection (a) shall not apply to such loss to the extent that there was on December 31, 1975, a deficit in earnings and profits in the corporation from which the loss arose.

SEC. 1033. DIVIDENDS FROM LESS DEVELOPED COUNTRY CORPORATIONS TO BE GROSSED UP FOR PURPOSES OF DETERMINING UNITED STATES INCOME AND FOREIGN TAX CREDIT AGAINST THAT INCOME.

(a) FOREIGN TAXES DEEMED PAID BY DOMESTIC CORPORATIONS.—Section 902 (relating to credit for corporate stockholders in foreign corporations) is amended to read as follows:

"SEC. 902. CREDIT FOR CORPORATE STOCKHOLDER IN FOREIGN CORPORATION.

"(a) TREATMENT OF TAXES PAID BY FOREIGN CORPORATION.—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends (determined without regard to section 78) bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(b) FOREIGN SUBSIDIARY OF FIRST AND SECOND FOREIGN CORPORATION.—

"(1) ONE TIER.—If the foreign corporation described in subsection (a) (hereinafter in this subsection referred to as the 'first foreign corporation') owns 10 percent or more of the voting stock of a second foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such second foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such second foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) TWO TIERS.—If such first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation which, in turn, owns 10 percent or more of the voting stock of a third foreign corporation from which the second foreign corporation receives dividends in any taxable year, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such third foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes.

"(3) VOTING STOCK REQUIREMENT.—For purposes of this subpart—

"(A) *paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the first foreign corporation and the percentage of voting stock owned by the first foreign corporation in the second foreign corporation when multiplied together equal at least 5 percent, and*

"(B) *paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the second foreign corporation in the third foreign corporation is equal to at least 5 percent.*

"(c) APPLICABLE RULES.—

"(1) ACCUMULATED PROFITS DEFINED.—*For purposes of this section, the term 'accumulated profits' means, with respect to any foreign corporation, the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or by any possession of the United States. The Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid, treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings.*

"(2) ACCOUNTING PERIODS.—*In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year' as used in this subsection, shall be construed to mean such accounting period.*

"(d) CROSS REFERENCES.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038."

(b) CONFORMING AMENDMENTS.—

(1) *Section 78 (relating to dividends received from certain foreign corporations) is amended—*

(A) *by striking out "section 902(a)(1)" and inserting in lieu thereof "section 902(a)", and*

(B) *by striking out "section 960(a)(1)(C)" and inserting in lieu thereof "section 960(a)(1)".*

(2) *Paragraph (1) of section 960(a) (relating to special rules for foreign tax credit) is amended by striking out "bears to—" and all that follows down through the period at the end of such paragraph and inserting in lieu thereof "bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.".*

(3) Section 535(b)(1) (relating to accumulated taxable income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(4) Section 545(b)(1) (relating to undistributed personal holding company income) is amended by striking out "section 902(a)(1) or 960(a)(1)(C)" and inserting in lieu thereof "section 902(a) or 960(a)(1)".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1977, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1978, in a taxable year of such corporation beginning after December 31, 1975, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1975.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign corporation to which section 902(b) of the Internal Revenue Code of 1954 applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1976, to the extent that such distribution was paid out of the accumulated profits of such foreign corporation for a taxable year beginning before January 1, 1976.

SEC. 1034. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF FOREIGN TAX CREDIT.

(a) IN GENERAL.—Section (b) of section 904 (relating to taxable income for purposes of computing the foreign tax credit limitation), as amended by section 1031 of this Act, is amended to read as follows:

"(b) TAXABLE INCOME FOR PURPOSE OF COMPUTING LIMITATION.—

"(1) PERSONAL EXEMPTIONS.—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

"(2) CAPITAL GAINS.—For purposes of subsection (a)—

"(A) CORPORATIONS.—In the case of a corporation—

"(i) the taxable income of such corporation from sources without the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by three-eighths of foreign source net capital gain,

"(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by three-eighths of net capital gain, and

"(iii) any net capital loss from sources without the United States to the extent taken into account in determining capital gain net income for the taxable year shall

be reduced by an amount equal to three-eighths of the excess of net capital gain from sources within the United States over net capital gain.

"(B) OTHER TAXPAYERS.—*In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.*

"(3) DEFINITIONS.—*For purposes of this subsection—*

"(A) FOREIGN SOURCE CAPITAL GAIN NET INCOME.—*The term 'foreign source capital gain net income' means the lesser of—*

"(i) *capital gain net income from sources without the United States, or*

"(ii) *capital gain net income.*

"(B) FOREIGN SOURCE NET CAPITAL GAIN.—*The term 'foreign source net capital gain' means the lesser of—*

"(i) *Net capital gain from sources without the United States, or*

"(ii) *net capital gain.*

"(C) EXCEPTION FOR GAIN FROM THE SALE OF CERTAIN PERSONAL PROPERTY.—*For purposes of this paragraph, there shall be included as gain from sources within the United States any gain from sources without the United States from the sale or exchange of a capital asset which is personal property which—*

"(i) *in the case of an individual, is sold or exchanged outside of the country (or possession) of the individual's residence,*

"(ii) *in the case of a corporation, is stock in a second corporation sold or exchanged other than in a country (or possession) in which such second corporation derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred, or*

"(iii) *in the case of any taxpayer, is personal property (other than stock in a corporation) sold or exchanged other than in a country (or possession) in which such property is used in a trade or business of the taxpayer or in which such taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred,*

unless such gain is subject to an income, war profits, or excess profits tax of a foreign country or possession of the United States, and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange (computed under this chapter).

"(D) SECTION 1231 GAINS.—*The term 'gain from the sale or exchange of capital assets' includes any gain so treated under section 1231.*"

(b) EFFECTIVE DATES.—*The amendment made by this section shall apply to taxable years beginning after December 31, 1975, except that*

the provisions of section 904(b)(3)(C) shall only apply to sales or exchanges made after November 12, 1975.

SEC. 1035. FOREIGN OIL AND GAS EXTRACTION INCOME.

(a) REDUCTION IN LIMITATION ON FOREIGN TAX CREDITS ALLOWABLE FOR OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to reduction in amounts allowable as foreign tax under section 901) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

(b) FOREIGN OIL RELATED INCOME EARNED BY INDIVIDUALS.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—

"(1) CORPORATIONS.—In the case of a corporation, the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil related income, and

"(B) other taxable income.

"(2) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, the provisions of subsection (a) shall not apply and the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil and gas extraction income, and

"(B) other taxable income (including other foreign oil related income).

In the case of a corporation, with respect to foreign oil-related income, and in the case of a taxpayer other than a corporation, with respect to foreign oil and gas extraction income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by subsection (a)(1) shall not apply."

(c) TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS.—

(1) For purposes of section 901 of the Internal Revenue Code of 1954, there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

(A) the product of the foreign oil and gas extraction income with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

(B) the excess of the total amount of foreign oil and gas extraction income (as defined in section 907(c)(1) of such Code) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. No such contract shall be taken into account for any taxable year ending after December 31, 1977.

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

(1) IN GENERAL.—Section 907 (as amended by section 1032) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—

"(1) IN GENERAL.—If the amount of the oil and gas extraction taxes paid or accrued during any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year shall be deemed to be oil and gas extraction taxes paid or accrued in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable year, in that order and to the extent not deemed tax paid or accrued in a prior taxable year by reason of the limitation imposed by paragraph (2). Such amount deemed paid or accrued in any taxable year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions. For purposes of this subsection, the terms 'second preceding taxable year', and 'first preceding taxable year' do not include any taxable year ending before January 1, 1975. For purposes of determining the amount of such taxes which may be deemed paid or accrued in any taxable year ending in 1975, 1976, or 1977, the first sentence of this paragraph shall be applied by substituting 'such excess' for 'so much of such excess as does not exceed 2 percent of the foreign oil and gas extraction income for such taxable year'.

"(2) LIMITATION.—The amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any preceding or succeeding taxable year shall not exceed the lesser of—

"(A) the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

"(i) the oil and gas extraction taxes paid or accrued during such taxable year, plus

"(ii) the amounts of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year; or

"(B) the amount by which the limitation provided by section 904 on taxes paid or accrued with respect to foreign oil-related income for such taxable year exceeds the sum of—

"(i) the taxes paid or accrued (or deemed to have been paid under section 902 or 960) to all foreign countries and possessions of the United States with respect to such income during such taxable year,

"(ii) the amount of such taxes which were deemed paid or accrued in such taxable year under section 904(c) and which are attributable to taxable years preceding the unused credit year, plus

"(iii) the amount of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) SPECIAL RULES.—

"(A) In the case of any taxable year which is an unused credit year under this subsection and which is an unused credit year under section 904(c) with respect to oil-related income, the provisions of this subsection shall be applied before section 904(c).

"(B) For purposes of determining the amount of oil-related taxes paid or accrued in any taxable year which may be deemed paid or accrued in a preceding or succeeding taxable year under section 904(c), any tax deemed paid or accrued in such preceding or succeeding taxable year under this subsection shall be considered to be tax paid or accrued in such preceding or succeeding taxable year.

"(C) For purposes of determining the amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any taxable year ending before January 1, 1977, subparagraph (A) of paragraph (2) shall be applied as if the amendment made by section 1035(a) of the Tax Reform Act of 1976 applied to such taxable year."

(2) DEFINITION OF OIL AND GAS EXTRACTION TAXES.—Subsection (c) of section 907 is amended by adding at the end thereof the following new paragraph:

"(5) OIL AND GAS EXTRACTION TAXES.—The term 'oil and gas extraction taxes' means any income, war profits, and excess profits tax paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year with respect to foreign oil and gas extraction income (determined without regard to paragraph (4)) or loss which would be taken into account for purposes of section 901 without regard to this section."

(3) TECHNICAL AMENDMENT.—Subsection (i) of section 6501, as amended by section 1031, (relating to foreign tax carrybacks) is amended—

(A) by striking out "excess foreign taxes)" and inserting in lieu thereof "excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)"; and

(B) by striking out "section 904(c)" the second place it appears and inserting in lieu thereof "section 904(c) or 907(f)".

(e) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1954 shall only apply to taxable years ending after December 31, 1975.

(3) The amendment made by subsection (c) shall apply to taxable years beginning after June 29, 1976.

(4) The amendments made by subsection (d) shall apply to taxes paid or accrued during taxable years ending after the date of the enactment of this Act.

SEC. 1036. UNDERWRITING INCOME.

(a) TREATMENT AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—Section 861(a) (relating to gross income from sources within the United States) is amended by adding the following new paragraph:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the insurance of United States risks (as defined in section 953(a)).".

(b) TREATMENT AS FOREIGN SOURCE INCOME.—Section 862(a) (relating to gross income from sources without the United States) is amended by adding the following new paragraph:

"(7) Underwriting income other than that derived from sources within the United States as provided in section 861(a)(7).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1037. THIRD TIER FOREIGN TAX CREDIT WHEN SECTION 951 APPLIES.

(a) FOREIGN TAXES DEEMED PAID BY FOREIGN CORPORATIONS.—Section 960(a)(1) (relating to special rules for foreign tax credits), as amended in section 1033, is further amended to read as follows:

"(1) GENERAL RULE.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

"(A) of a foreign corporation (hereafter in this subsection referred to as the 'first foreign corporation') at least 10 percent of the voting stock of which is owned by such domestic corporation, or

"(B) of a second foreign corporation (hereinafter in this subsection referred to as the 'second foreign corporation') at least 10 percent of the voting stock of which is owned by the first foreign corporation, or

"(C) of a third foreign corporation (hereinafter in this subsection referred to as the 'third foreign corporation') at least 10 percent of the voting stock of which is owned by the second foreign corporation,

then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to the entire amount of the earnings and profits of such corporation for such taxable year. This paragraph shall not apply with respect to any amount included in the gross income of such domestic corporation attributable to earnings and profits of the second foreign corporation or of the third foreign corporation unless, in the case of the second foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied, and in the case of the third foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to earnings and profits of a foreign corporation included, under section 951(a) of the Internal Revenue Code of 1954, in the gross income of a domestic corporation in taxable years beginning after December 31, 1976.

PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES

SEC. 1041. PORTFOLIO DEBT INVESTMENTS IN UNITED STATES OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

SEC. 1042. CHANGES IN RULING REQUIREMENTS UNDER SECTION 367; CERTAIN CHANGES IN SECTION 1248.

(a) AMENDMENT OF SECTION 367.—Section 367 (relating to foreign corporations) is amended to read as follows:

"SEC. 367. FOREIGN CORPORATIONS.

"(a) TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

"(1) GENERAL RULE.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183d day after the beginning of such transfer (and filed in such form and manner as may be prescribed

by regulations by the Secretary), it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

"*(2) EXCEPTION FOR TRANSACTIONS DESIGNATED BY THE SECRETARY.—Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Secretary by regulations designates as not requiring the filing of a request.*

"*(b) OTHER TRANSFERS.—*

"*(1) EFFECT OF SECTION TO BE DETERMINED UNDER REGULATIONS.—In the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in subsection (a)(1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.*

"*(2) REGULATIONS RELATING TO SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS.—The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—*

"*(A) the circumstances under which—*

"*(i) gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or*

"*(ii) gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and*

"*(B) the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.*

"*(c) TRANSACTIONS TO BE TREATED AS EXCHANGES.—*

"*(1) SECTION 355 DISTRIBUTION.—For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.*

"*(2) CONTRIBUTION OF CAPITAL TO CONTROLLED CORPORATIONS.—For purposes of this chapter, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.*

"*(d) TRANSITIONAL RULE.—In the case of any exchange beginning before January 1, 1978—*

"*(1) subsection (a) shall be applied without regard to whether or not there is a transfer of property described in subsection (a)(1), and*

"*(2) subsection (b) shall not apply.*".

(b) EARNINGS AND PROFITS OF SUBSIDIARIES OF FOREIGN CORPORATIONS FOR PURPOSES OF SECTION 1248.—Subparagraph (C) of section 1248(c)(2) is amended by striking out "; and" at the end thereof and inserting in lieu thereof the following: "(or on the date of any sale or exchange of the stock of such other foreign corporation occurring during the 5-year period ending on the date of the sale or exchange of the stock of such foreign corporation, to the extent not otherwise taken into account under this section but not in excess of the fair market value of the stock of such other foreign corporation sold or exchanged over the basis of such stock (for determining gain) in the hands of the transferor); and".

(c) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

(1) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

"(1) IN GENERAL.—If—

"(A) a domestic corporation satisfies the stock ownership requirements of subsection (a)(2) with respect to a foreign corporation, and

"(B) such domestic corporation distributes, sells, or exchanges stock of such foreign corporation in a transaction to which section 311, 336, or 337 applies,

then, notwithstanding any other provision of this subtitle, an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the domestic corporation shall be included in the gross income of the domestic corporation as a dividend to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock was held by such domestic corporation while such foreign corporation was a controlled foreign corporation. For purposes of subsections (c)(2), (d), and (h), a distribution, sale, or exchange of stock to which this subsection applies shall be treated as a sale of stock to which subsection (a) applies.

"(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—In the case of any distribution of stock of a foreign corporation, paragraph (1) shall not apply if such distribution is to a domestic corporation—

"(A) which is treated under this section as holding such stock for the period for which the stock was held by the distributing corporation, and

"(B) which, immediately after the distribution, satisfies the stock ownership requirements of subsection (a)(2) with respect to such foreign corporation.

"(3) NONAPPLICATION OF PARAGRAPH (1) IN CERTAIN CASES.—Paragraph (1) shall not apply to a sale or exchange to which section 337 applies if—

"(A) throughout the period or periods the stock of the foreign corporation was held by the domestic corporation (or

predecessor referred to in paragraph (2)) all the stock of such domestic corporation was owned by United States persons who satisfied the 10-percent stock ownership requirements of subsection (a)(2) with respect to such domestic corporation, and

"(B) subsection (a) applies to the proceeds of the sale or exchange and also applied to all transactions described in subsection (e)(1) which took place during the period or periods referred to in subparagraph (A).

"(4) APPLICATION TO CASES DESCRIBED IN SUBSECTION (e).—To the extent that earnings and profits are taken into account under this subsection, they shall be excluded and not taken into account for purposes of subsection (e).".

(2) INTEREST IN PARTNERSHIP HOLDING STOCK IN CERAIN FOREIGN CORPORATIONS.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out "(as defined in section 1245(a)(3))," and inserting in lieu thereof "as defined in section 1245(a)(3)), stock in certain foreign corporations (as described in section 1248)," and

(B) by striking out "1245(a)," and inserting in lieu thereof "1245(a), 1248(a),".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of paragraph (2) of subsection (c) of section 1248 is amended by striking out "subsection (a) applies to a sale or exchange" and inserting in lieu thereof "subsection (a) or (f) applies to a sale, exchange, or distribution".

(B) Subparagraph (A) of paragraph (3) of subsection (g) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended to read as follows:

"(A) a dividend (other than an amount treated as a dividend under subsection (f)),".

(C) Subsection (h) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a) or (f)".

(d) DECLARATORY JUDGMENT PROCEDURE FOR REVIEW BY THE TAX COURT OF SECTION 367 DETERMINATIONS.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO TRANSFERS OF PROPERTY FROM THE UNITED STATES.

"(a) CREATION OF REMEDY.—

"(1) IN GENERAL.—In a case of actual controversy involving—

"(A) a determination by the Secretary—

"(i) that an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

"(ii) of the terms and conditions pursuant to which an exchange described in section 367(a)(1) will be

determined not to be in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

"(B) a failure by the Secretary to make a determination as to whether an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes,

upon the filing of an appropriate pleading, the Tax Court may make the appropriate declaration referred to in paragraph (2). Such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(2) SCOPE OF DECLARATION.—The declaration referred to in paragraph (1) shall be—

"(A) in the case of a determination referred to in subparagraph (A) of paragraph (1), whether or not such determination is reasonable, and, if it is not reasonable, a determination of the issue set forth in subparagraph (A)(ii) of paragraph (1), and

"(B) in the case of a failure described in subparagraph (B) of paragraph (1), the determination of the issues set forth in subparagraph (A) of paragraph (1).

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by a petitioner who is a transferor or transferee of stock, securities, or property transferred in an exchange described in section 367(a)(1).

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with repect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes before the expiration of 270 days after the request for such determination was made.

"(3) EXCHANGE SHALL HAVE BEGUN.—No proceeding may be maintained under this section unless the exchange is described in section 367(a)(1) with respect to which a decision of the Tax Court is sought has begun before the filing of the pleading.

"(4) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail to the petitioners referred to in paragraph (1) notice of his determination with respect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes or with respect to the terms and conditions pursuant to which such an exchange will be determined not to be made in pursuance of such a plan, no proceeding may be initiated under this section by any petitioner unless the pleading is filed before the 91st day after the day after such notice is mailed to such petitioner.

"(c) *COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.*".

(2) *TECHNICAL AND CONFORMING AMENDMENTS.—*

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of a person seeking a declaratory judgment under section 7477, the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation.".

(B) Section 7482(b)(1) is further amended—

(i) by striking out "subparagraph (A), (B), and (C) do not apply" in the second sentence and inserting in lieu thereof "no subparagraph of the preceding sentence applies"; and

(ii) by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7476 or 7477".

(C) The heading for section 7476 is amended to read as follows:

"SEC. 7476. DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS."

(D) The table of sections for part IV of subchapter C of chapter 76 is amended to read as follows:

"Sec. 7476. Declaratory judgments relating to qualification of certain retirement plans.
"Sec. 7477. Declaratory judgments relating to transfers of property from United States."

(E) The heading of part IV of subchapter C of chapter 76 is amended to read as follows:

"PART IV—DECLARATORY JUDGMENTS".

(F) The table of parts for subchapter C of chapter 76 is amended by striking out the item relating to part IV and inserting in lieu thereof the following:

"Part IV. Declaratory judgments."

(e) *EFFECTIVE DATES.—*

(1) The amendments made by this section (other than by subsection (d)) shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date. The amendments made by subsection (d) shall apply with respect to pleadings filed with the Tax Court after the date of the enactment of this Act but only with respect to transfers beginning after October 9, 1975.

(2) In the case of any exchange described in section 367 of the Internal Revenue Code of 1954 (as in effect on December 31, 1974) in any taxable year beginning after December 31, 1962, and before the date of the enactment of this Act, which does not involve the transfer of property to or from a United States person, a taxpayer shall have for purposes of such section until 183 days after the date of the enactment of this Act to file a request with the Secretary of the Treasury or his delegate seeking to establish to the satisfaction of the Secretary of the Treasury or his delegate that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes and that for purposes of such section a foreign corporation is to be treated as a foreign corporation.

SEC. 1043. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

(a) AMENDMENT OF SUBCHAPTER L.—Subpart E of part I of subchapter L of chapter 1 (relating to life insurance companies) is amended by inserting after section 819 the following new section:

"SEC. 819A. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each and every item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term 'contiguous country life insurance branch' means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) SEPARATE ACCOUNTING REQUIRED.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) *in all other cases, in accordance with regulations prescribed by the Secretary.*

"(d) *RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.*

"(e) *TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.—*

"(1) *REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.*

"(2) *REPATRIATION OF INCOME.—*

"(A) *IN GENERAL.—Except as provided in subparagraph (B), any amount directy or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the life insurance company taxable income of the domestic life insurance company (as computed without regard to this paragraph).*

"(B) *LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—*

"(i) *the aggregate decrease in the life insurance company taxable income of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds*

"(ii) *the amount of additions to life insurance company taxable income pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.*

"(f) *OTHER RULES.—*

"(1) *TREATMENT OF FOREIGN TAXES.—*

"(A) *IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes*

of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year beginning after December 31, 1975. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election

under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart E is amended by inserting after the item relating to section 819 the following new item:

"Sec. 819A. Contiguous country branches of domestic life insurance companies."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1044. TRANSITIONAL RULE FOR BOND, ETC., LOSSES OF FOREIGN BANKS.

(a) GENERAL RULE.—Section 582(c) (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new paragraph:

"(4) TRANSITIONAL RULE FOR BANKS.—In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges for such taxable year (but not in excess of the net capital loss for such taxable year)."

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall apply with respect to taxable years beginning after July 11, 1969.

(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1954, relating to compromises) on the day which is one year after the date of the enactment of this Act, such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.

PART V—SPECIAL CATEGORIES OF FOREIGN TAX TREATMENT

SEC. 1051. TAX TREATMENT OF CORPORATIONS CONDUCTING TRADE OR BUSINESS IN PUERTO RICO AND POSSESSIONS OF THE UNITED STATES.

(a) ALLOWANCE OF PUERTO RICAN AND POSSESSION TAX CREDIT.—Section 33 (relating to taxes of foreign countries and possessions of the United States) is amended to read as follows:

"SEC. 33. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF THE UNITED STATES; POSSESSION TAX CREDIT.

"(a) FOREIGN TAX CREDIT.—The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

"(b) SECTION 936 CREDIT.—In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter."

(b) RULES ON POSSESSION TAX CREDIT.—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

"SEC. 936. PUERTO RICO AND POSSESSION TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a domestic corporation which elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to taxable income, from sources without the United States, from the active conduct of a trade or business within a possession of the United States, and from qualified possession source investment income, if the conditions of both subparagraph (A) and subparagraph (B) are satisfied:

"(A) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)); and

"(B) TRADE OR BUSINESS.—If 50 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

"(2) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by paragraph (1) shall not be allowed against the tax imposed by—

"(A) section 56 (relating to minimum tax),

"(B) section 531 (relating to the tax on accumulated earnings),

"(C) section 541 (relating to personal holding company tax),

"(D) section 1333 (relating to war loss recoveries), or

"(E) section 1351 (relating to recoveries of foreign expropriation losses).

"(b) AMOUNTS RECEIVED IN UNITED STATES.—In determining taxable income for purposes of subsection (a), there shall not be taken into account as income from sources without the United States any gross income which was received by such domestic corporation within

the United States, whether derived from sources within or without the United States.

"*(c) Treatment of Certain Foreign Taxes.—For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.*

"*(d) Definitions.—For purposes of this section—*

"*(1) Possession.—The term 'possession of the United States' includes the Commonwealth of Puerto Rico, but does not include the Virgin Islands of the United States.*

"*(2) Qualified possession source investment income.—The term 'qualified possession source investment income' means gross income which—*

"*(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and*

"*(B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,*

less the deductions properly apportioned or allocated thereto.

"*(e) Election.—*

"*(1) Period of election.—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for which the domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a)(1) and for each taxable year thereafter until such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corporation under paragraph (2), such domestic corporation may make a subsequent election under subsection (a) for any taxable year thereafter for which such domestic corporation satisfies the conditions of subparagraph (A) and (B) of subsection (a)(1) and any such subsequent election shall remain in effect until revoked by such domestic corporation under paragraph (2).*

"*(2) Revocation.—An election under subsection (a)—*

"*(A) may be revoked for any taxable year beginning before the expiration of the 9th taxable year following the taxable year for which such election first applies only with the consent of the Secretary; and*

"*(B) may be revoked for any taxable year beginning after the expiration of such 9th taxable year without the consent of the Secretary.*

"*(f) DISC or Former DISC Corporation Ineligible for Credit.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a DISC or former DISC (as defined in section 992(a)) or in which it owns at any time stock in a DISC or former DISC.*

"(g) EXCEPTION TO ACCUMULATED EARNINGS TAX.—

"(1) For purposes of section 535, the term 'accumulated taxable income' shall not include taxable income entitled to the credit under subsection (a).

"(2) For purposes of section 537, the term 'reasonable needs of the business' includes assets which produce income eligible for the credit under subsection (a)."

(c) AMENDMENTS OF SECTION 931.—

(1) Subsection (a) of section 931 (relating to general rule in the case of income from sources within possessions of the United States) is amended to read as follows:

"(a) GENERAL RULE.—In the case of individual citizens of the United States, gross income means only gross income from sources within the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

"(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such citizen (computed without the benefit of this section) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

"(2) TRADE OR BUSINESS.—If 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another."

(2) Subsection (c) of section 931 (defining the term "possession") is amended to read as follows:

"(c) DEFINITION.— For purposes of this section, the term 'possession of the United States' does not include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam.".

(3) Subsections (d), (e), and (f) of section 931 are each amended by striking out "persons" each place it appears and inserting in lieu thereof "a citizen of the United States".

(d) AMENDMENTS OF SECTION 901.—

(1) Section 901(d) (relating to certain corporations treated as foreign corporations) is amended to read as follows:

"(d) TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC.— For purposes of this subpart, dividends from a DISC or former DISC (as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.".

(2) Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) CERTAIN TAXES PAID WITH RESPECT TO DISTRIBUTIONS FROM POSSESSIONS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation, to the extent that such distribution is attributable to periods dur-

ing which such corporation is a possessions corporation, shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

"*(2) Possessions corporation.—For purposes of paragraph (1), a corporation shall be treated as a possessions corporation for any period during which an election under section 936 applied to such corporation or during which section 931 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) applied to such corporation.*"

(e) Amendment of Section 904(b).—Section 904(b) (as amended by sections 1031 and 1034(a) of this Act) is amended by adding at the end thereof the following new paragraph:

"*(4) Coordination with section 936.—For purposes of subsection (a), in the case of a corporation, the taxable income shall not include any portion thereof taken into account for purposes of the credit (if any) allowed by section 936.*"

(f) Dividends Received Deduction Allowed.—

(1) Section 243(b)(1) (defining qualifying dividends) is amended by adding "either" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof a comma and "or", and by adding at the end thereof the following new subparagraph:

"*(C) such dividends are paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid.*".

(2) Section 243(b)(5) (defining affiliated group) is amended by inserting ", 1504(b)(4)," immediately after "1504(b)(2)".

(3) Section 246(a) (relating to dividends from certain corporations) is amended to read as follows:

"*(a) Deduction Not Allowed for Dividends From Certain Corporations.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).*"

(g) Consolidated Return Treatment.—Section 1504(b)(4) (defining includible corporation) is amended to read as follows:

"*(4) Corporations with respect to which an election under section 936 (relating to possession tax credit) is in effect for the taxable year.*".

(h) Conforming Amendments.—

(1) Section 48(a)(2)(B)(vii) (relating to definition of section 38 property) is amended by striking out "(other than a corporation entitled to the benefits of section 931 or 934(b))" and inserting in lieu thereof the following: "(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))".

(2) Paragraph (2) of subsection 116(b) (relating to certain dividends excluded from partial exclusion of dividends received by individuals) is amended to read as follows:

"(2) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations); or".

(3) Section 861(a)(2)(A) (relating to income from sources within the United States) is amended by striking out "other than a corporation entitled to the benefits of section 931," and inserting in lieu thereof the following: "other than a corporation which has an election in effect under section 936,".

(4) Section 6091(b)(2)(B)(ii) (relating to place of filing for corporations) is amended by striking out "section 931 (relating to income from sources within possessions of the United States)," and inserting in lieu thereof the following: "section 936 (relating to possession tax credit),".

(i) EFFECTIVE DATE.—

(1) Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1975, except that "qualified possession source investment income" as defined in section 936(d)(2) of the Internal Revenue Code of 1954 shall include income from any source outside the United States if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was earned before October 1, 1976.

(2) The amendment made by subsection (d)(2) shall not apply to any tax imposed by a possession of the United States with respect to the complete liquidation occurring before January 1, 1979, of a corporation to the extent that such tax is attributable to earnings and profits accumulated by such corporation during periods ending before January 1, 1976.

SEC. 1052. WESTERN HEMISPHERE TRADE CORPORATIONS.

(a) PHASEOUT OF SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATIONS.—Section 922 (special deduction for Western Hemisphere trade corporations) is amended by adding at the end thereof the following new subsection:

"(b) PHASEOUT OF DEDUCTION.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1980, the percent specified in subsection (a)(2)(A) shall be (in lieu of 14 percent) the percent specified in the following table:

"For a taxable year beginning in—	The percentage shall be—
1976	11
1977	8
1978	5
1979	2".

(b) REPEAL OF WESTERN HEMISPHERE TRADE CORPORATION DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER 1979.—Subpart C of part III of subchapter N of chapter 1 (relating to Western Hemisphere trade corporations) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The first sentence of section 922 (relating to special deduc-

tion) is amended by striking out "In the case of" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—In the case of".

(2) Section 170(b)(2) (relating to percentage limitations on charitable contributions in the case of corporations) is amended by adding "and" at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(3) Section 172(d) (relating to modifications for purposes of the net operating loss deduction) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(4) Subsection (g) of section 907 is hereby repealed.

(5) Section 1503 (relating to computation and payment of tax in the case of consolidated returns) is amended by striking out subsection (b) and by striking out "(a) GENERAL RULE.—".

(6) Section 6091(b)(2)(B)(ii) (relating to place for filing returns of corporations) is amended to read as follows:

"(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and".

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart C.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) and paragraph (1) of subsection (c) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsection (b) and by subsection (c) (other than paragraph (1)) shall apply with respect to taxable years beginning after December 31, 1979.

SEC. 1053. REPEAL OF PROVISIONS RELATING TO CHINA TRADE ACT CORPORATIONS.

(a) PHASEOUT OF SECTION 941.—Section 941 (relating to special deductions for China Trade Act corporations) is amended by adding the following new subsection:

"(d) PHASEOUT OF DEDUCTION.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the special deduction under subsection (a) (determined without regard to this subsection) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	*The percentage reduction shall be—*
1976	*33⅓*
1977	*66⅔."*

(b) PHASEOUT OF SECTION 943.—Section 943 (relating to the exclusion of certain dividends to residents of Formosa or Hong Kong) is amended by adding at the end thereof the following new sentence: "In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the distributions which are excludable from gross income under this section (determined without regard to this sentence) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	*The percentage reduction shall be—*
1976	*33⅓*
1977	*66⅔."*

(c) REPEAL.—Subpart E of part III of subchapter N of chapter 1 (relating to China Trade Act corporations) is hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 116(b) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Section 1504(b) is amended by striking out paragraph (5).

(3) Section 6072 is amended by striking out subsection (e).

(4) Section 6091(b)(2)(B)(ii) is amended by striking out the comma after "trade corporations)" and inserting in lieu thereof "or" and by striking out "or section 941 (relating to the special deduction for China Trade Act corporations),".

(5) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart E.

(e) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) shall apply with respect to taxable years beginning after December 31, 1977.

PART VI—DENIAL OF CERTAIN TAX BENEFITS FOR COOPERATION WITH OR PARTICIPATION IN INTERNATIONAL BOYCOTTS AND IN CONNECTION WITH THE PAYMENT OF CERTAIN BRIBES

SEC. 1061. DENIAL OF FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subpart A of part III of subchapter N, (relating to income from sources without the United States) is amended by adding at the end thereof the following new section:

"SEC. 908. REDUCTION OF CREDIT FOR PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.

"(a) IN GENERAL.—If a taxpayer, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable for the taxable year under section 901 shall be reduced by an amount equal to the product of—

"(1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by

"(2) the international boycott factor (determined under section 999).

"(b) APPLICATION WITH SECTION 275(a)(4).—Section 275(a)(4) shall not apply to any amount of taxes denied credit under subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by adding at the end thereof the following new item:

"Sec. 908. Reduction of credit for participation in or cooperation with an international boycott."

SEC. 1062. DENIAL OF DEFERRAL OF INTERNATIONAL BOYCOTT AMOUNTS.

(a) *DENIAL OF DEFERRAL.—Section 952(a) (relating to general definition of subpart F income) is amended—*

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the ned of paragraph (2) and inserting in lieu thereof a comma, and the word "and", and

(3) by adding at the end thereof the following new paragraph:

"(3) an amount equal to the product of—

"(A) the income of such corporation other than income which—

"(i) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or

"(ii) is described in subsection (b),

multiplied by

"(B) the international boycott factor (as determined under section 999)."

SEC. 1063. DENIAL OF DISC BENEFITS.

(a) *INTERNATIONAL BOYCOTT ACTIVITY.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended to read as follows:*

"(D) the sum of—

"(i) one-half of the excess of the taxable income of the DISC for the taxable year, before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year under subparagraphs (A), (B), and (C), and

"(ii) an amount equal to the amount determined under clause (i) multiplied by the international boycott factor determined under section 999, and".

SEC. 1064. DETERMINATIONS AS TO PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.

(a) *IN GENERAL.—Subchapter N of chapter 1 (relating to tax based on income from sources within or without the United States) is amended by adding at the end thereof the following new part:*

"PART V—INTERNATIONAL BOYCOTT DETERMINATIONS

"SEC. 999. REPORTS BY TAXPAYERS; DETERMINATIONS.

"(a) INTERNATIONAL BOYCOTT REPORTS BY TAXPAYERS.—

"(1) REPORT REQUIRED.—If any taxpayer, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer, has operations in or related to—

"(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

"(B) any other country (or with the government, a company, or a national of that country) in which the taxpayer

(or such member) had operations during the taxable year if the taxpayer or member knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

the taxpayer shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes.

"(2) PARTICIPATION AND COOPERATION; REQUESTS THEREFOR.—A taxpayer shall report whether he or any member of a controlled group which includes the taxpayer has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which he participated in or cooperated with such boycott (or was requested to participate or cooperate).

"(3) LIST TO BE MAINTAINED.—The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b)(3)).

"(b) PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.—

"(1) GENERAL RULE.—If the taxpayer or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the taxpayer participates in or cooperates with an international boycott in the taxable year, all operations of the taxpayer or such group in that country and in any other country which requires participation in or cooperation with the boycott as a condition of doing business within that country, or with the government, a company, or a national of that country, shall be treated as operations in connection with which such participation or cooperation occurred, except to the extent that the taxpayer can clearly demonstrate that a particular operation is a clearly separate and identifiable operation in connection with which he did not participate in or cooperate with an international boycott.

"(2) SPECIAL RULE.—

"(A) NONBOYCOTT OPERATIONS.—A clearly separate and identifiable operation of a person, or of a member of the controlled group (within the meaning of section 993(a)(3) which includes that person, in or related to any country within the group of countries referred to in paragraph (1) shall not be treated as an operation in or related to a group of countries associated in carrying out an international boycott if the person can clearly demonstrate that he, or that such member, did not participate in or cooperate with the international boycott in connection with that operation.

"(B) SEPARATE AND IDENTIFIABLE OPERATIONS.—A taxpayer may show that different operations within the same country, or operations in different countries, are clearly separate and identifiable operations.

"(3) DEFINITION OF BOYCOTT PARTICIPATION AND COOPERATION.—For purposes of this section, a person participates in or cooperates with an international boycott if he agrees—

"(A) as a condition of doing business directly or indirectly within a country or with the government, a company, or a national or a country—

"(i) to refrain from doing business with or in a country which is the object of the boycott or with the government, companies, or nationals of that country;

"(ii) to refrain from doing business with any United States person engaged in trade in a country which is the object of the boycott or with the government, companies, or nationals of that country;

"(iii) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; or

"(iv) to refrain from employing individuals of a particular nationality, race, or religion; or

"(B) as a condition of the sale of a product to the government, a company, or a national of a country, to refrain from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (within the meaning of subparagraph (A)).

"(4) COMPLIANCE WITH CERTAIN LAWS.—This section shall not apply to any agreement by a taxpayer (or such member)—

"(A) to meet requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in, or cooperation with, that international boycott,

"(B) to compy with a prohibition on the importation of goods produced in whole or in part in any country which is the object of an international boycott, or

"(C) to comply with a prohibition imposed by a country on the exportation of products obtained in such country to any country which is the object of an international boycott.

"(c) INTERNATIONAL BOYCOTT FACTOR.—

"(1) INTERNATIONAL BOYCOTT FACTOR.—For purposes of sections 908(a), 952(a)(3), and 995(b)(3), the international boycott factor is a fraction, determined under regulations prescribed by the Secretary, the numerator of which reflects the world-wide operations of a person (or, in the case of a controlled group (within the meaning of section 993(a)(3) which includes that person, of the group) which are operations in or related to a group of countries associated in carrying out an international boycott in or with which that person or a member of that controlled group has participated or cooperated in the taxable year, and the denominator of which reflects the world-wide operations of that person or group.

"(2) *SPECIFICALLY ATTRIBUTABLE TAXES AND INCOME.—If the taxpayer clearly demonstrates that the foreign taxes paid and income earned by the taxpayer for the taxable year with respect to his world-wide operations are attributable to specific operations, then, in lieu of applying the international boycott factor for such taxable year, the amount of the credit disallowed under section 908 (a), the addition to subpart F income under section 952(a)(3), and the amount of deemed distribution under section 995(b)(1)(D)(ii) for the taxable year, if any, shall be the amounts specifically attributable to the operations in which the taxpayer participated in or cooperated with an international boycott under section 999(b)(1).*

"(3) *WORLD-WIDE OPERATIONS.—For purposes of this subsection, the term 'world-wide operations' means operations in or related to countries other than the United States.*

"(d) *DETERMINATIONS WITH RESPECT TO PARTICULAR OPERATIONS.—Upon a request made by the taxpayer, the Secretary shall issue a determination with respect to whether a particular operation of the taxpayer, or of a member of a controlled group which includes the taxpayer, constitutes participation in or cooperation with an international boycott. The Secretary may issue such a determination in advance of such operation in cases which are of such a nature that an advance determination is possible and appropriate under the circumstances. If the request is made before the operation is commenced, or before the end of a taxable year in which the operation is carried out, the Secretary may decline to issue such a determination before the close of the taxable year.*

"(e) *PARTICIPATION OR COOPERATION BY RELATED PERSONS.—If two or more corporations which are members of the same controlled group (within the meaning of section 993 (a)(3)) are controlled by five or fewer persons—*

"(1) *participation in or cooperation with an international boycott by such a corporation shall be considered to be such participation or cooperation by each of those persons, and*

"(2) *participation in or cooperation with such a boycott by such a person shall be considered to be such participation or cooperation by those corporations.*

"(f) *WILLFUL FAILURE TO REPORT.—Any person (within the meaning of section 6671 (b)) required to report under this section who willfully fails to make such report shall, in addition to other penalties provided by law, be fined not more than $25,000, imprisoned for not more than one year, or both.".*

(b) *CLERICAL AMENDMENT.—The table of parts for such subchapter is amended by adding at the end thereof the following new item:*

"Part V. International boycott determinations."

SEC. 1065. FOREIGN BRIBES.

(a) *DENIAL OF DEFERRAL.—*

(1) *CONTROLLED FOREIGN CORPORATIONS.—Section 952(a) (relating to general definition of subpart F income) is amended—*

(A) *by striking out "and" at the end of paragraph (2),*

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and the word "and", and

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

"(4) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government."

(2) DISC's.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended—

(A) by striking out "and" at the end of clause (i),

(B) by adding at the end thereof the following new clause:

"(iii) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government, and".

(b) BRIBES NOT TO REDUCE FOREIGN EARNINGS AND PROFITS.—Section 964(a) (relating to earnings and profits of foreign corporations) as amended by adding at the end thereof the following sentence: "In determining such earnings and profits, or the deficit in such earnings and profits, the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit."

SEC. 1066. EFFECTIVE DATES.

(a) INTERNATIONAL BOYCOTTS.—

(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act.

(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.

(b) FOREIGN BRIBES.—The amendments made by section 1065 apply to payments described in section 162(c) of the Internal Revenue Code of 1954 made more than 30 days after the date of enactment of this Act.

SEC. 1067. REPORTS BY SECRETARY.

(a) REPORTS TO THE CONGRESS.—As soon after the close of each calendar year as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth, for that calendar year—

(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within such taxable year,

(2) the number of such reports on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

(3) a detailed desecription of the manner in which the provisions of such Code relating to international boycott activity have been administered during such calendar year.

(b) INITIAL LIST.—The Secreary of the Treasury shall publish an initial list of those countries which may require participation in or cooperation with an international boycott as a condition of doing business within such country, or with the government, a company, or a national of such country (within the meaning of section 999(b) of the International Revenue Code of 1954), within 30 days after the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, 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:

AMENDMENTS AFFECTING DISC

SEC. 1101. AMENDMENTS AFFECTING DISC.

(a) IN GENERAL.—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) in paragraph (1) of subsection (b) thereof, by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, by striking out "and (C)" in subparagraph (F) (as so redesignated) and inserting in lieu thereof "(C), (D), and (E)", and by inserting after subparagraph (C) the following new subparagraphs:

"(D) 50 percent of the taxable income of the DISC for the taxable year attributable to military property,

"(E) the taxable income for the taxable year attributable to base period export gross receipts (as defined in subsection (e)),";

(2) in paragraph (2)(B) of subsection (b) thereof, by striking out "more than the number" and inserting in lieu thereof "more than twice the number";

(3) by adding at the end of subsection (b) thereof the following new paragraph:

"(3) TAXABLE INCOME ATTRIBUTABLE TO MILITARY PROPERTY.—

"(A) IN GENERAL.—For purposes of paragraph (1)(D), taxable income of a DISC for the taxable year attributable to military property shall be determined by only taking into account—

"(i) the gross income of the DISC for the taxable year which is attributable to military property, and

"(ii) the deductions which are properly apportioned or allocated to such income.

"(B) MILITARY PROPERTY.—For purposes of subparagraph (A), the term 'military property' means any property which is an arm, ammunition, or implement of war designated in

the munitions list published pursuant to the Military Security Act of 1954 (22 U.S.C. 1934)."; and

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

"*(e) DEFINITIONS AND SPECIAL RULES RELATING TO COMPUTATION OF TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.—*

"*(1) TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.—For purposes of this section, the taxable income attributable to base period export gross receipts shall be an amount equal to that portion of the adjusted taxable income of a DISC which—*

"*(A) the amount of the adjusted base period export gross receipts, bears to*

"*(B) the amount of the export gross receipts of the DISC for the taxable year.*

"*(2) ADJUSTED TAXABLE INCOME.—For purposes of this section, the term 'adjusted taxable income' means the income of a DISC for the taxable year, reduced by the amounts described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of subsection (b).*

"*(3) ADJUSTED BASE PERIOD EXPORT GROSS RECEIPTS.—For purposes of this section, the term 'adjusted base period export gross receipts' means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period (as defined in paragraph (5)). For purposes of the preceding sentence, if any property would not qualify during the taxable year as export property by reason of section 993(c)(2), gross receipts from such property shall be excluded from export gross receipts during the taxable years in the base period.*

"*(4) EXPORT GROSS RECEIPTS.—For purposes of this section, the term 'export gross receipts' means—*

"*(A) qualified export receipts described in subparagraphs (A), (B), (C), (G), and (H) of section 993(a)(1), reduced by*

"*(B) 50 percent of such qualified export receipts which are attributable to military property (as defined in subsection (b)(3)(B)).*

"*(5) BASE PERIOD.—For purposes of paragraph (3)—*

"*(A) for any taxable year beginning before 1980, the base period shall be the taxable years beginning in 1972, 1973, 1974, and 1975, and*

"*(B) for any taxable year beginning in any calendar year after 1979, the base period shall be the taxable years beginning in the fourth, fifth, sixth, and seventh calendar years preceding such calendar year.*

"*(6) NO BASE PERIOD YEAR.—If a DISC did not have a taxable year beginning in a calendar year specified in paragraph (5), then, for purposes of computing the adjusted base period export gross receipts, such DISC is deemed to have a taxable year and export gross receipts of zero for that year.*

"(7) SHORT TAXABLE YEAR.—*The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year for purposes of computing base period export gross receipts of a DISC, or a short taxable year in which deemed distributions (as described in subsection (b)) are made, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.*

"(8) CONTROLLED GROUP.—*If more than one member of a controlled group (as defined in section 993(a)(3)) for the taxable year qualifies as a DISC, then subsection (b)(1)(E), this subsection, and subsection (f) shall each be applied in a manner provided by regulations prescribed by the Secretary by aggregating the export gross receipts and taxable income of such DISCs for the taxable year and by aggregating the export gross receipts of such DISCs for each taxable year in the base period.*

"(9) SPECIAL RULE WHERE THE OWNERSHIP OF DISC STOCK AND THE TRADE OR BUSINESS GIVING RISE TO EXPORT GROSS RECEIPTS OF THE DISC ARE SEPARATED.—

"(A) IN GENERAL.—*If, at any time after the beginning of the base period, there has been a separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC, then the persons who own the trade or business during the taxable year shall be treated as having had additional export gross receipts during the base period attributable to such trade or business.*

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

"(i) *where the stock in the DISC and the trade or business are owned throughout the taxable year by members of the same controlled group, and*

"(ii) *to the extent that the taxpayer's ownership of the stock in the DISC for the taxable year is proportionate to his ownership during the taxable year of the trade or business.*

"(10) DISC BASE PERIOD ATTRIBUTED THROUGH SHAREHOLDERS IN CERTAIN CASES.—

"(A) IN GENERAL.—*If—*

"(i) *any person owns 5 percent or more of the stock of a DISC (hereinafter in this paragraph referred to as 'first DISC'), and*

"(ii) *such person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC,*

then, to the extent provided in such regulations as the Secretary may prescribe to prevent circumvention of the application of subsection (b)(1)(E), an amount equal to such shareholder's share of the base period export gross receipts of the second DISC shall be added to the base period export gross receipts of the first DISC.

"(B) OWNERSHIP OF STOCK.—For purposes of subparagraph (A), the ownership of stock shall be determined under section 318.

"(f) SMALL DISC'S.—

"(1) ADJUSTED TAXABLE INCOME OF $100,000 OR LESS.—If a DISC has adjusted taxable income of $100,000 or less for a taxable year, subsection (b)(1)(E) shall not apply with respect to such year.

"(2) SPECIAL RULE.—If a DISC has adjusted taxable income of more than $100,000 for a taxable year, then the amount taken into account under subsection (b)(1)(E) shall be deemed to be an amount equal to the excess (if any) of—

"(A) the amount which would (but for this paragraph) be taken into account under subsection (b)(1)(E), over

"(B) twice the excess (if any) of $150,000 over the adjusted taxable income.

"(g) CERTAIN TRANSFERS OF DISC ASSETS.—If—

"(1) a corporation owns, directly or indirectly, all of the stock of a subsidiary and a DISC,

"(2) the subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b)) throughout the 5-year period ending on the date of the transfer and continues to be so engaged thereafter, and

"(3) during the taxable year of the subsidiary in which its stock is transferred and its preceding taxable year, such trade or business gives rise to qualified export receipts of the subsidiary and the DISC,

then, under such terms and conditions as the Secretary by regulations shall prescribe, transfers of assets, stock, or both, will be deemed to be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination thereof. The preceding sentence shall apply only to the extent that the transfer or transfers involved are for the purpose of preventing the separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC."

(b) AMENDMENT OF SECTION 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended—

(1) by striking out "or" at the end of subparagraph (B), and

(2) by striking out "under section 611" in subparagraph (C) and inserting in lieu thereof "under section 613 or 613A".

(c) AMENDMENTS TO SECTION 993(d).—Section 993(d) (relating to definition of producer's loans) is amended—

(1) by inserting in paragraph (1)(C) immediately after "export property", the following: "determined without regard to subparagraph (C) or (D) of subsection (c)(2),".

(2) by inserting in paragraph (2) immediately after "of property which would be export property" the following: "(determined without regard to subparagraph (C) or (D) of subsection (c)(2))".

(d) RECAPTURE OF ACCUMULATED DISC INCOME ON DISPOSITION OF STOCK IN A DISC OR FORMER DISC.—

(1) Section 995(c) is amended to read as follows:

"(c) GAIN ON DISPOSITION OF STOCK IN A DISC.—

"(1) IN GENERAL.—If—

"(A) a shareholder disposes of stock in a DISC or former DISC any gain recognized on such disposition shall be included in gross income as a dividend to the extent provided in paragraph (2),

"(B) stock of a DISC or former DISC is disposed of in a transaction in which the separate corporate existence of the DISC or former DISC is terminated other than by a mere change in place of organization, however effected, any gain realized on the disposition of such stock in the transaction shall be recognized notwithstanding any other provision of this title to the extent provided in paragraph (2) and to the extent so recognized shall be included in gross income as a dividend, or

"(C) a shareholder distributes, sells, or exchanges stock in a DISC or former DISC in a transaction to which section 311, 336, or 337 applies, then an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the shareholder shall, notwithstanding any provision of this title, be included in gross income of the shareholder as a dividend to the extent provided in paragraph (2).

"(2) AMOUNT INCLUDED.—The amounts described in paragrap (1) shall be included in gross income as a dividend to the extent of the accumulated DISC income of the DISC or former DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the shareholder which disposed of such stock."

(2) INTEREST IN A PARTNERSHIP HOLDING STOCK IN A DISC.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out "(as defined in section 617(f)(2))," and inserting in lieu thereof "(as defined in section 617(f)(2), stock in a DISC (as described in section 992(a))," and

(B) by striking out "617(d)(1), 1245(a)," and inserting in lieu thereof "617(d)(1), 995(c), 1245(a),".

(e) RULES FOR ALLOCATING DISTRIBUTIONS MADE TO MEET QUALIFICATION REQUIREMENTS.—Paragraph (2) of section 996(a) (relating to rules for actual distributions and certain deemed distributions) is amended by adding at the end thereof the following new sentence: "In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount."

(f) AMENDMENT OF SECTION 603(b) OF TAX REDUCTION ACT OF 1975.—Section 603(b) of the Tax Reduction Act of 1975 (relating to effective date) is amended to read as follows:

"*(b) EFFECTIVE DATES.—*

"*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.*

"*(2) BINDING CONTRACT.—The amendments made by subsection (a) shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term 'fixed contract' means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(3) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same controlled group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased.*"

(g) EFFECTIVE DATES.—

(1) FOR SUBSECTIONS (a) AND (e).—Except as provided in paragraph (2), the amendments made by subsections (a) and (e) shall apply to taxable years beginning after December 31, 1975.

(2) FOR SUBSECTION (b).—The amendments made by subsection (b) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

(3) FOR SUBSECTIONS (c) AND (f).—The amendments made by subsections (c) and (f) shall apply to taxable years ending after March 18, 1975.

(4) FOR SUBSECTION (d).—The amendments made by subsection (d) shall apply to sales, exchanges, or other dispositions after December 31, 1975, in taxable years ending after such date.

(5) PRORATION OF BASE PERIOD IN CASE OF FIXED CONTRACTS.—For purposes of determining adjusted base period export gross receipts (under section 995(e)(3) of the Internal Revenue Code of 1954, as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 993(e)(3) of such Code multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the

taxable year by reason of subparagraph (C) or (D) of paragraph (2) of section 993(c) (determined without regard to paragraph (2) of section 603(b) of the Tax Reduction Act of 1975).

And the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, 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:

ADMINISTRATIVE PROVISIONS

SEC. 1201. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS BY INTERNAL REVENUE SERVICE.

(a) REQUIREMENT THAT WRITTEN DETERMINATIONS BE OPEN TO PUBLIC INSPECTION.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6110 as 6111 and by inserting after section 6109 the following new section:

"SEC. 6110. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

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

"(1) WRITTEN DETERMINATION.—The term 'written determination' means a ruling, determination letter, or technical advice memorandum.

"(2) BACKGROUND FILE DOCUMENT.—The term 'background file document' with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

"(3) REFERENCE AND GENERAL WRITTEN DETERMINATIONS.—

"(A) REFERENCE WRITTEN DETERMINATION.—The term 'reference written determination' means any written determination which has been determined by the Secretary to have significant reference value.

"(B) GENERAL WRITTEN DETERMINATION.—The term 'general written determination' means any written determination other than a reference written determination.

"(c) EXEMPTIONS FROM DISCLOSURE.—Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

"(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any

other person, other than a person with respect to whom a notation is made under subsection (d)(1), identified in the written determination or any background file document;

"(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

"(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

"(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

"(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

"(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

"(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f)(3)) to make such deletions.

"(d) PROCEDURES WITH REGARD TO THIRD PARTY CONTACTS.—

"(1) NOTATIONS.—If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

"(3) DISCLOSURE OF IDENTITY.—In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court

may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f)(4)(B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

"(4) PERIOD IN WHICH TO BRING ACTION.—No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

"(e) BACKGROUND FILE DOCUMENTS.—Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

"(f) RESOLUTION OF DISPUTES RELATING TO DISCLOSURE.—

"(1) NOTICE OF INTENTION TO DISCLOSE.—The Secretary shall upon issuance of any written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

"(2) ADMINISTRATIVE REMEDIES.—The Secretary shall prescribe regulations establishing administrative remedies with respect to—

"(A) requests for additional disclosure of any written determination or any background file document, and

"(B) requests to restrain disclosure.

"(3) ACTION TO RESTRAIN DISCLOSURE.—

"(A) CREATION OF REMEDY.—Any person—

"(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

"(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

"(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2),

may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

"(B) *NOTICE TO CERTAIN PERSONS.—The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determination or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.*

"(4) *ACTION TO OBTAIN ADDITIONAL DISCLOSURE.—*

"(A) *CREATION OF REMEDY.—Any person who has exhausted the administrative remedies prescribed pursuant to paragraph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.*

"(B) *INTERVENTION.—If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court.*

"(5) EXPEDITION OF DETERMINATION.—The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date and the Court of Appeals shall expedite any review of such decision in every way possible.

"(6) PUBLICITY OF TAX COURT PROCEEDINGS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this subsection may be closed to the public or to inspection by the public.

"(g) TIME FOR DISCLOSURE.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the text of any written determination or any background file document (as modified under subsection (c)) shall be open or available to public inspection—

"(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or, if later,

"(B) within 30 days after the date on which a court decision under subsection (f)(3) becomes final.

"(2) POSTPONEMENT BY ORDER OF COURT.—The court may extend the period referred to in paragraph (1)(B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

"(3) POSTPONEMENT OF DISCLOSURE FOR UP TO 90 DAYS.—At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1)(A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

"(4) ADDITIONAL 180 DAYS.—If—

"(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

"(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary's determination that the transaction set forth in the written determination has been completed.

"(5) SPECIAL RULES FOR CERTAIN WRITTEN DETERMINATIONS, ETC.—Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

"(A) any technical advice memorandum and any related background file document involving any matter which is the

subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

"(*B*) *any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—*

"(*i*) *the funding method or plan year of a plan under section 412,*

"(*ii*) *a taxpayer's annual accounting period under section 442,*

"(*iii*) *a taxpayer's method of accounting under section 446(e), or*

"(*iv*) *a partnership's or partner's taxable year under section 706,*

but the Secretary shall make any such written determination and related background file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

"(*h*) *DISCLOSURE OF PRIOR WRITTEN DETERMINATIONS AND RELATED BACKGROUND FILE DOCUMENTS.—*

"(*1*) *IN GENERAL.—Except as otherwise provided in this subsection, a written determination issued pursuant to a request made before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.*

"(*2*) *TIME FOR DISCLOSURE.—In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—*

"(*A*) *subsection (g) shall not apply, but*

"(*B*) *such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.*

"(*3*) *ORDER OF RELEASE.—Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:*

"(*A*) *reference written determinations issued under this title;*

"(*B*) *general written determinations issued after July 4, 1967; and*

"(*C*) *reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.*

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

"(*4*) *NOTICE THAT PRIOR WRITTEN DETERMINATIONS ARE OPEN TO PUBLIC INSPECTION.—Notwithstanding the provisions of subsections (f)(1) and (f)(3)(A), not less than 90 days before making*

any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f)(3)(B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

"(5) EXCLUSION.—Subsection (d) shall not apply to any written determination described in paragraph (1).

"(i) CIVIL REMEDIES.—

"(1) CIVIL ACTION.—Whenever the Secretary—

"(A) fails to make deletions required in accordance with subsection (c), or

"(B) fails to follow the procedures in subsection (g),

the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the Court of Claims, which shall have jurisdiction to hear any action under this paragraph.

"(2) DAMAGES.—In any suit brought under the provisions of paragraph (1)(A) in which the Court determines that an employee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that such employee intentionally or willfully failed to act in accordance with subsection (g), the United States shall be liable to the person in an amount equal to the sum of—

"(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of $1,000, and

"(B) the costs of the action together with reasonable attorney's fees as determined by the Court.

"(j) SPECIAL PROVISIONS.—

"(1) FEES.—The Secretary is authorized to assess actual costs—

"(A) for duplication of any written determination or background file document made open or available to the public under this section, and

"(B) incurred in searching for and making deletions required under subsection (c) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public in-

terest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

"(2) *RECORDS DISPOSAL PROCEDURES.—Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.*

"(3) *PRECEDENTIAL STATUS.—Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.*

"(k) *SECTION NOT TO APPLY.—This section shall not apply to—*

"(1) *any matter to which section 6104 applies, or*

"(2) *any—*

"(A) *written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501 (c) or (d), the status of an organization as a private foundation under section 509(a), or the status of an organization as an operating foundation under section 4942(j)(3),*

"(B) *written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,*

"(C) *determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,*

"(D) *background file document relating to any general written determination issued before July 5, 1967, or*

"(E) *letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.*

"(l) *EXCLUSIVE REMEDY.—Except as otherwise provided in this title, or with respect to a discovery order made in connection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.*"

(b) EFFECT UPON PENDING REQUESTS.—Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1), but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6110 and inserting in lieu thereof the following:

"Sec. 6110. Public inspection of written determinations.
"Sec. 6111. Cross references."

(d) LETTERS MADE PUBLIC.—

(1) Section 6104(a)(1)(A) (relating to inspection of applications for tax exemption) is amended—

(A) by inserting after "such application," in the first sentence thereof the following: "and any letter or other document issued by the Internal Revenue Service with respect to such application"; and

(B) by inserting after "such application" in the second sentence thereof the following: "and such letter or document".

(2) The amendments made by this subsection apply to any letter or other document issued with respect to applications filed after October 31, 1976.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on November 1, 1976.

SEC. 1202. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) CONFIDENTIALITY.—

(1) IN GENERAL.—Section 6103 (relating to publicity of tax returns and disclosure of information as to persons filing tax returns) is amended to read as follows:

"SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

"(1) no officer or employee of the United States,

"(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

"(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii) or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term 'officer or employee' includes a former officer or employee.

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

"(1) *RETURN.—The term 'return' means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.*

"(2) *RETURN INFORMATION.—The term 'return information' means—*

"(A) *a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and*

"(B) *any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,*

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(3) *TAXPAYER RETURN INFORMATION.—The term 'taxpayer return information' means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.*

"(4) *TAX ADMINISTRATION.—The term 'tax administration'—*

"(A) *means—*

"(i) *the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and*

"(ii) *the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and*

"(B) *includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.*

"(5) *STATE.—The term 'State' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.*

"(6) TAXPAYER IDENTITY.—The term 'taxpayer identity' means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

"(7) INSPECTION.—The terms 'inspected' and 'inspection' mean any examination of a return or return information.

"(8) DISCLOSURE.—The term 'disclosure' means the making known to any person in any manner whatever a return or return information.

"(9) FEDERAL AGENCY.—The term 'Federal agency' means an agency within the meaning of section 551(1) of title 5, United States Code.

"(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a written request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(d) DISCLOSURE TO STATE TAX OFFICIALS.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by or disclosure to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the return or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

"(1) IN GENERAL.—The return of a person shall, upon written request, be open to inspection by or disclosure to—

"(A) in the case of the return of an individual—

"(i) that individual,

"(ii) if property transferred by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately,

of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644, or

"(iii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513;

"(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

"(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

"(D) in the case of the return of a corporation or a subsidiary thereof—

"(i) any person designated by resolution of its board of directors or other similar governing body,

"(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,

"(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,

"(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,

"(v) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or

"(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;

"(E) in the case of the return of an estate—

"(i) the administrator, executor, or trustee of such estate, and

"(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and

"(F) in the case of the return of a trust—

"(i) the trustee or trustees, jointly or separately, and

"(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

"(2) INCOMPETENCY.—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

"(3) DECEASED INDIVIDUALS.—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

"(A) the administrator, executor, or trustee of his estate, and

"(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

"(4) BANKRUPTCY.—If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankrupty or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

"(5) ATTORNEY IN FACT.—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), or (4) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

"(6) RETURN INFORMATION.—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

"(f) DISCLOSURE TO COMMITTEES OF CONGRESS.—

"(1) COMMITTEE ON WAYS AND MEANS, COMMITTEE ON FINANCE, AND JOINT COMMITTEE ON TAXATION.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(2) CHIEF OF STAFF OF JOINT COMMITTEE ON TAXATION.—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify,

directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(3) OTHER COMMITTEES.—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

"(4) AGENTS OF COMMITTEES AND SUBMISSION OF INFORMATION TO SENATE OR HOUSE OF REPRESENTATIVES.—

"(A) COMMITTEES DESCRIBED IN PARAGRAPH (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(B) OTHER COMMITTEES.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with,

or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

"(g) DISCLOSURE TO PRESIDENT AND CERTAIN OTHER PERSONS.—

"(1) IN GENERAL.—*Upon written request by the President, signed by him personally, the Secretary shall furnish to the President, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—*

"(A) *the name and address of the taxpayer whose return or return information is to be disclosed,*

"(B) *the kind of return or return information which is to be disclosed,*

"(C) *the taxable period or periods covered by such return or return information, and*

"(D) *the specific reason why the inspection or disclosure is requested.*

"(2) DISCLOSURE OF RETURN INFORMATION AS TO PRESIDENTIAL APPOINTEES AND CERTAIN OTHER FEDERAL GOVERNMENT APPOINTEES.—*The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—*

"(A) *has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;*

"(B) *has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;*

"(C) *has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or*

"(D) *has been assessed any civil penalty under this title for fraud.*

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

"(3) RESTRICTION ON DISCLOSURE.—*The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency with-*

out the personal written direction of the President or the head of such agency.

"(4) RESTRICTION ON DISCLOSURE TO CERTAIN EMPLOYEES.—*Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.*

"(5) REPORTING REQUIREMENTS.—*Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.*

"(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.—

"(1) DEPARTMENT OF THE TREASURY.—*Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.*

"(2) DEPARTMENT OF JUSTICE.—*A return or return information shall be open to inspection by or disclosure to attorneys of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court in a matter involving tax administration, but only if—*

"(A) *the taxpayer is or may be a party to such proceeding;*

"(B) *the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or*

"(C) *such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.*

"(3) FORM OF REQUEST.—*In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—*

"(A) *if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or*

"(B) *if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose the information so requested.*

"(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS.—*A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—*

"(A) *if the taxpayer is a party to such proceeding;*

"(B) *if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;*

"(C) *if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or*

"(D) *to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.*

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(5) PROSPECTIVE JURORS.—*In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.*

"(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

"(1) NONTAX CRIMINAL INVESTIGATION.—

"(A) INFORMATION FROM TAXPAYER.—*A return or taxpayer return information shall, pursuant to, and upon the grant of, an ex parte order by a Federal district court judge as provided by this paragraph, be open, but only to the extent necessary as provided in such order, to officers and employees of a Federal agency personally and directly engaged in, and*

solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party.

"(B) APPLICATION FOR ORDER.—The head of any Federal agency described in subparagraph (A) or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, may authorize an application to a Federal district court judge for the order referred to in subparagraph (A). Upon such application, such judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

"(ii) there is reason to believe that such return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

"(iii) the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines and certifies to the court that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(2) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Upon written request from the head of a Federal agency described in paragraph (1)(A), or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) described in paragraph (1)(A). Such request shall set forth—

"(A) the name and address of the taxpayer with respect to whom such return information relates;

"(B) the taxable period or periods to which the return information relates;

"(C) the statutory authority under which the proceeding or investigation is being conducted; and

"(D) the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(3) *DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—The Secretary may disclose in writing return information, other than taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws.*

"(4) *USE IN JUDICIAL OR ADMINISTRATIVE PROCEEDING.—Any return or return information obtained under paragraph (1), (2), or (3) may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or an agency described in paragraph (1)(A) is a party but, in the case of any return or return information obtained under paragraph (1), only if the court finds that such return or return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. However, any return or return information obtained under paragraph (1), (2), or (3) shall not be admitted into evidence in such proceeding if the Secretary determines and notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.*

"(5) *RENEGOTIATION OF CONTRACTS.—A return or return information with respect to the tax imposed by chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 shall, upon request in writing by the Chairman of the Renegotiation Board, be open to officers and employees of such board personally and directly engaged in, and solely for their use in, verifying or analyzing financial information required by such Act to be filed with, or otherwise disclosed to, the board, or to the extent necessary to implement the provisions of section 1481 or 1482. The Chairman of the Renegotiation Board may, upon referral of any matter with respect to such Act to the Department of Justice for further legal action, disclose such return and return information to any employee of such department charged with the responsibility for handling such matters.*

"(6) *COMPTROLLER GENERAL.—*

"(A) *RETURNS AVAILABLE FOR INSPECTION.—Except as provided in subparagraph (B), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—*

"(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67), or

"(ii) any audit authorized by subsection (p)(6),

except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee discolse any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(B) DISAPPROVAL BY JOINT COMMITTEE ON TAXATION.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) with respect to an audit—

"(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

"(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

"(j) STATISTICAL USE.—

"(1) DEPARTMENT OF COMMERCE.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

"(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

"(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

"(2) FEDERAL TRADE COMMISSION.—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

"(3) DEPARTMENT OF TREASURY.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties

require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

"(4) ANONYMOUS FORM.—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

"(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

"(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

"(2) DISCLOSURE OF AMOUNT OF OUTSTANDING LIEN.—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

"(3) DISCLOSURE OF RETURN INFORMATION TO CORRECT MISSTATEMENTS OF FACT.—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

"(4) DISCLOSURE TO COMPETENT AUTHORITY UNDER INCOME TAX CONVENTION.—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax convention with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention.

"(5) STATE AGENCIES REGULATING TAX RETURN PREPARERS.—Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this

paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

"*(6) DISCLOSURE BY INTERNAL REVENUE OFFICERS AND EMPLOYEES FOR INVESTIGATIVE PURPOSES.—An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.*

"*(l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—*

"*(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may disclose returns and return information with respect to—*

"*(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;*

"*(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and*

"*(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.*

"*(2) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO THE DEPARTMENT OF LABOR AND PENSION BENEFIT GUARANTY CORPORATION.—The Secretary may furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the administration of titles I and IV of the Employee Retirement Income Security Act of 1974.*

"*(3) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO PRIVACY PROTECTION STUDY COMMISSION.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.*

"*(4) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN PERSONNEL OR CLAIMANT REPRESENTATIVE MATTERS.—The Secretary may disclose returns and return information—*

"*(A) upon written request—*

"*(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal*

representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

"(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026),

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

"(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

"(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

"(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

"(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

"(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only

for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

"(m) *DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—The Secretary is authorized—*

"(1) *to disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons, and*

"(2) *upon written request, to disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.*

"(n) *CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.*

"(o) *DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO CERTAIN TAXES.—*

"(1) *TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.*

"(2) *TAXES IMPOSED BY CHAPTER 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.*

"(p) *PROCEDURE AND RECORDKEEPING.—*

"(1) *MANNER, TIME, AND PLACE OF INSPECTIONS.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.*

"(2) *PROCEDURE.—*

"(A) *REPRODUCTION OF RETURNS.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.*

"(B) *DISCLOSURE OF RETURN INFORMATION.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents,*

reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

"(C) USE OF REPRODUCTIONS.—*Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.*

"(3) RECORDS OF INSPECTION AND DISCLOSURE.—

"(A) SYSTEM OF RECORDKEEPING.—*Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h)(1), (3)(A), or (4), (i)(4) or (6)(A)(ii), (k)(1), (2), or (6), (l)(1) or (4)(B), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.*

"(B) REPORT BY THE SECRETARY.—*The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may, by record vote of a majority of the members of the joint committee, determine.*

"(C) PUBLIC REPORT ON DISCLOSURES.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records and accountings described in subparagraph (A) which—

"(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) or (l) (3) or (5), and the General Accounting Office the number of—

"(I) requests for disclosure of returns and return information,

"(II) instances in which returns and return information were disclosed pursuant to such requests,

"(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

"(ii) describes the general purposes for which such requests were made.

"(4) SAFEGUARDS.—Any Federal agency described in subsection (h) (2), (i) (1), (2) or (5), (j) (1) or (2), (l) (1), (2), or (5), or (o) (1), the General Accounting Office, or any agency, body, or commission described in subsection (d) or (l) (3) or (6) shall, as a condition for receiving returns or return information—

"(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

"(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

"(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

"(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

"(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

"(F) upon completion of use of such returns or return information—

"(i) in the case of an agency, body, or commission described in subsection (d) or (l) (6), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return

information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

"(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3), or the General Accounting Office, either—

"(I) return to the Secretary such returns or return information (along with any copies made therefrom),

"(II) otherwise make such returns or return information undisclosable, or

"(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

"(5) REPORT ON PROCEDURES AND SAFEGUARDS.—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f)(1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

"(6) AUDIT OF PROCEDURES AND SAFEGUARDS.—

"(A) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

"(B) RECORDS OF INSPECTION AND REPORTS BY THE COMPTROLLER GENERAL.—The Comptroller General shall—

"(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i)(6)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

"(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

"(7) ADMINISTRATIVE REVIEW.—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

"(8) STATE LAW REQUIREMENTS.—

"(A) SAFEGUARDS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

"(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in this section shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

"(q) REGULATIONS.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section."

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

"Sec. 6103. Confidentiality and disclosure of returns and return information."

(b) STATISTICAL PUBLICATIONS AND STUDIES.—Section 6108 (relating to publication of statistics of income) is amended to read as follows:

"SEC. 6108. STATISTICAL PUBLICATIONS AND STUDIES.

"(a) PUBLICATION OR OTHER DISCLOSURE OF STATISTICS OF INCOME.—The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of

the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

"(b) SPECIAL STATISTICAL STUDIES.—The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

"(c) ANONYMOUS FORM.—No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer."

(c) INSPECTION OF CERTAIN RECORDS BY LOCAL OFFICERS.—

(1) IN GENERAL.—Section 4102 (relating to inspection of records, returns, etc., by local officers) is amended to read as follows:

"SEC. 4102. INSPECTION OF RECORDS BY LOCAL OFFICERS.

"Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils."

(2) CONFORMING AMENDMENT.—The table of sections for subpar B of part III of chapter 32 is amended by striking out the item relating to section 4102 and inserting in lieu thereof the following:

"Sec. 4102. Inspection of records by local officers."

(d) PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213 (relating to unauthorized disclosure of information) is amended by striking out subsection (c), redesignating subsections (d) and (e) as (c) and (d), respectively, and by amending subsection (a) to read as follows:

"(a) RETURNS AND RETURN INFORMATION.—

"(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

"(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)) or any local child support enforcement agency to disclose to any person,

except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under section 6103(d) or (l)(6). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(3) OTHER PERSONS.—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title to thereafter print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(4) SOLICITATION.—It shall be unlawful for any person to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

"(5) SHAREHOLDERS.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution."

(e) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.—

(1) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to miscellaneous penalties and forfeitures) is amended by adding at the end thereof the following new section:

"SEC. 7217. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) GENERAL RULE.—Whenever any person knowingly, or by reason of negligence, discloses a return or return information (as defined in section 6103(b)) with respect to a taxpayer in violation of the provisions of section 6103, such taxpayer may bring a civil action for damages against such person, and the district courts of the United States shall have jurisdiction of any action commenced under the provisions of this section.

"(b) DAMAGES.—In any suit brought under the provisions of subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual damages sustained by the plaintiff as a result of the unauthorized disclosure of the return or return information and, in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, but in no case shall a plain-

tiff entitled to recovery receive less than the sum of $1,000 with respect to each instance of such unauthorized disclosure; and

"(2) the costs of the action.

"(c) An action to enforce any liability created under this section may be brought, without regard to the amount in controversy, within 2 years from the date on which the cause of action arises or at any time within 2 years after discovery by the plaintiff of the unauthorized disclosure."

(2) CONFORMING AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 7217. Civil damages for unauthorized disclosure of returns and return information."

(f) PROCESSING OF RETURNS, RETURN INFORMATION, AND OTHER DOCUMENTS.—Section 7513 (relating to reproduction of returns and other documents) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(g) OTHER APPLICABLE RULES.—Section 7852 (relating to other rules applicable under title 26) is amended by adding at the end thereof the following new subsection:

"(e) PRIVACY ACT OF 1974.—The provisions of subsections (d) (2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply."

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6106 (relating to publicity of unemployment tax returns) is hereby repealed.

(2) Section 6323 (relating to validity and priority of tax liens against certain persons) is amended by striking out paragraph (3) of subsection (i).

(3) Subsection (d) of section 7213 (relating to cross references) is amended by striking out paragraph (1) and inserting in lieu thereof:

"(1) Penalties for disclosure of information by preparers of returns.—For penalty for disclosure or use of information by preparers of returns, see section 7216."

(4) Section 7515 (relating to special statistical studies and compilations and others services on request) is hereby repealed.

(5) Subsection (c) of section 7809 (relating to deposit of collections) is amended by striking out in paragraph (1) "section 7515 (relating to special statistical studies and compilations for other services on request)" and inserting in lieu thereof "section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)".

(6) Subsection (d) of section 4424 (relating to disclosure of wagering tax information) is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(i) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 1977.

SEC. 1203. INCOME TAX RETURN PREPARERS.

(a) DEFINITION.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(36) INCOME TAX RETURN PREPARER.—

"(A) IN GENERAL.—The term 'income tax return preparer' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

"(B) EXCEPTIONS.—A person shall not be an 'income tax return preparer' merely because such person—

"(i) furnishes typing, reproducing, or other mechanical assistance,

"(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

"(iii) prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or

"(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer."

(b) ASSESSABLE PENALTIES WHERE PREPARER UNDERSTATES TAXPAYER'S LIABILITY.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6694. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

"(a) NEGLIGENT OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $100 with respect to such return or claim.

"(b) WILLFUL UNDERSTATEMENT OF LIABILITY.—If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of $500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

"(c) *EXTENSION OF PERIOD OF COLLECTION WHERE PREPARER PAYS 15 PERCENT OF PENALTY.*—

"(1) *IN GENERAL.*—*If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421 (a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.*

"(2) *PREPARER MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.*—*If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.*

"(3) *SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.*—*The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.*

"(d) *ABATEMENT OF PENALTY WHERE TAXPAYER'S LIABILITY NOT UNDERSTATED.*—*If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.*

"(e) *UNDERSTATEMENT OF LIABILITY DEFINED.*—*For purposes of this section, the term 'understatement of liability' means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.*

"(f) *CROSS REFERENCE.*—

"For definition of income tax return preparer, see section 7701 (a)(36)."

(2) *BURDEN OF PROOF UNDER 6694(b).—*

(A) Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7427 as section 7428 and by inserting after section 7426 the following new section:

"SEC. 7427. INCOME TAX RETURN PREPARERS.

"In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect of such issue shall be upon the Secretary."

(B) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7427. Income tax return preparers.
"Sec. 7428. Cross references."

(c) PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN COPY OR LIST.—Subchapter B of chapter 61 (relating to information and returns) is amended by inserting after section 6106 the following new section:

"SEC. 6107. INCOME TAX RETURN PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN A COPY OR LIST.

"(a) FURNISHING COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature.

"(b) COPY OR LIST TO BE RETAINED BY INCOME TAX RETURN PREPARER.—Any person who is an income tax return preparer with respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

"(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

"(2) make such copy or list available for inspection upon request by the Secretary.

"(c) REGULATIONS.—The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

"(d) DEFINITIONS.—For purposes of this section, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e), and the term 'return period' has the meaning given to such term by section 6060(c)."

(d) TAXPAYER IDENTIFYING NUMBER OF PREPARER TO BE FURNISHED.—Section 6109(a) (relating to supplying of identifying numbers) is amended by adding at the end thereof the following:

"(4) *FURNISHING IDENTIFYING NUMBER OF INCOME TAX RETURN PREPARER.—Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms 'return' and 'claim for refund' have the respective meanings given to such terms by section 6696(e).*

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual's social security account number."

(e) PREPARER MUST FILE ANNUAL INFORMATION RETURN.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart:

"Subpart F—Information Concerning Income Tax Return Preparers

"Sec. 6060. Information returns of income tax return preparers.

"SEC. 6060. INFORMATION RETURNS OF INCOME TAX RETURN PREPARERS.

"(a) GENERAL RULE.—Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

"(b) ALTERNATIVE REPORTING.—In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

"(c) RETURN PERIOD DEFINED.—For purposes of subsection (a), the term 'return period' means the 12-month period beginning on July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977."

(f) OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

"SEC. 6695. OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.

"(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to

such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(b) FAILURE TO SIGN RETURN.—Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a)(4) with respect to such return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

"(d) FAILURE TO RETAIN COPY OR LIST.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of $50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000.

"(e) FAILURE TO FILE CORRECT INFORMATION RETURN.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

"(1) $100 for each failure to file a return as required under such section, and

"(2) $5 for each failure to set forth an item in the return as required under such section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $20,000.

"(f) NEGOTIATION OF CHECK.—Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of $500 with respect to each such check.

"SEC. 6696. RULES APPLICABLE WITH RESPECT TO SECTIONS 6694 AND 6695.

"(a) PENALTIES TO BE ADDITIONAL TO ANY OTHER PENALTIES.—The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and chapter 42 taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695.

"(c) PROCEDURE FOR CLAIMING REFUND.—Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

"(d) PERIODS OF LIMITATION.—

"(1) ASSESSMENT.—The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

"(2) CLAIM FOR REFUND.—Except as provided in section 6694 (d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

"(e) DEFINITIONS.—For purposes of sections 6694 and 6695—

"(1) RETURN.—The term 'return' means any return of any tax imposed by subtitle A.

"(2) CLAIM FOR REFUND.—The term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A."

(g) AUTHORITY TO SEEK INJUNCTION AGAINST INCOME TAX RETURN PREPARERS.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7407 as section 7408 and by inserting after section 7406 the following new section:

"SEC. 7407. ACTION TO ENJOIN INCOME TAX RETURN PREPARERS.

"(a) AUTHORITY TO SEEK INJUNCTION.—Except as provided in subsection (c), a civil action in the name of the United States to enjoin any person who is an income tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the income tax preparer resides or has his principal place of business or in which the taxpayer with respect to whose income tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such income tax preparer or any taxpayer.

"(b) ADJUDICATION AND DECREES.—In any action under subsection (a), if the court finds—

"(1) that an income tax return preparer has—

"(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

"(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer,

"(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

"(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

"(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that an income tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as an income tax return preparer.

"(c) BOND TO STAY INJUNCTION.—No action to enjoin under subsection (b)(1)(A) shall be commenced or pursued with respect to any income tax return preparer who files and maintains, with the Secretary in the internal revenue district in which is located such preparer's legal residence or principal place of business, a bond in a sum of $50,000 as surety for the payment of penalties under section 6694 and 6695."

(h) CROSS REFERENCES.—

(1) Section 6503(h), as redesignated by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) Income tax return preparers, see section 6694(c)(3)."

(2) Section 6504, as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(11) Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1)."

(3) Section 6511(g) is amended by adding at the end thereof the following new paragraph:

"(7) For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2)."

(i) CONFORMING AMENDMENTS.—

(1) 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 F. Information concerning income tax return preparers."

(2) The table of sections for subchapter B of chapter 61 is amended by inserting immediately after the item relating to section 6106 the following new item:

"Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list."

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

"Sec. 6694. Understatement of taxpayer's liability by income tax return preparer.

"Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.

"Sec. 6696. Rules applicable with respect to sections 6694 and 6695."

(4) *The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:*

"Sec. 7407. Action to enjoin income tax return preparers.
"Sec. 7408. Cross references."

(j) EFFECTIVE DATE.—*The amendments made by this section shall apply to documents prepared after December 31, 1976.*

SEC. 1204. JEOPARDY AND TERMINATION ASSESSMENTS.

(a) REVIEW OF JEOPARDY AND TERMINATION ASSESSMENTS.—*Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7428 the following new section:*

"SEC. 7429. REVIEW OF JEOPARDY ASSESSMENT PROCEDURES.

"(a) ADMINISTRATIVE REVIEW.—

"(1) INFORMATION TO TAXPAYER.—*Within 5 days after the day on which an assessment is made under section 6851(a), 6861(a), or 6862, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment.*

"(2) REQUEST FOR REVIEW.—*Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.*

"(3) REDETERMINATION BY SECRETARY.—*After a request for review is made under paragraph (2), the Secretary shall determine whether or not—*

"(A) *the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and*

"(B) *the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances.*

"(b) JUDICIAL REVIEW.—

"(1) ACTIONS PERMITTED.—*Within 30 days after the earlier of—*

"(A) *the day the Secretary notifies the taxpayer of his determination described in subsection (a)(3), or*

"(B) *the 16th day after the request described in subsection (a)(2) was made,*

the taxpayer may bring a civil action against the United States in a district court of the United States for a determination under this subsection.

"(2) DETERMINATION BY DISTRICT COURT.—*Within 20 days after an action is commenced under paragraph (1), the district court shall determine whether or not—*

"(A) *the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and*

"(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862, is appropriate under the circumstances.

"(3) ORDER OF DISTRICT COURT.—If the court determines that the making of such assessment is unreasonable or that the amount assessed or demanded is inappropriate, the court may order the Secretary to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

"(c) EXTENSION OF 20-DAY PERIOD WHERE TAXPAYER SO REQUESTS.—If the taxpayer requests an extension of the 20-day period set forth in subsection (b)(2) and establishes reasonable grounds why such extension should be granted, the district court may grant an extension of not more than 40 additional days.

"(d) COMPUTATION OF DAYS.—For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

"(e) VENUE.—A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a)(1) or (2) of title 28, United States Code.

"(f) FINALITY OF DETERMINATION.—Any determination made by a district court under this section shall be final and conclusive and shall not be reviewed by any other court.

"(g) BURDEN OF PROOF.—

"(1) REASONABLENESS OF TERMINATION OR JEOPARDY ASSESSMENT.—In an action under subsection (b) involving the issue of whether the making of an assessment under section 6851, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

"(2) REASONABLENESS OF AMOUNT OF ASSESSMENT.—In an action under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer."

(b) JEOPARDY ASSESSMENT OF INCOME TAX.—

(1) TERMINATION ASSESSMENTS.—So much of section 6851 (relating to termination of taxable year) as precedes subsection (c) is amended to read as follows:

"SEC. 6851. TERMINATION ASSESSMENTS OF INCOME TAX.

"(a) AUTHORITY FOR MAKING.—

"(1) IN GENERAL.—If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be

brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

"(2) COMPUTATION OF TAX.—In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) TREATMENT OF AMOUNTS COLLECTED.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

"(4) THIS SECTION INAPPLICABLE WHERE SECTION 6861 APPLIES.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

"(b) NOTICE OF DEFICIENCY.—If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a)."

(2) BONDS.—Section 6851 is amended by striking out subsection (e) (relating to bonds) and inserting in lieu thereof the following:

"(e) SECTIONS 6861 (f) AND (g) TO APPLY.—The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

"(f) CROSS REFERENCES.—

"(1) For provisions permitting immediate levy in case of jeopardy, see section 6331(a).

"(2) For provisions relating to the review of jeopardy, see section 7429."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by inserting "or section 7429" immediately after "section 7426".

(2) *Section 443(a)(3) (relating to returns for terminated period) is repealed.*

(3) *Section 6091(b) (relating to place for filing returns) is amended—*

(A) *by striking out "and" at the end of paragraph (1)(B)(iii) thereof, and by striking out paragraph (1)(B)(iv) and the matter following such paragraph and inserting in lieu thereof the following:*

"(iv) *nonresident alien persons, and*

"(v) *persons with respect to whom an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,*

shall be made at such place as the Secretary may by regulations designate."; *and*

(B) *by striking out "and" at the end of paragraph (2)(B)(ii), and by striking out paragraph (2)(B)(iii) and the matter following such paragraph and inserting in lieu thereof the following:*

"(iii) *foreign corporations, and*

"(iv) *corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year,*

shall be made at such place as the Secretary may by regulations designate."

(4) *Section 6211(b)(1) (relating to rules for determining deficiencies) is amended by striking out "and" after "31," and by inserting before the period at the end thereof the following: ", and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)".*

(5) *Section 6212(c) (relating to restrictions on further deficiency letters) is amended by inserting after "errors)," the following: "in section 6851 (relating to termination assessments),".*

(6) *Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by inserting "section 6851 or" before "section 6861".*

(7) *Section 6863(a) (relating to bond to stay collection) is amended—*

(A) *by striking out "6861" and inserting in lieu thereof "6851, 6861,";*

(B) *by striking out "a jeopardy assessment" in the first sentence thereof and inserting in lieu thereof "an assessment"; and*

(C) *by striking out "the jeopardy assessment" each place it appears therein and inserting in lieu thereof "such assessment".*

(8) *Section 6863(b)(3)(A) (relating to stay of sale of seized property) is amended to read as follows:*

"(A) GENERAL RULE.—*Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851 or 6861, the property seized for collection of the tax shall not be sold—*

"(i) *before the expiration of the periods described in subsection (c)(1) (A) and (B),*

"(ii) *before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and*

"(iii) *if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a) nor 6861(a) were applicable.*

Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions)."

(9) Section 6863 (relating to stay of collection of jeopardy assessments) is amended by adding at the end thereof the following new subsection:

"*(c) STAY OF SALE OF SEIZED PROPERTY PENDING DISTRICT COURT DETERMINATION UNDER SECTION 7429.—*

"*(1) GENERAL RULE.—Where a jeopardy assessment has been made under section 6862(a), the property seized for the collection of the tax shall not be sold—*

"*(A) if a civil action is commenced in accordance with section 7429(b), on or before the day on which the district court judgment in such action becomes final, or*

"*(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.*

"*(2) EXCEPTIONS.—With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3) (B) shall apply.*"

(10) Section 7103(a)(4) (relating to a cross reference) is repealed.

(11) Section 7421(a) (relating to prohibition of suits to restrain assessment or collection of taxes) is amended by striking out "and 7426 (a) and (b)(1)" and inserting in lieu thereof "7426 (a) and (b)(1), and 7429(b)".

(12) The table of sections for part I of subchapter A of chapter 70 is amended to read as follows:

"*Sec. 6851. Termination assessments of income tax.*"

(13) The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7428 the following:

"*Sec. 7429. Review of jeopardy assessment procedures.*"

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to action taken under section 6851, 6861, or 6862 of the

Internal Revenue Code of 1954 where the notice and demand takes place after December 31, 1976.

SEC. 1205. ADMINISTRATIVE SUMMONS.

(a) *REQUIREMENT THAT NOTICE BE SERVED ON PERSON WHOSE BOOKS, ETC., ARE BEING SUMMONED.—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7609 as section 7611 and by inserting after section 7608 the following new sections:*

"SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

"(a) NOTICE.—

"(1) IN GENERAL.—If—

"(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

"(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons,

then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 14th day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under subsection (b)(2).

"(2) SUFFICIENCY OF NOTICE.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

"(3) THIRD-PARTY RECORDKEEPER DEFINED.—For purposes of this subsection, the term 'third-party recordkeeper' means—

"(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

"(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

"(C) any person extending credit through the use of credit cards or similar devices;

"(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

"(E) any attorney; and

"(F) any accountant.

"(4) EXCEPTIONS.—Paragraph (1) shall not apply to any summons—

"(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

"(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

"(C) described in subsection (f).

"(5) NATURE OF SUMMONS.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

"(b) RIGHT TO INTERVENE; RIGHT TO STAY COMPLIANCE.—

"(1) INTERVENTION.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

"(2) RIGHT TO STAY COMPLIANCE.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to stay compliance with the summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a)(2)—

"(A) notice in writing is given to the person summoned not to comply with the summons, and

"(B) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(c) SUMMONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e)(2), 6421(f)(2), 6424(d)(2), or 6427(e)(2) and requires the production of records.

"(2) EXCEPTIONS.—A summons shall not be treated as described in this subsection if—

"(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a)(3)(A), or

"(B) it is in aid of the collection of—

"(i) the liability of any person against whom an assessment has been made or judgment rendered, or

"(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

"(3) RECORDS; CERTAIN RELATED TESTIMONY.—For purposes of this section—

"(A) the term 'records' includes books, papers, or other data, and

"(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b)(2), or

"(2) when the requirements of subsection (b)(2) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

"(f) ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.—Any summons described in subsection (c) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

"(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

"(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

"(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

"(g) SPECIAL EXCEPTION FOR CERTAIN SUMMONSES.—In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the exami-

nation, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

"(h) JURISDICTION OF DISTRICT COURT.—

"(1) The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsections (f) or (g). The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order which may be appealed.

"(2) Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

"SEC. 7610. FEES AND COSTS FOR WITNESSES.

"(a) IN GENERAL.—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

"(1) fees and mileage to persons who are summoned to appear before the Secretary, and

"(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

"(b) EXCEPTIONS.—No payment may be made under paragraph (2) of subsection (a) if—

"(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

"(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

"(c) SUMMONS TO WHICH SECTION APPLIES.—This section applies with respect to any summons authorized under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Special procedures for third-party summonses.
"Sec. 7610. Fees and costs for witnesses.
"Sec. 7611. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any summons issued after December 31, 1976.

SEC. 1206. ASSESSMENTS IN CASE OF MATHEMATICAL OR CLERICAL ERRORS.

(a) IN GENERAL.—Section 6213(b) (relating to exceptions to restrictions on assessment in certain cases) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) ASSESSMENTS ARISING OUT OF MATHEMATICAL OR CLERICAL ERRORS.—If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

"(2) ABATEMENT OF ASSESSMENT OF MATHEMATICAL OR CLERICAL ERRORS.—

"(A) REQUEST FOR ABATEMENT.—Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

"(B) STAY OF COLLECTION.—In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph."

(b) DEFINITIONS RELATING TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213 is amended by redesignating subsection (f) as subsection (g), and by inserting immediately after subsection (e) the following new subsection:

"(f) DEFINITIONS.—FOR PURPOSES OF THIS SECTION—

"(1) RETURN.—The term 'return' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 42 or 43.

"(2) MATHEMATICAL OR CLERICAL ERROR.—The term 'mathematical or clerical error' means—

"(A) an error in addition, subtraction, multiplication, or division shown on any return,

"(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

"(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

"(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, and

"(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 42 or 43, if such limit is expressed—

"(i) as a specified monetary amount, or

"(ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6213(b)(3) (relating to assessments arising out of tentative carryback adjustments), as redesignated by subsection (a), is amended—

(A) by striking out "he may assess" and inserting in lieu thereof "he may assess without regard to the provisions of paragraph (2)", and

(B) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error".

(2) Section 6201(a)(3) (relating to assessments regarding erroneous income tax prepayment credits) and section 6201(a)(4) (relating to assessments regarding erroneous credit under section 39 or 43) are each amended—

(A) by striking out "mathematical error" and inserting in lieu thereof "mathematical or clerical error", and

(B) by inserting immediately before the period at the end thereof the following: ", except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph".

(3) Section 6212(c)(1) (relating to deficiency letters) is amended by striking out "(relating to mathematical errors)" and inserting in lieu thereof "(relating to mathematical or clerical errors)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1954) filed after December 31, 1976.

SEC. 1207. WITHHOLDING.

(a) WITHHOLDING STATE AND DISTRICT INCOME TAXES FROM COMPENSATION OF MEMBERS OF ARMED FORCES WHO ARE RESIDENTS OF THE STATE OR DISTRICT OF COLUMBIA.—

(1) WITHHOLDING OF STATE INCOME TAXES.—The last sentence of section 5517(a) of title 5, United States Code, is amended to read as follows: "In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting 'who are residents of the State with which the agreement is made' for 'whose regular place of Federal employment is within the State with which the agreement is made'."

(2) WITHHOLDING OF DISTRICT INCOME TAXES.—Subsection (a) of section 5516 of title 5, United States Code, is amended—

(A) by striking out in the third sentence "pay for service as a member of the armed forces, or to"; and

(B) by adding after the third sentence the following new sentence: "In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting 'who are residents of the District of Columbia' for 'whose regular place of employment is within the District of Columbia'."

(b) WITHHOLDING STATE AND CITY INCOME TAXES FROM THE COMPENSATION OF MEMBERS OF THE NATIONAL GUARD OR THE READY RESERVE.—Section 5517 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For the purpose of this section and sections 5516 and 5520, the terms 'serve as a member of the armed forces' and 'service as a member of the Armed Forces' do not include—

"(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

"(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve."

(c) VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM THE COMPENSATION OF FEDERAL EMPLOYEES.—Paragraphs (1) and (2) of section 5517(a) of title 5, United States Code, are amended to read as follows:

"(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

"(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;".

(d) WITHHOLDING TAX ON CERTAIN GAMBLING WINNINGS.—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

"(q) EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.—

"(1) GENERAL RULE.—Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

"(2) EXEMPTION WHERE TAX OTHERWISE WITHHELD.—In the case of any payment of winnings which are subject to withholding made to a nonresident alien individual or a foreign corporation, the tax imposed under paragraph (1) shall not apply to any such

payment subject to tax under section 1441(a) (relating to withholding on nonresident aliens) or tax under section 1442(a) (relating to withholding on foreign corporations).

"(3) WINNINGS WHICH ARE SUBJECT TO WITHHOLDING.—For purposes of this subsection, the term 'winnings which are subject to withholding' means proceeds from a wager determined in accordance with the following:

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), proceeds of more than $1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times as large as the amount wagered.

"(B) STATE-CONDUCTED LOTTERIES.—Proceeds of more than $5,000 from a wager placed in a lottery conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such lottery, or with its authorized employees or agents.

"(C) SWEEPSTAKES, WAGERING POOLS, AND OTHER LOTTERIES.—Proceeds of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a wager described in subparagraph (B)).

"(4) RULES FOR DETERMINING PROCEEDS FROM A WAGER.—For purposes of this subsection—

"(A) proceeds from a wager shall be determined by reducing the amount received by the amount of the wager, and

"(B) proceeds which are not money shall be taken into account at their fair market value.

"(5) EXEMPTION FOR BINGO, KENO, AND SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine, keno, and bingo.

"(6) STATEMENT BY RECIPIENT.—Every person who is to receive a payment of winnings which are subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment.

"(7) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

(e) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.—

(1) IN GENERAL.—

(A) Section 3121(b) (defining employment) is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an

arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

"(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals."

(B) Section 1402(c)(2) (defining trade or business) is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new subparagraph:

"(F) service described in section 3121(b)(20);".

(C) Section 3401(a) (defining wages for purposes of withholding) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or", and by adding after paragraph (16) the following new paragraph:

"(17) for service described in section 3121(b)(20)."

(2) CONFORMING AMENDMENTS.—

(A) Section 210(a) of the Social Security Act is amended by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding after paragraph (19) the following new paragraph:

"(20) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

"(C) the amount of such individual's share depends on the amount of the boat's (or boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals."

(B) Section 211(c)(2) of such Act is amended by striking out "and" at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding after subparagraph (E) the following new paragraph:

"(F) service described in section 210(a)(20);".

(3) REPORTING REQUIREMENT.—

(A) Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050A. REPORTING REQUIREMENTS OF CERTAIN FISHING BOAT OPERATORS.

"(a) REPORTS.—The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b)(20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

"(1) the identity of each individual performing such services;

"(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

"(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share; and

"(4) if such individual receives a share of the proceeds of such catches, the amount so received.

"(b) WRITTEN STATEMENT.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in 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) was made."

(B) Section 6652(b) (relating to failure to file certain information returns) is amended by inserting after "withheld)," the following: "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),".

(C) Section 6652(b) is further amended by inserting after "tips)," the following: "or section 6050A(b) (relating to statements furnished by certain fishing boat operators),".

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—*The amendments made by subsections (b) and (c) shall apply to wages withheld after the 120-day period following the date of the enactment of this Act.*

(3) SUBSECTION (d).—*The amendments made by subsection (d) shall apply to payments of winnings made after the 90th day after the date of the enactment of this Act.*

(4) SUBSECTION (e).—

(A) *The amendments made by paragraphs (1)(A) and (2)(A) of subsection (e) shall apply to services performed after December 31, 1971. The amendments made by paragraphs (1)(B), (1)(C), and (2)(B) of such subsection shall apply to taxable years ending after December 31, 1971. The amendments made by paragraph (3) of such subsection shall apply to calendar years beginning after the date of the enactment of this Act.*

(B) *Notwithstanding subparagraph (A), if the owner or operator of any boat treated a share of the boat's catch of fish or other aquatic animal life (or a share of the proceeds therefrom) received by an individual after December 31, 1971, and before the date of the enactment of this Act for services performed by such individual after December 31, 1971, on such boat as being subject to the tax under chapter 21 of the Internal Revenue Code of 1954, then the amendments made by paragraphs (1)(A) and (B) and (2) of subsection (e) shall not apply with respect to such services performed by such individual (and the share of the catch, or proceeds therefrom, received by him for such services).*

SEC. 1208. STATE-CONDUCTED LOTTERIES.

(a) EXEMPTION FROM WAGERING TAX.—*Paragraph (3) of section 4402 (relating to State-conducted sweepstakes) is amended to read as follows:*

"(3) STATE-CONDUCTED LOTTERIES, ETC.—*On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.*"

(b) EXEMPTION FROM OCCUPATIONAL TAX ON COIN-OPERATED DEVICES.—*Section 4462(b) (relating to exclusions from definition of coin-operated gaming devices) is amended—*

(1) *by striking out "or" at the end of paragraph (1),*

(2) *by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and*

(3) *by adding at the end thereof the following new paragraph:*

"(3) *a vending machine which—*

"(A) *dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, and*

"(B) *is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents.*"

(c) EFFECTIVE DATES.—

(1) *The amendment made by subsection (a) shall apply with respect to wagers placed after March 10, 1964.*

(2) *The amendments made by subsection (b) shall apply with respect to periods after March 10, 1964.*

SEC. 1209. MINIMUM EXEMPTION FROM LEVY FOR WAGES, SALARY, AND OTHER INCOME.

(a) GENERAL RULE.—*Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:*

"(9) MINIMUM EXEMPTION FOR WAGES, SALARY, AND OTHER INCOME.—*Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).*"

(b) DETERMINATION OF EXEMPT AMOUNT.—*Section 6334 is amended by adding at the end thereof the following new subsection:*

"(d) EXEMPT AMOUNT OF WAGES, SALARY, OR OTHER INCOME.—

"(1) INDIVIDUALS ON WEEKLY BASIS.—*In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a) (9) shall be—*

"(A) *$50, plus*

"(B) *$15 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—*

"(i) *over half of whose support for the payroll period was received from the taxpayer,*

"(ii) *who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and*

"(iii) *who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a) (8) for the payroll period.*

For purposes of subparagraph (B) (ii) of the preceding sentence, 'payroll period' shall be substituted for 'taxable year' each place it appears in paragraph (9) of section 152(a).

"(2) INDIVIDUALS ON BASIS OTHER THAN WEEKLY.—*In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him dur-*

ing any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a) (9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis."

(c) CONFORMING AMENDMENT.—The paragraph heading for paragraph (8) of section 6334(a) is amended to read as follows:

"(8) JUDGMENTS FOR SUPPORT OF MINOR CHILDREN.—".

(d) LEVY ON WAGES, ETC., TO BE CONTINUING.—

(1) Subsection (d) of section 6331 (relating to levy on salaries and wages) is amended by adding at the end thereof the following new paragraph:

"(3) CONTINUING LEVY ON SALARY AND WAGES.—

"(A) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time

"(B) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(2) The second sentence of section 6331(b) (relating to seizure and sale of property) is amended by striking out "A levy" and inserting in lieu thereof "Except as otherwise provided in subsection (d) (3), a levy".

(3) The first sentence of section 6332(c)(1) (relating to enforcement of levy) is amended by striking out "from the date of such levy" and inserting in lieu thereof "from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)".

(4) Paragraph (1) of section 6331(d) (relating to levy on salaries and wages) is amended by striking out the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to levies made after December 31, 1976.

SEC. 1210. JOINT COMMITTEE REFUND CASES.

(a) IN GENERAL.—Section 6405 (a) (relating to reports of refunds and credits) is amended to read as follows:

"(a) BY TREASURY TO JOINT COMMITTEE.—No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43, in excess of $200,000 shall be made until after the

expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decisions of the Secretary, is submitted to the Joint Committee on Taxation."

(b) TENTATIVE REFUNDS.—Section 6405(c) is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

(c) AUDIT.—Section 8023(a) (relating to powers to obtain information from the Internal Revenue Service) is amended by adding at the end thereof the following new sentence: "In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (b) of section 6405 of the Internal Revenue Code of 1954.

(2) The amendment made by subsection (c) shall take effect on January 1, 1977.

SEC. 1211. SOCIAL SECURITY ACCOUNT NUMBERS.

(a) Section 208(g) of the Social Security Act is amended, in the matter preceding clause (1) thereof, by striking out "entitled—" and inserting in lieu thereof "entitled, or for any other purpose—".

(b) Section 205(c)(2) of such Act is amended by adding at the end thereof the following new subparagraphs:

"(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

"(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

"(*iii*) *For purposes of clause* (*i*) *of this subparagraph, an agency of a State* (*or political subdivision thereof*) *charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause* (*i*) *above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of title IV of the Social Security Act.*

"(*iv*) *For purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.*"

(*c*) *Section 6109* (*relating to identifying numbers*) *is amended by adding at the end thereof the following new subsection:*

"(*d*) *USE OF SOCIAL SECURITY ACCOUNT NUMBER.—The social security account number issued to an individual for purposes of section 205*(*c*)(*2*)(*A*) *of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title.*"

(*d*)(*1*) *Section 208 of the Social Security Act is amended by inserting after subsection* (*g*) *the following new subsection:*

"(*h*) *discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;*"

(*2*) *Section 208*(*g*)(*2*) *of such Act is amended by adding* "*or*" *at the end thereof.*

SEC. 1212. ABATEMENT OF INTEREST WHEN RETURN IS PREPARED FOR TAXPAYER BY THE INTERNAL REVENUE SERVICE.

(*a*) *IN GENERAL.—Section 6404* (*relating to abatements*) *is amended by adding at the end thereof the following new subsection:*

"(*d*) *ASSESSMENTS ATTRIBUTABLE TO CERTAIN MATHEMATICAL ERRORS BY INTERNAL REVENUE SERVICE.—In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213*(*f*)(*2*)(*A*), *if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.*"

(*b*) *EFFECTIVE DATE.—The amendment made by subsection* (*a*) *shall apply with respect to returns filed for taxable years ending after the date of the enactment of this Act.*

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, 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:

MISCELLANEOUS PROVISIONS

SEC. 1301. TAX TREATMENT OF CERTAIN HOUSING ASSOCIATIONS.

(a) GENERAL RULE.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

"Sec. 528. Certain homeowners associations.

"SEC. 528. CERTAIN HOMEOWNERS ASSOCIATIONS.

"(a) GENERAL RULE.—A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

"(b) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the homeowners association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year any homeowners association has a net capital gain, then in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

"(A) a partial tax, computed as provided by paragraph (1), on the homeowners association taxable income determined by reducing such income by the amount of such gain, and

"(B) a tax of 30 percent of such gain.

"(c) HOMEOWNERS ASSOCIATION DEFINED.—For purposes of this section—

"(1) HOMEOWNERS ASSOCIATION.—The term 'homeowners association' means an organization which is a condominium management association or a residential real estate management association if—

"(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

"(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

"(i) owners of residential units in the case of a condominium management association, or

"(ii) owners of residences or residential lots in the case of a residential real estate management association,

"(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property,

"(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

"(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

"(2) CONDOMINIUM MANAGEMENT ASSOCIATION.—The term 'condominium management association' means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used as residences.

"(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.—The term 'residential real estate management association' means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

"(4) ASSOCIATION PROPERTY.—The term 'association property' means—

"(A) property held by the organization,

"(B) property commonly held by the members of the organization,

"(C) property within the organization privately held by the members of the organization, and

"(D) property owned by a governmental unit and used for the benefit of residents of such unit.

"(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED.—

"(1) TAXABLE INCOME DEFINED.—For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

"(A) the gross income for the taxable year (excluding any exempt function income), over

"(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

"(2) MODIFICATIONS.—For purposes of this subsection—

"(A) there shall be allowed a specific deduction of $100,

"(B) no net operating loss deduction shall be allowed under section 172, and

"(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

"(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term 'exempt function income' means any amount received as membership dues, fees, or assessments from—

"(A) owners of condominium housing units in the case of a condominium management association, or

"(B) owners of real property in the case of a residential real estate management association."

(b) Section 216(c) (relating to treatment of property subject to depreciation) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders."

(c) REQUIREMENT OF RETURN.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph:

"(7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year."

(d) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Certain homeowners associations."

(e) EFFECTIVE DATE.—Except as provided in subsection (f)(2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973.

(f) CERTAIN STOCK OF COOPERATIVE HOUSING CORPORATIONS.—

(1) Section 216(b) is amended by adding at the end thereof the following new paragraph:

"(5) STOCK ACQUIRED THROUGH FORECLOSURE BY LENDING INSTITUTION.—If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation."

(2) The amendment made by paragraph (1) shall apply to stock acquired by banks or other lending institutions after the date of the enactment of this Act.

SEC. 1302. TREATMENT OF CERTAIN DISASTER PAYMENTS.

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops."

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out "Proceeds" and inserting in lieu thereof "Proceeds or Disaster Payments".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

SEC. 1303. TAX TREATMENT OF CERTAIN 1972 DISASTER LOSSES.

(a) APPLICATION OF SECTION.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government,

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) EFFECT OF ELECTION.—In the case of any individual to whom this section applies—

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year,

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) INCOME TAKEN INTO ACCOUNT.—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a)(2)(A), the amount of income (not in excess of $5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a)(1), or

(2) in the case of an individual described in subsection (a)(2)(B), the amount of compensation (not in excess of $5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a)(1).

(d) PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS $15,000.—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded $15,000, the $5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds $15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "$7,500" for "$15,000".

SEC. 1304. TAX TREATMENT OF CERTAIN DEBTS OWED BY POLITICAL PARTIES, ETC., TO ACCRUAL BASIS TAXPAYERS.

(a) IN GENERAL.—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION.—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

"(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

"(2) the taxpayer made substantial continuing efforts to collect on the debt."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 1305. TAX-EXEMPT BONDS FOR STUDENT LOANS.

(a) IN GENERAL.—Section 103(a) (relating to interest on certain governmental obligations) is amended by striking out "or" at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(4) qualified scholarship funding bonds."

(b) DEFINITION OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 103 is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED SCHOLARSHIP FUNDING BONDS.—For purposes of subsection (a), the term 'qualified scholarship funding bonds' means obligations issued by a corporation which—

"(1) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(2) is organized at the request of a State or one or more political subdivisions thereof or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof."

(c) CONFORMING AMENDMENTS.—

(1) Section 103(d) (relating to arbitrage bonds) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) STUDENT LOAN INCENTIVE PAYMENTS.—Payments made by the Commissioner of Education pursuant to section 2 of the Emergency Insured Student Loan Act of 1969 are not to be taken into account, for purposes of subsection (d)(2)(A), in determining yields on student loan notes."

(2) Section 103(d) (relating to arbitrage bonds) is amended by striking out "(a)(1)" each place it appears in paragraph (1) (including the heading) and paragraph (2) and inserting in lieu thereof "(a)(1) or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section apply to obligations issued on or after the date of the enactment of this Act.

SEC. 1306. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

(a) IN GENERAL.—Section 543(a)(6) (relating to definition of personal holding company income) is amended to read as follows:

"(6) USE OF CORPORATE PROPERTY BY SHAREHOLDER.—

"(A) Amounts received as compensation (however designated and from whomever received) for the use of, or the right to use, tangible property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property (whether such right is obtained directly from the corporation or by means of a sublease or other arrangement).

"(B) Subparagraph (A) shall apply only to a corporation which has personal holding company income in excess of 10 percent of its ordinary gross income.

"(C) For purposes of the limitation in subparagraph (B), personal holding company income shall be computed—

"(i) without regard to subparagraph (A) or paragraph (2),

"(ii) by excluding amounts received as compensation for the use of (or right to use) intangible property (other than mineral, oil, or gas royalties or copyright royalties) if a substantial part of the tangible property used in connection with such intangible property is owned by the corporation and all such tangible and intangible property is used in the active conduct of a trade or business by an individual or individuals described in subparagraph (A), and

"(iii) by including copyright royalties and adjusted income from mineral, oil, and gas royalties."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

SEC. 1307. WORK INCENTIVE PROGRAM EXPENSES.

(a) INCREASE IN LIMITATION BASED ON AMOUNT OF TAX.—

(1) Paragraph (2) of section 50A(a) (relating to limitation based on amount of tax) is amended by striking out "$25,000" each place it appears and inserting in lieu thereof "$50,000".

(2) Paragraph (4) of section 50A(a) (relating to married individuals) is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$25,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(3) Paragraph (5) of section 50A(a) (relating to controlled groups) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(4) Paragraph (3) of section 50B(e) is amended by striking out "$25,000" each place it appears therein and inserting in lieu thereof "$50,000".

(b) REDUCTION OF PERIOD DURING WHICH DISCHARGE OF EMPLOYEE CAUSES RECAPTURE.—Subparagraph (A) of section 50A(c)(1) (relating to work incentive program expenses) is amended—

(1) by striking out "12 months" each place it appears and inserting in lieu thereof "90 days",

(2) by striking out "12th calendar month" and inserting in lieu thereof "90th calendar day", and

(3) by striking out "the calendar month" and inserting in lieu thereof "the day".

(c) RECAPTURE NOT TO APPLY WHERE TERMINATION IS RESULT OF DECLINING BUSINESS.—Subparagraph (A) of section 50A(c)(2) (relating to certain terminations of employment) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and "or", and

(3) by adding at the end thereof the following:

"(v) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer."

(*d*) EXTENSION OF WELFARE EMPLOYEE INCENTIVES.—*Paragraph* (2) *of section 50B*(*a*) (*relating to definition of federal welfare recipient employment incentive expenses*) *is amended by striking out* "*before July 1, 1976,*" *and inserting in lieu thereof* "*before January 1, 1980,*".

(*e*) LIMITATION OF FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE EXPENSES TO FIRST 12 MONTHS OF EMPLOYMENT.—*Subparagraph* (*B*) *of section 50B*(*a*)(1) *is amended to read as follows:*

"(*B*) *the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment* (*whether or not consecutive*)."

(*f*) CERTIFICATION OF WELFARE RECIPIENT EMPLOYEES BY SECRETARY OF LABOR.—*Subparagraph* (*A*) *of section 50B*(*g*)(1) (*relating to eligible employees*) *is amended by inserting* "*the Secretary of Labor or by*" *after* "*certified by*".

(*g*) TECHNICAL AMENDMENTS.—

(1) *The second sentence of section 6411*(*a*) (*relating to application for adjustment*) *is amended by inserting* "(*or, in the case of a work incentive program carryback, to an investment credit carryback*)" *after* "*capital loss carryback*".

(2) *The following provisions are each amended by inserting* ", *an investment credit carryback,*" *after* "*net operating loss carryback*":

(*A*) *Section 6501*(*o*).
(*B*) *Section 6511*(*d*)(7).
(*C*) *Section 6601*(*d*)(4).
(*D*) *Section 6611*(*f*)(4).

SEC. 1308. REPEAL OF EXCISE TAX ON LIGHT-DUTY TRUCK PARTS.

(*a*) IN GENERAL.—*Section 6416*(*b*)(2) (*relating to special cases in which tax payments are considered overpayments*) *is amended*—

(1) *by striking* "*or*" *at the end of subparagraph* (*R*);

(2) *by striking the period at the end of subparagraph* (*S*) *and inserting in lieu thereof* "; *or*"; *and*

(3) *by adding at the end thereof the following new subparagraph:*

"(*T*) *in the case of any article taxable under section 4061*(*b*), *sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061*(*a*)(2), *if credit or refund of such tax is not available under any other provisions of law.*"

(*b*) EFFECTIVE DATE.—*The amendments made by this section shall apply to parts and accessories sold after the date of the enactment of this Act.*

SEC. 1309. EXCLUSION FROM EXCISE TAX ON CERTAIN ARTICLES RESOLD AFTER MODIFICATION.

(*a*) IN GENERAL.—*Section 4063* (*relating to exemptions from excise tax on motor vehicles*) *is amended by adding at the end thereof the following new subsection:*

"(*d*) RESALE AFTER CERTAIN MODIFICATIONS.—*Under regulations prescribed by the Secretary, the tax imposed by section 4061 shall not apply to the resale of any article described in section 4061*(*a*)(1) *if before such resale such article was merely combined with any cou-*

pling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the resale of any article on or after the date of the enactment of this Act.

SEC. 1310. FRANCHISE TRANSFERS.

(a) APPLICATION OF FRANCHISE RULES TO PARTNERSHIPS.—Section 751(c) (relating to unrealized receivables of a partnership), as amended by this Act, is amended—

(1) by striking out "farm land (as defined in section 1252(a))," and inserting in lieu thereof "farm land (as defined in section 1252(a)), franchises, trademarks, or trade names (referred to in section 1253(a))," and

(2) by striking out "1252(a)" and inserting in lieu thereof "1252(a), 1253(a)".

(b) EFFECTIVE DATE.—Subsection (a) shall apply to transactions described in section 731, 736, 741, or 751 of the Internal Revenue Code of 1954 which occur after December 31, 1976, in taxable years ending after that date.

SEC. 1311. EMPLOYER'S DUTIES IN CONNECTION WITH THE RECORDING AND REPORTING OF TIPS.

(a) SUSPENSION OF RULINGS.—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1954 to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

(1) without regard to Revenue Rulings 75-400 and 76-231, and

(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

(b) EFFECTIVE DATE.—This section shall take effect on January 1, 1976.

SEC. 1312. TREATMENT OF CERTAIN POLLUTION CONTROL FACILITIES.

(a) AVAILABILITY OF INVESTMENT CREDIT FOR CERTAIN POLLUTION CONTROL FACILITIES.—

(1) IN GENERAL.—Section 48(a)(8) (relating to amortized property) is amended by striking out "169," and by striking out the second sentence thereof.

(2) APPLICABLE PERCENTAGE IN DETERMINING AMOUNT OF CREDIT.—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(5) APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.—Notwithstanding subsection (c)(2), in the case of property—

"(A) with respect to which an election under section 169 applies, and

(B) the useful life of which (determined without regard to section 169) is not less than 5 years,

50 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169."

(b) *DEFINITION OF CERTIFIED POLLUTION CONTROL FACILITIES.—Paragraph (1) of section 169(d) (defining certified pollution control facilities) is amended—*

(1) by striking out "January 1, 1969," and inserting in lieu thereof "January 1, 1976,";

(2) by striking out "or storing" and inserting in lieu thereof "storing, or preventing the creation or emission of"; and

(3) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(C) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

"(ii) alter the nature of the manufacturing or production process or facility."

(c) *EXTENSION OF AMORTIZATION.—Paragraph (4) of section 169(d) (relating to new identifiable treatment facility) is amended to read as follows:*

"(4) NEW IDENTIFIABLE TREATMENT FACILITY.—

"(A) IN GENERAL.—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 is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpaper 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.

In applying this section in the case of property described in clause (i) 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.

"(B) CERTAIN PLANTS, ETC., PLACED IN OPERATION AFTER 1968.—In the case of any treatment facility used in connection with any plant or other property not in operation before January 1, 1969, the preceding sentence shall be applied by substituting December 31, 1975, for December 31, 1968."

(d) *EFFECTIVE DATES.—*

(1) The amendments made by subsection (a) shall apply to—

(A) property acquired by the taxpayer after December 31, 1976, and

(B) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31,

1976, (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date), in taxable years beginning after such date.

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1975. Such amendments shall not apply in the case of any property with respect to which the amortization period under section 169 of the Internal Revenue Code of 1954 has begun before January 1, 1976.

SEC. 1313. CLARIFICATION OF STATUS OF CERTAIN FISHERMEN'S ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

"(g) DEFINITION OF AGRICULTURAL.—For purposes of subsection (c)(5), the term 'agricultural' includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years ending after December 31, 1975.

SEC. 1314. CHANGES IN SUBCHAPTER S RULES.

(a) NUMBER OF SHAREHOLDERS.—Subsection (a)(1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

"(1) have (except as provided in subsection (e)) more than 10 shareholders;".

(b) SPECIAL SHAREHOLDER RULES.—(1) Section 1371 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL SHAREHOLDER RULES.—

"(1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years may not have more than 15 shareholders.

"(2) If, during the 5-year period set forth in paragraph (1), the number of shareholders of an electing small business corporation increases to an amount in excess of 10 (but not in excess of 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation may have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed 10."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1315. APPLICATION OF SECTION 6013(e) OF THE INTERNAL REVENUE CODE OF 1954.

(a) IN GENERAL.—Section 3 of the Act of January 12, 1971, Public Law 91-679 (84 Stat. 2064), is amended by adding at the end thereof the following new sentences: "Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely to a

taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1954, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer."

(b) EFFECTIVE DATE.—The application permitted under the amendment made by subsection (a) of this section must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act.

SEC. 1316. AMENDMENTS TO RULES RELATING TO LIMITATION ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.

(a) RETAILER EXCLUSION.—Paragraph (2) of section 613A(d) (relating to the retailer exclusion) is amended by inserting "(excluding bulk sales of such items to commercial or industrial users)" after "natural gas" where it first appears, and by adding at the end thereof the following:

"Notwithstanding the preceding sentence this paragraph shall not apply in any case where the combined gross receipts from the sale of such oil, natural gas, or any product derived therefrom, for the taxable year of all retail outlets taken into account for purposes of this paragraph do not exceed $5,000,000. For purposes of this paragraph, sales of oil, natural gas, or any product derived from oil or natural gas shall not include sales made of such items outside the United States, if no domestic production of the taxpayer or a related person is exported during the taxable year or the immediately preceding taxable year."

(b) TRANSFER RULE.—

(1) IN GENERAL.—Subparagraph (B) of section 613A(c)(9) (relating to exceptions to the transfer rule) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) a change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the grantor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

(2) CONFORMING AMENDMENTS.—Paragraph (1) of section 613A(d) (relating to the limitation on percentage depletion based upon taxable income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),",

(B) by striking out "and" at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) in the case of a trust, any distributions to its beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust."

(c) PARTNERSHIP RULES.—

(1) Subparagraph (D) of section 613A(c)(7) (relating to the computation of depletion in the case of partnerships) is amended to read as follows:

"(D) PARTNERSHIPS.—In the case of a partnership, the depletion allowance shall be computed separately by the partners and not by the partnership. The partnership shall allocate to each partner his proportionate share of the adjusted basis of each partnership oil or gas property. The allocation is to be made as of the later of the date of acquisition of the oil or gas property by the partnership, or January 1, 1975. A partner's proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital or income and, in the case of an agreement described in section 704(c)(2) (relating to effect of a partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Each partner shall separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in mineral property shall be an amount equal to the sum of the partners' adjusted basis in such property as determined under this paragraph."

(2) Subparagraph (G) of section 703(a)(2) (relating to deductions not allowed to a partnership) is amended by striking out

"production subject to the provisions of section 613A(c)" and inserting in lieu thereof "wells".

(3) Subsection (a) of section 705 (relating to the determination of basis of a partner's interest in a partnership) is amended—

(A) by striking out "and" in paragraph (1)(C),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

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

"(3) decreased (but not below zero), by the amount of the partner's deduction for depletion under section 611 with respect to oil and gas wells."

(d) RELATED PERSON.—Paragraph (3) of section 613A(d) (relating to the definition of related person) is amended by adding at the end thereof the following:

"For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975, and apply to taxable years beginning after December 31, 1974.

SEC. 1317. IMPLEMENTATION OF FEDERAL-STATE TAX COLLECTION ACT OF 1972.

(a) ELECTION BY STATES TO PARTICIPATE.—Section 204(b)(2) of the Federal-State Tax Collection Act of 1972 is amended to read as follows:

"(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code."

(b) ADJUSTMENTS TO QUALIFIED RESIDENT TAXES FOR PURPOSES OF FEDERAL COLLECTION OF STATE INDIVIDUAL INCOME TAXES.—

(1) QUALIFIED RESIDENT TAX BASED ON TAXABLE INCOME.—

(A) REQUIRED ADJUSTMENTS.—Section 6362(b)(1) (relating to required adjustments) is amended—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(iii) by adding at the end thereof the following new subparagraph:

"(D) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (2)(C), by adding an amount equal to the amount of his deduction under section 164(a)(4) for such sales tax."

(B) PERMITTED ADJUSTMENTS.—Section 6362(b)(2) (relating to permitted adjustments) is amended by adding at the end thereof the following new subparagraph:

"(C) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a

political subdivision thereof with respect to sales to the taxpayer or his dependents."

(2) QUALIFIED RESIDENT TAX WHICH IS A PERCENTAGE OF THE FEDERAL TAX—

(A) PERMITTED ADJUSTMENTS.—Section 6362(c)(3) (relating to permitted adjustments) is amended—

(i) by striking out "both" and inserting in lieu thereof "all",

(ii) by striking out "and" at the end of subparagraph (A),

(iii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(iv) by adding at the end thereof the following new subparagraph:

"(C) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (4)(B), the liability for tax is increased by the increase in such liability which would result from including as an item of income an amount equal to the amount of his deduction under section 164(a)(4) for such sales tax."

(B) FURTHER PERMITTED ADJUSTMENTS.—Section 6362(c)(4) (relating to further permitted adjustments) is amended to read as follows:

"(4) FURTHER PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for one or both of the following adjustments:

"(A) A credit determined under rules prescribed by the Secretary is allowed against such tax for income tax paid to another State or a political subdivision thereof.

"(B) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents."

(c) PROHIBITION ON CHARGES FOR FEDERAL COLLECTION OF STATE INCOME TAXES.—Section 6361(a) (relating to general rules for Federal collection and administration of State individual income taxes) is amended by inserting, after the first sentence thereof, the following: "No fee or other charge shall be imposed upon any State for the collection or administration of the qualified State individual income taxes of such State or any other State.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1318. CANCELLATION OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individ-

ual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) STUDENT LOAN.—For purposes of this section the term "student loan" means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) of such Code—

(1) by the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) by any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to discharges of indebtedness made before January 1, 1979.

SEC. 1319. TREATMENT OF GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY CORPORATION.

(a) IN GENERAL.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding the following sentence at the end of subsection (c)(2) thereof: "This paragraph shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in section 1504(a) (but without regard to the exceptions contained in section 1504(b)), if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group which is itself completely liquidated within such 12-month period."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

SEC. 1320. REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS.

(a) GENERAL RULE.—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act, the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered—

(1) without regard to Revenue Ruling 73-395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

(b) REGULATIONS TO BE PROSPECTIVE ONLY.—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to prepublication ex-

penditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) PREPUBLICATION EXPENDITURES DEFINED.—For purposes of this section, the term "prepublication expenditures" means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

SEC. 1321. CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES.

(a) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

"(b) CONTRIBUTIONS IN AID OF CONSTRUCTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) where the contribution is in property which is other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amounts (or any property acquired or constructed with such amounts) are not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which was the purpose motivating the contribution, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

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

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's property to a main water or sewer line and amounts paid as service charges for starting or stopping services).

"(B) PREDOMINATELY.—The term 'predominately' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero."

(b) CONFORMING AMENDMENT.—Section 362(c) (relating to special rule for contributions to capital) is amended by adding the following new paragraph immediately after paragraph (2):

"(3) EXCEPTION FOR CONTRIBUTIONS IN AID OF CONSTRUCTION.—The provisions of this subsection shall not apply to contributions in aid of construction to which section 118(b) applies."

(c) EFFECTIVE DATE.—The amendments made by this section apply to contributions made after January 31, 1976.

SEC. 1322. PROHIBITION OF DISCRIMINATORY STATE TAXES ON PRODUCTION AND CONSUMPTION OF ELECTRICITY.

(a) IN GENERAL.—The Act entitled "An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto", approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.) is amended by striking out title II (relating to studies) and inserting in lieu thereof the following:

"TITLE II—DISCRIMINATORY TAXES

"Sec. 201. No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity. For purposes of this section a tax is discriminatory if it results, either directly or indirectly, in a greater tax burden on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning June 30, 1974.

SEC. 1323. ALLOWANCE OF DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS FOR THE HANDICAPPED.

(a) IN GENERAL.—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. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

"(a) TREATMENT AS EXPENSES.—

"(1) IN GENERAL.—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

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

(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term 'architectural and transportation barrier removal expenses' means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

"(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term 'qualified architectural and transportation barrier removal expense' means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(3) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

"(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed $25,000.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly."

(2) Section 263(a)(1) (relating to capital expenditures) is amended—

(A) by striking out "or" at the end of subparagraph (D) thereof,

(B) by striking out the period at the end of subsection (E) thereof and inserting in lieu thereof a comma and the word "or", and

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

"(F) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190."

(3) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(A) by striking out "or 188" each place it appears in paragraphs (2) and (3)(D) and inserting in lieu thereof "188, or 190",

(B) by striking out "or 185" in paragraph (2)(D) and inserting in lieu thereof "185, or 190"; and

(C) by adding at the end of paragraph (2) the following new sentence: "For purposes of this section, any deduction allowable under section 190 shall be treated as if it were a deduction allowable for amortization."

(4) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 188" and inserting in lieu thereof "188 or 190".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980.

SEC. 1324. HIGH INCOME TAXPAYER REPORT.

The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth in three ways:

(1) by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income,

(2) by subtracting any investment expenses incurred in the production of such income to the extent of the investment income, and

(3) by making both of the adjustments referred to in paragraphs (1) and (2).

In any event these data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

SEC. 1325. TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.

(a) AMORTIZATION OF REHABILITATION EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

"SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.

"(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 historic structure (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 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 basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is 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 basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who 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 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 certified historic structure.

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

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve

the purpose of preserving and rehabilitating buildings of historic significance to the district.

"(2) AMORTIZABLE BASIS.—The term 'amortizable basis' means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

"(3) CERTIFIED REHABILITATION.—The term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(e) 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.

"(f) 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.

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) 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."

(2) GAIN ON DISPOSITION.—Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "or 190" each place it appears and inserting in lieu thereof "190 or 191".

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 191. Amortization of certain rehabilitation expenditures for certified historic structures."

(B) Section 642(f) (relating to amortization deductions of estates and trusts) is amended by striking out "and 188" and inserting in lieu thereof "188, and 191".

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191".

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190 or 191".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.

(b) DEMOLITION.—

(1) DISALLOWANCE OF DEDUCTIONS.—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. 280B. DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

"(a) GENERAL RULE.—In the case of the demolition of a certified historic structure (as defined in section 191(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as properly chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a Registered Historic District shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) 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. 280B. Demolition of certain historic structures."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) DEPRECIATION OF IMPROVEMENTS.—

(1) METHOD OF DEPRECIATION.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 191(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 191(d)(3)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) EXCEPTION.—The limitations imposed by this subsection shall not apply to personal property."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(d) SUBSTANTIALLY REHABILITATED PROPERTY.—

(1) Section 167 (relating to depreciation) is amended by inserting after subsection (n) (as added by subsection (c) of this section) the following new subsection:

"(o) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

"(1) GENERAL RULE.—Pursuant to regulations prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

"(2) SUBSTANTIALLY REHABILITATED PROPERTY.—For purposes of paragraph (1), the term 'substantially rehabilitated historic property' means any certified historic structure (as defined in section 191(d)(1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 191(d)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

"(A) the adjusted basis of such property, or

"(B) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250(e)), whichever is later."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

(e) TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—

(1) INCOME TAX DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 170(f)(3) (relating to charitable contributions) is amended—

(A) by striking out "or" at the end of subparagraph (B)(i),

(B) by striking out "property.", at the end of subparagraph (B)(ii) and inserting in lieu thereof "property;", and

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes, or

"(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.", and

(D) by adding at the end thereof the following new subparagraph:

"(C) CONSERVATION PURPOSES DEFINED.—For purposes of subparagraph (B), the term 'conservation purposes' means—

"(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

"(ii) the preservation of historically important land areas or structures; or

"(iii) *the protection of natural environmental systems.*".

(2) *ESTATE TAX DEDUCTION FOR TRANSFER OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2055(e)(2) (relating to deductions from gross estate) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".*

(3) *GIFT TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".*

(4) *EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to contributions or transfers made after June 13, 1976, and before June 14, 1977.*

SEC. 1326. AMENDMENT TO SUPPLEMENTAL SECURITY INCOME PROGRAM.

Section 1612(a)(2)(A)(iii) of the Social Security Act is amended by striking out "fifth month" and inserting in lieu thereof "seventeenth month".

SEC. 1327. TRADE ACT OF 1974 AMENDMENTS.

Section 502(b) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and",

(3) by inserting immediately after paragraph (6) the following new paragraph:

"(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an an act of international terrorism."; and

(4) by striking out "and (6)" in the unnumbered paragraph at the end of such section and inserting in lieu thereof "(6), and (7)".

SEC. 1328. EXTENSION OF CARRY-OVER PERIOD FOR CUBAN EXPROPRIATION LOSSES.

Subparagraph (D) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "15" and inserting in lieu thereof "20".

And the Senate agree to the same.

Amendment numbered 27:

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

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

TREATMENT OF CERTAIN CAPITAL LOSSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

SEC. 1401. INCREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET.

(a) GENERAL RULE.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out "$1,000" and inserting in lieu thereof "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Paragraph (2) of section 1211(b) (relating to limitation on capital losses for taxpayers other than corporations) is amended to read as follows:

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)(B), the term 'applicable amount' means—

"(A) $2,000 in the case of any taxable year beginning in 1977; and

"(B) $3,000 in the case of any taxable year beginning after 1977.

In the case of a separate return by a husband or wife, the applicable amount shall be one-half of the amount determined under the preceding sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 1402. INCREASE IN HOLDING PERIOD REQUIRED FOR CAPITAL GAIN OR LOSS TO BE LONG TERM.

(a) INCREASE IN TWO STEPS FROM 6 MONTHS TO 1 YEAR.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "6 months" and inserting in lieu thereof "9 months".

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out "9 months" and inserting in lieu thereof "1 year".

(b) CONFORMING AMENDMENTS.—

(1) TAXABLE YEARS BEGINNING IN 1977.—Effective with respect to taxable years beginning in 1977, the following provisions are each amended by striking out "6 months" each place it appears and inserting in lieu thereof "9 months":

(A) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(B) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(C) Paragraph (2) of subsection (a) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(*D*) *Subparagraph* (*A*) *of section 403*(*a*)(*2*) (*relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan*).

(*E*) *Paragraph* (*1*) *of section 423*(*a*) (*relating to employee stock purchase plans*).

(*F*) *Paragraph* (*1*) *of subsection* (*a*) *and paragraphs* (*1*) *and* (*2*) *of subsection* (*c*) *of section 424* (*relating to restricted stock options*).

(*G*) *Paragraph* (*2*) *of section 582*(*c*) (*relating to capital gains of banks*).

(*H*) *Subparagraphs* (*A*) *and* (*B*) *of section 584*(*c*)(*1*) (*relating to inclusions in taxable income of participants in common trust funds*).

(*I*) *Section 631* (*relating to gain or loss in the case of timber, coal, or domestic iron ore*).

(*J*) *Paragraphs* (*3*) *and* (*4*) *of section 642*(*c*) (*relating to charitable deductions for certain trusts*).

(*K*) *Section 644* (*relating to special holding period rules for gain on property transferred to trust at less than fair market value*).

(*L*) *Paragraphs* (*1*) *and* (*2*) *of section 702*(*a*) (*relating to income and credits of partner*).

(*M*) *Subparagraph* (*A*) *of section 817*(*a*)(*1*) (*relating to certain gains and losses in the case of life insurance companies*).

(*N*) *Subparagraph* (*B*) *of paragraph* (*3*), *and paragraph* (*4*), *of section 852*(*b*) (*relating to taxation of shareholders of regulated investment companies*).

(*O*) *Subparagraph* (*A*) *of section 856*(*c*)(*4*) (*relating to definition of real estate investment trust*).

(*P*) *Subparagraph* (*B*) *of paragraph* (*3*), *and paragraph* (*5*), *of section 857*(*b*) (*relating to taxation of shareholders of real estate investment trusts*).

(*Q*) *Paragraph* (*11*) *of section 1223* (*relating to holding period of property*).

(*R*) *Section 1231* (*relating to property used in the trade or business and involuntary conversions*).

(*S*) *Paragraph* (*2*) *of section 1232*(*a*) (*relating to sale or exchange in the case of bonds and other evidences of indebtedness*).

(*T*) *Subsections* (*b*), (*d*), *and* (*e*) *of section 1233* (*relating to gains and losses from short sales*).

(*U*) *Paragraph* (*1*) *of section 1234*(*b*) (*relating to special rule for gain on lapse of an option granted as part of a straddle*), *as amended by this Act.*

(*V*) *Subsection* (*a*) *of section 1235* (*relating to sale or exchange of patents*).

(*W*) *Paragraph* (*4*) *of section 1246*(*a*) *relating to holding period in the case of gain on foreign investment company stock*).

(*X*) *Subsection* (*i*) *of section 1247* (*relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently*).

(Y) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(Z) Paragraph (1) of section 1251(e) (defining farm recapture property).

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, each provision referred to in paragraph (1) is amended by striking out "9 months" each place it appears and inserting in lieu thereof "1 year".

(3) TECHNICAL AMENDMENT.—Effective with respect to taxable years beginning after December 31, 1976, section 631(a) (relating to gain or loss in the case of timber) is amended by striking out "before the beginning of such year".

(c) TRANSITIONAL RULE FOR CERTAIN INSTALLMENT OBLIGATIONS.—In the case of amounts received from sales or other dispositions of capital assets pursuant to binding contracts, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1) of the Internal Revenue Code of 1954, if the gain or loss was treated as long-term for the taxable year for which the amount was realized, such gain or loss shall be treated as long-term for the taxable year for which the gain or loss is returned or otherwise recognized.

(d) RETENTION OF 6-MONTH PERIOD FOR FUTURES TRANSACTIONS IN COMMODITIES.—Section 1222 (relating to other terms relating to capital gains and losses) is amended by adding at the end thereof the following new sentence:

"For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1402 of the Tax Reform Act of 1976 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1402."

SEC. 1403. ALLOWANCE OF 8-YEAR CAPITAL LOSS CARRYOVER IN CASE OF REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years succeeding the loss year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a)(1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970.

And the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

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

PENSION AND INSURANCE TAXATION

SEC. 1501. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

(a) ALLOWANCE OF DEDUCTION.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

"SEC. 220. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) LIMITATIONS AND RESTRICTIONS.—

"(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed—

"(A) twice the amount paid to the account or annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

"(B) an amount equal to 15 percent of the compensation includible in the individual's gross income for the taxable year, or

"(C) $1,750,

whichever is the smallest amount.

"(2) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 219 for the taxable year.

"(3) COVERAGE UNDER CERTAIN OTHER PLANS.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

"(A) he or his spouse was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) a qualified bond purchase plan described in section 405(a), or

"(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

"(B) amounts were contributed by his employer, or his spouse's employer, for an annuity contract described in section 403(b) (whether or not his, or his spouse's, rights in such contract are nonforfeitable).

"(4) CONTRIBUTIONS AFTER AGE 70½.—No deduction is allowed under subsection (a) with respect to any payment which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

"(5) RECONTRIBUTED AMOUNTS.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

"(6) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(7) EMPLOYED SPOUSES.—No deduction is allowed under subsection (a) with respect to a payment described in subsection (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to section 911) for the taxable year of such spouse ending with or within such taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) MARRIED INDIVIDUALS.—This section shall be applied without regard to any community property laws.

"(3) DETERMINATION OF MARITAL STATUS.—The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of section 143(a).

"(4) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 15 days after the end of such taxable year.

"(5) PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.—A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) if, under section 219(c)(4), he is not considered to be an active participant in such a plan."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (10) of section 62 (relating to retirement savings) is amended by inserting before the period the following: "and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)".

(2) Paragraph (2) of section 408(c) is amended by inserting "(or spouse of an employee or member)" after "member".

(3) Subsection (a) of section 415 (relating to limitations on benefits and contributions under qualified plans) is amended—

(A) by striking out "In the case" in paragraph (2) and inserting in lieu thereof "Except as provided in paragraph (3), in the case", and

(B) by adding at the end thereof the following new paragraph:

"(3) ACCOUNTS, ETC., ESTABLISHED FOR NON-EMPLOYED SPOUSE.—Paragraph (2) shall not apply for any year to an account, annuity, or bond described in section 408(a), 408(b), or 409, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under section 220 to such individual with respect to such contribution for such year.".

(4) Section 219 (relating to retirement savings) is amended—

(A) by striking out "during" in subsection (a) and inserting in lieu thereof "for",

(B) by adding at the end of subsection (b) the following new paragraph:

"(6) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 220 for the taxable year.",

(C) by adding at the end of subsection (c)(2) the following new sentence: "For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).", and

(D) by adding at the end of subsection (c) the following new paragraph:

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year."

(5) Paragraph (4) of section 408(d) (relating to excess contributions returned before due date of return) is amended—

(A) by inserting "or 220" after "219", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made."

(6) Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by striking out "in any taxable year" and inserting in lieu thereof "for any taxable year".

(7) *Paragraph (12) of section 3401(a) (relating to definition of wages) is amended by inserting "or 220(a)" after "219(a)".*

(8) *Section 4973 (relating to tax on excess contributions to individual retirement accounts, etc.) is amended—*

(A) by striking out "such individual" in the last sentence of subsection (a) and inserting in lieu thereof the following: "the individual to whom a deduction is allowed for the taxable year under section 219 (determined without regard to subsection (b)(1) thereof) or section 220 (determined without regard to subsection (b)(1) thereof), whichever is appropriate";

(B) by inserting "or 220" after "219" in subsection (b)(1)(B); and

(C) by striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following:

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all taxable years) which were included in the gross income of the payee under section 408(d)(1).

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer contributions to a plan or contract described in section 219(b)(2) or by reason of the application of section 219(b)(1) (without regard to the $1,500 limitation) or section 220(b)(1) (without regard to the $1,750 limitation) and only if such distribution does not exceed the excess of $1,500 over the amount described in paragraph (1)(B)."

(9) *Subsection (d) of section 6047 (relating to other programs) is amended by inserting "or 220(a)" after "219(a)".*

(c) CLERICAL AMENDMENT.—*The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:*

"Sec. 220. Retirement savings for certain married individuals.
"Sec. 221. Cross references.".

(d) EFFECTIVE DATE.—*The amendments made by this section, other than the amendment made by subsection (b)(3), shall apply to taxable years beginning after December 31, 1976. The amendment made by section (b)(3) shall apply to years beginning after December 31, 1976.*

SEC. 1502. LIMITATION ON CONTRIBUTIONS TO CERTAIN PENSION, ETC., PLANS.

(a) IN GENERAL.—

(1) LIMIT ON CONTRIBUTIONS.—*Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph:*

"(5) APPLICATION WITH SECTION 404 (e)(4).—*In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401 (c)(1), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under section 404(e) with respect to any individual who is an employee within the meaning of section 401(c)(1).*"

(2) MINIMUM DEDUCTION LIMITATION.—*Section 404(e)(4) of such Code (relating to minimum deductible amount for pension plan contributions by self-employed individuals) is amended by adding after subparagraph (B) the following: "This paragraph does not apply for any taxable year to any employee whose adjusted gross income for such taxable year (determined separately for each individual, without regard to any community property laws, and without regard to the deduction allowable under subsection (a)) exceeds $15,000.*"

(b) EFFECTIVE DATE.—*The amendment made by subsection (a)(1) shall apply to years beginning after December 31, 1975. The amendment made by subsection (a)(2) shall apply to taxable years beginning after December 31, 1975.*

SEC. 1503. PARTICIPATION BY MEMBERS OF RESERVES OR NATIONAL GUARD IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

(a) GENERAL RULE.—*Section 219 (c) (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof the following new paragraph:*

"(4) PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.—

"(A) MEMBERS OF RESERVE COMPONENTS.—*A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during such year.*"

(b) EFFECTIVE DATE.—*The amendment made by this section shall apply to taxable years beginning after December 31, 1975.*

SEC. 1504. CERTAIN INVESTMENTS BY ANNUITY PLANS.

(a) IN GENERAL.—*Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by striking out ", and which issues only redeemable stock" in subparagraph (C).*

(b) EFFECTIVE DATE.—*The amendment made by this section applies to taxable years beginning after December 31, 1975.*

SEC. 1505. SEGREGATED ASSET ACCOUNTS.

(a) SEGREGATED ASSET ACCOUNTS OF LIFE INSURANCE COMPANIES.—*Paragraph (1)(B) of section 801(g) is amended—*

(1) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) *which is described in subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1) (other than a life, health or accident, property, casualty, or liability insur-*

ance contract) or which provides for the payment of annuities, and", and

(2) by striking out "as annuities" in clause (iii) and inserting in lieu thereof "out".

(b) CONFORMING AMENDMENT.—Section 401 (relating to qualified pension, etc. plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) CERTAIN CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this title, a custodial account, an annuity contract, or a contract (other than a life, health or accident, property, casualty, or liability insurance contract) issued by an insurance company qualified to do business in a State shall be treated as a qualified trust under this section if—

"(1) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) in the case of a custodial account the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof.".

(c) EFFECTIVE DATE.—The amendments made by this section apply for taxable years beginning after December 31, 1975.

SEC. 1506. STUDY OF SALARY REDUCTION PENSION PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by striking out "January 1, 1977" each place it appears and inserting in lieu thereof "January 1, 1978", and

(2) by striking out "December 31, 1976" in subsection (d) and inserting in lieu thereof "December 31, 1977".

SEC. 1507. CONSOLIDATED RETURNS FOR LIFE AND OTHER INSURANCE COMPANIES.

(a) IN GENERAL.—Section 1504(c) (relating to the definition of includible insurance companies) is amended to read as follows:

"(c) INCLUDIBLE INSURANCE COMPANIES.—Notwithstanding the provisions of paragraph (2) of subsection (b)—

"(1) Two or more domestic insurance companies each of which is subject to tax under section 802 shall be treated as includible corporations for purposes of applying subsection (a) to such insurance companies alone.

"(2)(A) If an affiliated group (determined without regard to subsection (b)(2)) includes one or more domestic insurance companies taxed under section 802 or 821, the common parent of such group may elect (pursuant to regulations prescribed by the Secretary) to treat all such companies as includible corporations for purposes of applying subsection (a) if all such companies have been members of the affiliated group for the 5 taxable years imme-

diately preceding the taxable year for which the election is made or revoked.

"*(B) If an election under this paragraph is in effect for a taxable year—*

"*(i) section 243(b)(6) and the exception provided under section 243(b)(5) with respect to subsections (b)(2) and (c) of this section,*

"*(ii) section 542(b)(5), and*

"*(iii) subsections (a)(4) and (b)(2)(D) of section 1563, and the reference to section 1563(b)(2)(D) contained in section 1563(b)(3)(C),*

shall not be effective for such taxable year.

(b) Special Rules and Conforming Amendments.—

(1) Section 821 (relating to tax on mutual insurance companies to which part II applies) is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:

"*(f) Tax Applicable to Member of Group Filing Consolidated Return.—Notwithstanding any other provision of this section, if a mutual insurance company to which this section applies joins in the filing of a consolidated return (or is required to so file), the applicable tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the mutual insurance company taxable income of such company were the taxable income referred to in section 11.*".

(2) Section 843 (relating to annual accounting period) is amended by adding at the end thereof the following sentence: "*Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year.*"

(3) Section 1503 (relating to computation and payment of tax) is amended by adding the following new subsection:

"*(c) Special Rule for Application of Certain Losses Against Income of Insurance Companies Taxed Under Section 802.—*

"*(1) In general. If an election under section 1504(c)(2) is in effect for the taxable year and the consolidated taxable income of the members of the group not taxed under section 802 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carryback periods against the taxable income of such members not taxed under section 802 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable years to the extent of 35 percent of such loss or 35 percent of the taxable income of the members taxed under section 802, whichever is less. The unused portions of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years. For purposes of this subsection, in determining the taxable income of each insurance company subject to tax under section 802, section 802(b)(3) shall not be taken into account. For taxable years ending with or within*

calendar year 1981, '25 percent' shall be substituted for '35 percent' each place it appears in the first sentence of this subsection. For taxable years ending with or within calendar year 1982, 30 percent' shall be substituted for '35 percent' each place it appears in that sentence.

"(2) LOSSES OF RECENT NON-LIFE AFFILIATES.—Notwithstanding the provisions of paragraph (1), a net operating loss for a member of the group not taxed under section 802 cannot be taken into account, for the taxable year as a loss for that year, or as a net operating loss carryover or carryback to the taxable year, in determining the taxable income of a member of the group taxed under section 802 to the extent that such loss is attributable to a taxable year ending before the first taxable year taken into account (with respect to the member not taxed under section 802) for purposes of section 1504(c)(2)(A).".

(c) EFFECTIVE DATE AND TRANSITIONAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1980.

(2) TRANSITION RULES WITH RESPECT TO CARRYOVERS OR CARRYBACKS RELATING TO PRE-ELECTION TAXABLE YEARS AND NONTERMINATION OF GROUP.—

(A) LIMITATIONS ON CARRYOVERS OR CARRYBACKS FOR GROUPS ELECTING UNDER SECTION 1504(C)(2).—If an affiliated group elects to file a consolidated return pursuant to section 1504(c)(2) of the Internal Revenue Code of 1954, a carryover of a loss or credit from a taxable year ending before January 1, 1982, and losses of credits which may be carried back to taxable years ending before such date, shall be taken into account as if this section had not been enacted.

(B) NONTERMINATION OF AFFILIATED GROUP.—The mere election to file a consolidated return pursuant to such section 1504(c)(2) shall not cause the termination of an affiliated group filing consolidated returns.

SEC. 1508. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

(a) IN GENERAL.—Paragraph (d)(5) of section 809 (relating to certain nonparticipating contracts) is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957.

SEC. 1509. STUDY OF EXPANDED PARTICIPATION IN INDIVIDUAL RETIREMENT ACCOUNTS.

The Joint Committee on Taxation shall carry out a study with respect to broadening the class of individuals who are eligible to claim a deduction for retirement savings under section 219 or 220 of the Internal Revenue Code of 1954 to include individuals who are participants in pension plans described in section 401(a) of such Code

(relating to qualified pension, profit-sharing, and stock bonus plans) or similar plans established for its employees by the United States, by a State or political division thereof, or by an agency or instrumentality of the United States or a State or political division thereof. The Joint Committee shall report its findings to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

And the Senate agree to the same.

Amendment numbered 29:

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

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

REAL ESTATE INVESTMENT TRUSTS

SEC. 1601. DEFICIENCY DIVIDEND PROCEDURE.

(a) IN GENERAL.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 859. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) GENERAL RULE.—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed to such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining the deduction for dividends paid (for purposes of section 857) for such year.

"(b) RULES FOR APPLICATION OF SECTION.—

"(1) ADJUSTMENT.—For purposes of this section, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(3) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(c) DETERMINATION.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

"(d) DEFICIENCY DIVIDENDS.—

"(1) DEFINITION.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

"(2) LIMITATIONS.—

"(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(e) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(f) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the real estate investment trust files a claim as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(g) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(h) PENALTY.—

"For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697."

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 859. Deduction for deficiency dividends."

(b) PENALTY.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REAL ESTATE INVESTMENT TRUSTS.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

"(c) *DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).*"

(2) The table of sections for such subchapter B is amended by adding at the end thereof the following:

"*Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts.*"

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) DEFINITION OF DIVIDEND.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:

"*(3) DEFICIENCY DIVIDEND DISTRIBUTIONS BY A REAL ESTATE INVESTMENT TRUST.—The term 'dividend' also means any distribution of property (whether or not a dividend as defined in subsec. (a)) which constitutes a 'deficiency dividend' as defined in section 859(d).*"

(e) CARRYOVER OF DEFICIENCY DIVIDEND.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:

"*(25) DEFICIENCY DIVIDEND OF REAL ESTATE INVESTMENT TRUST.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 859.*"

(f) TECHNICAL AMENDMENTS.—

(1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:

"***(14) for credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859.***"

(2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (5) at the end thereof, to read as follows:

"***(5) Deficiency dividends of a real estate investment trust, see section 859(f).***"

(3) Section 6515 (relating to certain cross references) is *amended by adding a new paragraph (8) at the end thereof, to read as follows:*

"***(8) Deficiency dividends of a real estate investment trust, see section 859.***"

SEC. 1602. TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS WERE NOT MET.

(a) DISQUALIFICATION NOT APPLIED.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

"(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

"(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

"(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect."

(b) IMPOSITION OF SPECIAL TAXES.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

"(5) IMPOSITION OF TAX IN CASE OF FAILURE TO MEET CERTAIN REQUIREMENTS.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of—

"(A) the excess of—

"(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

"(B) the excess of—

"(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3),

multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding any net capital gain) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described in subparagraph (A),

(B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss)."

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph:

"*(E) There shall be deducted an amount equal to the tax imposed by paragraph (5) for the taxable year.*".

SEC. 1603. TREATMENT OF PROPERTY HELD FOR SALE TO CUSTOMERS.

(a) ELIMINATION OF HOLDING FOR SALE RULE AS QUALIFICATION REQUIREMENT.—Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

(b) TAX ON INCOME FROM PROPERTY DESCRIBED IN SECTION 1221(1) THAT IS NOT FORECLOSURE PROPERTY.—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of this Act) the following new paragraph:

"*(6) INCOME FROM PROHIBITED TRANSACTIONS.—*

"*(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.*

"*(B) DEFINITIONS.—For purposes of this part—*

"*(i) the term 'net income derived from prohibited transactions' means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;*

"*(ii) the term 'net loss derived from prohibited transactions' means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and*

"*(iii) the term 'prohibited transaction' means a sale or other disposition of property described in section 1221(1) which is not foreclosure property.*"

(c) TECHNICAL AMENDMENTS.—

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

"*(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—*".

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof "which is not property described in section 1221(1)".

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof "which is not property described in section 1221(1)".

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence:

"*Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not orginally acquired as foreclosure property.*"

(5) *Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602 (b)(2) of this Act), to read as follows:*

"(F) *There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions.*"

SEC. 1604. OTHER CHANGES IN LIMITATIONS AND REQUIREMENTS.

(a) INCREASE IN 90-PERCENT GROSS INCOME REQUIREMENT TO 95 PERCENT.—*Section 856(c)(2) (relating to limitations) is amended by striking out "90 percent of its gross income" and inserting in lieu thereof "95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)".*

(b) APPORTIONMENT OF RENTAL INCOME AND CHARGES FOR CUSTOMARY SERVICES; CHANGE IN DEFINITION OF INDEPENDENT CONTRACTOR.—*Subsection (d) of section 856 (defining rents from real property) is amended to read as follows:*

"(d) RENTS FROM REAL PROPERTY DEFINED.—

"(1) AMOUNTS INCLUDED.—*For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' includes (subject to paragraph (2))—*

"(A) *rents from interests in real property,*

"(B) *charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and*

"(C) *rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.*

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

"(2) AMOUNTS EXCLUDED.—*For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' does not include—*

"(A) *except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount*

depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term 'rents from real property' solely by reason of being based on a fixed percentage or percentages of receipts or sales);

"(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

"(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

"(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

"(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

"(3) INDEPENDENT CONTRACTOR DEFINED.—For purposes of this subsection and subsection (e), the term 'independent contractor' means any person—

"(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

"(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

"(4) SPECIAL RULE FOR CERTAIN CONTINGENT RENTS.—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term 'rents from real property' solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term 'rents from real property'.

"(5) CONSTRUCTIVE OWNERSHIP OF STOCK.— For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that '10 percent' shall be substituted for '50 percent' in subparagraph (C) of section 318(a)(2) and 318(a)(3)."

(c) COMMITMENT FEES.—

(1) IN GENERAL.—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out "and" after the semicolon at the end of subparagraph (E), by inserting "and" after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

"(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);".

(2) CONFORMING AMENDMENT.—Section 857(b)(4)(B) (relating to net income from foreclosure property) is amended by striking out "(D), or (E)" in subdivision (i) and inserting in lieu thereof "(D), (E), or (G)".

(d) INCOME FROM SALE OF MORTGAGES HELD LESS THAN 4 YEARS.—Section 856(c)(4) (relating to limitations) is amended to read as follows:

"(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

"(A) stock or securities held for less than 6 months;

"(B) section 1221(1) property (other than foreclosure property); and

"(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

"(i) property compulsorily or involuntarily converted within the meaning of section 1033, and

"(ii) property which is foreclosure property within the definition of section 856(e); and".

(e) OPTIONS TO PURCHASE REAL PROPERTY TREATED AS INTERESTS IN REAL PROPERTY.—Section 856(c)(6)(C) (relating to limitations) is amended to read as follows:

"(C) The term 'interests in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests."

(f) REAL ESTATE INVESTMENT TRUSTS MAY BE INCORPORATED.—

(1) IN GENERAL.—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

"(a) IN GENERAL.—For purposes of this title, the term 'real estate investment trust' means a corporation, trust, or association—

"(1) which is managed by one or more trustees or directors;

"(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;".

(2) EXCEPTION FOR FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph:

"(4) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies;".

(3) CONFORMING AMENDMENTS.—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out "A trust or association" and inserting in lieu thereof "A corporation, trust, or association".

(B) The second sentence of section 857(d) (relating to earnings and profits) is amended by striking out "a domestic unincorporated trust" and inserting in lieu thereof "a domestic corporation, trust,".

(g) INTEREST.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

"(f) INTEREST.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that:

"(1) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

(h) CERTAIN DIVIDENDS.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) ADOPTION OF ANNUAL ACCOUNTING PERIOD.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

(j) CHANGE IN DISTRIBUTION REQUIREMENTS.—Section 857(a)(1) (relating to requirements applicable to real estate investment trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b)(4)(A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions, and".

(k) MANNER AND EFFECT OF TERMINATION OR REVOCATION OF ELECTION.—

(1) IN GENERAL.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of this Act) the following new subsection:

"(g) TERMINATION OF ELECTION.—

"(1) FAILURE TO QUALIFY.—An election under subsection (c)(1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

"(2) REVOCATION.—An election under subsection (c)(1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th

day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

"*(3) ELECTION AFTER TERMINATION OR REVOCATION.—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c)(1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c)(1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.*

"*(4) EXCEPTION.—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—*

"*(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c)(1) occurs;*

"*(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and*

"*(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect.*"

(2) CONFORMING AMENDMENTS.—

(A) Section 856(c)(1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof ", and such election has not been terminated or revoked under subsection (g);".

(B) Section 857(a) (relating to requirements applicable to real estate investment trust) is amended by striking out "(other than subsection (d) of this section)" and inserting in lieu thereof "(other than subsection (d) of this section and subsection (g) of section 856)".

SEC. 1605. EXCISE TAX.

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

"CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS

"SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.

"Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment

trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (6) of section 275(a) (relating to denial of deductions for certain taxes) is amended by striking out "and chapter 43." and inserting in lieu thereof ", chapter 43, and chapter 44."

(2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981."

(3) Section 6161(b)(1) (relating to extensions of time for payment of tax), as amended by this Act, is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44". The second sentence of section 6161(b) is amended by striking out "or chapter 43" and inserting in lieu thereof "43, or 44".

(4) Section 6211 (defining deficiency) is amended—

(A) by striking out "and 43" in subsection (a) and inserting in lieu thereof "43, and 44",

(B) by striking out "or 43" in subsection (a) and inserting in lieu thereof "43, or 44", and

(C) by striking out "or 43" in subsection (b)(2) and inserting in lieu thereof "43, or 44".

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "or 43" in subsection (a) and inserting in lieu thereof "43, or 44",

(B) by striking out "or chapter 43" in subsection (b)(1) and inserting in lieu thereof "chapter 43, or chapter 44",

(C) by striking out "chapter 43, and this chapter" in subsection (b)(1) and inserting in lieu thereof "chapter 43, chapter 44, and this chapter", and

(D) by striking out "of chapter 43 tax for the same taxable years," in subsection (c)(1) and inserting in lieu thereof "of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable year,".

(6) Section 6213(a) (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(7) *Section 6214 (relating to determinations by Tax Court) is amended—*

(A) by striking out "or 43" in the heading of subsection (c) and inserting in lieu thereof "43, or 44", and

(B) by striking out "or 43" each place it appears in subsection (c) and inserting in lieu thereof "43, or 44", and

(C) by striking out "or 43" in subsection (d) and inserting in lieu thereof "43, or 44".

(8) Section 6344(a)(1) (relating to cross references) is amended by striking out "or 43" and inserting in lieu thereof "43 or 44".

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "or 43" each place it appears and inserting in lieu thereof "43, or 44".

(10) Section 6601(c) (relating to suspension of interest in certain income, etc. tax cases) is amended by striking out in the heading thereof "or 43" and inserting in lieu thereof "43, or 44".

(11) Section 7422 (relating to civil actions for refund) is amended by striking out "or 43" in subsection (e) and inserting in lieu thereof "43, or 44".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"Chapter 44. Real estate investment trusts."

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D).

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b)(1) (relating to years to which a net operating loss may be carried) is amended by adding at the end thereof the following:

> *"(I) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss. A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."*

(c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) *In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—*

"(A) *the net operating loss for such taxable year shall be computed by taking into account the adjustments described in section 857(b)(2) (other than the deduction for dividends paid described in section 857(b)(2)(B)); and*

"(B) *where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b)(2)).*"

(d) CONFORMING AMENDMENTS.—

(1) *Section 172(b)(1) (relating to years to which a loss may be carried carrybacks and carryovers) is amended by striking out "and (G)," in subparagraph (A)(i) and inserting in lieu thereof "(G), and (I)," and by striking out in subparagraph (B) "and (E)" and inserting in lieu thereof "(E), and (I),".*

(2) *Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b) of this Act, is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".*

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

(a) ALTERNATIVE TAX.—*Section 857(b)(3)(A) (relating to imposition of tax on capital gain) is amended to read as follows:*

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—*If for any taxable year a real estate investment trust has a net capital gain, then, in lieu of the tax imposed by subsection (b)(1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—*

"(i) *a tax, computed as provided in subsection (b)(1), on the real estate investment trust taxable income (determined by excluding such net capital gain and by computing the deduction for dividends paid without regard to capital gain dividends), and*

"(ii) *a tax of 30 percent of the excess of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only.*"

(b) CONFORMING AMENDMENTS.—

(1)(A) *Section 857(b)(2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.*

(B) *Subsection (e)(2) of section 46 (relating to investment credit) is amended—*

(i) *by striking out "857(b)(2)(C)" in subparagraph (B) and inserting in lieu thereof "857(b)(2)(B)", and*

(ii) *by inserting "determined without regard to any deduction for capital gains dividends (as defined in section 857*

(b)(3)(C)) and by excluding any net capital gain" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e)(5) (relating to cross references) is amended by striking out **"857(b)(2)(D)"** *and inserting in lieu thereof* **"857(b)(2)(C)".**

(2) Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income), as redesignated by paragraph (1) of this subsection, is amended by striking out "shall be computed without regard to capital gains dividends and".

(3) Section 857(b)(3)(C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: "For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) for the taxable year."

SEC. 1608. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act:

(1) the reference to section 857(b)(3)(A)(ii) in sections 857(b)(3)(C) and 859(b)(1)(B) of such Code, as amended, shall be considered to be a reference to section 857(b)(3)(A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b)(2)(B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b)(2)(C) of such Code, as in effect immediately before the enactment of this Act.

(b) TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS NOT MET.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954) with respect to such trust occurring after the date of the enactment of this Act, such trust for such taxable years does not meet the requirements of section 856(c)(2) or section 856(c)(3), or of both such sections, of such Code as in effect for such taxable year. In any case, the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2)(B) in section 857(b)(5) of such Code, as amended, shall be con-

sidered to be a reference to paragraph (2)(C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act.

(c) ALTERNATIVE TAX AND NET OPERATING LOSS.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

(d) OTHER AMENDMENTS.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a)(4) of the Internal Revenue Code of 1954 (as in effect before the amendment of such section by this Act) for any taxable year beginning on or before the date of the enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of the enactment of this Act—

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all

interest, additions to tax, additional amounts, and assessable penalties in respect thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under paragraph (3) during the period for which the collection of such amount is stayed.

(3) Section 856(g)(3) of the Internal Revenue Code of 1954, as added by section 1604 of this Act, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c)(1) of such Code on or before the date of the enactment of this Act, unless the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of the enactment of this Act for which such election is in effect.

And the Senate agree to the same.

Amendment numbered 30:

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

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

RAILROAD PROVISIONS

SEC. 1701. CERTAIN PROVISIONS RELATING TO RAILROADS.

(a) TREATMENT OF CERTAIN RAILROAD TIES.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(g) RAILROAD TIES.—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties of any material (and fastenings related to such ties) shall be accorded the same tax accounting treatment as expenditures for replacement ties of wood (and fastenings related to such ties)."

(b) INCREASE IN 50-PERCENT LIMITATION.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS.—

"(A) IN GENERAL.—If, for a taxable year ending after calendar year 1976, and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to railroad property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1977 or 1978	50
1979	40
1980	30
1981	20
1982	10

"(D) RAILROAD PROPERTY DEFINED.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company)."

SEC. 1702. AMORTIZATION OVER 50-YEAR PERIOD OF RAILROAD GRADING AND TUNNEL BORES PLACED IN SERVICE BEFORE 1969.

(a) IN GENERAL.—Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

"(d) ELECTION WITH RESPECT TO PRE-1969 PROPERTY.—A taxpayer may, for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term 'qualified railroad grading and tunnel bores' as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

"(e) ADJUSTED BASIS FOR PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—

"(1) IN GENERAL.—*The adjusted basis of any pre-1969 railroad grading and tunnel bore shall be determined under this subsection.*

"(2) PROPERTY ACQUIRED OR CONSTRUCTED AFTER FEBRUARY 28, 1913.—

"(A) *In the case of pre-1969 railroad grading and tunnel bores—*

"(i) *acquired by the taxpayer after February 28, 1913, or*

"(ii) *the construction of which was completed by the taxpayer after February 28, 1913,*

the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

"(B) *In the case of property described in subparagraph (A)(i)—*

"(i) *which was in existence on February 28, 1913,*

"(ii) *for which the taxpayer has a substituted basis, and*

"(iii) *such substituted basis for which would, but for the provisions of this section, be determined under section 1053,*

then the adjusted basis of such property shall be determined as if such property were property described in paragraph (3)(A).

"(3) PROPERTY ACQUIRED OR CONSTRUCTED BEFORE MARCH 1, 1969.—

"(A) *In the case of pre-1969 railroad grading and tunnel bores—*

"(i) *acquired by the taxpayer before March 1, 1913, or*

"(ii) *the construction of which was completed by the taxpayer before March 1, 1913,*

the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

"(B) *In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property's cost of reproduction new (as the term 'cost of reproduction new' is used in such section 19a).*

"(C) *In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property's value,*

"(D) *If, in the case of any property to which this paragraph applies—*

"(i) *neither subparagraph (B) nor (C) applies, or*

"(ii) *notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer,*

then the adjusted basis of such property shall be equal to its adjusted basis (for purposes of determining gain) in the hands of the taxpayer."

(b) DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—*Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:*

"(3) PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—*The term 'pre-1969 railroad grading and tunnel bores' means railroad grading and tunnel bores the original use of which commences before January 1, 1969.*".

SEC. 1703. CERTAIN PROVISIONS RELATING TO AIRLINES.

Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

"(9) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN AIRLINES.—

"(A) IN GENERAL.—*If, for a taxable year ending after calendar year 1976 and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to airline property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.*

"(B) APPLICABLE PERCENTAGE.—*The applicable percentage of any taxpayer for any taxable year under this paragraph is—*

"(i) *50 percent, plus*

"(ii) *that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is airline property bears to his aggregate qualified investment.*

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—*For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:*

"If the taxable year ends in:	*The tentative percentage is:*
1977 or 1978	*50*
1979	*40*
1980	*30*
1981	*20*
1982	*10*

"(D) AIRLINE PROPERTY DEFINED.—*For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration.*"

And the Senate agree to the same.

Amendment numbered 32:

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

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

REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVISIONS OF INTERNAL REVENUE CODE OF 1954

Subtitle A—Amendments of Internal Revenue Code Generally

SEC. 1901. AMENDMENTS OF SUBTITLE A; INCOME TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 2.—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

"*(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b).*"

(2) REPEAL OF SECTION 35.—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

(3) AMENDMENT OF SECTION 39.—Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

"*(b) EXCEPTION.—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section.*"

(4) AMENDMENTS OF SECTION 46.—

(A) The second sentence of section 46(a)(4), as redesignated by this Act, is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(B) Clause (iii) of section 46(c)(3)(B) (relating to public utility property) is amended by striking out "47 U.S.C., sec. 222(a)(5)" and inserting in lieu thereof "47 U.S.C. 222(a)(5)".

(5) AMENDMENTS OF SECTION 48.—

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out "; 43 U.S.C., sec. 1331)" and inserting in lieu thereof "(43 U.S.C. 1331))".

(B) Section 48(a)(2)(B)(viii) is amended by striking out "47 U.S.C., sec. 702" and inserting in lieu thereof "47 U.S.C. 702".

(6) AMENDMENT OF SECTION 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(7) REPEAL OF SECTION 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge).

(8) AMENDMENTS OF SECTION 62.—Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93-483), as paragraph (12):

ADDITIONAL AMENDMENT OF SECTION 62.—Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out "trade or business to the extent" and inserting in lieu thereof "trade or business, to the extent".

(10) DEFINITION OF ORDINARY INCOME AND ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section:

"SEC. 64. ORDINARY INCOME DEFINED.

"For purposes of this subtitle, the term 'ordinary income' includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b). Any gain from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as 'ordinary income' shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)."

(11) DEFINITION OF ORDINARY LOSS.—Part 1 of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section:

"SEC. 65. ORDINARY LOSS DEFINED

"For purposes of this subtitle, the term 'ordinary loss' includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as 'ordinary loss' shall be treated as loss from the sale or exchange of property which is not a a capital asset."

(12) AMENDMENT OF SECTION 72.—Section 72(d)(1) (relating to employees' annuities) is amended by striking out "(whether or not before January 1, 1954)" and by striking out "(under this paragraph and prior income tax laws)".

(13) ADDITIONAL AMENDMENT OF SECTION 72.—Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out "an individual retirement amount" and inserting in lieu thereof "an individual retirement account".

(14) REPEAL OF SECTION 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed.

(15) AMENDMENT OF SECTION 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out "(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)".

(16) AMENDMENT OF SECTION 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section).

(17) AMENDMENTS OF SECTION 103.—

(A) Section 103(a) (relating to tax-exempt interest), as amended by this Act, is amended by inserting "and" at the end of paragraph (1), by striking out paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), (e), (f), and (g) (as added by this Act) as subsections (b), (c), (d), (e), and (f) respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(9a)(1)".

(D) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(9a)(1)".

(E) Section 103(e) (relating to certain cross references) as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(e) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1949 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452 (g))."

(18) AMENDMENTS OF SECTION 104.—

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

(B) Section 104(b)(2) is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

(19) AMENDMENT OF SECTION 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"SEC. 115. INCOME OF STATES, MUNICIPALITIES, ETC.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

(20) AMENDMENT OF SECTION 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

(21) AMENDMENT OF SECTION 124.—Section 124 (relating to cross references to other Acts) is amended to read as follows:

"SEC. 124. CROSS REFERENCES TO OTHER ACTS.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

"(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).

"(4) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

"(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177).

"(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

"(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 228i).

"(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).

"(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)-(c).

"(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213)."

(22) AMENDMENT OF SECTION 143.—Section 143 (relating to determination of marital status) is amended by striking out "this part" each place it appears and inserting in lieu thereof "this part and part V".

(23) AMENDMENT OF SECTION 151.—Section 151(e)(4) (defining student and educational institution) is amended to read as follows:

"(4) STUDENT DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) *is a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or*

"(B) *is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.*"

(24) AMENDMENTS OF SECTION 152.—

(A) *Section 152(a) (defining dependent) is amended—*

(i) by inserting "or" at the end of paragraph (8),

(ii) by striking out ", or" at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) *Section 152(b)(3) (relating to rules concerning the definition of dependent) is amended to read as follows:*

"(3) *The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.*"

(25) AMENDMENTS OF SECTION 164.—*Section 164(d)(2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B).*

(26) AMENDMENTS OF SECTION 165.—*Section 165 (relating to deduction of losses) is amended by striking out subsection (i) (relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).*

(27) AMENDMENTS OF SECTION 167.—

(A) *section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out "after the date of enactment of this title" and inserting in lieu thereof "after August 16, 1954".*

(B) *Section 167(e) (relating to change in method of depreciation) is amended by striking out paragraph (2) and by redesignating paragraph (3) as (2).*

(C) *Section 167(f)(2) (defining personal property) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".*

(D) *Section 167(l)(4)(A) (relating to election as to increased-capacity property) is amended by striking out "within 180 days after the date of the enactment of this subparagraph" and inserting in lieu thereof "before June 29, 1970,".*

(28) *AMENDMENTS OF SECTION 170.*—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (D)".

(iv) Section 170(b)(1)(B)(ii) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

(v) Section 170(c) (relating to definition of charitable contribution) is amended by striking out in the last sentence "subsection (h)" and inserting in lieu thereof "subsection (g)".

(vi) Section 170(e)(1)(B)(ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "subsection (b)(1)(E)" and inserting in lieu thereof "subsection (b)(1)(D)".

(B) Section 170(d)(1)(A) (relating to carryover of excess charitable contributions) is amended by striking out "(30 percent, in the case of a contribution year beginning before January 1, 1970)".

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A)(i) of this paragraph, is amended by striking out "64 Stat. 996;".

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A)(i) of this paragraph, is amended to read as follows:

"*(i) OTHER CROSS REFERENCES.*—

"(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)."

(29) AMENDMENTS OF SECTION 172.—

(A) (i) Section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E).

(ii) Clause (i) of section 172(b)(1)(A) is amended by striking out "(E),".

(iii) Subparagraph (B) of section 172(b)(1), as amended by this Act is amended by striking out ", (E), and (I)" and inserting in lieu thereof "and (I)".

(iv) Section 172(b)(3) is amended by striking out subparagraphs (E) and (F).

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C) (i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsections (f), (g), (h), and (i), respectively.

(ii) Section 172(b)(1)(C) (relating to regulated transportation corporations) is amended by striking out "subsection (j)(1)" and "subsection (j)", and inserting in lieu thereof "subsection (g)(1)" and "subsection (g)", respectively.

(iii) Paragraphs (1)(D) and (3)(C)(i) of section 172 (b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)".

(iv) Section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i) and (j)" and inserting in lieu thereof "subsection (g)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g)(2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

(30) AMENDMENTS OF SECTIONS 174 AND 175.—Section 174(a)(2)(A)(i) (relating to research and development expenditures) and section 175(d)(1)(A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954,".

(31) REPEAL OF SECTION 187.—Section 187 (relating to rapid amortization for certain coal mine safety equipment) is repealed.

(32) AMENDMENT OF SECTION 219.—Section 219(b)(2)(A)(iv) (disqualifying governmental plan participants from contributing

to individual retirement accounts, etc.) is amended by striking out "division" and inserting in lieu thereof "subdivision".

(33) REPEAL OF SECTION 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed.

(34) AMENDMENTS OF SECTION 243.—

(A) Section 243(a)(2) (relating to the dividends received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b)(2)(A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)".

(35) AMENDMENT OF SECTION 247.—Section 247(b)(2) (relating to preferred stock) is amended to read as follows:

"(2) PREFERRED STOCK.—

"(A) IN GENERAL.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) CERTAIN STOCK ISSUED ON OR AFTER OCTOBER 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

"(C) DETERMINATION UNDER REGULATIONS.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) ISSUANCE OF STOCK.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders), or the respectively

corresponding provisions of the Internal Revenue Code of 1939."

(36) AMENDMENT OF SECTION 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(37) AMENDMENT OF SECTION 265.—Section 265(2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(38) AMENDMENT OF SECTION 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price).

(39) AMENDMENT OF SECTION 275.—Section 275(a)(1)(C) (relating to nondeductible taxes) is amended by striking out ", and corresponding provisions of prior revenue laws".

(40) AMENDMENTS OF SECTION 281.—

(A) Section 281(d)(1)(A) (relating to definition of terminal railroad corporation) is amended by inserting after "Interstate Commerce Act" the following: "(49 U.S.C. 1 and following)".

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(41) AMENDMENT OF SECTION 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personal service corporations).

(42) AMENDMENTS OF SECTION 311.—

(A) Section 311(d)(1) (relating to appreciated property used to redeem stock) is amended by striking out "then again shall be recognized" and inserting in lieu thereof "then a gain shall be recognized".

(B)(i) Section 311(d)(2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply only with respect to distributions after November 30, 1974.

(C) Section 311(d)(2)(C), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "26 Stat. 209;" and "38 Stat. 730;".

(43) AMENDMENTS OF SECTION 312.—

(A) Section 312(d)(1) (relating to certain distributions of stock and securities) is amended by striking out "this Code" each place it appears and inserting in lieu thereof "this title".

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"*(i) DISTRIBUTION OF PROCEEDS OF LOAN INSURED BY THE UNITED STATES.—If a corporation distributes property with respect to its stock and if, at the time of distribution—*

"*(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and*

"*(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan,*

then the earnings and profits of the corporation shall be increased by the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a)(2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

(D) Section 312(j)(3) (relating to foreign investment companies), as redesignated by subsection (b)(32)(B)(i), is amended to read as follows:

"*(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed.*"

(44) AMENDMENT OF SECTION 333.—Section 333(a)(1) (relating to election as to recognition of gain in certain liquidations) is amended by striking out "on or after June 22, 1954".

(45) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"*(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and*".

(46) AMENDMENTS OF SECTION 337.—

(A) Section 337(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"*(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period.*"

(B) *The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".*

(47) REPEAL OF SECTION 342.—*Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.*

(48) AMENDMENTS OF SECTION 351.—

(A) *Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".*

(B) *Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:*

"(d) EXCEPTION.—*This section shall not apply to a transfer of property to an investment company.*"

(C) *The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.*

(49) REPEAL OF SECTION 363.—*Section 363 (a cross reference to other sections) is repealed.*

(50) AMENDMENTS OF SECTION 371.—*Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended—*

(A) *by striking out "49 Stat. 922;" and*

(B) *by striking out "(52 Stat. 883–905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law" and inserting in lieu thereof "(11 U.S.C. 501 and following)".*

(51) AMENDMENT OF SECTION 372.—*Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out "54 Stat. 709;".*

(52) REPEAL OF SECTION 373.—*Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed.*

(53) AMENDMENT OF SECTION 374.—*Section 374(a)(1) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out "49 Stat. 922;".*

(54) AMENDMENT OF SECTION 381.—*Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20).*

(55) REPEAL OF SECTIONS 391 THROUGH 395.—*Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C).*

(56) AMENDMENTS OF SECTION 401.—

(A) *Paragraphs (12) and (13) of section 401(a) (relating to requirements for qualification) are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".*

(B) *Paragraph (15) of section 401(a) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".*

(C) Paragraph (19) of section 401(a) is amended by striking out "enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(D) The last sentence of section 401(a) is amended to read as follows:

"Paragraphs (11), (12), (13), (14), (15), (19), and (20) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section."

(57) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to non-resident alien individuals) is amended by striking out "basic salary" each place it appears therein and inserting in lieu thereof "basic pay", and by amending the last sentence in such paragraph to read as follows:

"In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code."

(B) Section 402 (relating to taxability of beneficiary of employees' trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 21, 1942).

(C)(i) So much of the third sentence of section 402(e)(4)(A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows:

"Except for purposes of subsection (a)(2) and section 403(a)(2),".

(ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.

(58) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a)(4) (relating to taxation of employee annuities) are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B)(i) shall be treated as a rollover contribution described in section 408(d)(3). Subparagraph (B)(ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(59) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).

(60) AMENDMENT OF SECTION 409.—Section 409(b)(3)(C) (relating to tax-free rollovers of individual retirement bonds) is amended by striking out "section 403(d)(3)." and inserting in lieu thereof "section 408(d)(3)."

(61) *AMENDMENTS OF SECTION 410.—*

(A) Subparagraphs (C) and (D) of section 410(a)(5) (relating to breaks in service) are each amended by striking out "purposes of subsection (a)(1)" and inserting in lieu thereof "purposes of paragraph (1)".

(B) Paragraph (1)(C) of section 410(c) (relating to application of minimum participation standards) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".

(62) *AMENDMENTS OF SECTION 411.—*

(A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a)(8)" and inserting in lieu thereof "paragraph (8)".

(B) Subsection (a)(3)(D)(iii) of section 411 is amended—

(i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and

(ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974,".

(C) The heading for subparagraph (C) of section 411(a)(7) is amended to read as follows:

"*(C) REPAYMENT OF SUBPARAGRAPH (B) DISTRIBUTIONS.—*"

(D) Subsection (b)(1)(D)(i) and (e)(1)(C) of section 411 are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(E) Subsection (e)(2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(63) *AMENDMENTS OF SECTION 412.—*

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(B) Subsection (h)(5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(64) *AMENDMENTS OF SECTION 414.—*

(A) The heading for section 414(f) (relating to multiemployer plans) is amended to read as follows:

"*(f) MULTIEMPLOYER PLAN.—*"

(B) Section 414(l) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(65) AMENDMENTS OF SECTION 415.—

(A) Section 415(b)(2)(A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(b)(3)(C)" and inserting in lieu thereof "and 409(b)(3)(C))".

(B) Section 415(b)(2)(B) is amended by striking out "(as defined in section 401(a)(11)(H)(iii))" and inserting in lieu thereof "(as defined in section 401(a)(11)(G)(iii))".

(66) AMENDMENTS OF SECTION 453.—

(A) Section 453(c)(3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954".

(B) Section 453(d)(4)(B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617(d)(1)" and inserting in lieu thereof ", 617(d)(1)".

(67) AMENDMENT OF SECTION 455.—Section 455(c)(3)(B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business".

(68) AMENDMENT OF SECTION 456.—Section 456(c)(3)(B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" and inserting in lieu thereof "for its first taxable year".

(69) AMENDMENTS OF SECTION 461.—

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c)(2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

(70) AMENDMENTS OF SECTION 481.—

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b)(1) and (2) are each amended by striking out ", other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

(71) AMENDMENTS OF SECTION 508.—

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501(c)(3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e)(2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d)(2)(A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e)(2) (B) and (C)" and inserting in lieu thereof "(e)(2)".

(72) AMENDMENTS OF SECTION 514.—

(A) Section 514(c)(1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the end of subparagraph (C) and all that follows, and inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b)(3)(C)(iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(73) AMENDMENTS OF SECTION 534.—

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(74) AMENDMENT OF SECTION 535.—Section 535(b)(1) (relating to adjustments in computing accumulated taxable income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)".

(75) AMENDMENTS OF SECTION 537.—

(A) Section 537(b)(2) (relating to definition of excess business holdings redemption needs) is amended by striking out ", with respect to taxable years of the corporation ending after May 26, 1969.".

(B) Section 537(b)(4) (relating to inferences as to prior years) is amended by striking out "or (2)".

(76) AMENDMENTS OF SECTION 542.—

(A) Section 542(a)(2) (relating to definition of personal holding company) is amended by striking out the last sentence.

(B) Section 542(b)(2) (relating to ineligible affiliated group) is amended by striking out ", other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,".

(C) Section 542(c)(2) (relating to financial institutions) is amended by striking out "without regard to subparagraphs (D) and (E) thereof".

(D) Section 542(c)(8) (relating to small business investment companies) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(77) AMENDMENTS OF SECTION 545.—

(A) Section 545(b)(1) (relating to deduction of taxes in computing undistributed personal holding company income) is amended—

(i) in the first sentence, by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)"; and

(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c)(2)(A) (relating to corporations to which special adjustment applies) is amended by striking out "the date of enactment of this subsection" and inserting in lieu thereof "February 26, 1964".

(78) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

(79) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns), as redesignated by subsection (b)(1)(F) of this section, is amended by striking out "taxable income, foreign personal holding company," and inserting in lieu thereof "taxable income, foreign personal holding company income,".

(80) AMENDMENT OF SECTION 556.—The first sentence of section 556(b)(1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)".

(81) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1954 years).

(82) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

(83) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

(84) AMENDMENTS OF SECTION 593.—

(A) Section 593(b)(2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

"1969	60 percent.
1970	57 percent.
1971	54 percent.
1972	51 percent.
1973	49 percent.
1974	47 percent.
1975	45 percent."

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), by redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

"(2) CERTAIN PRE-1963 RESERVES.—Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1976) during a taxable year beginning before January 1, 1977, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve."

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b)(2)(E)(i) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(85) REPEAL OF SECTION 601.—Subchapter H of chapter 1 (relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(86) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b)(1)(C) (relating to exemption for certain domestic gas wells) is amended by striking out "within the meaning of section 613(b)(1)(A)".

(B) Section 613A(c)(6)(i) (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out "determined with" and inserting in lieu thereof "determined without".

(87) AMENDMENTS OF SECTION 614.—

(A)(i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rule as to exploration deductions prior to aggregation).

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1976.

(B) The third sentence of section 614(c)(2) (relating to election to treat a single interest as more than one property) is amended to read as follows: "A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3)."

(C) Section 614(c)(3) (relating to manner and scope of election) is amended to read as follows:

"(3) MANNER AND SCOPE OF ELECTION.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

"(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

"(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made."

(88) REPEAL OF SECTION 615.—Section 615 (relating to deduction of pre-1970 exploration expenses) is repealed.

(89) AMENDMENT OF SECTION 617.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out "may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection are published in the Federal Register, unless" and inserting in lieu thereof "may not be revoked unless".

(90) REPEAL OF SECTION 632.—Section 632 (relating to tax in case of sale of oil and gas properties) is repealed.

(91) AMENDMENT OF SECTION 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence.

(92) AMENDMENT OF SECTION 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out "ON" the first time it appears in the section heading and inserting in lieu thereof "OF".

(93) AMENDMENT OF SECTION 751.—Section 751(c) (relating to unrealized receivables) is amended by striking out "1254(a), or 1250(a)," and inserting in lieu thereof "1245(a), 1250(a),".

(94) REPEAL OF SECTION 771.—Part IV of subchapter K of chapter 1 (relating to effective date of subchapter K) is repealed.

(95) AMENDMENTS OF SECTION 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is amended by striking out "beginning after December 31, 1957,".

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out "beginning after December 31, 1961,".

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

(96) AMENDMENTS OF SECTION 804.—

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out "In the case of a taxable year beginning after December 31, 1958, the" and inserting in lieu thereof "The".

(97) AMENDMENTS OF SECTION 805.—

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year."

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out "(determined without regard to fair market value on December 31, 1958)".

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

"(d) PENSION PLAN RESERVES.—For purposes of this part, the term 'pension plan reserves' means that portion of the life insurance reserves which is allocable to contracts—

"(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

"(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of section 165(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of section 401(a), (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), and (20);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an orga-

nization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

"(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b)."

(98) AMENDMENTS OF SECTION 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4).

(B)(i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) (relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out "subsection (d)(12)" and inserting in lieu thereof "subsection (d)(11)".

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(99) AMENDMENT OF SECTION 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried) is amended to read as follows:

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

"(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B)."

(100) AMENDMENTS OF SECTION 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions).

(101) AMENDMENT OF SECTION 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(102) AMENDMENTS OF SECTION 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: "The minimum

figure is the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

(*B*) *The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".*

(*C*) *Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:*

"(*i*) *the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or*".

(*103*) AMENDMENT OF SECTION 820.—

(*A*) *Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragraph (6).*

(*B*) *The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragraph (6)".*

(*104*) AMENDMENTS OF SECTION 821.—

(*A*) *Section 821(a) (relating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963,".*

(*B*) *Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".*

(*C*) *Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).*

(*105*) AMENDMENTS OF SECTION 822.—

(*A*) *Section 822(c)(5) (relating to deduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".*

(*B*) *The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".*

(*106*) AMENDMENTS OF SECTION 825.—*Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.*

(*107*) AMENDMENT OF SECTION 831.—*Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or the taxable income" and inserting in lieu thereof "on the taxable income."*

(108) AMENDMENTS OF SECTION 832.—Paragraphs (1) and (6) of section 832(b) (definitions relating to insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(109) AMENDMENTS OF SECTION 851.—

(A) Section 851(a)(1) (relating to definition of regulated investment company) is amended by striking out "54 Stat. 789,".

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out "which began after December 31, 1941".

(110) AMENDMENTS OF SECTION 852.—

(A) Subparagraph (C) of section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out "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)" and inserting in lieu thereof "by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)".

(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

(C) Section 852(d) is amended by inserting after "Investment Company Act of 1940" the following: "(15 U.S.C. 80a-1 and following)".

(111) AMENDMENTS OF SECTION 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amended by striking out "which began after December 31, 1960".

(B) Section 856(c)(6)(D) (relating to definition of other terms) is amended by inserting after "Investment Company Act of 1940, as amended" the following: "(15 U.S.C. 80a-1 and following)".

(112) AMENDMENT OF SECTION 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investment trusts) is amended by striking out the last sentence.

(113) AMENDMENTS OF SECTION 864.—

(A) Subsection (a) of section 864 (definitions relating to determinations of sources of income) is amended to read as follows:

"(a) PRODUCED.—For purposes of this part, the term 'produced' includes created, fabricated, manufactured, extracted, processed, cured, or aged."

(*B*) *Clauses* (*i*) *and* (*iii*) *of section* 864(*c*)(4)(*B*) *and subparagraph* (*C*) *of section* 864(*c*)(5) (*relating to effectively connected income*) *are each amended by striking out* "*sale*" *each place it appears and inserting in lieu thereof* "*sale or exchange*".

(*C*) *Section* 864(*c*)(4)(*B*)(*iii*) (*relating to effectively connected income*) *is amended by striking out* "*sold*" *and inserting in lieu thereof* "*sold or exchanged*".

(*114*) AMENDMENT OF SECTION 905.—*Section* 905(*b*) (*relating to proof of foreign tax credits*) *is amended by striking out the last sentence* (*relating to the treatment of certain royalty payments*).

(*115*) AMENDMENT OF SECTION 911.—*Section* 911(*c*) (*relating to earned income from sources without the United States*) *is amended by striking out paragraph* (7) (*relating to taxable years ending in* 1963, 1964, *or* 1965).

(*116*) AMENDMENT OF SECTION 921.—*Section* 921 (*relating to definition of Western Hemisphere Trade Corporation*) *is amended by striking out the last sentence* (*relating to taxable years before* 1954).

(*117*) AMENDMENTS OF SECTION 931.—*Section* 931 (*relating to income from sources within possession*) *is amended by striking out subsection* (*h*) (*relating to certain persons taken as prisoners of war while working in a possession*), *and by redesignating subsection* (*i*) *as subsection* (*h*).

(*118*) AMENDMENT OF SECTION 934.—*Section* 934(*b*) (*relating to gross income received by a corporation from the Virgin Islands*) *is amended by striking out the last sentence.*

(*119*) AMENDMENT OF SECTION 951.—*Section* 951(*a*)(*1*) (*relating to treatment of subpart F income*) *is amended by striking out* "*beginning after December* 31, 1962".

(*120*) REPEAL OF SECTION 972.—*Section* 972 (*relating to consolidation of export trade corporations*) *is repealed.*

(*121*) AMENDMENT OF SECTION 1001.—*Section* 1001(*c*) (*relating to recognition of gain or loss*) *is amended to read as follows:*

"(*c*) RECOGNITION OF GAIN OR LOSS.—*Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized.*"

(*122*) AMENDMENTS OF SECTION 1015.—

(*A*) *Subparagraph* (*A*) *of section* 1015(*d*)(*1*) (*relating to increased basis for gift tax paid*) *is amended by striking out* "*the date of the enactment of the Technical Amendments Act of* 1958" *and inserting in lieu thereof* "*September* 2, 1958".

(*B*) *Subparagraph* (*B*) *of section* 1015(*d*)(*1*) *is amended by striking out* "*the date of the enactment of the Technical Amendments Act of* 1958" *and inserting in lieu thereof* "*September* 2, 1958,".

(*123*) AMENDMENT OF SECTION 1016.—*Section* 1016(*a*) (*relating to adjustments to basis*) *is amended by striking out paragraph* (*19*).

(124) AMENDMENT OF SECTION 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out "54 Stat. 709;".

(125) REPEAL OF SECTION 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.

(126) REPEAL OF SECTION 1022.—

(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(127) AMENDMENT OF SECTION 1023.—Section 1023 (containing cross references) is amended by striking out paragraph (4).

(128) AMENDMENTS OF SECTION 1033.—

(A) Section 1033(a) (relating to involuntary conversions) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph and as amended by this Act, is amended—

(i) by striking out "WHERE DISPOSITION OCCURRED AFTER 1950" in the paragraph heading;

(ii) by striking out "(g)" each place it appears and inserting in lieu thereof "(h)";

(iii) by striking out "and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950," in the text; and

(iv) by adding at the end thereof the following new subparagraph:

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(ii) DISPOSITION OF THE CONVERTED PROPERTY.—The term 'disposition of the converted property' means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation."

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out "or (2)" and inserting in lieu thereof "or section 112(f)(2) of the Internal Revenue Code of 1939".

(*E*) *Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:*

(*F*) *Section 1033(g)(1) (relating to condemnation of real property); as amended by this Act, is amended by striking out "(a)(3)(B)(i)" and inserting in lieu thereof "(a)(2)(B)(i)".*

"(2) *LIMITATION.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A).*"

(*129*) *AMENDMENTS OF SECTION* 1034.—

(*A*) *Section 1034(a) (relating to gain on sale of residence) is amended by striking out "after December 31, 1953,".*

(*B*) *Section 1034(b) (defining adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).*

(*C*) *Section 1034(d) (relating to certain limitations) is amended by striking out "or section 112(n) of the Internal Revenue Code of 1939".*

(*D*) *Section 1034(i) (relating to involuntary conversions) is amended to read as follows:*

"(*i*) *SPECIAL RULE FOR CONDEMNATION.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations.*"

(*E*) *Section 1034(j) (relating to statute of limitations) is amended by striking out "after December 31, 1950,".*

(*130*) *AMENDMENT OF SECTION* 1037.—*Section 1037(b)(1) (relating to certain exchanges of United States obligations) is amended by striking out "section 1232(a)(2)(A)" and inserting in lieu thereof "section 1232(a)(2)(B)".*

(*131*) *AMENDMENT OF SECTION* 1051.—*Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.*

(*132*) *AMENDMENTS OF SECTION* 1081.—

(*A*) *Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:*

"(*c*) *DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property, without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.*"

(*B*) *Section 1081(f) (relating to conditions for application of section) is amended by striking out "Except in the case of a distribution described in subsection (c)(2), the provi-*

sions" and inserting in lieu thereof "The provisions", and by striking out "49 Stat. 820;".

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out "If a distribution described in subsection (c)(2), or an" and inserting in lieu thereof "If an", and by striking out the comma after "Commission".

(133) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out "49 Stat. 820;".

(B) Section 1083(b) is amended by striking out "49 Stat. 804;".

(C) Section 1083(e)(4) is amended by striking out "49 Stat. 820;".

(134) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

(135) AMENDMENTS OF SECTION 1201.—

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital 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—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 30 percent of the net capital gain."

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows:

"(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—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 capital 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 sum referred to in subsection (b)(2)(A)."

(C)(i) Section 1201 is amended by striking out subsection (d) (defining subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201(b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum of the long-term capital gains for the taxable year, but not to exceed $50,000 ($25,000 in the case of a married individual filing a separate return)".

(iii) Section 1201(b)(3) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum referred to in subparagraph (A)".

(136) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(9) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges."

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(11) NET CAPITAL GAIN.—The term 'net capital 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."

(137) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(138) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date).

(139) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed.

(140) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfers to tax-exempt organization where property will be used in unrelated business) is amended by striking out "such organization acquiring such property,".

(141) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out "beginning after December 31, 1962".

(142) AMENDMENT OF SECTION 1311.—Paragraph (2)(A), (2)(B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out "Tax Court of the United States" and inserting in lieu thereof "Tax Court".

(143) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.

(144) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.

(145) REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.

(B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1976.

(146) AMENDMENT OF SECTION 1341.—Section 1341 (b)(2) (relating to claim of right) is amended by striking out the last sentence.

(147) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.

(148) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.

(149) AMENDMENTS OF SECTION 1372.—

(A) Section 1372(b)(1) (relating to effect of election under subchapter S) is amended by striking out "(other than the tax imposed by section 1378)" and inserting in lieu thereof "(other than as provided by section 58(d)(2) and by section 1378)".

(B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations."

(C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).

(150) AMENDMENTS OF SECTION 1374.—

(A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: "The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder."

(B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.

(151) AMENDMENTS OF SECTION 1375.—

(A) The heading of subsection (b) of section 1375 is amended by striking out "RECEIVED CREDIT NOT ALLOWED" and inserting in lieu thereof "NOT TREATED AS SUCH FOR CERTAIN PURPOSES".

(B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(152) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence.

(153) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "November 13, 1966".

(154) AMENDMENTS OF SECTION 1401.—

(A) Section 1401(a) (relating to rate of tax on self-employment income) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-

employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year."

(*B*) *Section 1401*(*b*) (*relating to rate of tax on self-employment income for hospital insurance*) *is amended by striking out paragraphs* (*1*) *and* (*2*) *and by redesignating paragraphs* (*3*), (*4*), (*5*), *and* (*6*), *as paragraphs* (*1*), (*2*), (*3*) *and* (*4*), *respectively.*

(*155*) *AMENDMENTS OF SECTION* 1402.—

(*A*) *Paragraph* (*1*) *of section 1402*(*b*) (*relating to definition of self-employment income*) *is amended to read as follows:*

"(*1*) *that part of the net earnings from self-employment which is in excess of* (*i*) *an amount equal to the contribution and benefit base* (*as determined under section 230 of the Social Security Act*) *which is effective for the calendar year in which such taxable year begins, minus* (*ii*) *the amount of the wages paid to such individual during such taxable year; or*".

(*B*) *Section 1402 is amended by striking out subsection* (*g*) (*relating to treatment of self-employment income for years prior to 1962*), *and by redesignating subsections* (*h*) (*i*) *as subsections* (*g*) *and* (*h*), *respectively.*

(*C*) *Section 1402*(*g*)(*2*) (*relating to self-employment income of members of certain religious faiths*), *as redesignated by subparagraph* (*B*) *of this paragraph, is amended to read as follows:*

"(*2*) *TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return* (*including any extension thereof*) *for the first taxable year for which the individual has self-employment income* (*determined without regard to this subsection or subsection* (*c*)(*6*)), *except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely.*"

(*156*) *REPEAL OF SECTION* 1465.—*Section 1465 relating to definition of withholding agent*) *is repealed.*

(*157*) *AMENDMENTS OF SECTION* 1481.—

(*A*) *Section 1481*(*a*)(*1*)(*A*) (*relating to mitigation of effect of renegotiation of Government contracts*) *is amended by striking out "within the meaning of the Federal renegotiation act applicable to such transaction" and inserting in lieu thereof "within the meaning of the Renegotiation Act of 1951, as amended* (*50 U.S.C. App. 1211 and following*)".

(*B*) *Section 1481*(*a*)(*1*) (*relating to renegotation*) *is amended by striking out subparagraph* (*D*).

(*C*) *Subparagraphs* (*B*) *and* (*C*) *of section 1481*(*a*)(*1*) *are each amended by striking out "applicable Federal re-*

negotiation act" and inserting in lieu thereof "Renegotiation Act of 1951, as amended".

(158) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out "determined under subsection (d)" and inserting in lieu thereof "determined under subsection (c)".

(159) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out "beginning after December 31, 1953, and ending after the date of enactment of this title,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

(A) Section 36, as amended by this Act, is amended by striking out "sections 32 and 35" and inserting in lieu thereof "section 32".

(B) Section 41(b)(2) is amended by striking out "section 35 (relating to partially tax-exempt interest),".

(C) Section 46(a)(3) is amended by striking out subparagraph (B), by inserting "and" at the end of subparagraph (A), and by redesignating subpargraph (C) as subparagraph (B).

(D) Section 50A(a)(3) is amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

(E)(i) The heading of paragraph (1) of section 171(a) is amended to read "(1) TAXABLE BONDS.—".

(ii) The heading of paragraph (2) of section 171(a) is amended to read "(2) TAX-EXEMPT BONDS.—".

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b)(1)(B)(ii) is amended by striking out "subsection (c)(1)(B)" and inserting in lieu thereof "subsection (a)(1)".

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

"(c) ELECTION AS TO TAXABLE BONDS.—

"(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludable from gross income, this section shall apply only if the taxpayer has so elected."

(F)(i) Section 551 is amended by striking out subsection (c), and by redesignating subsections (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

(ii) Section 1016(a)(13) is amended by striking out "section 551(f)" and inserting in lieu thereof "section 551(e)".

(G) Section 584(c)(2) is amended to read as follows:

"(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered

for purposes of such section as having been received by such participant."

(H)(i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(ii) Section 41(d) is amended by striking out "section 642(a)(3)" and inserting in lieu thereof "section 642(a)(2)".

(iii) Section 901(g)(3), as amended by this Act, is amended by striking out "section 642(a)(2)" and inserting in lieu thereof "section 642(a)(1)".

(I)(i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 1402(a) is amended by striking out "702(a)(9)" each place it appears and inserting in lieu thereof "702(a)(8)".

(J)(i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(ii) Section 243(b)(3)(C)(iii), as redesignated by paragraph (21)(A) of this subsection, is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(iii) Section 804(a)(2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(iv) Section 809(d)(10) is amended by striking out "section 804(a)(4)", and inserting in lieu thereof "section 804(a)(3)".

(v) Section 1561(a)(3) is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(vi) Section 1564(a)(1)(C) is amended by striking out "sections 804(a)(4)" inserting in lieu thereof "section 804(a)(3)".

(K) Section 804(a)(2)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii),

(L)(i) Section 809(d)(8)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d)(8)(B) is amended by striking out "subparagraph (A)(iii)" and inserting in lieu thereof "subparagraph (A)(ii)".

(M) Sections 804(a)(1), 804(a)(2), 809(a)(1), 809(b)(1)(A) and 809(b)(2)(A) are each amended by striking out ", partially tax-exempt interest,".

(N) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(O) Section 815(b)(2)(A)(iii) is amended by striking out "the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a)(3))," and by striking out the comma after "809(d)(8)(B))".

(P) Section 822(c)(2) is amended by striking out "partially tax-exempt interest and".

(Q) Section 822(c)(6)(A) is amended by striking out "or to the deduction provided in section 242 for partially tax-exempt interest".

(R) Section 822(c)(7) is amended by striking out "partially tax-exempt interest and to".

(S) Section 822(d)(2) is amended by striking out ", the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)" and inserting in lieu thereof "and the deduction provided in subsection (c)(1)".

(T) Section 832(c)(5)(A) is amended by striking out "or to the deductions provided in section 242 for partially tax-exempt interest".

(U) Section 832(c)(12) is amended by striking out "partially tax-exempt interest and to".

(V) Sections 852(b)(1) and 857(b)(1) are each amended by striking out the last sentence.

(W) Section 1244(c)(1)(E) is amended by striking out "sections 172, 242, 243" and inserting in lieu thereof "sections 172, 243".

(X) Section 1402(a)(2) is amended by striking out "(other than interest described in section 35)".

(Y) Section 1503(b)(3) is amended by striking out subparagraph (C).

(Z) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(AA) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) Paragraphs (1)(C), (5)(A), (6)(D), and (12) of section 341(e) are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)" each place it appears and inserting in lieu thereof "ordinary income".

(B) Section 483(f)(3) is amended by striking out "no part of any gain on such" and inserting in lieu thereof "all of

the gain, if any, on such" and by striking out "gain from the sale or exchange of a capital asset or property described in section 1231" and inserting in lieu thereof "ordinary income".

(C) Section 707(b)(2) is amended by striking out "as gain from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income".

(D) Paragraphs (1) and (2) of section 735(a) are each amended by striking out "gain or loss from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income or as ordinary loss, as the case may be".

(E) Section 1236(b) is amended by striking out "loss from the sale or exchange of property which is not a capital asset" and inserting in lieu thereof "ordinary loss".

(F) Sections 1242 and 1243 are each amended by striking out "a loss from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(G) Section 1244 is amended by striking out "a loss from the sale or exchange of an asset which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(H) Section 1248(g)(3)(B), as redesignated by this Act, is amended by striking out "gain from the sale of an asset which is not a capital asset" and inserting "ordinary income".

(I) The following provisions are each amended by striking out "gain from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "ordinary income": sections 341(a), 871(a)(1)(C)(i) and (ii), 881(a)(3)(A) and (B), 996(d)(1) and (2), 1037(b)(1)(A), 1232(a)(2)(A) and (B), 1232(c), 1246(a), and 1385(c)(2)(C).

(J) The following provisions are each amended by striking out "gain from the sale of property which is not a capital asset" and inserting in lieu thereof "ordinary income": sections 306(a)(1)(A), 306(a)(1)(B), and 306(f).

(K) The following provisions are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231" each place it appears and inserting in lieu thereof "ordinary income": sections 80(c)(1), 163(d)(3) and (5), 613(a), 617(d)(1), 995(b)(1)(C), 1238, 1245(a)(1), 1249(a), 1250(f) and (g), 1251(b)(3)(B), (c)(1), and (c)(2), and 1252(a)(1).

(4) CLERICAL AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

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

"Sec. 64. Ordinary income defined.
"Sec. 65. Ordinary loss defined."

(B) The heading for part I of subchapter B of chapter 1 is amended by striking out "AND TAXABLE INCOME" and inserting in lieu thereof ", TAXABLE INCOME, ETC."

(C) The table of parts for subchapter B of chapter 1 is amended by striking out "and taxable income." in the item relating to part I and inserting in lieu thereof "taxable income, etc."

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 103.—

(A) Section 6049(b)(2)(A) is amended by striking out "section 103(a) (1) or (3)" and inserting in lieu thereof "section 103(a)".

(B) Section 852(a)(1)(B), as added by this Act, is amended by striking out "section 103(a)(1)" and inserting in lieu thereof "section 103(a)".

(7) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 143.—

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

"Sec. 153. Cross references.".

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143".

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143."

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117(a)(1)(A), 117(b)(1), 117(b)(2)(A), and 117(b)(2)(B), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(28)(A)(i) of this section), and 403(b)(1)(A)(ii).

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(17) of this section, is amended by striking out "educational institution (within the meaning of section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(C) Section 163(b)(1) is amended by striking out "educational institution (as defined in section 151(e)(4)) and

which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii) and which is provided for a student of such organization".

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

(ii) Subparagraph (D)(ii) of section 415(c)(4) is amended to read as follows:

> *"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."*

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANIZATIONS".

(E) Section 508(c)(2)(A) is amended to read as follows:

"(A) educational organizations described in section 170(b)(1)(A)(ii), and".

(F) Section 512(b)(15)(B), as redesignated by section 1951(b)(8)(A) of this Act, is amended by striking out "educational institution (as defined in section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(G) Section 1303(d) is amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(H) Sections 4941(d)(2)(G)(ii) and 4945(g)(1) each are amended by striking out "educational institution described in section 151(e)(4)" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(9) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 152.—Section 2(b)(3)(B) is amended by striking out clause (ii) by adding "or" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(10) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 172.—

(A) Section 374(e)(2) is amended by striking out "section 172(j)" and inserting in lieu thereof "172(g)".

(B) Section 904(f)(2)(B)(i) and 904(f)(4)(B)(i), as amended by this Act, are each amended by striking out "section 172(k)(1)" and inserting in lieu thereof "section 172(h)".

(11) AMENDMENTS CONFORMING TO REPEAL OF SECTION 187.—

(A) Section 48(a)(8) (relating to section 38 property) is amended by striking out "187.".

(B) The table of sections for part VI of subchapter (B) of chapter 1 is amended by striking out the item relating to section 187.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "187,".

(D) Section 1245(a)(2) (relating to gain from dispositions of certain depreciable property) is amended by striking out "187," each place it appears.

(12) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 342.—

(A) Section 551(f), as redesignated by paragraph (1)(F) of this subsection, is amended by striking out paragraph (3).

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

"Subpart C. Collapsible corporations."

(C) The table of sections for subpart C of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 342.

(D) The heading of subpart C of part II of subchapter C of chapter 1 is amended to read as follows:

"Subpart C—Collapsible Corporations".

(13) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(14) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 373.—

(A) Section 372(b)(1) is amended by striking out "373(b) or".

(B) Section 374(b) is amended to read as follows:

"(b) BASIS.—

"(1) RAILROAD CORPORATIONS.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m)), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

"(A) in a receivership proceeding, or

"(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a)(2) to the transferor on such transfer.

"(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy

Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired."

(C) Section 374(c)(3) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

(D) Section 1232(b)(2) is amended by striking out "section 371, 373, or 374" and inserting in lieu thereof "section 371 or 374".

(E) The table of sections for part IV of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(15) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

(16) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381(c) is amended by striking out paragraph (21).

(17) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381(c)(15) is amended by striking out "subsections (b)(7) and (c)" and inserting in lieu thereof "subsection (c)".

(18) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 583.

(19) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8).

(B)(i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6).

(ii) Section 545(b)(2) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(iii) Section 545(c)(5) is amended by striking out "subsection (b)(8)" and inserting in lieu thereof "subsection (b)(6)".

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(21) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A)(i) Section 243(b)(3)(C) is amended—

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) $400,000 limitation for certain exploration expenditures under section 617(h)(1),", and

(II) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(ii) Section 1564(b)(2)(C) is amended by striking out "section 243(b)(3)(C)(v)" and inserting in lieu thereof "243(b)(3)(C)(iv)".

(B) Section 381(c)(10) is amended to read as follows:

"(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLORATION 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 section 616 (relating to certain development expenditures) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 617(h), if, for any taxable year, the distributor or transferor corporation was allowed a deduction under section 617(a), the acquiring corporation shall be deemed to have been allowed such deduction."

(C) Section 617(h)(1) is amended by striking out "and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)" and inserting in lieu thereof "and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1976)".

(D) Section 617(h)(3) is amended to read as follows:

"(3) APPLICATION OF PARAGRAPH (2)(B).—Paragraph (2)(B) shall apply with respect to all amounts deducted 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; or

"(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b)(1), 1051, or 1082 apply to such transfer."

(E) Section 617 is amended by adding at the end thereof the following new subsection:

"(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

"(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor,

"(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1976) applied with respect to expenditures which were made by him and which were properly chargeable to such property, and

"(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the trans-

feree, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor."

(F) Section 703(b) is amended by striking out "under section 615 (relating to pre-1970 exploration expenditures),".

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(22) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

(B) Section 5(b) is amended by striking out paragraph (1).

(23) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c)(3)(B) is amended by striking out "(determined without regard to section 802(a)(3))".

(25) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b)(2) is amended by striking out "section 812(b)(1)(A)(iii)" and inserting in lieu thereof "section 812(b)(1)(C)".

(26) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 864.—

(A) Paragraphs (5) and (6) of section 861 (a) (relating to items treated as income from within United States) are each amended by striking out in the heading "SALE" and inserting in lieu thereof "SALE OR EXCHANGE", and by striking out "sale" in the text and inserting in lieu thereof "sale or exchange".

(B) Section 861(e)(1) (relating to income from certain aircraft and vessels) is amended by striking out "sale or other disposition" and inserting in lieu thereof "sale, exchange, or other disposition".

(C) Paragraphs (5) and (6) of section 862 (a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out "sale" and inserting in lieu thereof "sale or exchange".

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out "sold" each place it appears and inserting in lieu thereof "sold or exchanged".

(27) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b)(1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out "application of section 972" and inserting in lieu thereof "treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of

1976) of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation".

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(28) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows:

"(c) CROSS REFERENCE.—

"For general rule for determination of the amount of gain or loss recognized, see section 1001."

(B)(i) Section 1002 (relating to recognition of gain or loss) is repealed.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out "under section 1020" and inserting in lieu thereof "under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976)".

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020.

(30) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) is amended—

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22) as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph (A)(i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(31) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d)(4)(B) is amended by striking out "1033(a)(3)(A)" and inserting in lieu thereof "1033(a)(2)(A)".

(B) Section 1250(d)(4)(C) and (D) are each amended by striking out "1033(a)(3)" and inserting in lieu thereof "1033(a)(2)".

(C) Section 6212(c)(2)(B) is amended by striking out "1033(a)(3)(C) and (D)" and inserting in lieu thereof "1033(a)(2)(C) and (D)".

(D) Section 6504(4) is amended by striking out "1033(a)(3)(C) and (D)" and inserting in lieu thereof "1033(a)(2)(C) and (D)".

(E) Sections 1071(b) and 1250(d)(4)(D) are each amended by striking out "1033(c)" and inserting in lieu thereof "1033(b)".

(32) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—

(A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).

(B)(i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsections (j) and (k), respectively.

(ii) Section 1246(g) is amended by striking out "312(l)" and inserting in lieu thereof "312(j)".

(iii) Sections 964(a) and 1248(c)(1) are each amended by striking out "312(m)(3)" and inserting in lieu thereof "312(k)(3)."

(iv) Subsection (d) of section 1377, as added by this Act, is amended by striking out "312(m)" and inserting in lieu thereof "312(k)".

(C) Section 535(b) is amended by striking out paragraphs (9) and (10).

(D) Section 543(a)(1) is amended by inserting "and" at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177)."

(E) Section 545(b) is amended by striking out paragraphs (10) and (11).

(F) Section 553(a)(1) is amended to read as follows:

"(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities."

(G) Section 556(b) is amended by striking out paragraphs (7) and (8).

(H) Section 561(b) is amended to read as follows:

"(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable."

(I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.

(33) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1222.—

(A) Section 57(a)(9)(A) is amended by striking out "the amount by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".

(B) So much of the first sentence of section 57(a)(9)(B) as precedes "by a fraction" is amended to read as follows: "In the case of a corporation having a net capital gain for the taxable year, an amount equal to the product obtained by multiplying the net capital gain".

(C) Section 527(b)(2) is amended by striking out "net section 1201 gain" and inserting in lieu thereof "net capital gain".

(D) Section 535(b)(6) and 545(b)(5) and each amended—

(1) by striking out from the paragraph heading "LONG-TERM" and inserting in lieu thereof "NET",

(2) by striking out from the text "the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year" each place it appears and inserting in lieu thereof "the net capital gain for the taxable year", and

(3) by striking out from the text "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(E) Section 802(a)(2) is amended—

(i) by striking out "the net long-term capital gain of any life insurance company exceeds the net short-term capital loss" and inserting in lieu thereof "any life insurance company has a net capital gain", and

(ii) by striking out "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(F) Section 804(a)(2) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(G) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(H) Section 815(b)(2)(A)(ii) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(I) Section 852(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(J)(i) Section 852(b)(3)(A) is amended to read as follows:

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only."

(ii) The second sentence of section 852(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(K) The second sentence of section 857(b)(3)(C) is amended by striking out "excess of the net long-term capital

gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(L) Section 1201(b) is amended by striking out "net section 1201 gain" each place it appears and inserting in lieu thereof "net capital gain".

(M) The first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

(N) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(O) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

(P) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

(Q)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

(R) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the net capital gain": Sections 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d)(1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(34) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1240.— The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(35) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1315.— The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(36) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1321.—

(A) Section 472 is amended by striking out subsection (f).

(B) Section 6422, as amended by this Act, is amended by

striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

(C) Section 6504 is amended by striking out paragraph (1).

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(37) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) The third sentence of section 901(a) is amended by striking out "under section 1333 (relating to war loss recoveries) or".

(B) Section 936(a)(2), as added by this Act, is amended—

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

(ii) by striking out subparagraph (D).

(C) Section 6212(c)(2) is amended by striking out subparagraph (D).

(D) Section 6515 is amended by striking out paragraph (6).

(E) Section 6515, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6) respectively.

(F) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part IV.

(38) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1342.—*The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.*

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7).

(40) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 1372.—*Section 58(d)(2) is amended by striking out ", notwithstanding the provisions of section 1371(b)(1),".*

(41) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1465.—*The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.*

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 37(f) is amended by striking out "a Territory,".

(2) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out ", a Territory,".

(3) Section 117(b)(2)(A)(iv) is amended by striking out " a territory,".

(4) Section 162(a) is amended by striking out "territory".

(5) Section 581 is amended by striking out ", of any State, or of any Territory" and inserting in lieu thereof "or of any State", and by striking out ", Territorial,".

(6) *Section 801(b)(3) is amended by striking out "or Territorial".*

(7) *Section 861(a)(1) is amended by striking out ", any Territory, any political subdivision of a Territory,".*

(8) *Paragraphs (6) and (7) of section 1014(b) are each amended by striking out "Territory,".*

(9) *Section 1221(5) is amended by striking out "or Territory,".*

(d) EFFECTIVE DATE.—*Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.*

SEC. 1902. AMENDMENTS OF SUBTITLE B; ESTATE AND GIFT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 2012.—

(A) *Section 2012(b) (relating to credit for gift tax) is amended—*

(i) *by striking out "(b) In applying," and inserting in lieu thereof "(b) VALUATION REDUCTIONS.—In applying,", and*

(ii) *by striking out in paragraphs (2) and (3) "deduction)—then" and inserting in lieu thereof "deduction), then".*

(B) *Section 2012(c) (relating to gift by spouse or third party) is amended by striking out "(c) Where the decedent" and inserting in lieu thereof "(c) WHERE GIFT CONSIDERED MADE ONE-HALF BY SPOUSE.—Where the decedent".*

(C) *Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out "(d)(1) For purposes of" and inserting in lieu thereof the following:*

"(d) COMPUTATION OF AMOUNT OF GIFT TAX PAID.—

"(1) AMOUNT OF TAX.—*For purposes of".*

(D) *Section 2012(d)(2) (relating to credit for gift tax) is amended by striking out "(2) For purposes" and inserting in lieu thereof: "(2) AMOUNT OF GIFT.—For purposes".*

(2) AMENDMENTS OF SECTION 2013.—*Section 2013(d)(3) is amended by striking out ", or the corresponding provision of prior law,".*

(3) AMENDMENT OF SECTION 2038.—*Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).*

(4) AMENDMENTS OF SECTION 2055.—

(A) *Section 2055(b) (relating to powers of appointment) is amended to read as follows:*

"(b) POWERS OF APPOINTMENT.—*Property includible in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent."*

(B) *Section 2055(f) (relating to cross references) is amended to read as follows:*

"(f) CROSS REFERENCES.—

"(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

"(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

"(3) For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

"(4) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

"(5) For treatment of gifts, devices, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devices, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to 'Commissary Funds, Federal Prisons,' as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4).

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(5) AMENDMENTS OF SECTION 2106.—

(A) *Section 2106(a)(2)(F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:*

"(F) CROSS REFERENCES.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) *Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds).*

(6) AMENDMENT OF SECTIONS 2107 AND 2108.—*Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966".*

(7) AMENDMENT RELATING TO SECTION 2201.—

(A) *Section 6(b)(1) of the Act of January 2, 1975 (Public Law 93-597; 88 Stat. 1950) is amended by striking out "Section 2210" and inserting in lieu thereof "Section 2201".*

(B) *The amendment made by subsection (A) is effective July 1, 1973.*

(8) REPEAL OF SECTION 2202.—*Section 2202 (relating to missionaries in foreign service) is repealed.*

(9) AMENDMENT OF SECTION 2204.—*The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".*

(10) AMENDMENT OF SECTION 2501.—*Section 2501(a)(1) relating to imposition of gift tax) is amended to read as follows:*

"(1) GENERAL RULE.—*A tax, computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident.*"

(11) AMENDMENT OF SECTION 2522.—*Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:*

"(d) CROSS REFERENCE.—

"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(12) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(A) The following provisions are each amended by striking out "Territory,": sections 2055(a)(1), 2056(c)(2)(B), and 2106(a)(2)(A)(i).

(B) The following provisions are each amended by striking out "or Territory": sections 2011(a), 2011(e), and 2053(d).

(C) Section 2016 is amended by striking out "Territory or".

(D) Sections 2522(a)(1) and 2522(b)(1) are each amended by striking out "Territory,".

(E) Section 2523(f)(1) is amended by striking out "Territory, or".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO REPEAL OF SECTION 2202.—*The table of sections for subchapter C of chapter 11 is amended by striking out the item relating to section 2202.*

(2) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 2055.—

(A) Section 6503, as amended by this Act, is amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(B) Section 6167(h)(2) is amended by striking out "section 6503(f)" and inserting in lieu thereof "section 6503(e)".

(c) EFFECTIVE DATES.—

(1) ESTATE TAX AMENDMENTS.—*The amendments made by paragraphs (1) through (10), and paragraphs (14)(A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (11) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.*

(2) GIFT TAX AMENDMENTS.—*The amendments made by paragraphs (12), (13), and (14) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976.*

SEC. 1903. AMENDMENTS OF SUBTITLE C; EMPLOYMENT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 3101 AND 3111.—

(A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(B) Section 3101(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

(2) REPEAL OF SECTION 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.

(3) AMENDMENTS OF SECTION 3121.—

(A) Section 3121(b) (relating to employment) is amended—

(i) by striking out "performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954" and inserting in lieu thereof ", of whatever nature, performed", and

(ii) by striking out ", in the case of service performed after 1954,".

(B) Section 3121(b)(1) is amended by striking out "65 Stat. 119;".

(C) Section 3121(b)(6)(B)(v) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 3121(g)(3) (relating to agricultural labor) is amended by striking out "46 Stat. 1550, § 3;".

(E) Section 3121(k)(1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(l)(2) (relating to employees of foreign subsidiaries) is amended by striking out ", but in no case prior to January 1, 1955".

(G) Section 3121(m)(1) (relating to service in the uniformed services) is amended by striking out "after December 1956".

(4) AMENDMENTS OF SECTION 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Transportation".

(5) AMENDMENT OF SECTION 3125.—Section 3125(c) (relating to returns in the case of Governmental employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia or such agents as they may designate" and by inserting in lieu thereof "Mayor of the District of Columbia or such agents as he may designate".

(6) AMENDMENT OF SECTION 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended—

(A) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(B) by striking out "of such Code";

(C) by striking out "after September 30, 1973, as is" and inserting in lieu thereof "as is"; and

(D) by striking out "any month after September 30, 1973" and inserting in lieu thereof "any month".

(7) AMENDMENTS OF SECTION 3202.—

(A) The second sentence of section 3202(a) (relating to reduction of tax by railroad employer) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973 and the aggregate" and inserting in lieu thereof "and the aggregate";

(iii) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(iv) by inserting a comma immediately after "for any month" each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out "made".

(8) AMENDMENTS OF SECTION 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended—

(A) by striking out "3111(a), 3111(b)" and inserting in lieu thereof "3111(a), and 3111(b)";

(B) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(C) by striking out "rendered by him after September 30, 1973," and inserting in lieu thereof "rendered by him"; and

(D) by striking out "after September 30, 1973".

(9) AMENDMENTS OF SECTION 3221.—

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973; except that" and inserting in lieu thereof ", except that";

(iii) by striking out "after September 30, 1973 of the aggregate" and inserting in lieu thereof "of the aggregate";

(iv) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(v) by inserting a comma before "the tax imposed".

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

"(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b)."

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out "(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970," and

(ii) by striking out "commencing with the quarter beginning April 1, 1970".

(10) AMENDMENTS OF SECTION 3231.—

(A) Section 3231(a) (defining employer) is amended by striking out "44 Stat. 577;".

(B) Section 3231(b) (defining employee) is amended by striking out "50 Stat. 312;".

(C) Section 3231(c) (defining employee representative) is amended by striking out "44 Stat. 577;".

(D) Section 3231(d)(7) (defining service) is amended by striking out "50 Stat. 308;".

(11) AMENDMENTS OF SECTION 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out "the calendar year 1970 and each calendar year thereafter" and inserting in lieu thereof "each calendar year", and

(B) by striking out the last sentence.

(12) AMENDMENTS OF SECTION 3302.—

(A) Section 3302(a) (relating to credits against tax) is amended by striking out "(10-month period in the case of October 31, 1972)".

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out "(10-month period in the case of October 31, 1972)", and

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C)(i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(*iii*) *Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".*

(*iv*) *Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".*

(*v*) *Section 3302(d) (4), (5), and (6) (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".*

(*vi*) *Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3)(B) or (C)" and inserting in lieu thereof "subsection (c)(2)(B) or (C)".*

(*D*) *Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).*

(*13*) AMENDMENTS TO SECTION 3303.—*Section 3303(b) (relating to certification with respect to additional credit allowance) is amended—*

(*A*) *by striking out "(10-month period in the case of October 31, 1972)" each place it appears,*

(*B*) *by striking out "12 or 10-month period, as the case may be," each place it appears in paragraphs (1) and (2), and inserting in lieu thereof "12-month period", and*

(*C*) *by striking out "12 or 10-month period, as the case may be," in paragraph (3) and inserting in lieu thereof "12-month period,".*

(*14*) AMENDMENTS TO SECTION 3304.—

(*A*) *Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".*

(*B*) *Section 3304(c) (relating to certification) is amended by striking out "(10-month period in the case of October 31, 1972)".*

(*15*) AMENDMENTS OF SECTION 3305.—

(*A*) *Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".*

(*B*) *Section 3305(h) (relating to certain contributions to States) is amended by striking out "on or after July 1, 1953, and".*

(*C*) *Section 3305 (j) (relating to denial of credits in certain cases) is amended by striking out "after December 31, 1971,".*

(*16*) AMENDMENTS OF SECTION 3306.—

(*A*) *Section 3306(c)(9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out "52 Stat. 1094, 1095;".*

(*B*) *Section 3306(c)(18) (relating to the exclusion of certain service performed by nonresident aliens from the defini-*

tion of employment) is amended by inserting after the "Immigration and Nationality Act, as amended" the following: "(8 U.S.C. 1101(a)(15)(F) or (J))".

(C) Section 3306(f) (relating to the definition of an unemployment fund) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(17) AMENDMENT OF SECTION 3402.—Section 3402(l)(3)(B) (relating to marital status) is amended by striking out "section 2(b)" and inserting in lieu therof "section 2(a)".

(b) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—Sections 3401(c) and 3404 are each amended by striking out "Territory," each place it appears.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1976.

SEC. 1904. AMENDMENTS OF SUBTITLE D; MISCELLANEOUS EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF CHAPTER 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

"CHAPTER 31—SPECIAL FUELS

"Sec. 4041. Imposition of tax."

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

"(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

"(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

"(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

"(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

"(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a).

The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school 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."

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

"(i) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out "subsections (a) and (f)" each place it appears and inserting in lieu thereof "subsections (a) and (e)".

(3) AMENDMENT OF SECTION 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

(4) REPEAL OF SECTION 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

(5) AMENDMENT OF SECTION 4227.—Section 4227 (relating to cross references) is amended to read as follows:

"SEC. 4227. CROSS REFERENCE.

"For credit for taxes on tires and inner tubes, see section 6416(c)."

(6) AMENDMENT OF SECTION 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

"(i) STATE AND LOCAL GOVERNMENTAL EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

"(j) EXEMPTION FOR NONPROFIT EDUCATIONAL ORGANIZATIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly en-

rolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) AMENDMENTS OF SECTION 4261.—

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

(8) AMENDMENT OF SECTION 4271.—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

(9) REPEAL OF SECTION 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services) is repealed.

(10) REPEAL OF SECTION 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

(11) REPEAL OF SECTION 4295.—Section 4295 (a cross reference) is repealed.

(12) AMENDMENT OF CHAPTER 34.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"SEC. 4371. IMPOSITION OF TAX.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) CASUALTY INSURANCE AND INDEMNITY BONDS.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) LIFE INSURANCE, SICKNESS AND ACCIDENT POLICIES, AND ANNUITY CONTRACTS.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) REINSURANCE.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

"SEC. 4372. DEFINITIONS.

"(a) FOREIGN INSURER OR REINSURER.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound

by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

"*(b) POLICY OF CASUALTY INSURANCE.—For purposes of section 4371(1), the term 'policy of casualty insurance' means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.*

"*(c) INDEMNITY BOND.—For purposes of this chapter, the term 'indemnity bond' means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.*

"*(d) INSURED.—For purposes of section 4371(1), the term 'insured' means—*

"*(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or*

"*(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.*

"*(e) POLICY OF LIFE, SICKNESS, OR ACCIDENT INSURANCE, OR ANNUITY CONTRACT.—For purposes of section 4371(2), the term 'policy of life, sickness, or accident insurance, or annuity contract' means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.*

"*(f) POLICY OF REINSURANCE.—For purposes of section 4371(3), the term 'policy of reinsurance' means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.*

"***SEC. 4373. EXEMPTIONS.***

"*The tax imposed by section 4371 shall not apply to—*

"*(1) DOMESTIC AGENT.—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or*

"*(2) INDEMNITY BOND.—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.*

"SEC. 4374. LIABILITY FOR TAX.

"The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

(13) AMENDMENTS OF SECTION 4493.—

(A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".

(B) Section 4493(b)(2) is amended by striking out the last sentence.

(14) AMENDMENT OF CHAPTER 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:

"CHAPTER 37—SUGAR

(15) REPEAL OF SECTIONS 4591 THROUGH 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.

(16) REPEAL OF SECTIONS 4801 THROUGH 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.

(17) REPEAL OF SECTIONS 4811 THROUGH 4826.—Subchapter C of chapter 39 (relating to tax on adulterated butter) is repealed.

(18) REPEAL OF SECTIONS 4881 THROUGH 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.

(19) AMENDMENT OF SECTION 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).

(20) AMENDMENT OF SECTION 4905.—Section 4905(a) (relating to liabilty for occupational taxes in case of death or change of location) is amended by striking out "wife" and inserting in lieu thereof "spouse".

(21) REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) Chapter 41 (relating to interest equalization tax) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.

(22) AMENDMENTS OF SECTION 4973.—

(A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:

"there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year

shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking out "subsection (a) (3)" and inserting in lieu thereof "subsection (a) (2)".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF CHAPTER 31.—

(A) Section 6416(a) (1) is amended by striking out "(retailers taxes)" and inserting in lieu thereof "(special fuels)".

(B) Section 6416(e) is amended by striking out "subchapter E of".

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 4216.—Section 6416(b) (1) is amended by striking out "section 4216(f) (2) and (3)" and inserting in lieu thereof "section 4216(e) (2) and (3)".

(3) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTIONS 4292, 4294, AND 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 34.—

(A) Section 7270 is amended by striking out "the affixing of stamps on insurance policies, etc." and inserting in lieu thereof "liability for tax on policies issued by foreign insurers".

(B) Section 6808 is amended by striking out paragraph (4).

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 37.—

(A) Section 7240 is amended by striking out "subchapter A of".

(B) Section 7655(a) is amended—

(i) by striking out "Subchapter A of chapter 37" in paragraph (5) and inserting in lieu thereof "Chapter 37", and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4591 THROUGH 4597.—

(A) Section 6808 is amended by striking out paragraph (7).

(B) (i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C) (i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed.

(*ii*) *The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.*

(*D*) *Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (1).*

(*E*) *The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.*

(*8*) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4801 THROUGH 4806.—

(*A*) *Section 4905(b) is amended to read as follows:*

"(*b*) REGISTRATION.—

"For registration in case of wagering, see section 4412."

(*B*) *Section 6808 is amended by striking out paragraph (12).*

(*C*) *Section 7012 is amended by striking out subsection (e).*

(*D*)(*i*) *Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.*

(*ii*) *The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.*

(*E*)(*i*) *Sections 7267 and 7274 (relating of offenses and penalties concerning white phosphorous matches) are each repealed.*

(*ii*) *The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.*

(*F*) *Section 7272(b) is amended by striking out "4804 (d),".*

(*G*) *Section 7303 is amended by striking out paragraph (6).*

(*H*)(*i*) *Part II of subchapter C of chapter 75 (relating to provisions common to foreitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.*

(*ii*) *The table of sections for part II of subchapter C of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:*

"Sec. 7328. Cross references."

(*9*) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4811 THROUGH 4826.—

(*A*) *Section 6808 (relating to cross references) is amended by striking out paragraph (10).*

(*B*)(*i*) *Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.*

(*ii*) *The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.*

(*C*)(*i*) *Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.*

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) as paragraphs (2) and (3) respectively.

(E) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) (i) (I) Section 263, as amended by this Act, is amended by striking out subsections (a) (3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(II) Section 263(d), as redesignated by clause (i) (I) of this subparagraph, is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(iii) (I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h).

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns).

(vi) (I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisitions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date.

(B) Section 861(a) (1) (G) (relating to income from sources within the United States) is amended—

(i) by striking out "section 4912(c)" and inserting in lieu thereof "subsection (c) of section 4912 (as in effect before July 1, 1974)"; and

(ii) by striking out "section 4912(c) (2)" and inserting in lieu thereof "subsection (c) (2) of such section".

(C) The second sentence of section 1232(b)(2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, 1974".

(D)(i) Section 6681 (relating to false equalization tax certificates) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974.

(E)(i) Section 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

(F)(i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certificates executed after June 30, 1974.

(G) The table of chapters for subtitle D is amended by striking out the item relating to chapter 41.

(c) AMENDMENT TO PROVISION REFERRING TO TERRITORIES.—Section 4482(c)(1) is amended by striking out ", a Territory of the United States,".

(d) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1905. AMENDMENTS OF SUBTITLE E; ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 5005.—Section 5005 (c)(2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later."

(2) AMENDMENTS OF SECTION 5008.—

(A) Section 5008(b)(1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after "the tax imposed by this chapter" the following: "or by section 7652".

(B) Section 5008(b)(2) is amended by striking out "the taxes imposed under section 5001(a)(1)" and all that follows

and inserting in lieu thereof the following: "the taxes imposed under section 5001(a)(1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax."

(C) Subsections (c)(1) and (d)(1) of section 5008 are each amended by inserting immediately after "under section 5001(a)(1)" the following: "or under section 7652".

(D) Section 5008(d)(1) is amended by striking out ", on or after July 1, 1959,".

(3) AMENDMENT OF SECTION 5009.—Section 5009(b)(3) is amended by striking out "46 Stat. 694;".

(4) AMENDMENT OF SECTION 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out "the bottling of distilled spirits," and inserting in lieu thereof "the bottling of distilled spirits, or preparatory to exportation,".

(5) AMENDMENT OF SECTION 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) AMENDMENTS OF SECTION 5061.—

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

"(b) EXCEPTIONS.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

"(1) section 5001(a) (5), (6), or (7),
"(2) section 5006(c) or (d),
"(3) section 5026(a)(2),
"(4) section 5041(d),
"(5) section 5043(a)(3),
"(6) section 5054(a) (3) or (4), or
"(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed."

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

"(c) IMPORT DUTIES.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax."

(7) AMENDMENT OF SECTION 5113.—Section 5113 (f)(1) (relating to retail dealers in liquors) is amended by striking out "wines or beer" and inserting in lieu thereof "distilled spirits, wines, or beer".

(8) AMENDMENTS OF SECTION 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors."

(9) AMENDMENT OF SECTION 5121.—Section 5121 (c) (relating to limited retail dealers) is amended to read as follows:

"(c) LIMITED RETAIL DEALERS.—Every limited retail dealer shall pay a special tax of $4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be $2.20 for each calendar month in which only sales of beer or wine are made."

(10) AMENDMENT OF SECTION 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out "beer or wine" each place it appears and inserting in lieu thereof "distilled spirits, wine, or beer".

(11) AMENDMENT OF SECTION 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out "produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,".

(12) AMENDMENT OF SECTION 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:

"(c) HOW PAID.—

"(1) PAYMENT BY RETURN.—The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

"(2) STAMP DENOTING PAYMENT OF TAX.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period."

(13) AMENDMENTS OF SECTION 5171.—Section 5171(b) (relating to permits for operation of businesses as distillers, etc.) is amended—

(A) in paragraph (1), by striking out "49 Stat. 978;", and

(B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending application for permit).

(14) AMENDMENT OF SECTION 5174.—Section 5174(a)(2)(A) (relating to withdrawal bonds for distilled spirits) is amended by striking out "such spirits" and inserting in lieu thereof "distilled spirits from bond".

(15) AMENDMENT OF SECTION 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out "and the importer" and inserting in lieu thereof "and the importer, or the person bringing such distilled spirits into the United States,".

(16) AMENDMENT OF SECTION 5233.—Section 5233(b)(4) (relating to bottling requirements) is amended by striking out "49 Stat. 977;".

(17) AMENDMENT OF SECTION 5234.—The first sentence of section 5234(a)(2) (relating to the mingling of distilled spirits) is amended by striking out "8 years" and inserting in lieu thereof "20 years".

(18) AMENDMENT OF SECTION 5314.—Section 5314(a)(2) (relating to application of certain provisions to Puerto Rico) is amended by striking out "section 5001(a)(4)" and inserting in lieu thereof "section 5001(a)(10)".

(19) REPEAL OF SECTION 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.

(20) AMENDMENTS OF SECTION 5368.—

(A) The heading of section 5368 is amended to read as follows:

"SEC. 5368. GAUGING AND MARKING."

(B) Section 5368(b) (relating to removal of wines) is amended to read as follows:

"(b) MARKING.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe."

(21) AMENDMENT OF SECTION 5392.—Section 5392(f) (defining own production) is amended by striking out "49 Stat. 990;".

(22) AMENDMENT OF SECTION 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

"(b) PRESUMPTION.—Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury)."

(23) AMENDMENTS OF SECTION 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out "section 5848" and inserting in lieu thereof "section 5845".

(B) Section 5685(c) (relating to forfeiture of firearms, devices, etc.) is amended by striking out "section 5862" and inserting in lieu thereof "section 5872".

(C) Section 5685(d) (relating to the definition of machine gun) is amended to read as follows:

"(d) DEFINITION OF MACHINE GUN.—As used in this section, the term 'machine gun' means a machine gun as defined in section 5845(b)."

(24) AMENDMENT OF SECTION 5701.—Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out "such articles" and inserting in lieu thereof "such articles, unless such import duties are imposed in lieu of internal revenue tax".

(25) AMENDMENTS OF SECTION 5703.—

(A) Section 5703(a)(2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: "All provisions of this chapter applicable to tobacco products and cigarette papers and tubes

in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose."

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out ", except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return".

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) AMENDMENTS OF SECTION 5704.—Subsection (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting after "to a manufacturer of tobacco products or cigarette papers and tubes" the following: "or to the proprietor of an export warehouse".

(27) AMENDMENT OF SECTION 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence.

(28) AMENDMENTS OF SECTION 5723.—

(A) The heading of section 5723 is amended by striking out "NOTICES, AND STAMPS" and inserting in lieu thereof "AND NOTICES".

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

"(b) MARKS, LABELS, AND NOTICES.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes."

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5054.—

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item relating to section 5676.

(2) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 5061.—

(A) Section 5007(b)(1) is amended by striking out the second sentence.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a)(2), the taxes" and inserting in lieu thereof "The taxes".

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a)(3), the taxes" and inserting in lieu thereof "The taxes".

(D) Section 5662 is amended by striking out "stamp," each place it appears.

(E)(i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

(iii) Section 5061 is amended by striking out subsection (d).

(3) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5142.—

(A) (i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

(B) Section 5111(a) is amended by striking out the second sentence.

(C) Section 5121(a) is amended by striking out the second sentence.

(D) (i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments,".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 5315.—The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.

(5) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 5368.—The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5601.—

(A) Section 5105(b)(2) is amended by striking out ", 5601(b)(1),".

(B) Section 5177(b)(2) is amended by striking out "5601(b)(2)," and inserting in lieu thereof "5601(b),".

(C) Section 5179(b)(1) is amended by striking out ", 5601(b)(1),".

(D) Section 5222(d) is amended by striking out "5601(b)(3), 5601(b)(4),".

(E) Section 5505(i) is amended by striking out "5601(b)(1),".

(7) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5723.—

(A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(B) (i) Section 5752 is amended to read as follows:

"SEC. 5752. RESTRICTIONS RELATING TO MARKS, LABELS, NOTICES, AND PACKAGES.

"No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied."

(ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following:

"(6) DESTROYING, OBLITERATING, OR DETACHING MARKS, LABELS, OR NOTICES BEFORE PACKAGES ARE EMPTIED.—Violates any provision of section 5752;".

(iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 57 is amended to read as follows:

"Sec. 5752. Restrictions relating to marks, labels, notices, and packages."

(C)(i) Section 5763(a)(2) is amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(ii) Section 5763(b) is amended by striking out "internal revenue stamps,".

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

"Sec. 5723. Packages, marks, labels, and notices."

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 5114(b) is amended by striking out "or Territory" each place it appears and by striking out "Territories,".

(2) Section 5214(a)(2) is amended by striking out "or Territory" each place it appears.

(3) Section 5272(b) is amended by striking out "and Territories".

(4) Section 5362(c)(9) is amended by striking out "and Territories".

(5) Section 5551(b)(2) is amended by striking out "Territory, or".

(6) Section 5685(a) is amended by striking out "Territory or".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1906. AMENDMENTS OF SUBTITLE F; PROCEDURE AND ADMINISTRATION.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 6013.—

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out "of the United States".

(B) The heading of section 6013(d) is amended to read as follows:

"(d) SPECIAL RULES.—".

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out "and" at the end of subparagraph (A) and inserting in lieu thereof "or", and by striking out "and" at the end of the subparagraph (B).

(2) AMENDMENT OF SECTION 6015.—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

(3) AMENDMENT OF SECTION 6037.—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out "section 1371(a)(2)" and inserting in lieu thereof "section 1371(b)".

(4) AMENDMENT OF SECTION 6046.—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

"(e) LIMITATION.—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a)."

(5) AMENDMENT OF SECTION 6051.—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out "and" where it appears at the end of paragraph (6).

(6) AMENDMENTS OF SECTION 6065.—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: "(a) PENALTIES OF PERJURY.—".

(7) REPEAL OF SECTION 6105.—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

(8) AMENDMENT OF SECTION 6111.—Section 6111 (relating to cross references), as redesignated by this Act, is amended to read as follows:

"SEC. 6111. CROSS REFERENCE.

"For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102."

(9) AMENDMENT OF SECTION 6152.—Section 6152(a)(1) (relating to installment payments by corporations) is amended to read as follows:

"(1) CORPORATIONS.—A corporation subject to the taxes imposde by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments."

(10) AMENDMENTS OF SECTION 6154.—

(A) Section 6154(c)(1)(B) (relating to definition of estimated tax) is amended—

(i) by adding "and" after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Section 6154(c)(2)(A)(ii) (relating to temporary estimated tax payments) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C) Section 6154(c)(2)(B) (relating to estimated tax) is amended by striking out the following:

"1968, 1969, 1970, 1971, and 1972	100 percent
1973	80 percent
1974	60 percent".

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(11) AMENDMENTS OF SECTION 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c).

(B) Section 6157(a) is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)".

(12) REPEAL OF SECTION 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed.

(13) AMENDMENT OF SECTION 6205.—Section 6205(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(14) AMENDMENT OF SECTION 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7).

(15) AMENDMENT OF SECTION 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out "States of the Union and the District of Columbia" and inserting in lieu thereof "United States".

(16) AMENDMENT OF SECTION 6215.—Section 6215(b)(5) (a cross reference) is amended by striking out "60 Stat. 48;".

(17) AMENDMENT OF SECTION 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out "sections 4501(a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39" and inserting in lieu thereof "section 4501(a) of chapter 37".

(18) REPEAL OF SECTION 6304.—Section 6304 (relating to a cross reference) is repealed.

(19) AMENDMENT OF SECTION 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out "not payable by stamp".

(20) AMENDMENTS OF SECTION 6326.—

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;".

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867–877;".

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;".

(21) AMENDMENT OF SECTION 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

(22) AMENDMENT OF SECTION 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

(23) AMENDMENTS OF SECTION 6413.—

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B)(i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1976.

(C) Section 6413(c)(2)(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967".

(24) AMENDMENTS OF SECTION 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(B)(i) Section 6416(b)(2) (relating to overpayments of certain excise taxes) is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), and (S) as subparagraphs (E), (F), (G), (H), (I), and (J), respectively.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1976.

(25) REPEAL OF SECTION 6417.—Section 6417 (relating to coconut and palm oil) is repealed.

(26) AMENDMENTS OF SECTION 6420.—

(A) Section 6420(b) (relating to time for filing refund claims on gasoline) is amended to read as follows:

"(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A."

(B) Section 6420(e)(1) (relating to application of other laws) is amended by striking out "apply in in respect" and inserting in lieu thereof "apply in respect".

(C)(i) Section 6420 is amended by striking out subsection (g) (relating to effective date) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C)(i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965," and "for gasoline used after June 30, 1965".

(27) AMENDMENTS OF SECTION 6421.—

(A)(i) Subsections (a) and (e)(3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970,".

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used dur-

ing such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(C) Section 6421(h) (relating to effective dates) is amended by striking out "after June 30, 1956, and".

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), "with respect to gasoline used after June 30, 1965,",

(ii) by striking out, in paragraph (2), "subsection (c) (3) (B)" and inserting in lieu thereof "subsection (c) (2)", and

(iii) by striking out, in paragraph (3), "for gasoline used after June 30, 1965."

(28) AMENDMENTS OF SECTION 6422.—

(A) Paragraph (9) of section 6422 (relating to cross references), as redesignated by section 1901(b)(36)(B), is amended by striking out "60 Stat. 48;".

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out "47 Stat. 1516;".

(29) AMENDMENTS OF SECTION 6423.—

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

"(b) FILING OF CLAIMS.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with in claim."

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred on April 30, 1958) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(30) AMENDMENTS OF SECTION 6424.—

(A) The last sentence of section 6424(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out ", except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year".

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(31) AMENDMENTS OF SECTION 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out ", after June 30, 1970,".

(B) The amendments made by subparagraph (A) shall apply only with respect to fuel used or resold after June 30, 1970.

(32) AMENDMENTS OF SECTION 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof:

"(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline use for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206."

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), and (15) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(33) AMENDMENTS OF SECTION 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out "September 1, 1959, or" and by striking out ", whichever is the later".

(B) Section 6511(d)(5) is amended by striking out "the later of the following dates: (A)", and by striking out ", or (B) December 31, 1965".

(34) AMENDMENT OF SECTION 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out "(or section 59 of the Internal Revenue Code of 1939)".

(35) AMENDMENT OF SECTION 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section).

(36) AMENDMENT OF SECTION 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(37) AMENDMENT OF SECTION 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows:

"SEC. 6803. ACCOUNTING AND SAFEGUARDING.

"(a) BOND.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

"(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802."

(38) AMENDMENT OF SECTION 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

(39) AMENDMENT OF SECTION 7012.—Section 7012 (relating to cross references), as amended by section 1904(b)(8)(C) of this Act, is amended to read as follows:

"SEC. 7012. CROSS REFERENCES.

"(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

"(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

"(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

"(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

"(5) For penalty for failure to register, see section 7272.

"(6) For other penalties for failure to register with respect to wagering, see section 7262."

(40) AMENDMENT OF SECTION 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

(41) AMENDMENTS OF SECTION 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(42) AMENDMENT OF SECTION 7272.—Section 7272(b) (relating to cross references) is amended by striking out "4722, 4753,".

(43) AMENDMENTS OF SECTION 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out "section 5862(b)" and inserting in lieu thereof "section 5872(b)", and

(B) by redesignating subsection (c) as subsection (b).

(44) AMENDMENTS OF SECTION 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out "instituted after June 15, 1942,", and by striking out "where the petition to the Tax Court was filed after such date".

(45) AMENDMENTS OF SECTION 7428.—

(A) Paragraph (1) of section 7428 (cross references), as redesignated by this Act, is amended by striking out "52 Stat. 851;".

(B) Paragraph (2) of such section 7428 is amended by striking out "52 Stat. 867;".

(C) Paragraph (3) of such section 7428 is amended by striking out "52 Stat. 876–877;".

(D) Paragraph (4) of such section 7428 is amended by striking out "52 Stat. 938;".

(46) AMENDMENTS OF SECTION 7448.—

(A) Subsection (a)(6) of section 7448 (relating to annuities to widows and dependent children of tax court judges) is amended—

(i) by striking out "The term 'widow' means a surviving wife of" and inserting in lieu thereof "The term 'surviving spouse' means a surviving spouse of"; and

(ii) by striking out "the mother of issue" and inserting in lieu thereof "a parent of issue".

(B) Section 7448(h) is amended—

(i) by striking out "surviving widow or widower" and inserting in lieu thereof "surviving spouse";

(ii) by striking out "such widow" each place it appears and inserting in lieu thereof "such surviving spouse";

(iii) by striking out "a widow" each place it appears and inserting in lieu thereof "a surviving spouse";

(iv) by striking out "widow's" each place it appears and inserting in lieu thereof "surviving spouse's"; and

(v) by striking out "surviving her" and inserting in lieu thereof "surviving such spouse".

(C) Sections 7448 (h) and (o) are each amended by striking out "she" and inserting in lieu thereof "such spouse".

(D) Section 7448(o) is amended by striking out "her" and inserting in lieu thereof "such spouse's".

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(F) The section heading for section 7448 is amended by striking out "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES".

(47) AMENDMENTS OF SECTION 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out "is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of," and inserting in lieu thereof "is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title,".

(B) Subsection (b) of section 7471 is amended by striking out "as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16)." and inserting in lieu thereof "as provided in chapter 57 of title 5, United States Code."

(48) AMENDMENT OF SECTION 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following:

"upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such."

(49) AMENDMENT OF SECTION 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out "United State Post Office" and inserting in lieu thereof "United States Postal Service".

(50) AMENDMENTS OF SECTION 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out "after May 28, 1938,".

(51) AMENDMENTS OF SECTION 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out "BY REASON OF WAR" and inserting in lieu thereof "BY REASON OF SERVICE IN COMBAT ZONE".

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

(52) AMENDMENTS OF SECTION 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out ", together with the receipts required to be deposited under section 6803(a),".

(53) AMENDMENT OF SECTION 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) BOUNDARIES.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

(54) REPEAL OF SECTION 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

(55) AMENDMENTS OF SECTION 7652.—Section 7652(b)(3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B),

(B) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(C) by striking out ", including payments under subparagraph (B),".

(56) AMENDMENT OF SECTION 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

(57) AMENDMENTS OF SECTION 7701.—

(A) Section 7701(a)(11) (relating to definition of Secretary) is amended to read as follows:

"(11) SECRETARY OF THE TREASURY AND SECRETARY.—

"(A) SECRETARY OF THE TREASURY.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate.".

(B) Section 7701(a)(12)(A) (relating to definition of Secretary or his delegate) is amended to read as follows:

"(A) IN GENERAL.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

"(ii) when used with reference to any other official of the United States, shall be similarly construed."

(58) AMENDMENT OF SECTION 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c).

(59) AMENDMENT OF SECTION 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out "4735, 4762,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6110.—The item relating to section 6110 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6110. Cross reference."

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 6154.—

(A) Paragraph (1)(B) of section 6655(e) is amended:

(i) by adding "and" at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Paragraph (2)(B) of section 6655(e) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C)(i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b)(3)(C)(iv), as redesignated by section 1901(b)(20)(A) of this Act, is amended by striking out "sections 6154(c)(2) and (3)" and inserting in lieu thereof "section 6154(c)(2)", and by striking out "sections 6655(e)(2) and (3)" and inserting in lieu thereof "section 6655(e)(2)".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6162.—*The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.*

(5) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6304.—*The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.*

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 6416.—

(A) Subparagraph (A) of section 6420(c)(3) is amended to read as follows:

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator of such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 issued shall be treated as the user and the ultimate purchaser of such gasoline or liquid;".

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1976.

(7) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6417.—*The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.*

(8) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6420.—*Section 39(a)(1) is amended by striking out "section 6420(h)" and inserting in lieu thereof "section 6420(g))".*

(9) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 624.—*Section 39(a)(3) is amended by striking out "section 6424(g)" and inserting in lieu thereof "section 6424(f)".*

(10) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7448.—*The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended to read as follows:*

"Sec. 7448. Annuities of surviving spouses and dependent children.".

(11) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7508.—*The item relating to section 7508 in the table of sections for chapter 77 is amended to read as follows:*

"Sec. 7508. Time for performing certain acts postponed by reasons of service in combat zone.".

(12) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7509.—*The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:*

"Sec. 7509. Expenditures incurred by the United States Postal Service.".

(13) AMENDMENT CONFORMING TO REPEAL OF SECTION 7641.—*The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.*

(A) *The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out "Secretary or his delegate" each place it appears and inserting in lieu thereof "Secretary".*

(B) *The following provisions are each amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of the Treasury": sections 4293, 4483 (b), 5551, 7801 (b), 7802 (a), 9006 (a), 9006 (b), and 9007 (d).*

(C) *The following provisions are each amended by striking out "to the Secretary" each place it appears and inserting in lieu thereof "to the Secretary of the Treasury": sections 3121 (b) (12) (B), 3303 (b), 3304 (a) (3), 3304 (c), 3305 (j), 3306 (c) (12) (B), 9005 (a), 9007 (b), 9010 (b), and 9012 (e) (3).*

(D) *Section 31 (b) (1) is amended by striking out "(or his delegate)".*

(E) *The last sentence of section 3304 (c) is amended by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary of Labor shall".*

(F) *Section 3310 (d) (2) is amended by striking out "the Secretary's action" each place it appears and inserting in lieu thereof "the Secretary of Labor's action".*

(G) *Section 3221 (a) and 3221 (c) are each amended by striking out "of the Treasury" each place it appears.*

(H) *Section 3310 (e) is amended by striking out "of the Secretary" and inserting in lieu thereof "of the Secretary of Labor".*

(I) *Section 4412 (c) is amended by striking out "he or his delegate" and inserting in lieu thereof "the Secretary".*

(J) *Section 5845 (f) is amended by striking out "of the Treasury or his delegate".*

(K) *Section 6402 (b) is amended by striking out "(or his delegate)".*

(L) *Section 7458 is amended by striking out "nor his delegate".*

(M) *Section 7514 is amended by striking out "functions of the Secretary" and inserting in lieu thereof "functions of the Secretary of the Treasury".*

(c) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(1) Section 6871 (a) is amended by striking out "or Territory".

(2) Section 7622 (b) is amended by striking out ", Territory,".

(3) Section 7701 (a) (4) is amended by striking out "or Territory".

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—*Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.*

(2) AMENDMENTS RELATING TO INCOME TAX.—*The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take*

effect with respect to taxable years beginning after December 31, 1976.

SEC. 1907. AMENDMENTS OF SUBTITLE G; THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 8001.—*Section 8001 (relating to creation of the Joint Committee) is amended by striking out "Joint Committee on Internal Revenue Taxation" and inserting in lieu thereof "Joint Committee on Taxation".*

(2) AMENDMENT OF SECTION 8004.—*Section 8004 (relating to compensation of staff) is amended by striking out "compensation of a clerk" and inserting in lieu thereof "compensation of the Chief of Staff of the Joint Committee".*

(3) AMENDMENT OF SECTION 8021.—*Section 8021(d) (relating to authority to make expenditures) is amended to read as follows:*

"(d) To MAKE EXPENDITURES.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.".

(4) AMENDMENT OF SECTION 8023.—*Section 8023(c) (relating to reorganization plans) is amended to read as follows:*

"(c) APPLICATION OF SUBSECTIONS (a) AND (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection.".

(5) *All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.*

(b) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 8001.—

(1) *The heading of subtitle G is amended by striking out "Internal Revenue".*

(2) *The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle G and inserting in lieu thereof the following:*

"SUBTITLE G. The Joint Committee on Taxation.".

(c) EFFECTIVE DATE.—*The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.*

SEC. 1908. EFFECTIVE DATE OF CERTAIN DEFINITIONS AND DESIGNATIONS.

For purposes of any amendment made by any provision of this Act (other than this title)—

(1) *which contains a term the meaning of which is defined in or modified by any provision of this title, and*

(2) *which has an effective date earlier than the effective date of the provision of this title defining or modifying such term,*

that definition or modification shall be considered to take effect as of such earlier effective date.

Subtitle B—Amendments of Code Provisions With Limited Current Application: Repeals and Savings Provisions

SEC. 1951. PROVISIONS OF SUBTITLE A.

(a) REFERENCES TO INTERNAL REVENUE CODE.—Except as otherwise expressly provided, whenever in this section a reference is made to 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.

(b) AMENDMENTS.—

(1) AMENDMENT OF SECTION 72.—

(A) REPEAL.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1977, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

(2) AMENDMENTS OF SECTION 108.—

(A) REPEAL.—Section 108 (relating to income from discharge of indebtedness) is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: "(a) SPECIAL RULE OF EXCLUSION.—".

(B) SAVINGS PROVISION.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness.

(3) AMENDMENTS OF SECTION 164.—

(A) REPEAL.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1976, to the Atomic Energy Commission or its successors for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1976) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304 (b)) in which the Commission on December 31, 1976, was rendering municipal-type services for which it received compensation from the owners of property within such community.

(4) REPEAL OF SECTION 168.—

(A) REPEAL.—Section 168 (relating to amortization of emergency facilities) is repealed.

(B) SAVINGS PROVISION.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f).

(5) AMENDMENT OF SECTION 171.—

(A) REPEAL.—

(i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958).

(ii) Section 171(b)(1)(B)(i) is amended by striking out "clause (ii) or (iii) applies," and inserting in lieu thereof "clause (ii) applies, or", and by inserting "and" at the end thereof.

(iii) Section 171(b)(1)(B)(ii) is amended by striking out ", or" and inserting ", and" in lieu thereof.

(iv) The second sentence in section 171(b)(2) is amended by striking out "or (iii)".

(B) SAVINGS PROVISION.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludable from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958,

the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).

(6) AMENDMENT OF SECTION 333.—

(A) REPEAL.—Section 333 (relating to election as to recognition of gain in certain liquidations) is amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g)(2)(B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if

paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

(C) PHASE-IN OF 12-MONTH HOLDING PERIOD REQUIREMENT.—For purposes of subparagraph (B), the period for holding of stock specified in section 333(g)(2)(A)(ii), as in effect before such repeal, shall—

(i) in the case of taxable years beginning in 1977, be considered to be "9 months"; and

(ii) in the case of taxable years beginning after December 31, 1977, be considered to be "1 year".

(7) AMENDMENT OF SECTION 453.—

(A) REPEAL.—Section 453(b)(2) (relating to limitation on use of installment sales method) is amended to read as follows:

"(2) LIMITATION.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

"(A) there are no payments, or

"(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price.".

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

(8) AMENDMENTS OF SECTION 512.—

(A) REPEAL.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15), respectively.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose.

(9) AMENDMENT OF SECTION 545.—

(A) REPEAL.—Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545(b) in a taxable year beginning before January 1, 1977, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph.

(10) AMENDMENTS OF SECTION 691.—

(A) REPEAL.—Section 691 (relating to income in respect of decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies.

(11) AMENDMENTS OF SECTION 817.—

(A) REPEAL.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any gain in a taxable year beginning after December 31, 1976, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into account for purposes of part 1 of subchapter L of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) REPEAL OF SECTION 1347.—

(A) REPEAL.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) REPEAL OF SECTION 1471.—

(A) REPEAL.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

(B) SAVINGS PROVISION.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) AMENDMENT OF SECTION 1481.—

(A) REPEAL.—Section 1481 (relating to mitigation of effect of renegotiation of government contracts) is amended by striking out subsection (d) (relating to renegotiation for years prior to 1954).

(B) SAVINGS PROVISION.—If, during a taxable year beginning after December 31, 1976, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiation shall be made under section 3806 of such Code.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 108.—Section 1017 is amended by striking out "section 108(a)" each time it appears therein and inserting in lieu thereof "section 108".

(2) AMENDMENTS CONFORMING TO REPEAL OF SECTION 168.—

(A) Section 1238 is amended by striking out "(relating to amortization deduction of emergency facilities)" and inserting in lieu thereof "(as in effect before its repeal by the Tax Reform Act of 1976)".

(B) Sections 642(f) and 1082(a)(2)(B) are each amended by striking out "168,".

(C) Sections 1245(a)(2) and 1250(b)(3) are each amended by striking out "168," each place it appears and inserting in lieu thereof "168 (as in effect before its repeal by the Tax Reform Act of 1976),".

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

(3) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(B) *The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.*

(C) *The heading of part VI of subchapter Q of chapter 1 is amended to read as follows:*

"PART VI—MAXIMUM RATE ON PERSONAL SERVICE INCOME."

(D) *The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:*

"Part VI. Maximum rate on personal service income."

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1471.—*The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.*

(d) EFFECTIVE DATE.—*Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.*

SEC. 1952. PROVISIONS OF SUBCHAPTER D OF CHAPTER 39; COTTON FUTURES.

(a) SHORT TITLE.—*This section may be cited as the "United States Cotton Futures Act".*

(b) REPEAL OF TAX ON COTTON FUTURES.—*Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.*

(c) DEFINITIONS.—*For purposes of this section—*

(1) COTTON FUTURES CONTRACT.—*The term "cotton futures contract" means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a "contract market" by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the term "contract of sale" as so used shall be held to include sales, agreements of sale, and agreements to sell.*

(2) FUTURE DELIVERY.—*The term "future delivery" shall not include any cash sale of cotton for deferred shipment or delivery.*

(3) PERSON.—*The term "person" includes an individual, trust, estate, partnership, association, company, or corporation.*

(4) SECRETARY.—*The term "Secretary" means the Secretary of Agriculture of the United States.*

(5) STANDARDS.—*The term "standards" means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.*

(d) BONA FIDE SPOT MARKETS AND COMMERCIAL DIFFERENCES.—

(1) DEFINITION.—*For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.*

(2) DETERMINATION.—*In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the*

Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f) (1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) WITHHOLDING INFORMATION.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) FORM AND VALIDITY OF COTTON FUTURES CONTRACTS.—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) BASIS GRADE CONTRACTS.—

(1) CONDITIONS.—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH REGULATIONS.—Conform to the regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, AND DATES OF SALE AND SETTLEMENT.—Specify the basis grade for the cotton involved

in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) PROVISION FOR DELIVERY OF STANDARD GRADES ONLY.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) PROVISION FOR SETTLEMENT ON BASIS OF ACTUAL COMMERCIAL DIFFERENCES.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(*G*) *PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.*

(*2*) *INCORPORATION OF CONDITIONS IN CONTRACTS.—The provisions of paragraph* (*1*) (*C*), (*D*), (*E*), (*F*), *and* (*G*) *shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection* (*f*)."

(*3*) *DELIVERY ALLOWANCES.—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph* (*1*) (*F*), *for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.*

(*g*) *TENDERED GRADE CONTRACTS.—*

(*1*) *CONDITIONS.—Each tendered grade cotton future contract shall comply with each of the following conditions:*

(*A*) *COMPLIANCE WITH SUBSECTION* (*f*).—*Comply with all the terms and conditions of subsection* (*f*) *not inconsistent with this subsection; and*

(*B*) *PROVISION FOR CONTINGENT SPECIFIC PERFORMANCE.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said*

contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) APPLICATION OF SUBSECTION.—Nothing in this subsection shall be so constructed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) SPECIFIC GRADE CONTRACTS.—

(1) CONDITIONS.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of "setoff" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of paragraph (1) (A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to United States Cotton Futures Act, subsection (h)".

(3) APPLICATION OF SUBSECTION.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(i) LIABILITY OF PRINCIPAL FOR ACTS OF AGENT.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) REGULATIONS.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) VIOLATIONS.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court except that this subsection shall not apply to violations subject to subsection (d) (3).

(l) APPLICABILITY TO CONTRACTS PRIOR TO EFFECTIVE DATE.—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraphs (1), (2), and (3), respectively.

(2) (A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3) (A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4) (A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the items relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) *EFFECTIVE DATE.—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.*

And the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the Senate amendment numbered 21, and agree to the same with an amendment as follows:

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

TITLE XXI—TAX EXEMPT ORGANIZATIONS

SEC. 2101. DISPOSITION OF PRIVATE FOUNDATION PROPERTY UNDER TRANSITION RULES OF TAX REFORM ACT OF 1969.

(a) IN GENERAL.—Paragraph (2) of section 101(l) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) the sale, exchange, or other disposition (other than by lease) of property which is owned by a private foundation to a disqualified person if—

"(i) such foundation is leasing substantially all of such property under a lease to which subparagraph (C) applies,

"(ii) the disposition to such disqualified person occurs before January 1, 1978, and

"(iii) such foundation receives in return for the disposition to such disqualified person an amount which equals or exceeds the fair market value of such property at the time of the disposition or at the time (after June 30, 1976) a contract for the disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions after the date of the enactment of this Act in taxable years ending after such date.

SEC. 2102. NEW PRIVATE FOUNDATION SET-ASIDES.

(a) IN GENERAL.—Section 4942(g)(2) (relating to definition of qualifying distributions) is amended to read as follows:

"(2) CERTAIN SET-ASIDES.—

"(A) IN GENERAL.—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary, an amount set aside for a specific project which comes within one or more pur-

poses described in section 170(c)(2)(B) may be treated as a qualifying distribution if it meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—An amount set aside for a specific project shall meet the requirements of this subparagraph if at the time of the set-aside the foundation establishes to the satisfaction of the Secretary that the amount will be paid for the specific project within 5 years, and either—

"(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

"(ii)(I) the project will not be completed before the end of the taxable year of the foundation in which the set-aside is made,

"(II) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later), distributes amounts, in cash or its equivalent, equal to not less than the distributable amount determined under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c)(2)(B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years), and

"(III) the private foundation has distributed (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years) during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, of not less than the sum of the following: 80 percent of the first preceding taxable year's distributable amount; 60 percent of the second preceding taxable year's distributable amount; 40 percent of the third preceding taxable year's distributable amount; and 20 percent of the fourth preceding taxable year's distributable amount.

"(C) CERTAIN FAILURES TO DISTRIBUTE.—If, for any taxable year to which clause (ii)(II) of subparagraph (B) applies, the private foundation fails to distribute in cash or its equivalent amounts not less than those required by such clause and—

"(i) the failure to distribute such amounts was not willful and was due to reasonable cause, and

"(ii) the foundation distributes an amount in cash or its equivalent which is not less than the difference between the amounts required to be distributed under clause (ii)(II) of subparagraph (B) and the amounts actually distributed in cash or its equivalent during that taxable

year within the initial correction period provided in subsection (j)(2),

such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during such year.

"*(D) REDUCTION IN DISTRIBUTION AMOUNT.—If, during the taxable years in the adjustment period for which the organization is a private foundation, the foundation distributes amounts in cash or its equivalent which exceed the amount required to be distributed under clause (ii)(II) of subparagraph (B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in prior years), then for purposes of this subsection the distribution required under clause (ii)(II) of subparagraph (B) for the taxable year shall be reduced by an amount equal to such excess.*

"*(E) ADJUSTMENT PERIOD.—For purposes of subparagraph (D), 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, 1975, and immediately preceding the taxable year.*

In the case of a set-aside which satisfies the requirements of clause (i) of subparagraph (B), for good cause shown, the period for paying the amount set aside may be extended by the Secretary."

(b) STATUTE OF LIMITATIONS.—Subsection (n) of section 6501 (relating to limitations on assessments and collections) is amended by adding at the end thereof the following new paragraph:

"*(3) CERTAIN SET-ASIDES DESCRIBED IN SECTION 4942(g)(2).—In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(i)(II), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates.*"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1974.

SEC. 2103. MINIMUM DISTRIBUTION AMOUNT FOR PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (e) of section 4942 (relating to minimum investment return) is amended to read as follows:

"*(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 5 percent of the excess of—*

"*(A) the aggregate fair market value of all assets of the foundation other than those which are used (or held for use) directly in carrying out the foundation's exempt purpose, over*

"*(B) the acquisition indebtedness with respect to such assets (determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred).*

"*(2) VALUATION.—*

"(A) IN GENERAL.—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 shall by regulations prescribe.

"(B) REDUCTIONS IN VALUE FOR BLOCKAGE OR SIMILAR FACTORS.—In determining the value of any securities under this paragraph, the fair market value of such securities (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of—

"(i) the size of the block of such securities,

"(ii) the fact that the securities held are securities in a closely held corporation, or

"(iii) the fact that the sale of such securities would result in a forced or distress sale,

the securities could not be liquidated within a reasonable period of time except at a price less than such fair market value. Any reduction in value allowable under this subparagraph shall not exceed 10 percent of such fair market value."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

SEC. 2104. EXTENSION OF TIME TO AMEND CHARITABLE REMAINDER TRUST GOVERNING INSTRUMENT.

(a) EXTENSION OF TIME.—Section 2055(e)(3) (relating to the allowance of deductions in certain cases) is amended—

(1) by striking out "September 21, 1974," and inserting in lieu thereof "December 31, 1977,", and

(2) by striking out "December 31, 1975" each place it appears and inserting in lieu thereof "December 31, 1977".

(b) EXTENSION OF PERIOD FOR FILING CLAIM FOR REFUND OF ESTATE TAX PAID.—A claim for refund or credit of an overpayment of the tax imposed by section 2001 of the Internal Revenue Code of 1954 allowable under section 2055(e)(3) of such Code (as amended by subsection (a)) shall not be denied because of the expiration of the time for filing such a claim under section 6511(a) if such claim is filed not later than June 30, 1978.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying after December 31, 1969.

SEC. 2105. UNRELATED TRADE OR BUSINESS INCOME OF TRADE SHOWS, STATE FAIRS, ETC.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(d) CERTAIN ACTIVITIES OF TRADE SHOWS, STATE FAIRS, ETC.—

"(1) GENERAL RULE.—The term 'unrelated trade or business' does not include qualified public entertainment activities of an organization described in paragraph (2)(C), or qualified convention and trade show activities of an organization described in paragraph (3)(C).

"(2) QUALIFIED PUBLIC ENTERTAINMENT ACTIVITIES.—For purposes of this subsection—

"(A) PUBLIC ENTERTAINMENT ACTIVITY.—The term 'public entertainment activity' means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

"(B) QUALIFIED PUBLIC ENTERTAINMENT ACTIVITY.—The term 'qualified public entertainment activity' means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

"(i) conjunction with an international, national, State, regional, or local fair or exposition,

"(ii) accordance with the provisions of State law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such State, or

"(iii) accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 20 days of such activity on payment to the State of a lower percentage of the revenue from such licensed activity than the State requires from organizations not described in section 501(c) (3), (4), or (5).

"(C) QUALIFYING ORGANIZATION.—For purposes of this paragraph, the term 'qualifying organization' means an organization which is described in section 501(c) (3), (4), or (5) which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition.

"(3) QUALIFIED CONVENTION AND TRADE SHOW ACTIVITIES.—

"(A) CONVENTION AND TRADE SHOW ACTIVITY.—The term 'convention and trade show activity' means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one of the purposes of which is to attract persons in an industry generally (without regard to membership in the sponsoring organization) as well as members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

"(B) QUALIFIED CONVENTION AND TRADE SHOW ACTIVITY.—The term 'qualified convention and trade show activity' means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, national, State, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes

of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

"(C) QUALIFYING ORGANIZATION.—*For purposes of this paragraph, the term 'qualifying organization' means an organization described in section 501(c) (5) or (6) which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry.*

"(4) SUCH ACTIVITIES NOT TO AFFECT EXEMPT STATUS.—*An organization described in section 501(c) (3), (4), or (5) shall not be considered as not entitled to the exemption allowed under section 501(a) solely because of qualified public entertainment activities conducted by it.*"

(b) EFFECTIVE DATES.—*The amendments made by subsection (a) apply to qualified public entertainment activities in taxable years beginning after December 31, 1962, and to qualified convention and trade show activities in taxable years beginning after the date of enactment of this Act.*

SEC. 2106. DECLARATORY JUDGMENTS WITH RESPECT TO SECTION 501(c)(3) STATUS AND CLASSIFICATION.

(a) GENERAL RULE.—*Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7428 as 7430, and by inserting after section 7427 the following new section:*

"SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.

"(a) CREATION OF REMEDY.—*In a case of actual controversy involving—*

"(1) *a determination by the Secretary—*

"(A) *with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),*

"(B) *with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or*

"(C) *with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or*

"(2) *a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),*

upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or

the Court of Claims, as the case may be, and shall be reviewable as such.

"(*b*) *LIMITATIONS.*—

"(*1*) *PETITIONER.*—*A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.*

"(*2*) *EXHAUSTION OF ADMINISTRATIVE REMEDIES.*—*A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection* (*a*)(*1*) *shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.*

"(*3*) *TIME FOR BRINGING ACTION.*—*If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection* (*a*)(*1*) *to the organization referred to in paragraph* (*1*), *no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.*

"(*c*) *VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.*—

"(*1*) *IN GENERAL.*—*If*—

"(*A*) *the issue referred to in subsection* (*a*)(*1*) *involves the revocation of a determination that the organization is described in section 170*(*c*)(*2*),

"(*B*) *a proceeding under this section is initiated within the time provided by subsection* (*b*)(*3*), *and*

"(*C*) *either*—

"(*i*) *a decision of the Tax Court has become final* (*within the meaning of section 7481*), *or*

"(*ii*) *a judgment of the district court of the United States for the District of Columbia has been entered, or*

"(*iii*) *a judgment of the Court of Claims has been entered,*".

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(*c*)(*2*),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(*c*)(*2*) *for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170*(*c*)(*2*).

"(*2*) *LIMITATION.*—*Paragraph* (*1*) *shall apply only*—

"(*A*) *with respect to individuals, and only to the extent that the aggregate of the contributions made by any individ-*

ual to or for the use of the organization during the period specified in paragraph (1) does not exceed $1,000 (for this purpose treating a husband and wife as one contributor), and

"(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

"(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7451 (relating to fee for filing petition) is amended by inserting before the period at the end thereof the following: "or under section 7428".

(2) Section 7459(c) (relating to date of decision) is amended by inserting after "under part IV of this subchapter" the following: "or under section 7428".

(3) Section 7476(c) (relating to use of Tax Court commissioners) is amended by striking out "this section" and inserting in lieu thereof "this section or section 7428".

(4) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization.".

(5) Section 7482(b)(1) is further amended by striking out "section 7476" in the last sentence and inserting in lieu thereof "section 7428, 7476,".

(6) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7428 and inserting in lieu thereof the following:

"Sec. 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.
"Sec. 7430. Cross references."

(7) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant), is amended by inserting "or section 7428 (in the case of the United States district court for the District of Columbia)" immediately after "section 7426".

(8) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy), is amended by striking out "taxes" and inserting in lieu thereof "taxes other than actions brought under section 7428 of the Internal Revenue Code of 1954".

(9)(A) Chapter 92 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ *1507. Jurisdiction for certain declaratory judgments*

"*The Court of Claims shall have jurisdiction to hear any suit for and issue a declaratory judgment under section 7428 of the Internal Revenue Code of 1954.*".

(B) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"*1507. Jurisdiction for certain declaratory judgments.*"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act but only with respect to determinations (or requests for determinations) made after January 1, 1976.

And the Senate agree to the same.

Amendment numbered 36:

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

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

TITLE XXIII—OTHER AMENDMENTS

SEC. 2301. OUTDOOR ADVERTISING DISPLAYS.

(a) In General.—Section 1033(g) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by adding at the end thereof the following new paragraph:

"*(3) ELECTION TO TREAT OUTDOOR ADVERTISING DISPLAYS AS REAL PROPERTY.—*

"*(A) IN GENERAL.—A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which the credit allowed by section 38 (relating to investment in certain depreciable property) is or has been claimed or with respect to which an election under section 179(a) (relating to additional first-year depreciation allowance for small business) is in effect.*

"*(B) ELECTION.—An election made under subparagraph (A) may not be revoked without the consent of the Secretary.*

"*(C) OUTDOOR ADVERTISING DISPLAY.—For purposes of this paragraph, the term 'outdoor advertising display' means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.*

"(D) CHARACTER OF REPLACEMENT PROPERTY.—For purposes of this section, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in subparagraph (C) shall be considered property similar or related in service or use to the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 2302. TAX TREATMENT OF LARGE CIGARS.

(a) IN GENERAL.—So much of section 5701(a) (relating to the manner of taxation and the rates of tax on cigars) as follows paragraph (1) is amended to read as follows:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 8½ percent of the wholesale price, but not more than $20 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale."

(b) DEFINITION OF WHOLESALE PRICE.—Section 5702 is amended by adding at the end thereof the following new subsection:

"(m) WHOLESALE PRICE.—'Wholesale price' means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary."

(c) RECORDKEEPING REQUIREMENT.—Section 5741 is amended to read as follows:

"SEC. 5741. RECORDS TO BE MAINTAINED.

"Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours."

(d) CLERICAL AMENDMENTS.—

(1) The heading of subchapter D of chapter 52 is amended to read as follows:

"Subchapter D—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors".

(2) The table of subchapters for chapter 52 is amended by striking out the item relating to subchapter D and inserting in lieu thereof the following:

"SUBCHAPTER D. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 2303. TREATMENT OF GAIN FROM SALES OR EXCHANGES BETWEEN RELATED PARTIES.

(a) IN GENERAL.—Section 1239 (relating to gain from sale of certain property between spouses or between an individual and a controlled corporation) is amended to read as follows:

"SEC. 1239. GAIN FROM SALE OF DEPRECIABLE PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.

"(a) TREATMENT OF GAIN AS ORDINARY INCOME.—In the case of a sale or exchange of property, directly or indirectly, between related persons, any gain recognized to the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167.

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related persons' means—

"(1) a husband and wife,

"(2) an individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or

"(3) two or more corporations 80 percent or more in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual.

"(c) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 318 shall apply in determining the ownership of stock for purposes of this section, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into before that date.

SEC. 2304. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out "and 1975" and inserting in lieu thereof the following: "and 1975, and, in the case of a member of a uniformed service receiving training in programs described in subsection (a) during calendar year 1976, with respect to amounts received during calendar years 1976, 1977, 1978, and 1979."

SEC. 2305. EXCHANGE FUNDS.

(a) CORPORATE REORGANIZATIONS.—Paragraph (2) of section 368(a) (special rules relating to definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

"(*F*) *CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.*—

"(*i*) *If, immediately before a transaction described in paragraph (1) (other than subparagraph (E) thereof), 2 or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of clause (ii).*

"(*ii*) *A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers. For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one issuer.*

"(*iii*) *For purposes of this subparagraph the term 'investment company' means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities and more than 80 percent of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.*

"(*iv*) *For purposes of this subparagraph, in determining total assets there shall be excluded cash and cash items (including receivables), Government securities, and, under regulations prescribed by the Secretary, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of clause (ii) or ceasing to be an investment company.*

"(*v*) *This subparagraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.*

"(*vi*) *If an investment company which is not diversified within the meaning of clause (ii) acquires assets of another corporation, clause (i) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B) (hereafter referred to as the 'actual acquisition'), clause (i) shall be applied to*

the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of section 1001, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders and security holders to which clause (i) is applied."

(b) PARTNERSHIPS.—Section 721 (relating to nonrecognition of gain or loss on transfers to partnerships) is amended to read as follows:

"SEC. 721. NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

"(b) SPECIAL RULE.—Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated."

(c) CONFORMING AMENDMENT.—Sections 722 and 723 (relating to tax basis) are each amended by striking out "contribution." and inserting in lieu thereof "contribution increased by the amount (if any) of gain recognized to the contributing partner at such time."

(d) COMMON TRUST FUNDS.—Subsection (e) of section 584 (relating to admission to and withdrawal from a common trust fund) is amended by inserting after the first sentence the following new sentence: "The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest."

(e) TRUSTS.—

(1) IN GENERAL.—Section 683 (relating to applicability of provisions) is amended to read as follows:

"SEC. 683. USE OF TRUST AS AN EXCHANGE FUND.

"(a) GENERAL RULE.—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

"(b) EXCEPTION FOR POOLED INCOME FUNDS.—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5))."

(2) CONFORMING AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683 and inserting in lieu thereof the following:

"Sec. 683. Use of trust as an exchange fund."

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(2) The amendment made by subsection (a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code of 1954.

(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(4) The amendments made by subsections (b) and (c) shall not apply to transfers to a partnership made on or before the 90th day after the date of the enactment of this Act if—

(A) either—

(i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or

(ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976,

(B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act, and

(C) either—

(i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed $100,000,000, or

(ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A)(ii).

(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfer of securities to any partnership, then paragraph (4) shall be applied to such transfers—

(A) as if paragraph (4) did not contain subparagraph (A)(ii) thereof, and

(B) by substituting "$25,000,000" for $100,000,000" in subparagraph (C)(i) thereof.

(6) The amendments made by subsections (d) and (e) shall take effect on April 8, 1976, in taxable years ending on or after such date.

SEC. 2306. DISTRIBUTIONS BY SUBCHAPTER S CORPORATIONS.

(a) IN GENERAL.—Section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) is amended by adding at the end thereof the following new subsection:

"(d) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME PREVIOUSLY TAXED TO SHAREHOLDERS.—For purposes of determining whether a distribution by an electing small business corporation constitutes a distribution of such corporation's undistributed taxable income previously taxed to shareholders (as provided for in section 1375(d)), the earnings and profits of such corporation for the taxable year in which the distribution is made shall be computed without regard to section

312(m). Such computation shall be made without regard to section 312(m) only for such purposes."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 37:

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

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

TITLE XXIV—UNITED STATES INTERNATIONAL TRADE COMMISSION

SEC. 2401. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) TERMS OF OFFICE.—The last sentence of section 330(b) of the Tariff Act of 1930 (19 U.S.C. 1330(b)) is amended to read as follows: "The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

"(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

"(2) any commissioner may continue to serve as a commissioner after the expiration of his term of office until his successor is appointed and qualified."

(b) VOTING PROCEDURES.—Section 330(d) of the Tariff Act of 1930 is amended by—

(1) redesignating paragraph (2) as paragraph (5); and

(2) striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) In a proceeding in which the Commission is required to determine—

"(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as 'serious injury'), or

"(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

"(2) If under section 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of

the commissioners voting are unable to agree on a finding or recommendation described in section 201(d)(1) of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereafter in this subsection referred to as a 'remedy finding'), then—

"(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of section 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

"(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 203(b) of such Act that—

"(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

"(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

"(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

"(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 203(c)(1) of the Trade Act of 1974, notwithstanding section 152(a)(1)(A) of such Act, the second blank space in the concurrent resolution described in such section 152 shall be filled with the appropriate date and the following: 'The action which shall take effect under section 203(c)(1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners ——————, ——————, and ——————,' The three blank spaces shall be filled with the names of the appropriate Commissoners."

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

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

TITLE XXV—ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 2501. CERTAIN DISABILITY INCOME.

(a) IN GENERAL.—Section 104(a) (relating to compensation for injuries or sickness) 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 semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a violent attack which the Secretary of State determines to be a terrorist attack and which occurred while such individual was an employee of the United States engaged in the performance of his official duties outside the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 2502. CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.

(a) IN GENERAL.—Section 1221 (relating to definition of capital asset) is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(3) adding after paragraph (5) the following new paragraph:

"(6) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

"(A) a taxpayer who so received such publication, or

"(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales, exchanges, and contributions made after the date of enactment of this Act.

SEC. 2503. LOBBYING BY PUBLIC CHARITIES.

(a) LOSS OF EXEMPT STATUS.—

(1) LOSS OF EXEMPT STATUS BECAUSE OF SUBSTANTIAL LOBBYING.—Section 501 (relating to exemption from income tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

"(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or other-

wise attempting, to influence legislation, but only if such organization normally—

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) LOBBYING EXPENDITURES.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) GRASS ROOTS EXPENDITURES.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

"(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

"(3) ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

"(A) is described in paragraph (4), and

"(B) is not a disqualified organization under paragraph (5).

"(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

"(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

"(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

"(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

"(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

"(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

"(F) section 509(a)(3) (relating to organizations supporting certain types of public charities), except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

"(5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3), an organization is a disqualified organization if it is—

"(A) described in section 170(b)(1)(A)(i) (relating to churches),

"(B) an integrated auxiliary of a church or of a convention or association of churches, or

"(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

"(6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

"(7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—

"(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

"(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under subsection (c)(3).

"(8) AFFILIATED ORGANIZATIONS.—

"For rules regarding affiliated organizations, see section 4911(f).".

(2) STATUS OF ORGANIZATION WHICH CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(c)(3) BECAUSE OF SUBSTANTIAL LOBBYING.—Part I of subchapter F of chapter 1 relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 504. STATUS AFTER ORGANIZATION CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(c)(3) BECAUSE OF SUBSTANTIAL LOBBYING.

"(a) GENERAL RULE.—An organization which—

"(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

"(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation.

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

"(b) REGULATIONS TO PREVENT AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

"(c) CHURCHES, ETC.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year

immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).".

(3) RULES OF INTERPRETATION.—It is the intent of Congress that enactment of this section is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in Christian Echoes National Ministry, Inc. versus United States, 470 F. 2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

(4) DISCLOSURE.—Section 6033(b) (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

"(A) the lobbying expenditures (as defined in section 4911(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.".

(b) TAXES ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 42 the following new chapter:

"CHAPTER 41—PUBLIC CHARITIES

"SEC. 4911. TAX ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

"(2) ORGANIZATIONS TO WHICH THIS SECTION APPLIES.—This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

"(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"(1) *the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or*

"(2) *the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.*

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

"(1) LOBBYING EXPENDITURES.—*The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).*

"(2) LOBBYING NONTAXABLE AMOUNT.—*The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 of (B) the amount determined under the following table:*

"If the proposed expenitures are—	*The lobbying nontaxable amount is—*
Not over $500,000	*20 percent of the exempt purpose expenditures.*
Over $500,000 but not over $1,000,000	*$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.*
Over $1,000,000 but not over $1,500,000	*$175,000 plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.*
Over $1,500,000	*$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.*

"(3) GRASS ROOTS EXPENDITURES.—*The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).*

"(4) GRASS ROOTS NONTAXABLE AMOUNT.—*The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.*

"(d) INFLUENCING LEGISLATION.—

"(1) GENERAL RULE.—*Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—*

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

"(B) *any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.*

"(2) EXCEPTIONS.—*For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—*

"(A) *making available the results of nonpartisan analysis, study, or research;*

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) 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;

"(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) COMMUNICATIONS WITH MEMBERS.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1) (B) shall be treated as a communication described in paragraph (1) (B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1) (A).

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

"(1) EXEMPT PURPOSE EXPENDITURES.—

"(A) IN GENERAL.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, educational, etc., purposes).

"(B) CERTAIN AMOUNTS INCLUDED.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

"(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

"(C) CERTAIN AMOUNTS EXCLUDED.—The term 'exempt purpose expenditures' does not include amounts paid or incurred to or for—

"(i) *a separate fundraising unit of such organization, or*

"(ii) *one or more other organizations, if such amounts are paid or incurred primarily for fundraising.*

"(2) LEGISLATION.—*The term 'legislation' includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.*

"(3) ACTION.—*The term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.*

"(4) DEPRECIATION, ETC., TREATED AS EXPENDITURES.—*In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.*

"(f) AFFILIATED ORGANIZATIONS.—

"(1) IN GENERAL.—*Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(h) is effective for at least one such organization for such year, then—*

"(A) *the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization,*

"(B) *if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures,*

"(C) *if the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by reason of the application of 501(h), and*

"(D) *subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.*

"(2) DEFINITION OF AFFILIATION.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

"(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

"(B) the governing board of one such organization includes persons who—

"(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

"(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

"(3) DIFFERENT TAXABLE YEARS.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

"(4) LIMITED CONTROL.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

"(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

"(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization is not a member of such affiliated group.".

(c) DISALLOWANCE OF DEDUCTION FOR CONTRIBUTION TO INFLUENCE LEGISLATION.—Section 170(f) (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed under this section for an out-of-pocket

expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).".

(d) TECHNICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO NEW SECTION 501(h).—

(A) Section 501(c)(3) is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),".

(B) The following sections are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,":

(i) section 170(c)(2)(D) (relating to the definition of charitable contributions);

(ii) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses);

(iii) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses);

(iv) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(v) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(C) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) (relating to transfers for public, charitable, and religious uses) are amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,".

(2) AMENDMENTS CONFORMING TO NEW CHAPTER 41.—

(A) Paragraph (6) of section 275(a) (denying deductions for certain taxes), as amended by this Act, is amended to read as follows:

"(6) Taxes imposed by chapters 41, 42, 43, and 44."

(B) Section 6104(c)(1)(B) (relating to notification of state officers regarding taxes imposed on certain exempt organizations), is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 41 or 42".

(C) Section 6161(b) (relating to extensions of time for paying tax) is amended—

(i) in paragraph (1) by striking out "12" and inserting in lieu thereof "12, 41"; and

(ii) in the second sentence by striking out "42," and inserting in lieu thereof "41, 42,".

(D) Section 6201(d) (relating to assessment authority) is amended by striking out "chapter 42, and chapter 43 taxes" and inserting in lieu thereof "and certain excise taxes".

(E) Section 6211(a) (defining deficiency) is amended by striking out "chapters 42" and inserting in lieu thereof "chapters 41, 42,".

(F) The following sections are amended by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, 42,":

(i) subsections (a) and (b)(2) of section 6211 (defining deficiency);

(ii) section 6212(a) (relating to notice of deficiency);

(iii) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

(iv) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

(v) section 6344(a)(1) (relating to cross references);

(vi) section 6501(e)(3) (relating to limitations on assessment and collection);

(vii) subsections (a) and (b)(1) of section 6512 (relating to limitations in case of petition to Tax Court); and

(viii) section 7422(e) (relating to civil actions for refund).

(G) Section 6212 (relating to notice of deficiency) is amended—

(i) in subsection (b)(1) by striking out "chapter 42" each place it appears and inserting in lieu thereof in each place "chapter 41, chapter 42"; and

(ii) in subsection (c)(1) by striking out "of chapter 43 tax for the same taxable years," and inserting in lieu thereof "of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year,".

(H) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) are amended by striking out "**Chapter 42**" and inserting in lieu thereof in each such place "**Chapter 41, 42,**".

(3) AMENDMENTS TO TABLES OF CHAPTERS AND SECTIONS.—

(A) The table of chapters for subtitle D is amended by inserting before the item relating to chapter 42 the following:

"Chapter 41. Public charities."

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

"Sec. 504. Status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) except as otherwise specified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

(2) in the case of the amendment made by subsection (a)(2), to activities occurring after the date of the enactment of this Act;

(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 13, 1976;

(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and

(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act.

SEC. 2504. TAX LIENS, ETC., NOT TO CONSTITUTE ACQUISITION INDEBTEDNESS.

(a) GENERAL RULE.—Section 514(c)(2) (relating to property acquired subject to mortgages, etc.) is amended by adding at the end thereof the following new subparagraph:

"(C) LIENS FOR TAXES OR ASSESSMENTS.—Where State law provides that—

"(i) a lien for taxes, or

"(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1969.

SEC. 2505. EXTENSION OF SELF-DEALING TRANSITION RULES FOR PRIVATE FOUNDATIONS.

(a) EXTENSION OF RULE.—Section 101(l)(2)(B) of the Tax Reform Act of 1969 is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1977".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions made after the date of the enactment of this Act.

SEC. 2506. IMPUTED INTEREST.

(a) GENERAL RULE.—Section 4942(f)(2) (relating to income modifications) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) section 483 (relating to imputed interest) shall not apply in the case of a binding contract made in a taxable year beginning before January 1, 1970.".

(b) *EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.*

SEC. 2507. TAX INCENTIVES STUDY.

(a) *STUDY.—The Joint Committee on Taxation, in consultation with the Treasury, shall make a full and complete study and comparative analysis of the cost effectiveness of different kinds of tax incentives, including an analysis and study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy.*

(b) *REPORT.—The Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisable.*

(c) *REPORTING DATE.—The final report called for in subsection (b) of this section shall be submitted no later than September 30, 1977.*

And the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

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

TITLE XXVI—OTHER MISCELLANEOUS AMENDMENTS

SEC. 2601. PREPAID LEGAL EXPENSES.

(a) *EXCLUSION.—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:*

"SEC. 120. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

"(a) EXCLUSION BY EMPLOYEE FOR CONTRIBUTIONS AND LEGAL SERVICES PROVIDED BY EMPLOYER.—Gross income of an employee, his spouse, or his dependents, does not include—

"(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

"(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

"(b) QUALIFIED GROUP LEGAL SERVICES PLAN.—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

"(c) *REQUIREMENTS.*—

"(1) *DISCRIMINATION.*—*The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.*

"(2) *ELIGIBILITY.*—*The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.*

"(3) *CONTRIBUTION LIMITATION.*—*Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.*

"(4) *NOTIFICATION.*—*The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.*

"(5) *CONTRIBUTIONS.*—*Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal services, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in section 501(c)(20), (C) to organizations described in section 501(c) which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, except that such organizations shall pay or credit the contribution to an organization or trust described in section 501(c)(20), (D) as prepayments to providers of legal services under the plan, or (E) a combination of the above.*

"(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For purposes of this section—*

"(1) *SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.*—*The term 'self-employed individual' means, and the term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).*

"(2) *EMPLOYER.*—*An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).*

"(3) *ALLOCATIONS.*—*Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed*

by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

"(4) DEPENDENT.—The term 'dependent' has the meaning given to it by section 152.

"(5) EXCLUSIVE BENEFIT.—In the case of a plan to which contributions are made by more than one employer, in determining whether the plan is for the exclusive benefit of an employer's employees or their spouses or dependents, the employees of any employer who maintains the plan shall be considered to be the employees of each employer who maintains the plan.

"(6) ATTRIBUTION RULES.—For purposes of this section—

"(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

"(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(7) TIME OF NOTICE TO SECRETARY.—A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice."

(b) EXEMPT STATUS.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in section 501(c)(20) merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan."

(c) TECHNICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. Amounts received under qualified group legal services plans."

(d) STUDY AND REPORT BY SECRETARIES OF TREASURY AND LABOR.—

(1) A complete study and investigation with respect to the desirability and feasibility of continuing the exclusion from income of certain prepaid group legal services benefits under section 120 of the Internal Revenue Code of 1954 shall be made by the Secretary of Labor and by the Secretary of the Treasury.

(2) The Secretary of Labor and the Secretary of the Treasury shall report to the President and the Congress with respect to the

study and investigation conducted under paragraph (1) not later than December 31, 1980.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1976, and ending before January 1, 1982.

(2) NOTICE REQUIREMENT.—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for giving the notice required by section 120(c)(4) of such Code shall not expire before the 90th day after the day on which regulations described under such section 120(c)(4) first become final.

(3) EXISTING PLANS.—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on June 4, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of such section 120 for the period ending with the compliance date (determined under subparagraph (B)).

(B) COMPLIANCE DATE.—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

SEC. 2602. CERTAIN HOSPITAL SERVICES.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN HOSPITAL SERVICES.—In the case of a hospital described in section 170(b)(1)(A)(iii), the term 'unrelated trade or business' does not include the furnishing of one or more of the services described in section 501(e)(1)(A) to one or more hospitals described in section 170(b)(1)(A)(iii) if—

"(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

"(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

"(3) such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 2603. CLINICAL SERVICES OF COOPERATIVE HOSPITALS.

(a) IN GENERAL.—Section 501(e)(1)(A) (relating to cooperative hospital service organizations) is amended by inserting "clinical," after "food,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1976.

SEC. 2604. SPECIAL RULE FOR CERTAIN CHARITABLE CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.

(a) IN GENERAL.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

"(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an electing small business corporation within the meaning of section 1371(b)) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

"(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

"(ii) the property is not transferred by the donee in exchange for money, other property, or services;

"(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii); and

"(iv) in the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such Act and regulations promulgated thereunder on the date of transfer and for one hundred and eighty days prior thereto.

"(B) AMOUNT OF REDUCTION.—The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

"(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

"(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified

contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

"*(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of section 617, 1245, 1250, 1251, or 1252.*"

(b) EFFECTIVE DATE.—The amendment made by this section applies to charitable contributions made after the date of enactment of this Act, in taxable years ending after such date.

And the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

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

SEC. 2701. EMPLOYEE STOCK OWNERSHIP PLANS.

The Congress, in a series of laws (the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, the Trade Act of 1974, and the Tax Reduction Act of 1975) and this Act has made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free private enterprise system which will solve the dual problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employees. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of the employee trusts and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of these plans. Because of the special purposes for which employee stock ownership plans are established, it is consistent with the intent of Congress to permit these plans (whether structured as pension, stock bonus, or profit-sharing plans) to distribute income on employer securities currently.

And the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

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

SEC. 2702. EXEMPTION OF CERTAIN AMATEUR ATHLETIC ORGANIZATIONS FROM TAX.

(a) IN GENERAL.—Paragraph (3) of section 501(c) (relating to exempt religious, charitable, etc., organizations) is amended by inserting after "or educational purposes," the following: "or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(b) TREATMENT OF GIFTS TO SUCH ORGANIZATIONS FOR INCOME, ESTATE AND GIFT TAX PURPOSES.—

(1) Subparagraph (B) of section 170(c)(2) (relating to definition of charitable contribution) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(2) Paragraph (2) of section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended by inserting after "the encouragement of art" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(3) Paragraph (2) of section 2522(a) (relating to charitable and similar gifts) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),".

(c) An organization which (without regard to the amendments made by this section) is an organization described in section 170(c)(2)(B), 501(c)(3), 2055(a)(2), or 2522(a)(2) of the Internal Revenue Code of 1954 shall not be treated as an organization not so described as a result of the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply on the day following the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

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

SEC. 2703. TAXABLE STATUS OF PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Section 4002(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(f)(1)) is amended by inserting "by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act), or" immediately after "imposed".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 2, 1974.

And the Senate agree to the same.

Amendment numbered 45:

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

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

SEC. 2704. LEVEL PREMIUM PLANS COVERING OWNER-EMPLOYEES.

(a) IN GENERAL.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding after paragraph (6) the following new paragraph:

"(7) CERTAIN LEVEL PREMIUM ANNUITY CONTRACTS UNDER PLANS BENEFITING OWNER-EMPLOYEES.—Paragraph (1)(B) shall not apply to a contribution described in section 401(e) which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of section 401(c)(3)), if—

"(A) the annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

"(B) the participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

For purposes of this section and section 401(e), in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

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

SEC. 2705. LUMP-SUM DISTRIBUTIONS FROM QUALIFIED PENSION, ETC., PLANS.

(a) IN GENERAL.—Section 402(e)(4) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(L) ELECTION TO TREAT PRE-1974 PARTICIPATION AS POST-1973 PARTICIPATION.—For purposes of subparagraph (E) subsection (a)(2), and section 403(a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee's active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution in a previous taxable year of the employee beginning after December 31, 1975, unless no portion of such lump-sum distribution was treated under section 402(a)(2) or 403(a)(2) as gain from the sale or exchange of a capital asset held for more than 6 months."

(b) *EFFECTIVE DATE.—The amendment made by this section shall apply to distributions and payments made after December 31, 1975, in taxable years beginning after such date.*

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

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

SEC. 2706. TAX TREATMENT OF THE GRANTOR OF OPTIONS OF STOCK, SECURITIES, AND COMMODITIES.

(a) Section 1234 (relating to options to buy or sell) is amended to read as follows:

"SEC. 1234. OPTIONS TO BUY OR SELL.

"(a) TREATMENT OF GAIN OR LOSS IN THE CASE OF THE PURCHASER.—

"(1) GENERAL RULE.—Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, an option to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him).

"(2) SPECIAL RULE FOR LOSS ATTRIBUTABLE TO FAILURE TO EXERCISE OPTION.—For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired.

"(3) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to—

"(A) an option which consitutes property described in paragraph (1) of section 1221;

"(B) in the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset; and

"(C) a loss attributable to failure to exercise an option described in section 1233(c).

"(b) TREATMENT OF GRANTOR OF OPTION IN THE CASE OF STOCK, SECURITIES, OR COMMODITIES.—

"(1) GENERAL RULE.—In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 6 months.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CLOSING TRANSACTION.—The term 'closing transaction' means any termination of the taxpayer's obligation under an option in property other than through the exercise or lapse of the option.

*"(B) PROPERTY.—*The *term 'property' means stocks and securities (including stocks and securities dealt with on a 'when issued' basis), commodities, and commodity futures.*

"(3) NONAPPLICATION OF SUBSECTION.—*This subsection shall not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options.*"

(b) EFFECTIVE DATE.—*The amendment made by subsection (a) shall apply to options granted after September 1, 1976.*

And the Senate agree to the same.

Amendment numbered 49:

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

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

SEC. 2707. EXEMPT-INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) GENERAL.—*Section 852(a) (1) (relating to regulated investment companies) is amended to read as follows:*

"(1) *the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gain dividends) equals or exceeds the sum of—*

"(A) *90 percent of its investment company taxable income for the taxable year determined without regard to subsection (b) (2) (D); and*

"(B) *90 percent of the excess of (i) its interest income excludable from gross income under section 103(a) (1) over (ii) its deductions disallowed under sections 265, 171(a) (2), and*".

(b) DIVIDENDS PAID DEDUCTION.—*Section 852(b) (2) (D) (relating to taxable income) is amended to read as follows:*

"(D) *the deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gain dividends and exempt-interest dividends.*"

(c) EXEMPT-INTEREST DIVIDENDS.—*Section 852(b) (relating to method of taxation of regulated investment companies and shareholders) is amended by inserting after paragraph (4) the following new paragraph (5):*

"(5) EXEMPT-INTEREST DIVIDENDS.—*If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c) (4)) of the total assets of the regulated investment company consists of obligations described in section 103(a) (1), such company shall be qualified to pay exempt-interest dividends, as defined herein, to its shareholders.*

"(A) DEFINITION.—*An exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including exempt-interest dividends paid after the close of the taxable year as described in section 855) is greater than the excess of—*

"(i) *the amount of interest excludable from gross income under section 103(a) (1), over*

"(ii) the amounts disallowed as deductions under sections 265 and 171(a)(2),

the portion of such distribution which shall constitute an exempt-interest dividend shall be only that proportion of the amount so designated as the amount of such excess for such taxable year bears to the amount so designated.

"(B) TREATMENT OF EXEMPT-INTEREST DIVIDENDS BY SHAREHOLDERS.—An exempt-interest dividend shall be treated by the shareholders for all purposes of this subtitle as an item of interest excludable from gross income under section 103(a)(1). Such purposes include but are not limited to—

"(i) the determination of gross income and taxable income,

"(ii) the determination of distributable net income under subchapter J,

"(iii) the allowance of, or calculation of the amount of, any credit or deduction, and

"(iv) the determination of the basis in the hands of any shareholder of any share of stock of the company."

(d) TECHNICAL AMENDMENT.—Section 103(g), as redesignated by section 1305 of this Act (relating to exclusions from gross income of interest on certain government obligations) is amended by inserting after paragraph (23) the following new paragraph:

"(24) Exempt-interest dividends.—For treatment of exempt-interest dividends, see section 852(b)(5)(B)."

(e) DISALLOWANCE OF DEDUCTIONS.—Section 265 (relating to nonallowance of deductions for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraphs:

"(3) CERTAIN REGULATED INVESTMENT COMPANIES.—In the case of a regulated investment company which distributes during the taxable year an exempt-interest dividend (including exempt-interest dividends paid after the close of the taxable year as described in section 855), that portion of any amount otherwise allowable as a deduction which the amount of the income of such company wholly exempt from taxes under this subtitle bears to the total of such exempt income and its gross income (excluding from gross income, for this purpose, capital gain net income, as defined in section 1222(9)).

"(4) INTEREST RELATED TO EXEMPT-INTEREST DIVIDENDS.—Interest on indebtedness incurred or continued to purchase or carry shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

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

SEC. 2708. COMMON TRUST FUND TREATMENT OF CERTAIN CUSTODIAL ACCOUNTS.

(a) IN GENERAL.—Section 584(a) (1) (relating to definition of common trust fund) is amended to read as follows:

"(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

"(A) as a trustee, executor, administrator, or guardian, or

"(B) as a custodian of accounts—

"(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the uniform Gifts to Minors Act as published by the American Law Institute, and

"(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities similar to duties and responsibilities of a trustee or guardian; and".

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

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

SEC. 2709. TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.

(a) IN GENERAL.—Subparagraph (B) of section 613A(c)(9) (relating to transfer of oil or gas property), as amended by this Act, is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following:

"(iv) a transfer of property between corporations which are members of the same controlled group of corporations (as defined in paragraph (8)(D)(i)), or

"(v) a transfer of property between business entities which are under common control (within the meaning of paragraph (8)(B)) or between related persons in the same family (within the meaning of paragraph (8)(C)), or

"(vi) a transfer of property between a trust and related persons in the same family (within the meaning of paragraph (8)(C)) to the extent that the beneficiaries of that trust are and continue to be related persons in the family that transferred the property, and to the extent that the tentative oil quantity is allocated among the members of the family (within the meaning of paragraph (8)(C)).

Clause (iv) or (v) shall apply only so long as the tentative oil quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee."

(*b*) *EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.*

And the Senate agree to the same.

Amendment numbered 55:

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

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

SEC. 2710. SUPPORT TEST FOR DEPENDENT CHILDREN OF DIVORCED ETC., PARENTS.

(*a*) *IN GENERAL.—Section 152 (relating to definition of dependents) is amended by striking the word "all" in subsection (e) (2) (B) (i) thereof and inserting in lieu thereof "each".*

(*b*) *EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.*

And the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

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

SEC. 2711. STUDY OF EXPANDED STOCK OWNERSHIP.

(*a*) *IN GENERAL.—Section 3022 (a) of the Employee Retirement Income Security Act of 1974 (relating to duties of Joint Pension Task Force) is amended—*

(1) by resignating pragraphs (4) and (5) as (5) and (6), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) the broadening of stock ownership, particularly with regard to employee stock ownership plans (as defined in section 4975 (e) (7) of the Internal Revenue Code of 1954 and section 407 (d) (6) of this Act) and all other alternative methods for broadening stock ownerhip to the American labor force and others;".

(*b*) *CHANGE OF TITLE.—*

(1) Subtitle B of title III of such Act is amended—

*(A) by striking out "**Pension**" in the caption of such subtitle and inserting in lieu thereof "**Pension, Profit-sharing, and Employee Stock Ownership Plan**",*

(B) by striking out "PENSION" in the caption of part 1 of such subtitle and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(C) by striking out "Joint Pension" each place it appears in sections 3021 and 30222 and inserting in lieu thereof the

following : "Joint Pension, Profit-sharing, and Employee Stock Ownership Plan".

(2) The table of contents of such Act is amended—

(A) by striking out "PENSION" in the items relating to title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN",

(B) by striking out "Pension" in the item relating to subtitle B of title III and inserting in lieu thereof the following: "Pension, Profit-sharing, and Employee Stock Ownership Plan", and

(C) by striking out "PENSION" in the item relating to part 1 of subtitle B of title III and inserting in lieu thereof "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN".

And the Senate agree to the same.

Amendment numbered 58:

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

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

SEC. 2712. INVOLUNTARY CONVERSIONS OF REAL PROPERTY.

(a) IN GENERAL.—Section 1033(g) (relating to involuntary conversions), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE.—In the case of a compulsory or involuntary conversion described in paragraph (1), subsection (a)(3)(B)(i) shall be applied by substituting '3 years' for '2 years'".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any disposition of converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code of 1954) after December 31, 1974, unless a condemnation proceeding with respect to such property began before the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

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

SEC. 2713. SALE OF RESIDENCE BY ELDERLY.

(a) IN GENERAL.—Section 121(b)(1) (relating to gain from sale or exchange of residence of individual who has attained age 65) is amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$35,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

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

SEC. 2714. ADDITIONAL CHANGES IN SUBCHAPTER S SHAREHOLDER RULES.

(a) ESTATE OF DECEASED SPOUSE NOT TO BE TREATED AS SHAREHOLDER.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1) stock which—

"(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State,

"(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

"(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses (by reason of their deaths on the same date), in the same proportion as held by the spouses before such death, or

"(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths,

shall be treated as owned by one shareholder."

(b) BROADENING CLASSES OF PERMISSIBLE SHAREHOLDERS TO INCLUDE CERTAIN TRUSTS.—

(1) Section 1371 (relating to definitions for purposes of subchapter S) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (a), the following trusts may be shareholders:

"(1) A trust all of which is treated as owned by the grantor under subpart E of part I of subchapter J of this chapter.

"(2) A trust created primarily to exercise the voting power of stock transferred to it.

"(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for purposes of subsection (a)(1), be treated as a shareholder.".

(2) Paragraph (2) of section 1371(a) is amended by striking out "(other than an estate)" and inserting in lieu thereof "(other than an estate and other than a trust described in subsection (f))".

(c) NEW SHAREHOLDERS MUST AFFIRMATIVELY ELECT TO TERMINATE ELECTION.—Paragraph (1) of section 1372(e) (relating to termination of election) is amended to read as follows:

"(1) NEW SHAREHOLDERS.—

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

"(i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

"(ii) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary shall by regulations prescribe) to consent to such election on or before the 60th day on which he acquires the stock.

"(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

"(i) The day on which the executor or administrator of the estate qualifies; or

"(ii) The last day of the taxable year of the corporation in which the decedent died.

"(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation.".

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

And the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

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

SEC. 2715. PARTICIPATION BY VOLUNTEER FIREFIGHTERS IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

(a) IN GENERAL.—Section 219(c)(4) (relating to participation in governmental plans by certain individuals) is amended by adding at the end thereof the following new subparagraph:

"(B) VOLUNTEER FIREFIGHTERS.—An individual whose participation in a plan described in subsection (b)(3)(A)(iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

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

SEC. 2716. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) IN GENERAL.—Section 451 (relating to general rules for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.—

"(1) IN GENERAL.—In the case of income derived from the sale or exchange of livestock (other than livestock described in section 1231(b)(3)) in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the Federal Government.

"(2) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3))."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

And the Senate agree to the same.

That the amendment of the Senate numbered 35 is reported in disagreement.

RUSSELL B. LONG,
HERMAN TALMADGE,
ABE RIBICOFF,
LLOYD BENTSEN,
MIKE GRAVEL,
W. D. HATHAWAY,
FLOYD K. HASKELL,
CARL T. CURTIS,
PAUL FANNIN,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
PHIL M. LANDRUM.
CHARLES A. VANIK,
H. T. SCHNEEBELI,
BARBER B. CONABLE, JR.,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 10612) to reform the tax laws of the United States, submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

TABLE OF CONTENTS FOR STATEMENT OF MANAGERS

ADDITIONAL SENATE FLOOR AMENDMENTS

SENATE AMENDMENT NUMBERED 1

House bill.—No provision.

Senate amendment.—The Senate amendment includes the table of contents.

Conference agreement.—The conference agreement omits the Senate table of contents. (The table of contents is inserted under Senate amendment numbered 2.)

SENATE AMENDMENT NUMBERED 2

House bill.—The House bill includes a short title, the table of contents, and the limitation on artificial losses (LAL). LAL provides a limit on accelerated deductions which may be taken currently to the net income from the property. It applied to real estate, farming, oil and gas, movies, equipment leasing, and sports franchises. The amount of the accelerated deductions not allowed currently to be deferred and made available in subsequent years to the extent of net income from the property in a subsequent period.

Under present law, interest and taxes on real property during the construction period may be deducted currently or may be capitalized and depreciated over the life of the property. The House bill applies LAL to interest and taxes during the construction period and to accelerated depreciation (in excess of straight-line depreciation) on a consolidated basis for all real property. Generally, this provision applied to construction beginning after 1975. An exception is provided for residential construction begun before January 1, 1978 (if there is a binding commitment before 1977), and for governmentally subsidized housing on which construction begins before January 1, 1981 (if a binding commitment is obtained before 1979).

Senate amendment.—The Senate amendment includes "findings" that it is the sense of the Senate to deal with the problems of converting ordinary income into captial gain and the deferral of tax resulting from the use of tax shelters by the minimum tax, at risk provisions, recapture provisions, capitalization provisions in certain cases, and partnership provisions.

The Senate amendment does not apply LAL to construction period interest and taxes or to the accelerated depreciation on real property in excess of straight-line depreciation. However, a Senate amendment restricts the amount of partnership liabilities which may be included in a limited partner's basis in his partnership interest to an amount equal to any further contributions (over and above any actual contributions) which the limited partner is obligated to make pursuant to the partnership agreement. The effect of this provision is to limit deductions which may be passed through to a limited partner to the amount of investment which he actually has and will have at risk in

the partnership. (In addition, a Senate amendment included interest during the construction period as a preference item in the minimum tax.)

Conference agreement.—The conference agreement includes the short title and inserts a table of contents which conforms to the conference action. In the case of real estate, the conference agreement adopts a substitute for both the House bill and the Senate amendment, as follows:

SENATE AMENDMENT NUMBERED 3

House bill.—No provision.

Senate amendment.—The Senate amendment includes a short title, a reference to the fact that the provisions included in the bill refer to the provisions of the Internal Revenue Code of 1954, and a provision which requires the Secretary of the Treasury or his delegate to submit to the Committee on Ways and Means, not later than 90 days after date of enactment of the Act, a draft of any technical and conforming changes necessary to reflect the substantive provisions provided by the Act.

Conference agreement.—Under the conference agreement, the short title and the reference to the Internal Revenue Code of 1954 are included in Senate Amendment Numbered 2. The conference agreement does not include the provision requiring the Treasury to submit a draft of changes.

SENATE AMENDMENT NUMBERED 4

201. Recapture of Depreciation on Real Property

House bill.—Under present law, special rules are provided for the recapture of depreciation allowed (or allowable) as a deduction with respect to real estate. In the case of non-residential real estate, any gain realized is treated or "recaptured" as ordinary income to the extent of post-1969 depreciation taken in excess of straight-line depreciation. In the case of residential property generally, this rule applies to property held during the first 100 months (8⅓ years) with a phaseout during the next 100 months; that is, no recapture after 16⅔ years. For governmentally subsidized housing, acquired or constructed before January 1, 1976, the phaseout begins at 20 months (1⅔ years) and is completed at 120 months (10 years).

103. Capitalization and Amortization of Real Property Construction Period Interest and Taxes

Under the conference agreement, construction period interest and taxes are to be capitalized in the year in which they are paid or incurred and amortized over a 10-year period. A portion of the amount capitalized may be deducted for the taxable year in which paid or incurred. The balance must be amortized over the remaining years in the amortization period beginning with the year in which the property is ready to be placed in service or is ready to be held for sale.

The provision is not to apply to any amount that is capitalized at the election of the taxpayer as a carrying charge under present law (sec. 266). In addition, the provision is not to apply to interest or taxes paid

or incurred with respect to property that is not held (or will not be held) for business or investment purposes (e.g., the taxpayer's residence).

Under the conference agreement, separate transitional rules are provided for non-residential real estate, residential real estate, and government subsidized housing.

In the case of nonresidential real estate, this provision is to apply only to property where the construction period begins after December 31, 1975. In the case of residential real estate (other than certain low-income housing), this provision is to apply to construction period interest and taxes paid or accrued after December 31, 1977, and, in the case of low-income housing, to construction period interest and taxes paid or accrued after December 31, 1981. For this purpose, the definition of low-income housing is to be the same as the Senate amendment relating to depreciation recapture.

In addition, the length of the amortization period is to be phased-in over a 7-year period. The amortization period is to be 4 years in the case of interest and taxes paid or accrued in the first year to which these rules apply. The amortization period increases by one year for each succeeding year after initial effective date until the amortization period becomes 10 years (i.e., the 10-year period is fully phased-in for construction period interest and taxes paid or accrued in 1982, in the case of non-residential real estate; 1984, in the case of residential real estate, and 1988, in the case of government subsidized housing). As a transition rule for 1976, the amount that may be deducted currently is 50 percent and the remaining 50 percent is to be amortized over a 3-year period beginning in the year the property is ready to be placed in service or is ready to be held for sale.

The application of the general transitional rules and the phase-in of the amortization period can be illustrated by the following example. Assume that $120,000 of interest and taxes are paid or accrued in 1980 with respect to the construction of residential real estate (other than government subsidized) and that the property is ready to be placed in service in 1982. For taxable year 1980, the $120,000 must be capitalized under this provision, but a deduction is to be allowed for $20,000 (⅙ of the amount capitalized). The remaining $100,000 (i.e., ⅚ of the total) is to be deducted ratably over a 5-year period beginning in 1982 (the year in which the property is placed in service). Thus, $20,000 is to be allowed as a deduction for taxable year 1982 and in each of the next 4 years.

In the case of a sale or exchange of property, the unamortized balance of the construction period interest and taxes is to be added to the basis of the property for purposes of determining gain or loss on the sale or exchange. In the case of a nontaxable transfer or exchange (i.e., a transfer to a partnership or controlled corporation, a like-kind exchange, or a gift), the transferor is to continue to deduct the amortization allowable over the amortization period remaining after the transfer. Thus, in these cases, the allowance of the deduction is considered to be personal to the taxpayer who paid or incurred the interest and taxes because the deduction would have been allowed to him currently but for the capitalization requirement.

The House bill modifies the existing rules relating to the recapture of depreciation on real estate. In the case of residential real estate, the House bill provides for the recapture of all post-1975 depreciation in excess of straight-line, in the same manner as is presently the case for non-residential real estate. In the case of government subsidized housing, the bill provides full recapture of post-1975 depreciation in excess of a straight-line for the first 100 months (8⅓ years) and a phaseout of the amount recaptured during the second 100 months (up to 16⅔ years). There will be no recapture thereafter.

Senate amendment.—In the case of residential real estate (other than government subsidized housing), the Senate amendment is the same as the House bill. In the case of government subsidized housing, the Senate amendment provides full recapture where the construction of the property commences after 1981. In the case where the construction of the property commenced before 1982 (or pursuant to a binding contract entered before such date), the amount of recapture attributable to accelerated depreciation taken after 1975 is to be the present 100-month rule for residential real property. The Senate amendment extends the definition of low-income housing to include subsidized housing programs administered by the Farmers Home Administration.

Conference agreement.—The conference agreement follows the House bill with one modification. With respect to the definition of low-income housing, the conference agreement adopts the definition provided in the Senate amendment.

201A. Five-year Amortization for Low-income Housing

House bill.—Special rules are provided under present law to permit the rapid amortization of expenditures to rehabilitate low-income rental housing. In the case of low-income rental housing, taxpayers can elect to compute depreciation on certain rehabilitation expenditures over 60 months if the additions or improvements have a useful life of 5 years or more. The aggregate rehabilitation expenditures as to any housing must not exceed $15,000 per dwelling unit and the sum of the rehabilitation expenditures for two consecutive taxable years must exceed at least $3,000 per dwelling unit. This special 5-year amortization rule for low-income rental housing expired on December 31, 1975.

The House bill extends the special 5-year depreciation rule for two years (until January 1, 1978). Also the aggregate rehabilitation expenditures that can be taken into account per dwelling unit is increased from $15,000 to $20,000.

Senate amendment.—The Senate amendment is the same as the House bill except that it provides that rehabilitation expenditures that are made pursuant to a binding contract entered into before January 1, 1978, would qualify for the 5-year amortization rule even though the expenditures are actually made after December 31, 1977. The amendment also modifies the definition of families and individuals of low income by providing that the income limits would be determined in a manner consistent with those presently established for the leased housing program under sec. 8 of the 1937 Housing Act.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 5

202. Limitation on Deductions to Amount at Risk

House bill.—Under present law, the amount of losses a taxpayer may claim on any investment activity is generally limited to the taxpayer's cost or other basis in the activity. Basis includes not only the taxpayer's actual cash investment in the property and liabilities the taxpayer is obligated to pay, but also costs financed through nonrecourse loans for which the taxpayer will not be held personally liable. The taxpayer's actual risk of economic loss may also be further limited by other contractual arrangements (such as guarantees or repurchase agreements). As a result, a taxpayer is, in many situations, entitled to deduct losses which substantially exceed the amount he is actually "at risk" in an activity.

The House bill provides that the amount of any loss (otherwise allowable for the year) which may be deducted in connection with (1) the raising of livestock (other than poultry) and the raising or harvesting of grain, oil seed, fiber, pasture, tobacco, silage, or forage crops, or (2) the trade or business of producing, distributing or displaying a motion picture, television film or series for public entertainment cannot exceed the aggregate amount with respect to which the taxpayer is at risk in each such business at the close of the taxable year.

In general, this provision applies to losses incurred after September 10, 1975, in taxable years ending after that date. In the case of films or television tapes, this provision does not apply if the principal photography had begun before September 11, 1975, or if a binding contract for nonrecourse financing of the film was in effect before that date. Also, this provision does not apply to films produced in the United States if the principal photography had begun before January 1, 1976, if certain commitments with respect to that film were made by September 10, 1975.

The House bill also provides that the amount of any deduction (otherwise allowable for the year) for intangible drilling and development costs with respect to oil and gas property may not exceed the aggregate amount with respect to which the taxpayer is at risk at the close of the taxable year. This provision applies to intangible drilling and development costs paid or incurred after December 31, 1975, in taxable years ending after that date.

Senate amendment.—The Senate amendment provides that the amount of any loss (otherwise allowable for the year) which may be deducted in connection with one of certain activities cannot exceed the aggregate amount with respect to which the taxpayer is at risk in each such activity at the close of the taxable year. This "at risk" limitation applies to the following activities: (1) farming (except farming operations involving trees other than fruit or nut trees); (2) exploring for, or exploiting, oil and gas resources; (3) holding, producing, or distributing motion picture films or video tapes; and (4) equipment leasing. The limitation applies to all taxpayers (other than corporations which are not subchapter S corporations) including individuals and sole proprietorships, estates, trusts, shareholders in

subchapter S corporations, and partners in a partnership which conducts an activity described in this provision.[1]

Under this provision, a taxpayer is generally to be considered "at risk" with respect to an activity to the extent of his cash and the adjusted basis of other property contributed to the activity, any amounts borrowed for use in the activity with respect to which the taxpayer has personal liability for payment from his personal assets, and his net fair market value of personal assets which secure nonrecourse borrowings. The Senate amendment applies to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment.

In applying the at risk provision to farming operations,[2] the conferees intend that the existence of a governmental target price program (such as provided by the Agriculture and Consumer Protection Act of 1973) or other governmental price support program with respect to a product grown by a taxpayer does not, in the absence of agreements limiting the taxpayer's costs, reduce the amount which such taxpayer is at risk.

In general, the at risk provisions apply to losses attributable to amounts paid or incurred (and depreciation or amortization allowed or allowable) in taxable years beginning after December 31, 1975. However, with respect to equipment leasing activities, the conferees agreed that the at risk rule would not apply to net leases under binding contracts finalized on or before December 31, 1975, and to operating leases under binding contracts finalized on or before April 30, 1976. With respect to motion picture activities, the conferees also agreed that the at risk provision does not apply to a film purchase shelter if the principal protography began before September 11, 1975, there was a binding written contract for the purchase of the film on that date, and the taxpayer held his interest in the film on that date. The at risk rule also does not apply to production costs, etc., if the principal photography began before September 11, 1975, and the investor had acquired his interest in the film before that date. In addition, the at risk provision does not apply to a film produced in the United States if the principal photography began before January 1, 1976, if certain commitments with respect to the film had been made by September 10, 1975.

In applying the at risk provisions to activities which were begun in taxable years beginning before January 1, 1976 (and not exempted from this provision by the above transition rules), amounts paid or incurred in taxable years beginning prior to that date and deducted in such taxable years will generally be treated as reducing first that portion of the taxpayer's basis which is attributable to amounts not at risk. (On the other hand, withdrawals made in taxable years beginning before January 1, 1976, will be treated as reducing the amount which the taxpayer is at risk.)

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[1] Since, except for subchapter S corporations, this provision does not limit the deductibility of amounts paid or incurred by corporations, the provision would not apply to a partnership in which all the partners are corporations (other than subchapter S corporations).

[2] The conference agreement follows the Senate amendment's definition of farming. Thus, the at risk provision does not apply to forestry or the growing of timber.

202A. The Recapture of Intangible Drilling Costs for Oil and Gas Wells

House bill.—The House bill requires that amounts deducted for intangible drilling expenses on productive wells are to be recaptured upon disposition of the oil or gas property by treating those amounts as ordinary income to the extent that they exceed the amounts which would be allowed if the intangible expenses were capitalized and amortized over the useful life of the well. The provision applies with respect to costs paid or incurred after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

SENATE AMENDMENT NUMBERED 6

203. Termination of Additions to Excess Deductions Accounts (EDA)

House bill.—Present law (sec. 1251) provides, in general, that where a taxpayer has generated substantial losses from farming operations in excess of his income from farming operations (in the same or later years than the losses), he may have to treat certain farm income he later realizes as ordinary income rather than capital gain. The amount of potential recapture is measured by the farm losses in the taxpayer's excess deductions account (EDA). The House bill provides that there will be no further additions to EDA accounts in taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with respect to further additions to EDA accounts. The Senate amendment adds a provision allowing divisive "D" reorganizations without triggering EDA recapture. In these reorganizations, the entire EDA account is applied to both the transferor corporation and the transferee corporation. This provision applies to reorganizations occurring after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 7

204 (a) and (b). Limitations on Deductions for Farming Syndicates and Capitalization of Certain Orchard and Vineyard Expenses

House bill.—No provision. (However, the House bill applies LAL to farming operations and subjected farming syndicates to more restrictive rules than other farming enterprises.)

Senate amendment.—The Senate amendment requires farming syndicates (1) to deduct expenses for feed, seed, fertilizer, and other farm supplies only when used or consumed (not when paid); (2) to capitalize costs of poultry; and (3) to capitalize the costs of planting, cultivating, maintaining and developing a grove, orchard or vineyard which are incurred prior to the year the grove, orchard or vineyard becomes productive. This provision applies generally to taxable years beginning after December 31, 1975, except that it does not apply to

farming syndicates in which securities have been registered for sale with the Securities and Exchange Commission prior to April 15, 1976. The rules apply to orchards, groves and vineyards planted after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, the definition of "farming syndicate" is revised. A farming syndicate includes (1) a partnership or any other enterprise (other than a corporation which has not elected to be taxed under subchapter S) engaged in the trade or business of farming if at any time interests in the partnership or other enterprise have been offered for sale in an offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale or (2) a partnership or any other enterprise (other than a corporation which has not elected to be taxed under subchapter S) engaged in the trade or business of farming if more than 35 percent of the losses during any period are allocable to limited partners or limited enterpreneurs.[1] In general, a limited entrepreneur means a person who has an interest in an enterprise other than a partnership and who does not actively participate in the management of the enterprise.

The determination of whether a person actively participates in the operation or management of a farm depends upon the facts and circumstances. Factors which tend to indicate active participation include participating in the decisions involving the operation or management of the farm, actually working on the farm, living on the farm, or hiring and discharging employees (as compared to only the farm manager). Factors which tend to indicate a lack of active participation include lack of control of the management and operation of the farm, having authority only to discharge the farm manager, having a farm manager who is an independent contractor rather than an employee, and having limited liability for farm losses.

The provision specifies four cases where an individual's activity with respect to a farm will result in his not being treated as a limited partner or limited entrepreneur. These cases cover the situations where an individual—

(1) has an interest attributable to his active participation for a period of not less than 5 years in the management of a trade or business of farming;

(2) lives on the farm on which the trade or business of farming is being carried on;

(3) actively participates in the management of a trade or business of farming which involves the raising of livestock (or is treated as being engaged in active management pursuant to one of the first two exceptions set forth above), and the trade or business of the partnership or any other enterprise involves the further processing of the livestock raised in the trade or business with respect to which he is (actually or constructively) an active participant; or

[1] The term "partnership" is used only in a descriptive sense; it is not intended that this definition of farming syndicate operate to preclude the Internal Revenue Service from applying the regulations under section 7701 to an organization described in such definition to determine its proper classification (as a partnership or corporation) for Federal tax purposes.

(4) is a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual who would be excepted under any of the first three cases listed above and his interest is attributable to the active participation of such individual.

For purposes of the farming syndicate rules, activities involving the growing or raising of trees (other than fruit or nut trees) are not considered farming. Thus, this provision does not apply to forestry or the growing of timber.

The provisions of the conference agreement relating to prepaid feed and other farm supplies and poultry expenses apply generally to amounts paid or incurred in taxable years beginning after December 31, 1975. In the case of farming syndicates in existence on December 31, 1975 (but only if there is no change in membership in the farming syndicate between December 31, 1975, and the end of the syndicate's last taxable year beginning before January 1, 1977), these provisions apply to amounts paid or incurred in taxable years beginning after December 31, 1976. The provisions relating to orchards, groves and vineyards do not apply where the trees or vines were planted or purchased for planting prior to December 31, 1975, or where there was a binding contract to purchase the trees or vines in effect on December 31, 1975.[2]

204(c). Accrual Accounting for Farm Corporations

House bill.—Under present law, any taxpayer engaged in farming may use the cash method of accounting and generally can deduct preproductive period expenses. The House bill generally requires any corporation (other than a subchapter S corporation or a family corporation) and any partnership in which a corporation is a partner to use the accrual method of accounting and to capitalize preproductive period expenses. This provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill with several modifications.

The exception for family corporations is broadened by providing that a corporation can qualify if the members of one family own, directly or through attribution, at least 50 percent (rather than 66⅔ percent) of the voting stock and of all other classes of stock of such corporation. (The lowering of this percentage makes unnecessary two special rules in the House bill, relating to "two-family" ownership and existing stockholdings of certain employees.) The family corporation exception in the House bill is also broadened by allowing attribution of stock ownership, under certain circumstances, through two tiers of corporations.[1]

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[2] The conference agreement provides that if a farming syndicate is engaged in planting, cultivating, maintaining or developing a citrus or almond grove, the provisions of section 278(a) which require capitalization of costs which are attributable to planting, cultivating, maintaining or developing the grove and which are incurred before the close of the fourth taxable year from the year of planting apply prior to the capitalization rules of section 278(b) (which requires the costs to be capitalized if they are incurred prior to the first year in which the grove bears a crop or yield in commercial quantities).

[1] In determining family ownership under this provision, the conferees believe that, if the trustee of a trust has discretion to distribute income or principal to family members or charities and if the trustee has made no distributions (or taken deductions for set-asides) to charities, family beneficiaries should be treated as the sole beneficiaries of the trust.

The conference agreement also added an exception to cover small corporations since a principal justification for use of the cash method of accounting in agriculture is that small enterprises should not be required to keep books and records on the accrual method of accounting. The provision exempts any corporation whose gross receipts (when combined with the gross receipts of related corporations) do not exceed $1,000,000 per year. However, once this level of receipts is exceeded for a taxable year beginning after December 31, 1975, the corporation must change to the accrual method of accounting for subsequent taxable years and may not change back to the cash method of accounting for subsequent taxable years even if its receipts subsequently fall below $1,000,000.

The conference agreement also adds an exception to the required accrual accounting rules for nurseries. Thus, a corporation which is engaged in the business of operating a nursery will not be required to utilize the accrual method of accounting by reason of this section of the conference agreement. No inference is intended, however, with respect to any business operation which is required to utilize the accrual method of accounting under provisions of existing law.

Similarly, the conference agreement makes it clear that for purposes of this provision, a corporation engaged in forestry or the growing of timber is not thereby engaged in the business of farming.[2] Consequently, this provision is not intended to affect the method of accounting (or treatment of preproductive period expenses) of corporations engaged in forestry or the growing of timber.

The conference agreement also adds special rules which provide that if a corporation (or its predecessors) has, for a 10-year period prior to the date of enactment, used an "annual" accrual method of accounting (in which preproductive period expenses are either deducted currently or charged to the current year's crops), it may continue to use this method of accounting. Also, a taxpayer who has used, for a 10-year period, the static value method of accounting for the costs of deferred crops may change to the annual accrual method of accounting and be treated as if it had used such method of accounting for that 10-year period.

Under the conference agreement, this provision applies to taxable years beginning after December 31, 1976.[3]

SENATE AMENDMENT NUMBERED 8

205. Prepaid Interest

House bill.—Under present law, a taxpayer reporting his income on the accrual method of accounting can deduct prepaid interest only in

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[2] This exclusion of forestry or the growing of timber from "farming" is consistent with the distinction drawn in regulations relating to provisions of the Code allowing taxpayers engaged in the trade or business of farming to deduct currently expenditures for soil or water conservation, fertilizer for land used in farming, and land clearing (secs. 175, 180, 182 and Regs. §§ 1.175–3, 1.180–1(b), and 1.182–2).

[3] A partnership with a corporate general partner may be required to use the accrual method of accounting and may also be a farming syndicate subject to limitations on deductible expenses for prepaid feed and other farm supplies, expenses for poultry, and certain expenses of orchards, groves and vineyards. However, feed and other farm supplies are required to be inventoried under the accrual method of accounting, and the expenses (of poultry, orchards, groves and vineyards) that must be capitalized under the farming syndicate rules are also capitalizable preproductive period expenses under the accrual method of accounting (as required by this provision). Consequently, the application of both provisions is not inconsistent; the farming syndicate rules do not appear to impose any additional requirements for an organization subject to this provision.

the period or periods in which the interest represents the cost of using the funds during that period. However, generally, a cash method taxpayer can deduct expenses in the year he actually pays them. It is unsettled, however, whether a cash method taxpayer can deduct prepaid interest in full in the year paid. Recent court decisions have supported the Internal Revenue Service in requiring a cash method taxpayer to allocate his deductions for prepaid interest over the period of the loan.

The House bill requires a cash method taxpayer to deduct prepaid interest over the period of the loan to the extent the interest represents the cost of using the borrowed funds during each period. The House bill also requires points paid on a loan to be deducted ratably over the term of the loan, except in the case of a mortgage incurred in connection with the purchase or improvement of, and secured by, the taxpayer's principal residence. The House bill applies to prepayments made after September 16, 1975, except for prepayments made before January 1, 1976, pursuant to a binding contract or loan commitment in existence on September 16, 1975 (and at all times thereafter).

Senate amendment.—The Senate amendment is the same as the House bill, except that the rule permitting current deductibility of points on a home mortgage is amended to apply only if points are generally charged in the geographical area where the loan is made and to the extent of the number of points generally charged in that area for a home loan. The Senate amendment applies to prepayments of interest on and after January 1, 1976, except for interest paid before January 1, 1978, pursuant to a binding contract or written loan commitment in existence on September 16, 1975.

Conference agreement.—The conference agreement follows the Senate amendment; however, the exception for prepayments of interest pursuant to a binding contract or written loan commitments in existence on September 16, 1975, applies only to prepayments made before January 1, 1977.

SENATE AMENDMENT NUMBERED 9

206. Limitation on deduction of investment interest

House bill.—Under present law, the deduction for interest on investment indebtedness is limited to $25,000 per year plus the taxpayer's net investment income and long-term capital gain plus ½ of any interest in excess of these amounts. The House bill limits the interest deduction for nonbusiness interest (i.e., personal plus investment interest) to $12,000 per year plus the amount of a taxpayer's net investment income and long-term capital gain. However, in no case can personal interest in excess of $12,000 be deducted in any year. Any investment interest which is not deductible because of this limitation may be carried forward and deducted in future years. (There is no carryover of any unused personal interest.)

Senate amendment.—The Senate amendment has no limitation on the deductibility of personal or investment interest (although investment interest in excess of investment income, but not capital gains, is made a preference for purposes of the minimum tax).

Conference agreement.—Under the conference agreement, interest on investment indebtedness is limited to $10,000 per year, plus the taxpayer's net investment income. No offset of investment interest is

permitted against long-term capital gain. An additional deduction of up to $15,000 more per year is permitted for interest paid in connection with indebtedness incurred by the taxpayer to acquire the stock in a corporation, or a partnership interest, where the taxpayer, his spouse, and his children have (or acquired) at least 50 percent of the stock or capital interest in the enterprise. Interest deductions which are disallowed under these rules are subject to an unlimited carryover and may be deducted in future years (subject to the applicable limitation). Under the conference agreement, no limitation is imposed on the deductability of personal interest.

Generally, these rules are applicable to taxable years beginning after December 31, 1975. However, under a transition rule, present law (sec. 163(d) before the amendments made under the conference agreement) continues to apply in the case of interest on indebtedness which is attributable to a specific item of property, is for a specified term, and was either incurred before September 11, 1975, or is incurred after that date under a binding written contract or commitment in effect on that date and at all times thereafter (hereinafter referred to as "pre-1976 interest"). As under present law, interest incurred before December 17, 1969 ("pre-1970 interest") is not subject to a limitation.

Under the conference agreement, carryovers are to retain their character. Thus, carryovers of pre-1976 interest will continue to be deductible under the limitation of present law. Carryovers of post-1975 interest will be subject to the new rules adopted under the conference agreement.

In a case where the taxpayer has interest which is attributable to more than one period (pre-1970, pre-1976, and post-1975), the taxpayer's net investment income is to be allocated between (or among) these periods. For example, assume a taxpayer has $30,000 of pre-1976 interest and $60,000 of post-1975 interest; also assume that the taxpayer has $45,000 of investment income. Under the conference agreement, one-third of the investment income ($15,000) is to be allocated to the pre-1976 interest, which would be fully deductible (the $25,000 allowance, plus the $15,000 of net investment income—exceeds the $30,000 of pre-1976 interest, which is therefore fully deductible). Two-thirds of the net investment income ($30,000) is allocated to the post-1975 interest; this amount, added to the $10,000 allowance provided under the conference agreement, would result in a total deduction of $40,000 for the post-1975 interest. The remaining amount, ($20,000) could be carried forward.

SENATE AMENDMENT NUMBERED 10

207. Amortization of Production Costs of Motion Pictures, Books, Records, and Other Similar Property

House bill.—No provision. (The House bill applies LAL to depreciation or amortization of a film or video tape and also applies LAL to costs of producing, displaying and distributing a film or video tape.)

Senate amendment.—The Senate amendment does not have a LAL provision. The Senate amendment does apply an at risk rule to the film production shelter (see Senate amendment numbered 5). In addition, the Senate amendment contains a capitalization rule, which

requires individuals and subchapter S corporations to capitalize the costs of producing and distributing motion pictures, books, records and other similar property and permits them to deduct these capitalized costs over the life of the income stream generated from the production activity. The amendment applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

Conference agreement.—The conference agreement generally follows the capitalization rules of the Senate amendment. However, the rules are to apply only to production costs (including the costs of making prints of the film for distribution) and not to distribution costs.

SENATE AMENDMENT NUMBERED 11

208. Clarification of Definition of Produced Film Rents

House bill.—Under present law "produced film rents" is one category of personal holding company income. Generally, this category covers payments received by a corporation from the distribution and exhibition of motion picture films if these rents arise from an "interest" in the film acquired before the completion of production. Produced film rents are not treated as personal holding company income, however, if such rents constitute 50 percent or more of the corporation's ordinary gross income.

The House bill clarifies any ambiguities in present law regarding whether a qualifying "interest" in a film includes interests other than depreciable interests. Under the House bill, in the case of a producer who actively participates in producing a film, the term "produced film rents" includes an interest in the proceeds or profit from the film, but only to the extent that this interest is attributable to active participation in production activities.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 12

209. Sports Franchise Provisions

House bill.—Under present law, depreciation taken with respect to player contracts is recaptured on a contract-by-contract basis. In addition, no provision under present law prescribes definitive rules relating to the allocation of a portion of the purchase price for a franchise to depreciable player contracts. Finally, under present law, no portion of the depreciation of player contracts is treated as a tax preference for purposes of the minimum tax.

The House bill applies LAL to depreciation (or amortization) of a specified portion of the basis in player contracts. In the case of the sale or exchange of a sports franchise, the House bill provides that the amount allocable to player contracts by a purchaser could not exceed the amount of the sales price allocated to these contracts by the seller. The House bill also provides a presumption that in the case of the sale or exchange of a sports franchise, not more than 50 percent of the

consideration would be allocable to player contracts unless the taxpayer can satisfy the Secretary of the Treasury that (under the facts and circumstances of the particular case) it is proper to allocate an amount in excess of 50 percent.

Senate amendment.—With respect to the allocation of basis to player contracts, the Senate amendment is the same as the House bill, except that it adds a provision in the case of a one-year corporate liquidation to take into account for purposes of computing the adjusted basis of player contracts, gain realized by the corporation (but only to the extent gain is recognized by the shareholders), and it does not contain the 50-percent presumption rule.

With respect to recapture of depreciation, the Senate amendment is the same as the House bill except that (1) the pool recapture of depreciation and deductions for losses taken with respect to player contracts applies only in the case of the sale or exchange of the entire sports franchise and (2) the amount subject to recapture on the sale of the entire sports franchise would be limited to the greater of (a) the sum of the depreciation taken plus any deductions taken for losses attributable to player contracts initially acquired as a part of the original acquisition of the franchise, or (b) the amount of depreciation taken on those player contracts owned by the seller at the time of sale of the franchise; but not in excess of the gain, if any, attributable to player contracts. This provision would apply to transfers of player contracts in connection with any sale of a franchise after December 31, 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, the conference agreement adopts the 50-percent presumption rule contained in the House bill which is made applicable to the allocation of basis to player contracts acquired in connection with the purchase of a sports franchise.

SENATE AMENDMENT NUMBERED 13
PARTNERSHIP PROVISIONS

210(a). Dollar Limitation with Respect to Additional First Year Depreciation for Partnerships

House bill.—Under present law, an owner of certain tangible personal property is eligible to elect, for the first year the property is depreciated, a deduction for additional first-year (or "bonus") depreciation of 20 percent of the cost of the property. The maximum bonus depreciation deduction is limited to $2,000 ($4,000 for an individual filing a joint return). Where the owner is a partnership, the election for bonus depreciation is made by the partnership; however, the dollar limitation described above is applied to each individual partner rather than to the partnership as a whole.

Under the House bill, the amount of the additional first-year depreciation that a partnership can pass through to its partners in any taxable year is limited to $2,000. This provision applies in the case of partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

210(b). Partnership Syndication and Organization Fees

House bill.—Until recently, it has been common for limited partnerships to claim a deduction for payments made to a general partner for services rendered by him with respect to the syndication and organization of the limited partnership. Recently, the Service ruled (Rev. Rul. 75–214, 1975–1 C.B. 185) that these payments represent capital expenditures and, as such, are not currently deductible. Moreover, in a recent case the United States Tax Court disallowed the deduction for payments of this type made to a general partner. (*Jackson E. Cagle Jr.*, 63 T.C. 86 (1974), on appeal to C.A. 5.)

The House bill requires that fees paid in connection with the organization and syndication of a partnership be capitalized. This provision applies to all taxable years to which the Internal Revenue Code of 1954 applies.

Senate amendment.—The Senate bill is the same as the House bill with respect to syndication fees, but allows the amortization of organization fees over a 5-year period. The provisions in the Senate amendment apply to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment but the provision permitting the amortization of organization fees is delayed until taxable years beginning after December 31, 1976. The conferees intend that no inferences should be drawn as to the deductibility (when paid) of partnership organization and syndication fees paid or incurred in taxable years beginning before Janury 1, 1976.

210(c). Retroactive Allocations of Partnership Income or Loss

House bill.—Presently, investments in tax shelter limited partnerships are commonly made toward the end of the year. It is also common for the limited partnership to have been formed earlier in the year on a skeletal basis with one general partner and a so-called "dummy" limited partner. In many cases, the limited partnership incurs substantial deductible expenses prior to the year-end entry of the limited partner-investors. In these cases, a full share of the partnership's losses for the entire year is usually allocated to these limited partners. These are referred to as "retroactive allocations." It is not clear under present law whether retroactive allocations are permissible, although in practice they are frequently utilized.

The House bill provides that income or losses will be allocable to a partner only for the portion of the year he is a member of a partnership. In determining the income, loss or special item allocable to an incoming partner, the partnership will either allocate on a daily basis or separate the partnership year into two (or more) segments and allocate income, loss or special items in each segment among the persons who were partners during that segment. This provision applies to partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as House bill, except for changes adding clarifying language.

Conference agreement.—The conference agreement follows the Senate amendment.

210(d). Partnership Special Allocations

House bill.—Under present law, a partnership agreement may allocate income, gain, loss, deduction, or credit (or items thereof) among

the partners in a manner that is disproportionate to the capital contributions of such partners. These are referred to as "special allocations" and, with respect to any taxable year, may be made by amendment to the partnership agreement at any time up to the initial due date of the partnership tax return for that year. A partnership agreement special allocation of "any item of income, gain, loss, deduction, or credit" will not be recognized, however, if its principal purpose is to avoid or evade any income tax. Since this provision applies to allocations of *items* of income, gain, loss, deduction, or credit, it has been argued that the provision does not apply to, and would not preclude, allocations of taxable income or loss, as opposed to specific items of income, gain, deduction, loss or credit.

The House bill provides that an allocation of taxable income or loss, as well as any item of income, gain, loss, deduction or credit, will be controlled by the partnership agreement only if the partner receiving the allocation can demonstrate that the allocation has a business purpose and that no significant tax avoidance or evasion results from the allocation. If an allocation made by the partnership is set aside, a partner's share of the income, gain, loss, deduction or credit (or item thereof) will be determined in accordance with the partnership's permanent method of allocating the taxable income or loss, or, if there is no such method, in accordance with the partner's interest in the partnership. These provisions apply to partnership taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except in two minor respects. First, the Senate amendment disallows a special allocation only if it lacks "substantial economic effect", while the House bill does so with respect to a special allocation if it lacks "a business purpose" or if "significant avoidance or evasion of any tax . . . results from such allocation." Second, in the event of a disallowance of a special allocation, the Senate amendment provides for reallocation only in accordance with the partner's interest in the partnership, thereby deleting the House bill's alternative method of reallocating in accordance with the partnership's permanent method of allocating taxable income or loss.

Conference agreement.—The conference agreement follows the Senate amendment.

210(e). Treatment of Partnership Liabilities Where a Partner Is Not Personally Liable

House bill.—No provision.

Senate amendment.—Under present law, a limited partner may deduct his allocable share of all the deductible items of the partnership, but not more than the amount of the basis for his interest in the partnership. A limited partner's basis in his partnership interest is increased (in the same proportion as he shares profits) by any partnership liability with respect to which there is no personal liability on the part of any of the partners. Consequently, a limited partner may substantially increase the basis in his partnership interest, and thus the amount of partnership losses he may deduct, by a portion of the partnership liabilities with respect to which he has no personal liability.

This rule enables limited partners to deduct amounts exceeding the amount of investment they have at risk in the partnership.

The Senate amendment restricts the amount of partnership liabilities which may be included in a limited partner's basis in his partnership interest to an amount equal to any further contributions (over and above any actual contributions) which the limited partner is obligated to make pursuant to the partnership agreement. The effect of this provision is to limit deductions which may be passed through to a limited partner to the amount of investment which he actually has and will have at risk in the partnership. This provision applies to limited partnerships formed after June 30, 1976, except in the case of low-income and moderate-income housing limited partnerships, where it will apply to limited partnerships formed after December 31, 1981.

Conference agreement.—The conference agreement generally follows the Senate amendment, providing that for purposes of the limitation on allowance of losses under section 704(d) of the Code, the adjusted basis of a partner's interest will not include any portion of any partnership liability with respect to which the partner has no personal liability.

It is intended that in determining whether a partner has personal liability with respect to any partnership liability, rules similar to the rules of section 465 (relating to the limitation on deductions to amounts at risk in case of certain activities) will apply. Thus, for example, guarantees and similar arrangements will be taken into account in determining whether there is personal liability.

This provision will not apply to any activity to which section 465 (relating to the limitation on deductions to amounts at risk in case of certain activities) applies, nor will it apply to any partnership the principal activity of which involves real property (other than mineral property).

It is contemplated that this provision and the specific at-risk rules of section 465 could apply to a partnership carrying on more than one activity. For example, a partnership involved in equipment leasing, to which the at-risk provisions of section 465 would apply, may also be indebted on a nonrecourse basis with respect to activities which are unrelated to the equipment leasing activity of the partnership. In this instance, separate computations for purposes of allowance of losses would have to be made under both sections 465 and 704(d).

Under the conference agreement, this provision would apply to liabilities incurred after December 31, 1976.

SENATE AMENDMENT NUMBERED 14

211. Scope of Waiver of Statute of Limitations in Case of Hobby Loss Elections

House bill.—Present law provides generally that if an activity makes a profit in two out of five years, it is presumed not to be a hobby (which would be subject to the limitations on deductions for hobby losses). In certain circumstances, a taxpayer may elect to have the results of cer-

tain years be relevant to the existence of this presumption for earlier years.

The House bill provides that a taxpayer need not waive the statute of limitations for unrelated items on his return in order to take advantage of this special presumption. This provision applies to taxable years beginning after December 31, 1969, except that it does not reopen taxable years with respect to which the statute of limitations has expired and does not limit general waivers of the statute of limitations.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 15

301(a). Minimum Tax for Individuals

House bill.—Under present law, individuals and corporations pay a minimum tax, in addition to their regular income tax, equal to 10 percent of their items of tax preference, reduced by a $30,000 exemption and their regular tax liability. The tax preferences subject to the minimum tax are: (1) the excluded one-half of capital gains; (2) the excess of percentage depletion over the basis of the property; (3) accelerated depreciation on real property; (4) the bargain element of stock options; (5) accelerated depreciation on personal property subject to a net lease; (6) the excess of amortization of on-the-job training and child care facilities over regular depreciation; (7) the excess of amortization of pollution control facilities over regular depreciation; (8) the excess of amortization of railroad rolling stock over regular depreciation; and (9) excess bad debt reserves of financial institutions. Regular taxes not used to offset preferences in the current year may be carried over for up to 7 additional years.

The House bill raises the minimum tax rate to 14 percent, abolishes the deduction for regular taxes, and reduces the exemption to $20,000 (with a phaseout as preferences rise to $40,000). The House bill adds the following new preferences: (1) itemized deductions in excess of 70 percent of adjusted gross income; (2) intangible drilling costs for oil and gas wells in excess of the deduction if costs were capitalized; (3) construction period interest and taxes; (4) accelerated depreciation on all leased personal property (including ADR and bonus first-year depreciation); and (5) depreciation on player contracts of sports teams acquired in connection with a franchise purchase. A deduction is not subject to the minimum tax if deferred under the Limitation on Artificial Losses (LAL). These changes apply only to individuals; estates and trusts.

Also, the House bill directs the Secretary of the Treasury to issue regulations under which neither individuals nor corporations would be subject to the minimum tax on a tax preference if they received no tax benefit from the preference.

Senate amendment.—The Senate amendment raises the minimum tax rate to 15 percent and reduces the exemption to $10,000 or regular tax liability, whichever is greater. It eliminates the carryover of regular taxes. Also, it adds the following new preferences: (1) itemized deductions (other than medical and casualty deductions) in excess of 60 percent of adjusted gross income; (2) intangible drilling costs in excess of the amount deductible if capitalized and in excess of net income from oil production; (3) construction period interest; (4) accelerated depreciation on all personal property subject to a lease (excluding ADR and bonus first-year depreciation, as under present law); and (5) investment interest in excess of investment income

(with income and interest expense of limited partners considered to be investment income and expense). Transition rules are provided for preferences (3) and (5) as applied to low- and moderate-income housing and to houses held as inventory for sale.

Conference agreement.—The conference agreement raises the minimum tax rate to 15 percent. It reduces the exemption to $10,000 or one-half of regular tax liability, whichever is greater, in place of the $30,000 exemption and deduction for regular taxes under existing law. It repeals the carryover of unused regular taxes. Also, it includes the tax benefit rule from the House bill. It adds new preferences for: (1) itemized deductions (other than medical and casualty deductions) in excess of 60 percent of adjusted gross income; (2) intangible drilling costs in excess of the amount deductible if capitalized and written off over 10 years; and (3) accelerated depreciation on all personal property subject to a lease (including ADR but not bonus first-year depreciation).

The new preference for intangible drilling expenses applies to those expenses in excess of the amount which could have been deducted had the intangibles been capitalized and either (1) deducted over the life of the well as cost depletion, or (2) deducted ratably over 10 years; the taxpayer may choose whichever of these two methods of capitalization is most favorable. This preference does not apply to taxpayers who elect to capitalize their intangible drilling costs. Nor does it apply to nonproductive wells. For this purpose, nonproductive wells are those which are plugged and abandoned without having produced oil and gas in commercial quantities for any substantial period of time. Thus, a well which has been plugged and abandoned may have produced some relatively small amount of oil and still be considered a non-productive well, depending on the amount of oil produced in relation to the costs of drilling.

In some cases it may not be possible to determine whether a well is in fact nonproductive until after the close of the taxable year in question. In these cases, no preference is included in the minimum tax base with respect to any wells which are subsequently determined to be nonproductive. Thus, if a well is proved to be nonproductive after the end of the taxable year but before the tax return for the year in question is filed, that well can be treated as nonproductive on that return. If a well is not determined to be nonproductive by the time the return for the year in question is filed, the intangible expenses with respect to that well are to be subject to the minimum tax. However, the taxpayer may later file an amended return and claim a credit or refund for the amount of any minimum tax paid with respect to that well if the well subsequently proves to be nonproductive.

301(b). Minimum Tax for Corporations

House bill. —No provision.

Senate amendment.—Under present law, the minimum tax for corporations is the same as that for individuals, except that the capital gains preference equals 18/48 of capital gains (rather than one-half of such gains) and the preference for accelerated depreciation on personal property subject to a net lease does not apply. The Senate amendment raises the corporate minimum tax rate to 15 percent and reduces the exemption to $10,000 or regular tax liability, whichever is greater.

It eliminates the carryover of regular taxes, effective for taxable years beginning after December 31, 1975. It adds new preferences for construction period interest and accelerated intangible drilling costs in excess of related income. Timber is exempt from the increase in the minimum tax, and commercial banks are exempt from the increase in 1976 and 1977. For 1976, only one-half of the increase in the minimum tax applies. Subchapter S corporations and personal holding companies are treated like individuals under the Senate amendment, not corporations.

Conference agreement.—The conference agreement follows the Senate amendment with several modifications. First, timber is made subject to the minimum tax on the same basis as other industries, but certain adjustments are allowed that have the effect of retaining the old minimum tax for timber. Second, the preferences for construction period interest and accelerated intangible drilling costs are not added to the base of the minimum tax. Third, the delayed effective date for commercial banks is extended to all financial institutions with excess bad debt reserves.

The conference agreement provides special rules for timber income of corporations, including both gains from the cutting of timber and long-term gains from the sale of timber. These rules have the effect of exempting timber income from the increase in the minimum tax for corporations. These rules provide that the item of tax preference for timber gains is to be reduced by one-third and then further reduced by $20,000. Also, the deduction for regular taxes is to be reduced by the lesser of (a) one-third or (b) the preference reduction described above. In effect, the adjustments compensate for the general minimum tax rate increases from 10 percent to 15 percent by scaling down the entire minimum tax base, as it relates to timber, by one-third and then subjecting that lower base to a 15-percent rate. This gives the same result as subjecting the normal tax base to a 10-percent rate. The reduction in timber preferences by $20,000 (two-thirds of $30,000), in effect, compensates timber for the loss of the $30,000 exemption.

The agreement also retains a regular tax carryover for timber. Taxpayers will first have to determine how much of their corporate income tax is attributable to timber income (including both gains from the cutting of timber and long-term gains from the sale of timber). This allocation is to be made under regulations prescribed by the Secretary of the Treasury. This allocation must be made for years prior to 1976 as well as future years, in order to determine how much of a corporation's existing regular tax carryover remains available for use in 1976 and subsequent years. The conferees do not intend that there be a carryover of regular taxes not attributable to timber income. To the extent that regular corporate income taxes attributable to timber exceed the items of tax preference in a taxable year, they may be carried forward for up to 7 additional years. The amount of the carryover that may be deducted in a subsequent year is limited to timber tax preferences in that year, reduced by the timber preference reduction described above, minus the regular tax deduction for the year (as reduced by the regular tax adjustment described above). This has the effect of permitting a carryforward of timber-related regular taxes that are not used in the current year and limiting

the use of that carryforward to the part of the minimum tax base that is attributable to timber.

In accordance with the Senate amendment, the effective date of these changes is delayed for two years for commercial banks, and the delay is extended to other financial institutions. The conferees expect the Secretary of the Treasury to issue regulations dealing with how the minimum tax is to be computed for taxpayers who file consolidated returns with financial institutions. These will involve separating the minimum taxes of the corporations in the group for the years 1976 and 1977, and applying the new rules to preferences of corporations other than financial institutions and the old rules to financial institutions for these years.

In accordance with the Senate amendment, the general carryover of regular taxes is repealed effective for taxable years beginning after December 31, 1975.

SENATE AMENDMENT NUMBERED 16

302. Maximum Tax

House bill.—No provision.

Senate amendment.—Under present law, there is a maximum marginal tax rate of 50 percent on earned income. The amount of earned income eligible for the maximum tax is reduced by current year tax preferences (or, if greater, one-fifth of tax preferences for past five years) in excess of $30,000.

The Senate amendment eliminates the $30,000 exemption to the preference offset and the 5-year averaging provision. It adds the new minimum tax preferences to the preference offset. It also extends the maximum tax to pensions, annuities and deferred compensation.

Conference agreement.—The conference agreement follows the Senate amendment with certain technical modifications. The additional preferences are those added to the minimum tax in the conference agreement, not the Senate amendment.

SENATE AMENDMENT NUMBERED 17

EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

401(a). General Tax Credit

House bill.—The Revenue Adjustment Act of 1975 included a credit equal to the greater of $35 per capita or 2 percent of the first $9,000 of taxable income. This applied for the first half of 1976. The House bill, which was passed before the Revenue Adjustment Act was enacted, includes a tax credit for 1976 equal to the greater of 2 percent of the initial $12,000 of taxable income or $30 per capita.

Senate amendment.—The Senate amendment extends the general tax credit in the Revenue Adjustment Act for the second half of 1976 and for calendar 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

401(b). Standard Deduction

House bill.—Prior to 1975, the minimum standard deduction was $1,300; the percentage standard deduction was 15 percent; and the maximum standard deduction was $2,000. The Tax Reduction Act of 1975 raised the minimum standard deduction to $1,600 for single returns and $1,900 for joint returns; raised the percentage standard deduction to 16 percent; and raised the maximum standard deduction to $2,300 for single returns and $2,600 for joint returns. These increases applied to 1975.

The Revenue Adjustment Act of 1975 raised the minimum standard deduction to $1,700 for single returns and $2,100 for joint returns; the percentage standard deduction to 16 percent; and the maximum standard deduction to $2,400 for single returns and $2,800 for joint returns. These changes applied only to the first half of 1976.

The House bill makes permanent the increases in the standard deduction from the Tax Reduction Act of 1975.

Senate amendment.—The Senate amendment makes permanent the larger increase in the standard deduction from the Revenue Adjustment Act of 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

401(c). Earned Income Credit

House bill.—No provision.

Senate amendment.—Under present law, the earned income credit equals 10 percent of the first $4,000 of earnings. It is phased out as adjusted gross income rises from $4,000 to $8,000 and is refundable. The credit is available only to people who maintain a household for

a dependent child who is either under 19 or a student and for whom they are entitled to claim a personal exemption. This credit applied to 1975 and to the first 6 months of 1976.

The Senate amendment makes the earned income credit permanent. Also, it extends eligibility for the credit to people with adult disabled dependents and to people who maintain a household for a child who is either a student or under age 19 but who are not entitled to claim a personal exemption for the child.

Conference agreement.—The conference agreement follows the Senate amendment, except that it extends the earned income credit only through calendar years 1976 and 1977.

402. Disregard of Earned Income Credit

House bill.—Under present law, refunds resulting from the earned income credit received before July 1, 1976, are to be disregarded in determining eligibility for any benefits under Federal or federally assisted aid programs if the recipient is a beneficiary in the month prior to the refund.

The House bill provides a permanent "disregard" without the requirement of present law that the recipient be a beneficiary of the program in the month before he receives the refund.

Senate amendment.—The Senate amendment provides a permanent "disregard" identical to the one that applied under present law.

Conference agreement.—The conference agreement follows the Senate amendment for calendar years 1976 and 1977, as the conference agreement extends the earned income credit only through calendar 1977.

SENATE AMENDMENT NUMBERED 18

TAX SIMPLIFICATION FOR INDIVIDUALS

501. Revision of Tax Tables for Individuals

House bill.—Under present law, the tax tables are used by taxpayers who use the standard deduction and who have adjusted gross incomes below $10,000 ($15,000 for 1975 only). The House bill adopts new tax tables based on taxable income of $20,000 or less to be used by both standard deductors and itemizers, effective for taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

502. Deduction for Alimony

House bill.—Under present law, taxpayers claiming a deduction for alimony payments must claim them as an *itemized* deduction. The House bill changes the alimony deduction from an itemized deduction to a deduction in arriving at AGI. The change applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

503. Revision of Retirement Income Credit

House bill.—Under present law, for taxpayers age 65 or over, and for taxpayers under 65 who receive a public retirement system pension, a tax credit is provided equal to 15 percent of retirement income up to $1,524 for a single person and $2,286 for a married couple. The maximum amount of retirement income must be reduced on a dollar-for-dollar basis for social security and other types of exempt pension income. For taxpayers age 62 or over and under age 72, these base amounts for the credit are also reduced by one-half of the annual amount of earned income over $1,200 and under $1,700, and by the entire amount of earned income in excess of $1,700.

The House bill simplifies the rules on eligibility for the credit and increases the maximum base for the credit for a single person to $2,500 and for a married couple to $3,750. It also eliminates the parallel to social security by making the credit available for earned income as well as retirement income and renames the credit "credit for the elderly." The bill reduces the maximum amount of the credit base by one-half of AGI in excess of $7,500 for a single person and $10,000

for a married couple filing a joint return. The maximum amount is also reduced by exempt social security and exempt retirement income. Similarly, for public retirement system retirees under age 65, the base for the credit is increased but no change is made in the definition of retirement income. (In the case where one spouse is under 65 and one is over 65, they may elect this treatment or the new provision.) These changes are effective for taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

504. Credit for Child Care Expenses

House bill.—Under present law, taxpayers may claim as an itemized deduction expenses incurred for the care of a child or disabled dependent or spouse up to $4,800 a year. The maximum deduction is reduced by one dollar for every two dollars of income in excess of $35,000. Payments to relatives are not deductible.

The House bill converts the deduction to a tax credit of 20 percent of eligible expenditures. It limits the maximum eligible expenses to $2,000 for one dependent and $4,000 for two or more; and eliminates the $35,000 income limit. The bill extends the credit to married couples where one spouse works part-time or is a student and to divorced or separated parents who have custody of a child. The bill also makes payments to relatives who are not dependents of the taxpayer deductible if: (1) they do not live in the taxpayer's home and (2) their pay for child care is subject to social security tax. These changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that the credit is refundable and payments to relatives who are members of the taxpayer's household are eligible.

Conference agreement.—The conference agreement follows the Senate amendment except that the credit is not refundable.

505. Sick Pay and Certain Disability Pensions

House bill.—Under present law, an employee may exclude from income up to $100 a week received under wage continuation plans when he is absent from work on account of injury or sickness. Military personnel can exclude from income pensions for personal injuries or sickness paid by the Department of Defense (as well as all Veterans Administration disability compensation).

The House bill repeals the sick pay exclusion and provides an exclusion of up to $5,200 a year for retirees under age 65 who are permanently and totally disabled. The bill reduces this $5,200 exclusion dollar-for-dollar for AGI (including disability income) in excess of $15,000. It also eliminates the exclusion for non-combat related disability pensions for those who joined the armed forces after September 24, 1975, but continues the exemption for V.A. disability compensation or an equivalent amount paid by the Deportment of Defense. These changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment retains the present law sick pay exclusion but adds a dollar-for-dollar phaseout of the

exclusion for adjusted gross income (including sick pay) in excess of $15,000. The Senate amendment also includes separate language extending the sick pay provision to civilian Federal employees, regardless of age, who by the date of enactment retired, or were entitled to retire, on disability, and who were either totally or partially disabled by the date of enactment.

In the case of the military, the amendment, like the House bill, eliminates the exclusion for noncombat-related disability pay, and allows disability payments for injuries to civilian government employees resulting from acts of terrorism the same exclusion granted military disability payments for combat-related injuries.

Conference agreement.—The conference agreement follows the House bill. (The Conference agreement also includes a separate Senate provision regarding the exclusion for disability payments for injuries to civilian government employees resulting from acts of terrorism; this provision is included in section 2501, Senate amendment 38.)

The conference agreement also includes a clarifying technical amendment applicable to partially disabled individuals who were retired on disability before January 1, 1976, and were entitled to a sick pay exclusion on December 31, 1975. For purposes of the section 72 annuity exclusion, such an individual's annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of the sick pay exclusion for such year and all subsequent years.

506. Moving Expenses

House bill.—Under present law, a taxpayer may deduct expenses of up to $2,500 for house-hunting, the sale of a residence, and temporary lodging, related to moving to a new place of work which is 50 miles farther from his former residence than was his former place of work. As a result of the lapse of the moratorium (provided by legislation) on the application of the Tax Reform Act of 1969 with respect to the new moving expense rules in the case of the military, in-kind moving services and moving expense reimbursements for members of the armed forces are includible in income and deductible under the same rules as civilians.

The House bill increases the $2,500 maximum deduction to $3,000 and decreases the 50-mile test to 35 miles. It exempts in-kind or reimbursed moving expenses for members of the armed forces on active duty moved by military orders. The changes apply to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it increases the $3,000 maximum to $3,500 and expands the provision for the military to include (a) the cost of moving a spouse to a place in the United States when the member is stationed overseas and (b) the cost of storing personal effects of military personnel who are forced to relocate when such costs are borne by the armed services. The Senate amendment changes apply generally for taxable years beginning after December 31, 1976, except that the military provisions apply for years after 1975.

Conference agreement.—The conference agreement generally follows the Senate amendment except that the $3,000 limit of the House

bill is adopted. With regard to military moves, the conference agreement also exempts military moves from the time and mileage requirements and excludes from income cash reimbursements or allowances to the extent of expenses actually paid or incurred, as well as all in-kind services provided by the military. The Armed Services are exempted from the reporting requirements under section 82 with regard to in-kind moving services, reimbursements and allowances provided to members. In addition, the conference agreement provides that when a military member is required to relocate and the member's spouse and dependents cannot accompany the member and must move to a different location, all in-kind moving and storage expenses, and reimbursements and allowances (to the extent of moving expenses actually paid or incurred) provided by the military to move the member and the spouse and dependents both to and from their separate locations are excluded from income. In cases where the military moves the member and the member's spouse and dependents to or from separate locations and they incur unreimbursed expenses, their moves are treated as a single move to a new principal place of work for purposes of section 217.

507. Tax Simplification Study by Joint Committee

House bill.—No provision.

Senate amendment.—Present law (sec. 8022 of the Code) provides that the Joint Committee on Internal Revenue Taxation is to investigate the operation and effects of the Federal system of internal revenue taxes, including studies for the simplification of the income tax. The Joint Committee is to publish its proposals and report the results and any recommendations to the Finance and Ways and Means Committees.

The Senate amendment requires the Joint Committee to conduct a study on "simplifying and indexing the tax laws" (including whether tax rates can be reduced by repealing any or all tax deductions, exemptions or credits). A report is to be submitted to the Senate Finance and House Ways and Means Committees within 18 months of the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment except that the report is to be submitted by June 30, 1977.

Section Omitted from Senate Amendment No. 18:

Treasury Report on Simplification of Income Taxes

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Secretary of the Treasury to submit a final report on its study on tax simplification (including an analysis of the integration of corporate and individual income taxes) to the Senate Finance and House Ways and Means Committees.

Conference agreement.—The conference agreement omits this provision, as the Treasury Department is planning to submit its report in January 1977.

SENATE AMENDMENT NUMBERED 19

BUSINESS-RELATED INDIVIDUAL INCOME TAX PROVISIONS

601(a). Deductions for Expenses Attributable to Business Use of Homes

House bill.—The House bill provides definitive rules relating to deductions for expenses attributable to the business use of homes. Under the House bill, a taxpayer is not permitted to deduct any expenses attributable to the use of his home for business purposes except to the extent attributable to the portion of the home used exclusively on a regular basis as: (a) the taxpayer's principal place of business, or (b) a place of business which is used for patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of business. Further, in the case of an employee, the business use of the home must be for the convenience of his employer. An exception to the exclusive use test is provided where the dwelling unit is the sole fixed location of a trade or business which consists of selling products at retail and the taxpayer regularly uses a separate identifiable portion of the residence for inventory storage. An overall limitation is provided which limits the amount of the deductions to the income generated by the business activity of the taxpayer in his home. The provision applies after 1975.

Senate amendment.—The Senate amendment is the same as the House bill except a deduction is allowed for the portion of the dwelling unit which is exclusively used on a regular basis (a) as the sole fixed location of the taxpayer's trade or business of selling goods or services at retail or wholesale, but only if the portion is used in connection with the sale of goods or services, (b) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business, or (c) if the employer provides no office or fixed location for the use of the employee in the employer's trade or business (in connection with such trade or business). In addition, the Senate amendment provides that the business use of home includes in its meaning the use of the home in connection with the management, conservation, or maintenance of property held for the production of income and which is the substantial business of the taxpayer.

Conference agreement.—The conference agreement follows the House bill but includes the exception under the Senate amendment for a separate structure exclusively used on a regular basis in connection with the taxpayer's trade or business. In addition, the conference agreement permits the exception for inventory storage to apply in the case of a wholesale business as well as a retail business.

601(b). Rental of Vacation Homes

House bill.—Under present law, there are no definitive rules relating to how much personal use of vacation property will result in the disallowance of losses because the rental activities are not engaged in for profit. The House bill provides a limitation on the amount allowable to a taxpayer for the deductions attributable to the rental of a vacation home if the home is used by a taxpayer for personal purposes in excess of the greater of 2 weeks or 5 percent of the actual business use (that is, its rental time). In this case, the deductions allowed in connection with a vacation home cannot exceed the gross income from the business use of the vacation home, except expenses which are allowable in any event (such as interest and taxes). The provision applies after 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that: (1) one of the tests relating to the determination of personal use is increased from 5 percent to 10 percent of the number of days during the year for which the vacation home is rented; and (2) if a vacation home is actually rented for less than one month during the year, then no business deductions nor income derived from the use of the vacation home are to be taken into account in the taxpayer's return for the year.

Conference agreement.—The conference agreement follows the Senate amendment but reduces the rental period from less than one month to less than 15 days in the case where neither business deductions nor income from the use of the vacation home is to be taken into account in the taxpayer's return for the year.

602. Deductions for Attending Foreign Conventions

House bill.—Generally, to be deductible under present law, traveling expenses (domestic and foreign) must be ordinary and necessary in the conduct of the taxpayer's business and directly attributable to the trade or business. If a trip is primarily related to the taxpayer's business, the entire traveling expenses (including food and lodging) to and from a destination are deductible. If a trip is primarily personal in nature, the traveling expenses to and from the destination are not deductible even if the taxpayer engages in business activities while at the destination. With respect to expenses incurred in attending a convention or other meeting, deductibility depends upon the facts and circumstances of each case.

The House bill modifies the facts and circumstances test under existing law and provides definitive rules for the deductibility for expenses incurred in attending certain conventions or similar meetings. Deductions would be allowed for expenses incurred in attending not more than two conventions, educational seminars, or similar meetings outside the United States, its possessions and the Trust Territory of the Pacific.

The amount of the deduction for transportation expenses to and from these foreign conventions could not exceed the cost of airfare based on coach or economy class charges. Transportation expenses would be deductible in full only if more than one-half of the total days of the trip (excluding the days of transportation to and from the site of the convention) are devoted to business-related activities.

If less than one-half of the total days of the trip are devoted to business-related activities, a deduction would be allowed for transportation expenses only in the ratio of the business time to total time.

In addition, deductions for subsistence expenses, such as meals, lodging, and other ordinary and necessary expenses, paid or incurred while attending the convention would be limited to the fixed amount of per diem allowed to government employees at the location where the convention is held. However, in order to deduct subsistence expenses up to this limitation for a day, there must generally be at least 6 hours of business-related activities scheduled daily (or 3 hours for a deduction for one-half day) and the taxpayer must attend two-thirds of these activities. The provision applies to conventions held after December 31, 1975.

Senate amendment.—The Senate amendment provides that no deduction is to be allowed for expenses allocable to a convention, seminar or other meeting held outside the North American area unless, taking certain factors into account, it is more reasonable for the meeting to be held outside the North American area than within it. Generally, this requirement would be satisfied if the application of these factors demonstrated a compelling need to hold the meeting outside the North American area. In addition, no deduction would be allowed for a convention, etc., held on a cruise ship. The amendment applies generally to meetings held after June 30, 1976. However, it does not apply to any trip which begins before 1978, if it is established that the meeting was publicly announced before 1976 and that accommodations for the meeting were booked before 1976.

Conference agreement.—The conference agreement follows the House bill with two modifications and the addition of certain reporting requirements. The House bill rule limiting the deduction for travel expenses to an amount not in excess of the lowest coach or economy rate charged by any commercial airline is modified to allow a deduction for reasonable costs of travel within the United States. Additionally, in the case where the taxpayer travels coach or economy class on a regularly scheduled flight operated by a commercial airline, the conferees intend that the deductible transportation cost taken into account will generally be limited to the coach or economy rate charged by the airline for.

The conference agreement provides that no deduction is to be allowed unless the taxpayer complies with certain reporting requirements in addition to present law substantiation requirements. Under these reporting requirements, the taxpayer must furnish information indicating the total days of the trip exclusive of the transportation days to and from the convention, the number of hours of each day that he devoted to business-related activities, attach a program or agenda of the convention activities (and a brochure describing the convention, if available), and furnish any other information required by regulations. In addition, the taxpayer must attach a statement signed by an appropriate officer of the organization to his income tax return which must include a schedule of the business activities of each convention day, the number of hours of business-related activities that the taxpayer attended each day and any other information required by regulations.

Under the conference agreement the provision is to apply to conventions, seminars and similar meetings which take place after December 31, 1976.

603. Qualified Stock Options

House bill.—The House bill repeals qualified stock option treatment and subjects qualified stock options to the same rules as presently apply in the case of nonqualified options. The bill generally applies to options granted after September 23, 1973, but contains certain transition rules for options granted after that date under preexisting plans.

Senate amendment.—The Senate amendment is generally the same as the House bill, including the transition rules, but applies to options granted after May 20, 1976. In addition, however, the Senate amendment contains a provision which allows an employee to elect early valuation of an option which does not have a readily ascertainable fair market value at the time it is granted. If the election is made, the option is to be valued and be subject to tax at the time it is granted. Otherwise, tax recognition is to be postponed until the option is exercised.

Conference agreement.—Under the conference agreement, the qualified stock option provisions are repealed. The additional provision in the Senate amendment dealing with an election for early valuation of an option which does not have a readily ascertainable fair market value when granted is not included in the bill (but see discussion below.) The agreement adopts the effective date of the Senate amendment. In interpreting the transition rules, the conferees agree with the statement in the Senate Finance Committee Report (p. 164) that if a corporation adopted an option plan in 1974 and is reorganized in 1977 into a holding company with one or more operating subsidiaries, the holding company may adopt the 1974 option plan and continue to grant qualified stock options to the extent permissible had the reorganization not occurred.

Under the conference agreement, for the future, all options are to be governed under the rules which apply under present law for nonqualified stock options. This means that if the option has a "readily ascertainable fair market value" at the time it is granted, then the value of the option will constitute ordinary income to the employee at that time, but any gain later realized by the employee upon the sale of any stock acquired under the option will generally be treated as capital gain. On the other hand, if the option does not have a readily ascertainable fair market value at the time it is granted, it would not constitute income to the employee at that time, but if the option is subsequently exercised, and if the fair market value of the stock exceeds the option price, this excess will constitute ordinary income to the employee at the time the option is exercised.

The conferees intend that in applying these rules for the future, the Service will make every reasonable effort to determine a fair market value for an option (i.e., in cases where similar property would be valued for estate tax purposes) where the employee irrevocably elects (by reporting the option as income on his tax return or in some other manner to be specified in regulations) to have the option valued at the time it is granted (particularly in the case of an option granted for a

new business venture). The conferees intend that the Service will promulgate regulations and rulings setting forth as specifically as possible the criteria which will be weighed in valuing an option which the employee elects to value at the time it is granted.

The conferees intend that under these rules, the value of an option would be determined under all the facts and circumstances of a particular case. Among other factors that would be taken into account would be the value of the stock underlying the option (to the extent that this could be ascertained), the length of the option period (the longer the period, the greater the chance the underlying stock might increase in value), the earnings potential of the corporation, and the success (or lack of success) of similar ventures. Corporate assets, including patents, trade secrets and knowhow would also have to be taken into account.

The conferees anticipate that under the Service's rules, certain options, such as those traded publicly, would be treated as having a readily ascertainable fair market value, regardless of whether the employee makes an election. However, the regulations could provide that in certain other cases the option would ordinarily not be valued at the time it is granted unless the employee so elects.

604. Deduction for Legislators' Travel Expenses Away From Home

House bill.—Under present law, the place of residence of a Member of Congress within the Congressional district he represents in Congress is considered his tax home. However, amounts expended by the Member within the tax year for living expenses away from home are not deductible in excess of $3,000. The House bill modifies the $3,000 limitation presently allowed to Members of Congress to provide that deductions by a Member of Congress would be limited to an amount determined by the IRS. The IRS is to establish an annual amount taking into account the number of days that the Members are away from home, the cost of living in Washington, D.C., and the amount normally allowed businessmen in similar circumstances.

The rule under present law (as described above) for determining the tax home of a Member of Congress does not apply in the case of a State legislator. The tax home of a State legislator is determined by taking into account a number of factors, such as: (a) the total time ordinarily spent by the taxpayer at each location, (b) the degree of business activity at each location, (c) the amount of income ordinarily spent by the taxpayer at each location, etc. The House bill provides that the tax home of a State legislator is his place of residence within the legislative district he represents. The allowable deduction for living expenses is limited to an amount determined by the IRS. The IRS is to determine a daily amount taking into account the cost of living at the place where the State legislature meets and the amounts normally allowed businessmen under similar circumstances. A State legislator is allowed to deduct up to this daily amount multiplied by the number of days of his legislative participation during the calendar year.

This provision generally applies for taxable years beginning after December 31, 1974. For taxable years beginning before December 31, 1974, a State legislator can elect to have the above rules apply. If an election is made, the legislator is to be treated as having expended for

living expenses an amount equal to the daily per diem allowed U.S. Government employees of the Executive branch multiplied by the number of days the State legislature was in session. However, the total amount of deductions allowable cannot exceed the amount already claimed on the State legislator's tax return for the year in question.

Senate amendment.—The Senate amendment deletes the provision in the House bill relating to Members of Congress; thus, the present $3.000 limitation is retained.

In the case of State legislators, the Senate amendment is the same as the House bill except that it (1) provides that the Secretary of Labor (rather than the IRS) is to establish the daily amount allowable as a deduction for State legislators, and (2) modifies the definition of a legislative day for taxable years beginning on or before January 1, 1976, to include any day in which the State legislature was not in session for a period of 4 consecutive days or less.

Conference agreement.—The conference agreement follows the Senate amendment in the case of Members of Congress. In the case of State legislators, the conference agreement follows the Senate amendment but only for taxable years beginning before January 1, 1976.

605. Nonbusiness Guaranties

House bill.—Where a taxpayer has a loss arising from the guaranty of a loan, he would receive the same treatment as where he has a loss from a loan which he makes directly. If the guaranty arose out of the guarantor's trade or business, the loss would be treated as an ordinary loss. If the guaranty were a transaction entered for profit by the guarantor (but not as part of his trade or business), the loss would be treated as a short-term capital loss. The provision applies to taxable years beginning after 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill. This provision applies to losses for taxable years beginning after December 31, 1975, in connection with guaranties made after that date.

SENATE AMENDMENT NUMBERED 20

701. Accumulation Trusts

House bill.—Under present law, distributions by a trust of previously accumulated income are taxed substantially the same as if they were distributed when earned, i.e., "thrown back" to the year earned. The tax on the distributions of previously accumulated income is computed under either the "exact method" or the "short-cut" method. Under the "exact method", the tax on the accumulation distribution is the sum of the additional taxes that would have been payable by the beneficiary if the income had been distributed when earned and if the tax on the beneficiary had been entirely recomputed. Under the "short-cut" method, the tax on the accumulation distribution is computed by averaging the accumulation distribution over the number of years during which the accumulated income was earned by the trust, including this average amount in the beneficiary's income for each of the 3 immediate prior years, and then multiplying the average additional tax for those years by the number of years during which the accumulated income was earned. Under both methods, the beneficiary is entitled to a credit for taxes paid by the trust on the accumulation distribution. The "throw-back" rules also apply to distributions of accumulated capital gains.

The House bill repeals the "exact method" of computing the tax on accumulation distributions. It also modifies the "short-cut" method by throwing back the average accumulation distribution to 3 of the 5 preceding years, excluding those years with the highest and lowest incomes. It does not permit refunds of excess taxes paid by the trust. In addition, the House bill provides that income accumulated prior to the beneficiary's attaining the age of 21 and the years a beneficiary was not in existence are not subject to the throw-back rule. The House bill also provides special rules for multiple trusts. Finally, the House bill repeals the capital gain throw-back rules, but taxes the "built-in" gain on sales occurring within 2 years of the transfer to the trust as short-term capital gain. The provision applies to distributions made in taxable years beginning after 1974.

Senate amendment.—The Senate amendment generally follows the House bill, except that instead of a 2-year holding period, the trust is taxed at the grantor's rate brackets on "built-in" gain on sales or exchanges occurring within 2 years of the transfer to the trust. In addition, the Senate amendment delays the House effective date one year so that the modifications apply to distributions made in taxable years beginning after December 31, 1975. An exception is made to apply the new rules to distributions actually made after 1975 in those

cases where the distributions are deemed to have been made before 1977. The special rule for gain on property transferred to a trust applies to transfers made after May 21, 1976.

Conference agreement.—The conference agreement follows the Senate amendment, except that it deletes one of the effective date provisions in the Senate amendment which would have made the modifications in the accumulation distribution rules applicable to deemed distributions made before 1977, if the actual distributions were made after 1975.

SENATE AMENDMENT NUMBERED 21

CAPITAL FORMATION

801. Extension of $100,000 Limitation on Used Property for the Investment Credit

House bill.—Prior to 1975, up to $50,000 of the cost of used property could be taken into account as qualified investment for purposes of the investment tax credit for a taxable year. The Tax Reduction Act of 1975 increased the amount to $100,000 for 1975 and 1976. The House bill extends the limit of $100,000 on used property for 4 additional years, through December 31, 1980.

Senate amendment.—The Senate amendment makes permanent the increased limitation of $100,000 on used property.

Conference agreement.—The conference agreement follows the House bill.

802(a). Extension of 10-Percent Investment Credit

House bill.—Present law provides a permanent investment credit of 7 percent (4 percent for certain utility property) for qualified investment. The Tax Reduction Act of 1975 increased the credit to 10 percent for all qualified property (including utility property) through December 31, 1976.

The House bill extends the 10-percent credit for 4 years, through December 31, 1980.

Senate amendment.—The Senate amendment makes permanent the 10-percent credit.

Conference agreement.—The conference agreement follows the House bill.

802(b). First-in-First-out Treatment of Investment Credits

House bill.—No provision.

Senate amendment.—Present law provides in general that the amount of investment credit used in any year cannot exceed $25,000 of tax liability plus 50 percent of any liability in excess of $25,000. A 3-year carryback and 7-year carryforward is then applied to credits which are not used because of the tax liability limitation. (A 10-year carryforward is available for pre-1971 credits.) Generally, investment credits earned in a particular year are applied first to the tax liability for that year, after which carryovers and carrybacks of unused credits from other years may be applied.

Under the Senate amendment, credits carried over are used first and then credits earned currently are used; after that, any carryback credits may be applied. If there is more than one carryforward or carryback to a particular year, the oldest credit is generally used first. The amendment applies to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

803. ESOP Investment Credit Provisions

House bill.—No provision.

Senate amendment.—Under present law an extra percentage point of investment credit (11 percent rather than 10 percent) is allowed where the additional credit amount is contributed to an employee stock ownership plan (ESOP). The additional credit expires after 1976. The Senate amendment increases the additional ESOP credit to 2 percentage points permanently, for taxable years beginning after December 31, 1976.

The Senate amendment also makes a series of modifications in the case of ESOPs. It (1) prevents flow-through of the investment credit contributed by a public utility to an ESOP; (2) permits employer securities to be contributed to an ESOP as the credit is allowed rather than when it is claimed; (3) provides that future contribution under the investment credit rules may be reduced if investment credits which have been contributed to an ESOP are recaptured or disallowed; (4) permits use of stock of "brother-sister" corporations, "second-tier" subsidiaries and corporations which would be affiliates except for nonvoting preferred stock to be contributed to an ESOP under the investment credit rules; (5) excludes employer stock held by an ESOP for purposes of determining whether corporations are sufficiently affiliated to permit the filing of consolidated returns; (6) permits ESOPs to be considered permanent plans even though contributions are contingent upon the availability of the additional investment credit; (7) doubles the dollar amount the overall limitation on contributions permitted to be made to an ESOP and provides that employee compensation for purposes of the ESOP rules is the same as that under the overall limitations; (8) permits a limited amount of "start up" and administrative expenses to be charged against the additional investment credit contributed to an ESOP; ad (9) permits an employer to qualify for the additional 1975 investment credit if the additional credit is contributed to an ESOP not later than 90 days after date of enactment. These nine provisions are generally effective for taxable years beginning after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment but limits the additional credit program to qualified investments made before January 1, 1981, and limits the additional credit generally to 1 percentage point. An additional one-half percentage point is available only if the first percentage point is contributed to the ESOP, and only to the extent the one-half percent is matched by employee contributions to the ESOP. Under the conference agreement, separate accounting would be required for matching employee and employer contributions continuing present law treatment, an employer contribution for a taxable year in excess of the amount attributable to the additional credit allowed for such year is deductible for that year, subject to the usual rules for deduction of contributions to employee plans.

Under the conference agreement, employer and employee contributions to an investment credit ESOP are subject to overall limitations on contributions and benefits under tax-qualified pension, etc. plans.

These limitations may restrict the amount of additional investment credit allowable

The conferees intend that employee contributions can be taken into account for the additional credit if they are contributed to the plan before the end of the year in which the credit is allowed or if the contributions are pledged by the employees to be paid within 2 years after the close of that year and the pledge is made before the return is filed. If employee contributions are made in excess of the amount pledged and matched with employer contributions, additional credit can be claimed by the employer for the year the property giving rise to the credit was placed in service. Under the agreement, employee contributions made under the matching rules are to be invested in employer securities under the same rules that apply to employee contributions.

If the plan provides, the agreement permits funds contributed by the employer to be withdrawn from an investment credit ESOP (1) to refund employer contributions which are not matched by employee contributions within the period specified, or (2) to permit the employer to recover from the ESOP any portion of the employer's contribution which is recaptured from the employer under the investment credit rules (for example, where the property for which the credit is claimed is disposed of prematurely). The conferees intend that the withdrawal of employer contributions made under the one-half percent credit rules because they are not matched by employee contributions, or a withdrawal of employer contributions under the recapture rules should not cause the plan to be considered as other than for the exclusive benefit of employees and that employee rights to employer-derived benefits under the plan should not be considered forfeitable merely because employer contributions of investment credit may be withdrawn under the matching or recapture rules. Recovery of recaptured investment credit would not be permitted unless the employer contributions for each year are separately accounted for (all contributions made before enactment of the Act could be aggregated for this purpose).

Under the conference agreement, employee funds contributed to an ESOP are subject to employee withdrawal unless they are macthed by employer contributions under the one-half percent credit rules. For example, if matching employer contributions cannot be made because of the overall limitations on benefits and contributions (sec. 415 of the Code) the unmatched employee contributions would be refunded to the employee (unless he instructs the plan to the contrary).

Also, under the agreement employee contributions to an investment credit ESOP are subject to the same antidiscrimination rules as apply to employee contributions under a tax-qualified pension plan, and matched employee contributions are subject to the same restrictions on distribution as employer contributions (generally, no withdrawal is permitted for 84 months).

Employee contributions may not be compulsory; that is, employee contributions may not be made a condition of employment or a condition of participation in the plan. Of course, the level of employer-derived benefits under the matching rules may depend upon employee contributions.

The conference agreement follows the Senate amendment on items (1) through (8) above, but provides that the non-flow through rule applies to credits claimed for taxable years after 1975. The agreement also provides that on recapture a deduction for the employer or recovery of the recaptured contribution from the ESOP are available as additional alternatives. To use the option of recapture from an ESOP for any year's contribution, the ESOP must establish separate accounts for that year's contribution. Under (8), the ESOP may pay "start up" and ongoing administrative expenses, but an annual ceiling of $100,000 was agreed to with respect to ongoing expenses (in addition to the limits by the Senate amendment). The grace period under (9) was not agreed to. The conferees agreed that contributions could be made to a plan contingent upon an Internal Revenue Service determination that the plan qualifies under the investment credit and employee plan rules.

The conferees understand that some employers may have reduced their estimated tax payments in anticipation of the enactment of the 90-day grace period provision (item (9)) or anti-flow through provisions of the Senate amendment. Because that provision was not agreed to, the agreement provides that no penalties are to be imposed for underpayment of the tax where the underpayment is caused by the taxpayer's inability to avail itself of the grace period or anti-flow through provisions.

The conference agreement follows the Senate amendment on items (1) through (8) above, but provides under (3) that on recapture a deduction for the employer and recapture from the ESOP are available as alternatives. Under (8), the ongoing expenses may not exceed $100,000 (in addition to the limits in the Senate amendment). The flow-through provisions under (1), will be effective only for taxable years ending after December 31, 1975.

804. Investment Credit for Movie and Television Films

House bill.—The House bill provides that for the future, as a general rule, taxpayers will receive ⅔'s of a full investment credit for all their films regardless of the actual useful life of any particular film. For the past, taxpayers may elect to take a 40-percent compromise credit for all of their films, regardless of the actual useful life or foreign use of any particular film. Alternatively, taxpayers may determine their investment credit on a film-by-film basis.

Senate amendment.—The Senate amendment is generally the same as the House bill. However, the amendment clarifies that the investment credit is to be available for educational films as well as entertainment films. It also deletes a restriction imposed by the House bill on investment credit carryovers. Unlike the House bill, the Senate amendment permits participations to be included in the credit base of an 80 percent or more U.S. produced film, but not in excess of (a) $1 million with respect to any one individual for any one film and (b) not in excess of the lesser of (i) 50 percent of participations qualifying under rule (a) or (ii) 25 percent of the production costs of the taxpayer's films for the year. The amendment also provides that any taxpayer who filed a petition in a court by January 1, 1976, may have his investment credit for prior years determined under present law (rather than

under the rules of the bill) if he elects present law treatment within 30 days after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment except in two respects. First, in the case of participations the conference agreement provides one-half of the amount of participations permitted to be included in the credit base by the Senate amendment. As a result, under the conference agreement, participations are limited to the lesser of (a) $1,000,000 with respect to any one individual for any one film, but (b) not in excess of the lesser of (i) 25 percent of participations qualifying under rule (a) or (ii) 12½ percent of the production costs of the taxpayer's films for the year. Second, a taxpayer who wishes to elect present law treatment for prior years may do so within 90 days from the date of enactment if the taxpayer had filed a petition in a court by January 1, 1976.

In addition, the conferees wish to clarify that under certain circumstances, it may be possible for the rights to the film to be leased under section 48(d) before the film is placed in service. However, it is intended that this right is to be available only where the lessee acquires full rights to exploit the movie or film for its estimated useful life through a particular medium or in a particular geographic area; it is not to be available where the lessee is precluded (by law, regulation or governmental action) from acquiring all rights to commercially exploit the film or tape.

805. Investment Tax Credit for Certain Vessels

House bill.—No provision.

Senate amendment.—Under current law, the tax on income deposited into a capital construction fund (established under section 21 of the Merchant Marine Act of 1970) for the construction of certain vessels is deferred. When the funds are withdrawn to purchase a qualified vessel, there is no tax basis in the purchased vessel to the extent of the withdrawal. This reduces the amount of investment credit available on the purchased vessel. The Senate amendment provides that the amount of investment tax credit is not to be reduced because of a deposit in, or qualified withdrawal from, a capital construction fund. The Senate amendment takes effect for taxable years beginning after December 31, 1969.

Conference agreement.—The conference agreement provides for an investment credit of one-half the regular credit on the tax-deferred amounts withdrawn from the capital construction fund which are used to purchase qualified vessels. In addition, the conferees intend that taxpayers are to have the right to obtain a court determination as to whether they are, under already existing law, also eligible for the other one-half of the regular investment credit. The conferees intend that no inferences be drawn either way on this issue from the action taken here.

If a taxpayer claims the full investment credit on its tax return, it is expected that the Internal Revenue Service will provide, by regulations, procedures which will require the taxpayer to indicate on its return that the full investment credit is being claimed. This will alert the Internal Revenue Service as to the position taken by the taxpayer on this point. If the IRS asserts a deficiency in this case, the taxpayer will have the option of pursuing its claim for the full credit in the tax

court. In addition, the taxpayer may file a claim for a refund which would allow the taxpayer to pursue its claim with the Court of Claims or in the District Courts.

Where a taxpayer purchases a ship with borrowed funds and uses the capital construction fund to pay off the indebtedness, there initially would be allowed a full investment credit and then subsequently there is to be a recapture of no more than 50 percent of the amount of the investment credit taken on the purchase price of the ship representing the indebtedness which is being liquidated with tax deferred amounts from the capital construction fund.

The conference agreement applies to taxable years beginning after December 31, 1975. This is not intended to provide any inference as to the application of existing law with respect to the availability of the credit for prior (as well as future) years.

806(a). Net Operating Loss Carryover and Carryback Election

House bill.—No provision.

Senate amendment.—Present law provides that taxpayers in general are allowed to carry a business net operating loss back to the preceding 3 years and forward to the 5 years following the year of the loss. Differing carryback and/or carryover periods are allowed for certain specific types of taxpayers and certain types of losses.

Under the Senate amendment, taxpayers who are presently allowed a 3-year carryback (business taxpayers in general, regulated transportation corporations and insurance companies) may elect to convert their carryback period into 3 additional carryover years. This extended carryover election will also apply to losses which occur during the carryover period for the loss to which the election first applies, but may be revoked for subsequent losses. The amendment applies to net operating losses incurred in tax years ending in 1976 or later.

Conference agreement.—The conference agreement provides two additional carryover years for business taxpayers in general and insurance companies (making a 7-year carryover), as well as for regulated transporation corporations (making a 9-year carryover). In addition, all taxpayers presently entitled to carryback periods for their net operating losses may elect to forego the entire carryback period for a net operating loss in any taxable year. This conference agreement applies to net operating losses incurred in tax years ending in 1976 or later.

806(b). Limitations on Net Operating Loss Carryovers

House bill.—No provision.

Senate amendment.—Present law provides that where new owners buy over 50 percent of the stock of a loss corporation during a 2-year period, its loss carryovers from prior years are allowed in full if the company continues to conduct its prior trade or business. It may add or begin a new business, however, and apply loss carryovers incurred by the former owners against profits from the new business (unless tax avoidance can be shown to be the principal purpose for the acquisition). If the same business is not continued, however, loss carryovers are completely lost. In the case of a tax-free reorganization, loss carryovers are allowed on a declining scale. If the former owners of the loss company receive 20 percent or more of the value of the stock of the acquiring company, the loss carryovers are allowed in full. For

each percentage point less than 20 which the former owners receive, the loss carryover is reduced by 5 percentage points. It is immaterial whether the business of the loss company is continued after the reorganization.

The Senate amendment provides parallel rules for taxable acquisitions and tax-free acquisitions of a loss company. In both cases, the test for carryovers will no longer depend on whether the loss company continues its same trade or business. The required continuity of ownership by the former owners of a loss company is increased to 40 percent. For each percentage point less than 40 which the owners of the loss company get (or retain), the allowable loss carryover will by reduced by 2½ percentage points. These rules apply both where new owners take over a loss company in a taxable purchase of stock or in a tax-free reorganization.

Several technical revisions to present law are also made:

(1) The transactions which trigger the loss limitations are expanded.

(2) The limitations can no longer be escaped by using a controlled subsidiary of a profit company to acquire a loss company.

(3) The period in which taxable purchases of a loss company's stock may bring the limitations into play is increased from 2 to 3 years.

(4) The losses affected by the limitations are broadened to include operating losses in the acquisition year itself.

(5) In a reorganization the former owners of a loss company must receive a participating stock interest in the acquiring company (nonvoting preferred stock will not be sufficient).

(6) The limitations will now apply to stock-for-stock ("B") reorganizations not now covered.

The Senate amendment applies generally to reorganizations and other changes in stock ownership occurring after the date of enactment.

Conference agreement.—The conference agreement generally follows the Senate amendment with a series of technical revisions. The schedule under which net operating loss carryovers will be limited following a reorganization, purchase of stock, or other change in ownership of a loss corporation is revised. Under the revision, for each percentage point increase in stock ownership above 60 and up to 80 which new owners buy in a loss company, the loss carryover will be reduced by 3½ percentage points. Above an 80-point increase in percentage points, the carryover will be reduced by 1½ percentage points for each 1 percentage point increase within that range. A parallel change is made in the continuity of ownership required for the former owners of a loss company following a taxfree reorganization.

Under the revision, the continuity of ownership requirements are to be measured by reference to the ownership by the former owners of a loss company of the lesser of participating stock of the loss company (or, in the case of a reorganization, of the acquiring company) or of the fair market value of all the stock of that company.

Where stock of a loss company changes hands other than in a taxfree reorganization, the group of new owners whose stock ownership causes a reduction in loss carryovers is increased from 10 to 15 persons. The transactions which trigger the limitations are also expanded to cover

several technical gaps in present law, such as cases where a new investor acquires a partnership interest directly from a partnership (as well as from other partners) which owns stock in the loss corporation and where two or more partnerships merge with each other.

Consistent with the new 40-percent continuity of ownership rule, loss carryovers will not be reduced from any acquisition year (or from any earlier or later taxable year) of a loss company if the new owners owned at least 40 percent of the stock of the loss company during all of the last half of any such year. Exceptions are also made from the new purchase rules for start-up losses of a newly formed corporation, exchanges in which creditors of a financially troubled company take over the equity, recapitalizations (including changes in the ownership) of a family corporation), and acquisitions of employer stock by key employees or by a qualified profit-sharing plan or employee stock ownership plan. Acquisitions of stock by gift or inheritance are also excepted.

In the case of taxfree reorganizations, the conference agreement adds a rule to cover a situation under which the new rules could otherwise be escaped by using a holding company (which owns one or more loss companies as controlled subsidiaries) as a party to the reorganization. Another rule is added to prevent avoidance of the new rules by combining a taxable purchase of stock with a later taxfree reorganization involving a corporation controlled by the shareholder who made the purchase. Special rules are added for the technical problems which arise in limiting carryovers following a "B"-type (stock-for-stock) reorganization. The common ownership exception in present law (sec. 382(b)(3)) is revised so that this rule will operate in a more realistic fashion.

The conference agreement also changes the definition of "stock" in present law in order to limit the present exception for certain kinds of preferred stock to fixed-dividend stock which is not convertible into other stock and the redemption and liquidation rights of which are limited generally to paid-in capital or par value. The term "participating stock" is also redefined.

The conferees agree with the discussion of the *Libson Shops* case on page 206 of the Senate Finance Committee report. The conferees intend that no inference should be drawn from that discussion concerning the applicability or nonapplicability of the *Lisbon Shops* case, either generally or as to specific types of transactions, in determining net operating loss carryovers to tax years governed by present law. (The conferees do not intend the amendments in the bill to affect the "continuity of business enterprise" requirement, which the courts and the Treasury have long established as a condition for basic nonrecognition treatment of a corporate reorganization (see sec. 368–1(b) of the regulations)). The conferees also agree with the discussion on page 206 of the Senate report concerning the general tax avoidance test in section 269 of the Code.

In order to allow a reasonable time for the Internal Revenue Service to issue regulations under the new rules, the conference agreement delays the effective date of the new rules generally for one year. The revised rules will apply, in the case of taxfree reorganizations, to reorganizations pursuant to plans adopted by one or more of the parties on or after January 1, 1978. (A reorganization plan will be considered

adopted on the date the board of directors adopts the plan or recommends its adoption to the shareholders, or on the date the shareholders approve the plan, whichever is earlier). If the new limitations affect a reorganization occurring in 1978, net operating losses incurred in 1977 will not be limited, but carryovers of such losses to 1978 and later years may be limited.

In the case of purchases of stock of a loss company and other acquisitions subject to sec. 382(a), the new rules take effect for taxable years of a loss corporation beginning after June 30, 1978. However, the "lookback" period under these rules may be made to earlier taxable years. The earliest lookback point, however, is January 1, 1968. For example; section 382(a) as amended will take effect for a calendar year corporation during calendar 1979. However, the first "lookback" period under the new rules will be a transitional 24-month period from December 31, 1979, back to January 1, 1978. In 1980, when the new rules become fully effective, the lookback period will cover three years so that at the end of 1980, reference will be made back to the first day of that year and then back to January 1, 1979, and then to January 1, 1978.

In this example the present rules of section 382(a) will govern the allowance of loss carryovers of the company to its calendar years 1977 and 1978. The new rules will govern loss carryovers from 1978 and earlier years to 1979 and later years. Although the new rules will thus not actually limit losses in this example until 1979, the new limitations will affect loss carryovers to 1979 from earlier years. Also, changes in stock ownership occurring during 1978 will be taken into account as part of the lookback period from December 31, 1979, for purposes of testing loss carryovers to 1979 and later years.

For a fiscal year corporation whose taxable year begins, for example, on July 1, the rules of present law will govern loss carryovers to fiscal 1977 and 1978. The new rules will govern loss carryovers to fiscal 1977 and 1978. The new rules will govern loss carryovers to fiscal 1979, and for this purpose changes in stock ownership measured by reference back to stock ownership on July 1, 1978, and on January 1, 1978, will be taken into account.

807. Small Commercial Fishing Vessel Construction Reserves

House bill.—No provision.

Senate amendment.—Under current law, domestic shipping vessels must be of 5 net tons or more to be eligible for the capital construction fund. The Senate amendment reduces the minimum weight displacement required to 2 net tons or more, to be effective upon date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

Sections Omitted in Senate Amendment No. 21:

Extension of Expiring Investment Credits

House bill.—No provision.

Senate amendment.—Present law generally provides a 3-year carryback and a 7-year carryforward of unused investment credits. (Unused credits earned before 1970 may be carried forward 10 years.)

The Senate amendment extends for two additional years investment credits which would otherwise expire in 1976.

Conference agreement.—The conference agreement omits this provision.

Credit for Artist's Donations of Own Work to Charitable Organizations

House bill.—No provision.

Senate amendment.—Under present law, an artist may deduct only the basis (generally, the out-of-pocket expenses) in art works which he creates and which he contributes to charities.

The Senate amendment allows an artist to claim a 30-percent credit for the full value (up to $35,000 value annually) of charitable contributions of his own literary, musical or artistic compositions. The credit may not exceed the tax on related income (aggregated over all prior years) from the sale of art works; nor may it offset in any one year more than the greater of $2,500 of income tax liability or 50 percent of income tax liability. Contributions in excess of the maximum amount eligible for the credit may be carried forward 5 years. No credit is allowed for works produced as a public employee. The amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 22

901. Small Business Provisions

House bill.—Prior to the 1975 Tax Reduction Act, corporate taxable income was subject to a 22-percent normal tax and a 26-percent surtax, with a surtax exemption of $25,000. The Tax Reduction Act and the Revenue Adjustment Act increased the surtax exemption to $50,000 and reduced the normal tax to 20 percent on the first $25,000 of taxable income. These provisions expired on July 1, 1976. The House bill extends the reduction in corporate tax rate and the increase in the surtax exemption through December 31, 1977.

Senate amendment.—The Senate amendment makes permanent the changes in corporate tax rates and increase in surtax exemption. In addition it applies these changes to mutual insurance companies effective for taxable years ending after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment but with the House expiration date of December 31, 1977.

SENATE AMENDMENT NUMBERED 23

CHANGES IN THE TREATMENT OF FOREIGN INCOME

1011. Income Earned Abroad by U.S. Citizens Living or Residing Abroad

House bill.—Under present law U.S. citizens working abroad may exclude from their income up to $20,000 of earned income ($25,000 in some cases). U.S. citizens may claim credit directly against U.S. tax for the foreign taxes paid on the excluded earned income. Any employee is entitled to exclude from gross income lodging furnished by the employer on the business premises if the employee is required to accept it as a condition of employment.

The House bill generally phases out the exclusion over 4 years (except for employees of U.S. charitable organizations who work abroad), and provides in lieu thereof a deduction for individuals who incur expenses in providing education for their children and an exclusion for the value of employer-supplied municipal-type services. Individuals working on foreign construction projects do not have the exclusion reduced during the phaseout period. The amount of foreign taxes paid on income which is eligible for the exclusion would not be allowed as a foreign tax credit against U.S. income tax. The House bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment retains the earned income exclusion subject to the following modifications: (1) foreign taxes paid on income which is eligible for the exclusion would not be allowed as a foreign tax credit against U.S. income tax (same as House bill); (2) income derived beyond the income eligible for exclusion would be subject to U.S. tax at the higher rate brackets which would apply if the excluded income were also subject to tax; and (3) income earned abroad which is received outside of the country in which earned in order to avoid tax in that country would be ineligible for the exclusion. The Senate amendment also provides an exclusion for income attributable to certain housing which is either furnished to the employee by the employer or reimbursed by the employer. Under the Senate amendment a taxpayer may make a permanent election not to have the earned income exclusion apply in the year of the election and all subsequent years.

Conference agreement.—The conference agreement follows the Senate amendment except that (1) the earned income exclusion is limited to $20,000 for all employees of U.S. charitable organizations and is reduced to $15,000 for all other taxpayers and (2) the special exclusion for housing is eliminated.

1012. Income Tax Treatment of Nonresident Alien Individuals Who Are Married to Citizens or Residents of the United States

House bill.—Under present law, a joint return may not be made by a husband and wife if either one of them at any time during the taxable year was a nonresident alien. If a husband and wife are subject to community property rules, one-half of the earned income of one spouse is treated as being the income of the other spouse and is not subject to U.S. taxation if the other spouse is a nonresident alien and if the income is from foreign sources. The House bill provides that a U.S. citizen or resident married to a nonresident alien would be allowed to file a joint return provided that an election is made by both individuals to be taxed on their worldwide income. Where the election to be taxed on worldwide income is not made, certain community property laws are to be made inapplicable for income tax purposes. The provision applies to taxable years ending on or after December 31, 1975, in the case of an election, otherwise to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill. In addition, a modification is made to the general requirement that nonresident aliens file estimated tax returns by April 15 of the year in question, although they have until June 15 to file the income tax return for the previous year. The Senate amendment provides that in the case of nonresident alien individuals not subject to wage withholding, the due date for filing the estimated tax return is not to be any earlier than the due date for the tax return for the previous year. The Senate amendment applies to taxable years beginning after December 31, 1976, except that individuals would be allowed to file joint returns for all open years beginning after December 31, 1971.

Conference agreement.—The conference agreement follows the Senate amendment except that the effective date for joint returns follows the House date of taxable years ending on or after December 31, 1975.

1013. Foreign Trusts Having One or More United States Beneficiaries To Be Taxed Currently to Grantor

House bill.—Under present law, a trust is taxed in a manner similar to nonresident alien individuals if it is considered to be a foreign trust. It is not taxed on its foreign source income, but distributions to a U.S. taxpayer from a foreign trust are taxed basically in the same manner as distributions from a domestic trust. A foreign trust created by a U.S. person must include capital gains (without the sec. 1202 deduction) in distributable net income; however, the beneficiary is entitled to the section 1202 deduction.

Under the House bill, a U.S. person who transfers property to a foreign trust is treated as the owner of such property and taxed currently for each taxable year during which such trust has a U.S. beneficiary. In addition, all foreign trusts must include capital gains (without the sec. 1202 deduction) in distributable net income. However, the undistributed net income remaining as of December 31, 1975, shall be redetermined with the section 1202 deduction. The provision

applies to taxable years ending after December 31, 1975, but only for trusts created after May 21, 1974, and transfers of property after May 21, 1974. However, the provisions dealing with capital gains of foreign trusts apply to taxable years ending after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except that employee trusts described in Code section 404 (a) (4) are excluded. The Senate amendment applies to taxable years ending after December 31, 1976, but only for trusts created after May 21, 1974, and transfers of property after May 21, 1974. The effective date of the capital gains provision is the same as the House bill.

Conference agreement.—The conference agreement follows the Senate amendment except that the effective date of the House bill is adopted.

1014. Interest Charge on Accumulation Distributions From Foreign Trusts

House bill.—Under present law there is no interest charge on accumulation distributions from a foreign trust. The House bill imposes an interest charge in the form of an additional tax on beneficiaries receiving taxable accumulation distributions from foreign trusts. The additional tax is 6 percent of the tax otherwise imposed with respect to the distribution for the average number of years during which the amounts were earned. No charge is imposed for the period before January 1, 1976. The provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except that no interest charge is imposed for the period before January 1, 1977. The Senate amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1015. Excise Tax on Transfers of Property to Foreign Persons To Avoid Federal Income Tax

House bill.—Under present law, an excise tax of 27½ percent is imposed on the amount of the appreciation of stock or securities transferred to foreign entities. The House bill imposes an excise tax of 35 percent on the amount of the unrecognized appreciation of all property transferred to foreign entities. The provision applies to transfers made after October 2, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, except for the addition of an election to recognize gain in lieu of paying the excise tax.

Conference agreement.—The conference agreement follows the Senate amendment.

1021. Amendment of Provision Relating to Investment in U.S. Property by Controlled Foreign Corporations

House bill.—Under present law, a U.S. shareholder of a controlled foreign corporation is taxed on the undistributed earnings and profits of the corporation to the extent of the annual increase of its investment in U.S. property. Investment in U.S. property includes the acquisition by a controlled foreign corporation of any tangible prop-

erty located in the U.S., or stock of a domestic corporation or obligations of a U.S. person (even though unrelated to the investor).

The House bill redefines U.S. property to include only stock and obligations of a U.S. shareholder of the controlled foreign corporation and tangible property which is leased to, or used by, a U.S. shareholder regardless of where used. The provision applies generally to taxable years of foreign corporations beginning after December 31, 1974. In addition an election is provided under which taxpayers could exclude from the definition of U.S. property investments made in property used on the U.S. continental shelf, retroactive to taxable years of foreign corporations beginning before January 1, 1975.

Senate amendment.—The Senate amendment excepts from the definition of U.S. property in existing law (1) stock or debt of a domestic corporation (other than a U.S. shareholder) which is not 25 percent owned by the U.S. shareholders, and (2) movable drilling rigs when used on the U.S. continental shelf. The Senate amendment applies to taxable years of foreign corporations beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1022. Repeal of Exclusion for Earnings of Less-Developed Country Corporations for Purposes of Section 1248

House bill.—The House bill repeals the exclusion from dividend treatment provided in present law for sales or exchanges of stock in less-developed country corporations. However, the exclusion still applies to earnings accumulated before January 1, 1976, whether or not the corporation remains a less-developed country corporation. The provision applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1023. Exclusion From Subpart F of Certain Earnings of Insurance Companies

House bill.—The House bill adds an exception to the rules of present law subjecting to current taxation (under subpart F) the tax haven income of foreign subsidiaries of U.S. corporations. The exception applies to dividends and interest income and gains from the sale or exchange of stock or securities by an insurance company in an amount equal to one-third of the company's premium income. The provision applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which such taxable years of such foreign corporations end.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1024. Shipping Profits of Foreign Corporations

House bill.—Under present law, tax haven income subject to current taxation includes base company shipping income, except to the

extent reinvested in shipping assets. Under the House bill, shipping operations within one country are excluded from base company shipping income if ships are registered within that country and the company is incorporated there. The House bill also makes it clear that debt obligations are taken into account in determining the amount invested in shipping assets. The provisions apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which such taxable years of the foreign corporations end.

Senate amendment.—The Senate amendment follows the House bill with minor technical changes in the provision in the House bill concerning shipping operations within a single country. The Senate amendment does not contain the provision relating to the manner in which debt obligations are taken into account in determining shipping assets. The Senate amendment provides that shipping income derived from the transportation of men and supplies from a point in a foreign country to a point off-shore (such as on an oil-drilling rig) located on the continental shelf of that country or on the continental shelf adjacent to the continental shelf of that country is excluded from base company shipping income if the ship is registered in that country and the company is incorporated there.

Conference agreement.—The conference agreement follows that part of the Senate amendment which deals with shipping operations within a single country. The provision in the House bill relating to the treatment of debt obligations is omitted because the Treasury Department has agreed that that treatment is to be provided for in the regulations. The provision in the Senate amendment relating to transportation to points offshore is not included.

1031. Requirement That Foreign Tax Credit Be Determined on Overall Basis

House bill.—Under present law, the foreign tax credit limitation may be determined on either a per-country or an overall basis (taxpayer must elect the latter). The House bill repeals the per-country limitation and requires that all taxpayers determine their foreign tax credit limitation on the overall basis. The per-country limitation is retained for possession source income. Special transitional rules are provided for taxpayers previously on the per-country limitation to permit the carryover of some excess credits from per-country years to overall years. The provision applies to taxable years ending after December 31, 1975. In the case of certain mining companies, the effective date is delayed for 3 years.

Senate amendment.—The Senate amendment is the same as the House bill, except that the per-country limitation is also repealed for possession source income. The Senate amendment applies to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment generally. However, it follows the House bill with respect to the effective date for certain mining companies. In addition, losses sustained by these mining companies during the period that they are permitted to use the per-country limitation are to be subject to recapture on a per-country limitation basis if foreign

source income is earned in future years. Further, with respect to income from sources within a possession, the repeal of the per-country limitation is also delayed for a three-year period, subject to recapture on a per-country basis.

1032. Recapture of Foreign Losses

House bill.—In general, under present law foreign losses reduce U.S. tax on U.S. source income by decreasing the worldwide taxable income on which the U.S. tax is based. In addition, when the business operations in the loss country (or countries) become profitable, a credit against U.S. tax will be allowed for taxes paid to that country (or countries) without any recapture of the prior benefits (except in the case of foreign oil-related losses). The House bill extends the recapture provisions to apply to all overall foreign losses. The provision applies to losses sustained in taxable years beginning after December 31, 1975. In the case of losses incurred in U.S. possessions, the effective date is delayed for 5 years.

Senate amendment.—The Senate amendment is the same as the House bill, with minor technical changes, except (1) the taxpayer may elect to have more than 50 percent of its foreign source income recaptured in any taxable year, and (2) the proportionate foreign tax credit disallowance rule is deleted. The amendment applies to losses sustained in taxable years beginning after December 31, 1975. It is not applicable to (a) a loss from the disposition of a debt obligation of a foreign government issued before May 14, 1976, for property located in that country, and (b) a loss suffered subsequent to the effective date but attributable to an economic loss (worthlessness of stock or debt) which actually occurred prior to the effective date.

Conference agreement.—The conference agreement follows the Senate amendment.

1033. Gross up of Dividends From Less-Developed Country Corporations

House bill.—The House bill repeals the rule provided in present law under which dividends from less-developed country corporations are not grossed-up by the amount of foreign taxes paid on the underlying income and the deemed-paid foreign tax credits attributable to those dividends are reduced proportionately.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1034. Treatment of Capital Gains for Purposes of Foreign Tax Credit

House bill.—The rules under present law as to the netting of long-term and short-term gains and losses in cases where some gains or losses are U.S. source income while others are foreign source are unclear. The foreign tax credit limitations are not adjusted to reflect the lower tax rate on capital gains income received by corporations. The foreign tax credit can be inflated because the source of capital gain income is determined by the place of the sale of the asset, regardless of where used. Under the House bill, the following modifications in

the foreign tax credit limitation would be made: (1) net U.S. capital losses would offset net foreign capital gains; (2) in the case of corporations, only 30/48 of the net foreign source gain would be included in the foreign tax credit limitation; and (3) the gain from the sale or exchange of personal property outside the United States would be considered U.S. source income unless one of three exceptions applies. The bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with certain technical changes, except that the source rule modification would only apply to sales or exchanges made after November 12, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1035. Foreign Oil and Gas Extraction Income

House bill.—Under present law, foreign taxes which are allowable as a credit with respect to foreign oil and gas extraction income (including income from the extraction by the taxpayer of oil or gas for another person) are limited to a percentage of that income (52.8 percent in 1975, 50.4 percent in 1976, and 50 percent in 1977 and thereafter, computed on an overall basis) and may only be used to offset U.S. tax on oil-related income. The House bill provides transition period carryback rules which allow a carryback to any taxable year ending in 1975, 1976, or 1977 (on a per-country basis) of otherwise creditable taxes in excess of the percentage limitations, but not to exceed the net U.S. tax liability on the extraction income from the country for the year after taking into account the foreign tax credit. The provision is effective as of the date of enactment.

Senate amendment.—The Senate amendment does not contain transition period carryback rules. However, the Senate amendment contains several other changes with respect to the taxation of foreign oil and gas extraction income.

Under present law, interest from a domestic corporation is not included in the definition of foreign oil-related income. The Senate amendment revises the definition of foreign oil-related income to include interest from a domestic corporation (if the interest is treated as foreign source income because less than 20 percent of the corporation's gross income is derived from U.S. sources). This provision applies to taxable years beginning after December 31, 1976.

Under present law, individuals are subject to the same percentage limitations on creditable taxes paid with respect to foreign oil and gas extraction income as those imposed on corporations. The Senate amendment provides that the allowable foreign tax credit on foreign oil and gas extraction income for individuals is equal to the average U.S. effective rate of tax on that income (individuals will be limited to a separate overall foreign tax credit limitation for foreign oil and gas extraction income). The provision applies to taxable years ending after December 31, 1974.

Rev. Rul. 76–215, 1976 I.R.B. No. 23, holds that the contractor under a production-sharing contract in Indonesia is not entitled to a foreign tax credit for payments made by the government-owned company to the foreign government. The IRS has announced that this ruling will

apply only prospectively to claims for credits for taxes paid in taxable years beginning after June 30, 1976. The Senate amendment provides that Rev. Rul. 76–215 is not to be applicable for taxable years ending in 1977 to amounts paid to foreign governments and designated as taxes under production-sharing contracts entered into before April 8, 1976, for taxable years beginning on or after June 30, 1976. The credit is limited to 48 percent of the extraction income from the contracts. This provision applies to taxable years beginning on or after June 30, 1976.

Under present law, the amount of foreign taxes paid with respect to foreign oil and gas extraction income which under U.S. law are creditable taxes with respect to foreign oil and gas extraction income is limited to 50 percent of that income on an overall basis for taxable years ending after 1976. For purposes of this limitation "foreign oil and gas extraction income" is the income derived by the taxpayer from extraction (by the taxpayer or any other person) of minerals from oil and gas wells. Income from extraction includes the purchase and sale of crude oil by the taxpayer in cases where the taxpayer is not performing the extraction operations. Also it includes cases where the taxpayer is performing extraction services within the country for the government of that country (whether or not the taxpayer may purchase the oil from that government). Any excess may only be used to offset U.S. tax on other oil-related income.

The Senate amendment provides that the amount of foreign taxes allowable as a credit with respect to foreign oil and gas extraction income is reduced to 48 percent of that income on a per-country basis for taxable years ending after 1976. The definition of extraction income is broadened to include interest from foreign corporations and dividends from domestic corporations, provided the corporations are engaged in oil-extraction activities. In addition, the Senate amendment would treat as a royalty rather than a tax any payment made as a tax to a foreign government on income from the extraction, production, or refining of oil, gas, or other related natural resources unless the foreign government imposes a substantially similar tax on income from other activities. The provision applies to taxable years ending after December 31, 1976.

Conference agreement.—The conference agreement combines the transitional carryback rule for the foreign tax credit limitation contained in the House bill with the reduction in the amount allowed as foreign tax credit on oil extraction income provided for in the Senate amendment. Under the conference agreement, the limitation on foreign taxes on extraction income allowable as a credit is reduced, for taxable years ending after 1976, to 48 percent of that income on an overall basis. The conference agreement does not include the changes in the definition of extraction income and in the treatment of foreign taxes as royalties which are contained in the Senate amendment. The conference agreement provides permanent carryover rules for excess extraction taxes rather than the transition period carryback rules in the House bill. Under the agreement, extraction taxes paid in taxable years ending after the date of enactment which exceed the limitation for the year can be carried back for two years to taxable years ending after December 31, 1974, and can be carried forward for five years. The

amount carried to years after 1977 may not exceed 2 percentage points above the corporate tax rate.

The conference agreement does not include the change in the definition of oil-related income contained in the Senate amendment.

The conference agreement follows the Senate amendment with respect to the limitation on foreign oil and gas extraction income earned by individuals and the tax credit for production-sharing contracts.

1036. Underwriting Income

House bill.—The House bill contains no provision.

Senate amendment.—The source of insurance underwriting income is not specified in the Code. The Senate amendment provides that the source of underwriting income is to be the place where the risk is located. The amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1037. Third-Tier Foreign Tax Credit When Code Section 951 Applies

House bill.—The House bill contains no provision.

Senate amendment.—Under present law, if a domestic corporation is required to include in its income amounts under subpart F, a deemed-paid foreign tax credit is available with respect to foreign taxes paid by a first-tier foreign subsidiary (10 percent owned by the domestic corporation) and by a second-tier foreign subsidiary (50 percent owned by the first-tier foreign subsidiary), but, unlike the credit on actual distributions, there is no credit with respect to foreign taxes paid by a third-tier foreign subsidiary. Under the Senate amendment the foreign tax credit under subpart F is made consistent with the credit for actual dividends from second and third-tier foreign subsidiaries. Thus, a credit is allowed for foreign taxes paid by a third-tier foreign subsidiary, and a second-tier or a third-tier need only be 10 percent owned by a prior tier, provided the domestic corporation has, directly or indirectly, at least a net 5 percent ownership in each lower tier. The amendment applies with respect to earnings and profits included in income in taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1041. Interest on Bank Deposits Earned by Nonresident Aliens and Foreign Corporations

House bill.—Under present law interest paid to a nonresident alien or foreign corporation from deposits with persons carrying on the banking business is exempt from U.S. tax, but the exemption is due to expire with respect to interest paid after December 31, 1976. The House bill makes the exemption permanent without any termination date.

Senate amendment.—The Senate amendment extends the exemption under existing law through December 31, 1979.

Conference agreement.—The conference agreement follows the House bill.

1042. Changes in Ruling Requirements Under Code Section 367; Certain Changes in Section 1248

House bill.—In certain exchanges relating to the organization, reorganization, and liquidation of a foreign corporation, nonrecognition of gain is not available under present law unless a ruling that tax avoidance is not present has been obtained from the IRS before the exchange. The House bill permits nonrecognition of gain if a request for a ruling that tax avoidance is not present is filed within 183 days after the beginning of the exchange in the case of outbound transfers. In the case of all other transfers, regulations are to provide the extent that earnings are to be taken into account as a dividend in order to prevent avoidance of tax.

Under present law no court review of the ruling is available. The House bill provides for Tax Court review of these rulings.

In addition, under present law certain nonrecognition provisions allow repatriation of accumulated earnings and profits of a foreign corporation without dividend treatment. The nonrecognition provisions are modified under the House bill so that repatriated earnings and profits do not escape dividend treatment.

The House bill applies generally to sales, exchanges, and distributions taking place after October 9, 1975. However, until January 1, 1978, rulings are required on all transfers. In certain transfers not involving U.S. persons which took place between 1962 and 1976, taxpayers are given 183 days after the enactment of the Act to get a ruling.

Senate amendment.—The Senate amendment follows the House bill with minor technical amendments. The Senate amendment provides that if, after the beginning of an exchange for which a ruling has been obtained, there are subsequent transfers which are treated by the Secretary as part of the exchange but which are not described in the ruling, the taxpayer may file a new request for a ruling with respect to the entire exchange not later than the 183rd day after the beginning of the subsequent transfer.

1043. Contiguous Country Branches of Domestic Life Insurance Companies

House bill.—Present law subjects all U.S. companies to tax on their worldwide taxable income. Under the House bill a U.S. mutual life insurance company may elect to account for contiguous country business separately from other business to avoid U.S. taxation on contiguous country income to the extent such income is not repatriated. A company making this election must recognize as gain the net unrealized appreciation on the branch's assets. A domestic stock company selling policies similar to those sold by a mutual company may transfer assets to a contiguous country subsidiary and recognize the net gain on the assets transferred.

The House bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment extends the House bill to stock companies selling, through contiguous country subsidiaries, policies which are similar to those sold by mutual companies.

Conference agreement.—The conference agreement follows the Senate amendment.

1044. Transitional Rule for Bond, etc. Losses of Foreign Banks

House bill.—Under present law, gains and losses on the sale or exchange of government and corporate bonds and certain other types of indebtedness are treated as ordinary income and loss in the case of financial institutions and foreign corporations which would be considered banks if they were domestic corporations. However, for taxable years beginning before July 12, 1969, these amounts were treated as capital gain or loss. The House bill provides that, for foreign corporations which otherwise would be considered financial institutions, net gains from these transactions will be considered capital gain to the extent of any capital loss carryovers attributable to the same types of sales or exchanges in taxable years beginning before July 12, 1969.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the Senate amendment with a technical change dealing with the situation where there are a number of transfers which are treated by the Secretary as part of the same exchange. Pursuant to this change, if there is an organization reorganization, or liquidation involving a transfer or transfers of property by a U.S. person to a foreign corporation, nonrecognition of gain will be permitted if a request for a ruling that a tax avoidance purpose is not present is filed within 183 days after the beginning of the transfer. Under this rule, the taxpayer may request a ruling not later than the 183rd day after the beginning of any transfer which is part of the exchange, whether or not a ruling has been requested with respect to prior transfers which are part of the exchange. If the Secretary determines that the entire exchange does not involve a tax avoidance purpose, nonrecognition of gain will be permitted for that transfer and any subsequent transfers. Nonrecognition will be provided with respect to those transfers which are part of the exchange but which begin more than 183 days before the ruling request is made if the Secretary determines that tax avoidance will not result if the earlier transfers are provided nonrecognition treatment and if a ruling was obtained for the earlier transfer. If no ruling was obtained for the earlier transfer, nonrecognition will not be accorded the earlier transfer if a ruling is required for that transfer for there to be nonrecognition.

However, failure of the taxpayer to apply for a ruling with respect to an earlier transfer will not automatically result in taxable treatment of the earlier transfer because the Secretary may require nonrecognition treatment of the earlier transfer in those situations he deems appropriate even in the absence of a ruling.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1051. Tax Treatment of Corporations Conducting Trade or Business in Puerto Rico and Possessions of the United States

Under present law corporations operating a trade or business in a possession are entitled to exclude from gross income all income from sources without the United States including foreign source income

earned outside the possession if they satisfy an 80-percent source and a 50-percent active trade or business test. However, dividends from a possessions corporation are not eligible for the intercorporate dividends received deduction.

Under the House bill a corporation meeting the 80-percent and 50-percent tests is entitled to a special foreign tax credit equal to the U.S. tax on that income plus income from certain investments in that possession. In addition, dividends from a possessions corporation are eligible for the intercorporate dividends received deduction. The bill applies to taxable years beginning after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill, with minor technical changes, except that the Senate amendment disallows any foreign tax credits on the Puerto Rican withholding tax on liquidation. However, the Senate amendment continues to exempt foreign source income derived from sources outside the possession which is earned before October 1, 1976 whether or not the invested funds are derived from the possessions business.

Conference agreement.—The conference agreement follows the Senate amendment except that the agreement allows a foreign tax credit on taxes paid with respect to liquidations occurring before January 1, 1979, to the extent the taxes are attributable to amounts earned before January 1, 1976.

1052. Western Hemisphere Trade Corporations

House bill.—The House bill phases out the 14-percent tax rate reduction provided under present law for Western Hemisphere trade corporations over a 4-year period beginning in 1976.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1053. Repeal of Provisions Relating to China Trade Act Corporations

House bill. The special tax benefits granted to China Trade Act corporations and their shareholders, which generally permit the corporation and its shareholders to pay no U.S. tax, are phased out over four years beginning in 1976.

Senate amendment.—The Senate amendment provides a two-year phaseout of the special tax treatment for China Trade Act corporations and their shareholders.

Conference agreement.—The conference agreement phases out the special tax treatment for China Trade Act corporations and their shareholders over a 3-year period beginning in 1976.

1061–1064, 1066, and 1067. Denial of Certain Tax Benefits on Income Derived in Connection With Participation in an International Boycott

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment denies to any taxpayer that agrees to participate in or cooperate with an international boycott based on race, nationality or religion the benefits of the foreign tax credit, deferral of earnings of foreign subsidiaries, DISC, and the

exclusion from gross income of foreign earned income on income from countries requiring boycott participation. The Secretary is to require the filing of reports (subject to criminal penalties) to determine whether a taxpayer has participated in a boycott. The provision is effective with respect to conduct 30 days or more after date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment by denying the foreign tax credit and the benefits of DISC and deferral. However, the exclusion for income earned abroad is not denied to employees of a taxpayer who participates in or cooperates with an international boycott.

The benefits of deferral and DISC are denied to the taxpayer by requiring a deemed distribution of earnings to the shareholders of the DISC or controlled foreign corporation. The benefits of the foreign tax credit are denied to the taxpayer by reducing the otherwise allowable foreign tax credit to which the taxpayer would be entitled under section 901 of the Code after applying the limitation, if applicable, of section 907 and of section 904. Taxes which are denied the foreign tax credit under this provision are not entitled to be carried backwards or forwards as foreign tax credits but may be eligible to be deducted in computing taxable income. Of course, if so deducted, the rules of sections 861 and 862 would be applied with respect to the deduction.

A taxpayer participates in or cooperates with an international boycott if the taxpayer agrees, as a condition of doing business directly or indirectly within a country or with the government, a company, or a national of a country (1) to refrain from doing business within a country which is the object of an international boycott or with the government, companies or nationals of that country; (2) to refrain from doing business with any U.S. person engaged in trade within another country which is the object of an international boycott or with the government, companies, or nationals of that country; (3) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; (4) to refrain from employing individuals of a particular nationality, race, or religion; or (5) to refrain from shipping or insuring products on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott. While it is anticipated that in most cases a third country will be the object of an international boycott, it is possible that the United States may be the object of an international boycott. The agreement may be with respect to any type of business (including manufacturing, banking, and service businesses).

The conference agreement permits a taxpayer to agree to comply with certain laws without being treated as agreeing to participate in or cooperate with an international boycott. A taxpayer may agree to meet requirements imposed by a foreign country with respect to an international boycott if a U.S. law, executive order; or regulation sanctions that participation or cooperation. Secondly, the taxpayer may agree to comply with a prohibition on the importation of goods produced in whole or in part in any boycotted country or to comply

with a prohibition imposed by a country on the exportation of products obtained in that country to any boycotted country. The taxpayer, however, may not agree to refrain from importing or exporting to or from a particular country products which are, or which contain components which are, made by a company on a boycott list.

A taxpayer is not considered as having participated in or cooperated with an international boycott unless he has agreed to such participation or cooperation. The agreement need not be in writing; there may be an implied agreement. However, an agreement will not be inferred from the mere fact that any country is exercising its sovereign rights. Thus, a taxpayer is not considered to have agreed to participate in or cooperate with an international boycott merely by reason of the inability of the taxpayer to obtain an export or import license from a sovereign country for specific goods. Similarly, a taxpayer's inability, under the laws or administrative practices of a country, to bring certain personnel into that country, to bring certain ships into the waters of that country, to provide certain services in that country, or to import or export certain products to or from a country, is not to be considered to constitute an agreement to participate in or cooperate with an international boycott. Further, the signing (at the time of import), of a certification as to content, which is required to obtain an import license, does not by itself constitute an agreement by the taxpayer. However, this would not permit the making of an agreement not to import certain goods into the country. In addition, a course of conduct of complying with sovereign law may, along with other factors, be evidence of the existence of an agreement.

If the taxpayer has participated in or cooperated with an international boycott in a country, he is presumed to have participated in or cooperated with that boycott with respect to all operations in all countries which require of the taxpayer (or of other persons, whether or not related to the taxpayer) participation in or cooperation with that international boycott. However, the taxpayer may establish that he has conducted clearly separate and identifiable operations in that country or another country through the same corporation or related corporations with respect to which there is no cooperation with or participation in that boycott.

Where there are not continuous business activities within a country, separate and identifiable operations may include separate export or import transactions. Where there are continuous business activities within a country, each separate business activity (taking into account basic differences in the types of any products sold or services offered, clear separation of the management of the activities, and so forth) may represent a separate and identifiable operation. If the taxpayer is able to establish separate and identifiable operations, he may then establish that with respect to certain operations there was no participation in or cooperation with that international boycott. The burden of proof will be upon the taxpayer to establish that an operation is separate and identifiable and that there was no participation in or cooperation with an international boycott in connection with that operation.

In addition, the conference agreement provides a proration formula for computing the amount of tax benefits which are related to an inter-

national boycott, and thus are denied to the taxpayer. This formula, it is anticipated, will be used by taxpayers who are unable to separate their tax benefits between boycott and nonboycott operations. Under this formula, the reduction of the tax benefits allowed to the taxpayer are determined by multiplying the otherwise allowable tax benefits by a fraction. The numerator of the fraction reflects the worldwide operations of the taxpayer in countries associated in carrying out the international boycott (exclusive of those operations for which the presumption of participation or cooperation has been rebutted). The denominator reflects the worldwide foreign operations of the taxpayer. The factors to be taken into account in computing the fraction are to be determined in accordance with the regulations prescribed by the Secretary. It is anticipated that the regulations will reflect the nature of the boycott activity carried on by the taxpayer and will take into account such factors as purchases, sales, payroll or other items which may be relevant. Unless the taxpayer establishes to the contrary, all operations of the taxpayer in connection with countries which require participation in or cooperation with the boycott are to be reflected in the numerator of the fraction.

The proration formula is not to apply if instead the taxpayer, with respect to his operations which are related to participation in or cooperation with an international boycott, clearly demonstrates the amount of the foreign taxes and earnings which are allocable to the boycott operations. Those taxpayers who are not able to clearly account separately for the tax credits and earnings which are allocable to their boycott operations must apply the proration formula in computing the amount of tax benefits which are denied to them. Of course, all operations of the taxpayer in countries which require participation in or cooperation with that boycott are presumed to be boycott operations unless the taxpayer establishes to the contrary.

It is expected that the provisions of the conference agreement will be administered in the normal course of a tax audit. However, the taxpayer will be required to make a report if he has conducted operations in a country (or with the government, a company, or a national of a country) which is on a list (maintained by the Secretary of the Treasury) of countries requiring participation in or cooperation with an international boycott, or in any other country which the taxpayer has reason to believe requires such participation or cooperation. The taxpayer is to include in the report the identity of any country in connection with which the taxpayer has participated in or cooperated with (or has been requested to participate in) an international boycott as a condition of doing business in that country (or with such government, company or national). The report should also indicate the nature of any operations in connection with such countries.

A taxpayer will also be expected to disclose in the report any country where the taxpayer has been requested to participate in such a manner which could be interpreted as an official request of that country. This is not to say that the request must be made directly by a government official or representative.

The Secretary of the Treasury is to publish the list, which is to be updated periodically, of those countries which may require participation in or cooperation with an international boycott. The initial list

must be published within 30 days after date of enactment. However, the absence of a country from the list does not mean that such country is not a country which requires participation in or cooperation with an international boycott.

The willful failure to make a report will subject the taxpayer to a fine of not more than $25,000 or imprisonment for not more than one year, or both. A failure to make a report will not be a willful failure if the taxpayer had no knowledge of a boycott operation unless the taxpayer's failure to have knowledge is so negligent as to constitute a reckless disregard of the requirements of the law.

The initial determination of participation in or cooperation with any international boycott is to be made by the taxpayer, who will be expected on his return to reduce the amount of the foreign tax credit, deferral benefits, or DISC benefits to the extent that the taxpayer has participated in or cooperated with an international boycott. The taxpayer is to show how any reduction is made. However, it is expected that the returns and the determinations by the taxpayer will be audited and the accuracy of the taxpayer's determinations will be verified in the usual course of such an audit. While this verification will be done in the usual course of a tax audit, it is anticipated that the IRS will develop a group of experts who are knowledgeable in audit aspects of determining whether a taxpayer is involved in an international boycott.

The conferees have also established a determination procedure so that taxpayers conducting business with foreign countries will be able to obtain a determination from the Secretary of the Treasury as to whether their operations constitute an international boycott agreement. While the determination procedure may rely upon the audit expertise of the IRS, it is anticipated that this procedure will be delegated to Treasury officials. The determination request may be filed by the taxpayer before he has computed and filed his tax return, or at any time during the course of an audit of a tax return in which the question is raised as to whether the taxpayer has agreed to participate in or cooperate with an international boycott. To obtain a determination from the Secretary, the taxpayer will be required to make available all factual materials which may be relevant to the Secretary's determination. If the request for a determination is made before the particular operation is commenced or before the close of the taxable year, the Secretary may defer making the determination until the close of the taxable year.

If the Secretary does determine that the taxpayer has agreed to participate in or cooperate with an international boycott, there will be a presumption that the participation or cooperation of the taxpayer relates to all of the operations of the taxpayer in all of the boycott countries involved. However, the taxpayer will be entitled to rebut this presumption by demonstrating that certain operations are clearly separate and identifiable and are not connected with an international boycott agreement. An adverse determination by the Secretary will be reflected by the taxpayer either directly in his return or by normal deficiency procedures of the Internal Revenue Service. Thus, a determination of participation in or cooperation with an international boycott agreement by the Secretary will be reviewable by the courts in the same manner as the usual tax controversy.

In order to assess the effectiveness of this legislation in discouraging participation in or cooperation with international boycotts, the conference agreement requires the Secretary to report annually to the taxwriting committees the number of boycott reports filed with the IRS and the percentage which indicated that the taxpayer had participated in an international boycott. Further, the report to the committees should contain a detailed description of the results of the audits of these taxpayers in connection with boycott operations, the changes made by the IRS on unreported boycott activities, and such other information which would be useful or helpful in evaluating the administration of these provisions. The report should also indicate to the extent possible the tax benefits which are claimed for operations in each boycott country; the benefits claimed by taxpayers in those countries and the benefits denied by application of these provisions; and the extent that benefits denied were attributable to boycott agreements determined by reason of an Internal Revenue audit. The report must be in such a form that it cannot, directly or indirectly, be associated with or otherwise identify a particular taxpayer.

The international boycott provisions are to apply to any participation in or cooperation with an international boycott made more than 30 days after the date of enactment. However, in the case of operations which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the international boycott provisions shall first apply to participation or cooperation after December 31, 1977.

1065. Denial of Certain Tax Benefits Attributable to Bribe-Produced Income

House bill.—The House bill contains no provision.

Senate amendment.—The Senate amendment provides that if a taxpayer pays a bribe to a foreign government official, the tax benefits of the foreign tax credit, DISC, and the deferral of earnings of foreign subsidiaries are denied to that taxpayer. The Secretary is authorized to require (subject to criminal penalities) the filing of reports and to determine whether a taxpayer has bribe-produced income. The provision is effective for illegal payments made 30 or more days after date of enactment.

Conference agreement.—The conference agreement subjects to current taxation as a deemed dividend an amount equal to the amount of any bribe paid by a foreign subsidiary or a DISC of a U.S. company. In addition, the earnings and profits of any corporation paying a foreign bribe is not to be reduced by the amount paid. The provision applies to illegal payments made 30 or more days after enactment.

Section Omitted From Senate Amendment No. 23:

Agricultural Products of Foreign Corporations

House bill.—Under present law, sales of agricultural products not grown in the U.S. in commercially marketable quantities are not included within the definition of base company sales income.

The House bill provides that sales of foreign-grown agricultural products which differ in grade or type from, and are not readily substitutable for (taking into account consumer preferences), agricultural products grown in the United States in commercially marketable quantities are not included within the definition of base company sales income. The provision applies to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of U.S. shareholders within which or with which the taxable years of the foreign corporations end.

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this pro-provision.

SENATE AMENDMENT NUMBERED 24

1101. Amendments Affecting DISC

House bill.—The DISC provisions presently in effect permit shareholders to defer taxation of up to 50 percent of the export profits allocated to the DISC. Under the House bill, incremental rules are adopted for taxable years beginning after December 31, 1975, which permit DISC benefits to the extent that current export gross receipts exceed 75 percent of the average for a 3-year moving base period (initially 1972–1974) which moves forward after 1980. A small DISC exemption to the incremental rule is provided for DISCs having taxable income of $100,000 or less for a taxable year. This exemption phases out at $150,000. DISC benefits are terminated for sales of agricultural products made after October 2, 1975, except those subject to marketing quotas. DISC benefits are also terminated for military sales made after October 2, 1975, except if the products are to be used solely for nonmilitary purposes. Fixed contract sales of military and agricultural products continue to receive DISC benefits for sales made before October 3, 1978. Fixed contract sales of natural resource products denied DISC benefits under the Tax Reduction Act of 1975 are made eligible for DISC benefits for an additional 5-year period from March 17, 1975 until March 18, 1980.

Under present law, DISC benefits are denied for sales of depletable natural resources including timber. Under the House bill, timber is treated as an agricultural product. Upon the disqualification of a DISC, the accumulated DISC income is recaptured under present law over a period equal to the period that the DISC was in existence not to exceed 10 years. The House bill provides that upon the disqualification of a DISC, the accumulated DISC income is recaptured over a period equal to twice the period that the DISC was in existence not to exceed 10 years. Where DISC benefits with respect to a product terminate, loans to the related supplier no longer qualify as a producer's loan under present law. The House bill provides that where DISC benefits with respect to a product terminate, loans to a related supplier may still qualify as a producer's loan.

Senate amendment.—The incremental rule adopted under the Senate amendment limits DISC benefits to the extent the current export gross receipts exceed 60 percent of the average for 3 out of 4 base period years (initially 1973–1976) which moves forward after 1979. DISC benefits are retained for agriculture products, but the incremental rules will apply only after 1979 using a 3 out of 5-year base period. DISC benefits are terminated for military sales unless it is determined that the property is competitive with foreign-manufactured property.

Under present law, taxpayers can prevent recapture of DISC benefits by selling or distributing DISC stock in certain nontaxable transactions. Under the Senate amendment, the sale or distribution of DISC stock in certain nontaxable transactions will result in recapture of accumulated DISC income.

Under present law, the combination of the general deemed distribution rule and the rule prescribing the source of any distribution to meet the 95 percent export receipts requirement can result in a partial double counting of the DISC's taxable income with respect to terminating deferral of taxation to its shareholders. The Senate amendment eliminates the problem of double counting by altering the source rules for distributions to meet qualification requirements.

The Senate amendment is otherwise the same as the House bill, except for technical changes. The Senate amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—Under the conference agreement, the incremental rule applies to taxable years beginning after December 31, 1975, and is 67 percent of the average gross receipts for a 4-year base period (initially 1972–1975) which moves forward after 1979. Sales of agricultural products are treated the same as sales of other products. DISC benefits are terminated for 50 percent of military sales (whether or not competitive) made after October 2, 1975.

The conference agreement otherwise follows the Senate amendment.

SENATE AMENDMENT NUMBERED 25

ADMINISTRATIVE PROVISIONS

1201. Public Inspection of Written Determinations by Internal Revenue Service

House bill.—Under present law, private letter rulings and other determinations of the IRS have been made public by the courts under the Freedom of Information Act. Certain confidential and other information is exempted from disclosure by the FOIA, but the taxpayer's identity is disclosed. The full impact of the FOIA in this area is still being litigated.

Under the House bill, IRS determinations issued pursuant to a request made after September 24, 1975, are made public, after deletion of certain information. Deleted material includes commercial or financial information, the disclosure of which could cause material financial harm; trade secrets; classified matter; information exempted by statute; bank regulation information and matters of personal privacy. The taxpayer's identity is to be deleted only from audit-type determinations and required rulings. Prior determinations, issued after July 4, 1967 (the effective date of the Freedom of Information Act), and requested before September 25, 1975, are made public, but with identifying details deleted. Prior determinations are made public contingent upon funds being appropriated to the IRS for the purpose, but not until 6-months' public notice is given that they will be made public. (Written determinations issued before July 5, 1967, are not made public.) The House bill also establishes procedures for resolution of disputes regarding deletion of information before release of a determination, including court actions to restrain disclosure and to obtain additional disclosure, and provides that a determination shall not be used as a precedent by any person in any case.

Senate amendment.—The Senate amendment is similar to the House bill regarding requests made with respect to determinations issued after November 1, 1976, except that names and identifying details are not normally to be disclosed. Background file documents related to a determination are to be made available upon request. Deleted material also includes geological and geophysical information and data, including maps, concerning wells, and commercial or financial information which is privileged or confidential. Determinations requested before November 1, 1976, are made public, except for certain required rulings. Disclosure is contingent upon funds being appropriated to the IRS for the purpose. Rules are established for the order in which prior determinations will be released, with the more recent determinations given priority. If the IRS receives a communication concerning a pending request for a determination from anyone outside the IRS (other than the taxpayer), the contact is to be noted, or "flagged", on

the determination when it is made public. Any person may file suit and learn the identity of the taxpayer, if the Tax Court finds evidence that an impropriety occurred or undue influence was exercised with respect to the determination. The court could also order disclosure of material previously deleted.

The amendment provides that the Secretary may determine any precedential effect by regulations and creates a civil remedy for intentional or willful failure of the IRS to make required deletions or to follow the procedures of this section, including minimum damages of $1,000 plus costs. It allows IRS collection of fees for search and duplication costs in making information available on request and establishes rules for IRS records disposal.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees also make it clear that communications concerning a pending determination from another agency which provides assistance to the IRS upon its request are not to be flagged. Moreover, the conferees do not intend that internal memoranda within the Internal Revenue Service relating to a particular written determination, or the question involved therein, which relate to development of the Service's legal position on the question involved, should be a part of the background file (and for this purpose Chief Counsel should be considered part of the Internal Revenue Service). However, correspondence which seeks to elicit further factual information, and the response thereto, would not be excluded from the background file by the previous sentence (for example, in a case where the National Office seeks further information regarding a district director's request for technical advice). Because of their similarity to internal memoranda and attorneys work product, correspondence between the Internal Revenue Service and the Department of Justice regarding a particular civil or criminal investigation or case, which is related to a particular written determination, or with respect to the relationship of a determination to any civil or criminal investigation or case, shall not be considered part of the background file. (The question of the availability of these documents is to be governed by other provisions of law, including the Freedom of Information Act.)

1202. Disclosure of Returns and Return Information

House bill.—No provision.

Senate amendment.—(a) *General.*—Under present law, tax returns are "public records", but they are generally open to inspection only under regulations or under executive orders. Additionally, the statute provides a number of specific situations in which tax returns can be disclosed.

The Senate amendment provides that returns and return information are to be confidential and not subject to disclosure except as specifically provided by statute.

In general, "returns" are defined in the regulations presently in effect as including information returns, schedules, lists, and other written statements filed with the IRS which are supplemental to or become a part of the return and other records, reports, information received orally or in writing, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any portion thereof relating to returns and schedules, etc. The Senate amendment defines the term

"return" to mean any tax or information return, declaration of estimated tax or claim for refund which is required or permitted to be filed with respect to any person. It also includes any amendment, supplemental schedule or attachment, filed with the tax return, information return, etc. "Return information" is defined as any data received by or prepared by the Secretary with respect to a return or with respect to the determination of the existence of the liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition. Information as to whether a taxpayer's return was, is being, or will be examined is also to be considered return information. Under the amendment, data in a form that cannot be associated with or otherwise identify a particular taxpayer will not constitute return information.

(b) *Disclosure to Congress.*—Congressional committees are classified in three categories for disclosure purposes under present law. The tax committees may inspect tax information in executive session. Select committees of the House and Senate may inspect tax information in executive session if specifically authorized to do so by a resolution of the appropriate body. Standing and select committees may inspect tax information under an executive order issued by the President for the committee in question and on the adoption of a resolution (by the full committee) authorizing inspection.

The Senate amendment provides that the tax-writing committees, upon written request of their respective chairmen, may have access to returns and return information in executive session. The Chief of Staff of the Joint Committee on Taxation may have access to returns and return information. Nontax committees are to be furnished returns and return information in executive session upon (1) a committee action approving the decision to request such returns, (2) an authorizing resolution of the House or Senate, as the case may be, and (3) a written request by the Chairman of the committee. The resolution of the appropriate body authorizing these committees to obtain returns or return information must specify the purpose for the inspection and that the inspection is to be made only if there is no alternative source of information reasonably available to the committee. The committees, through the committee Chairman and ranking minority member, can designate no more than 4 agents (2 majority and 2 minority) to inspect the returns or return information requested.

Under present law, the tax committees and select committees authorized to inspect tax information may submit "any relevant or useful" information obtained to the House or Senate. The Senate amendment provides that the tax-writing committees may submit tax information to the Senate or House, as the case may be. The nontax-writing committees may submit such information to the Senate or House sitting in executive session. The Joint Committee on Taxation; or its Chief of Staff, may submit tax information to the Committee on Ways and Means or to the Committee on Finance sitting in executive session.

(c) *Disclosure to the President (and other Federal agencies).*—An existing executive order permits so-called "tax checks" and inspection of tax returns by the President and certain designated

White House employees. Requests for tax checks and inspection are to be in writing and signed by the President personally.

The Senate amendment provides that disclosure of returns and return information can be made to the President and/or to certain named employees of the White House Office, upon the written request of the President, signed by him personally. A request is to specify, among other things, the reason disclosure is requested. The President (or a duly authorized representative of the Executive Office) and the head of a Federal agency also may make a written request for a "tax check" with respect to prospective appointees. The "tax check" is limited to whether the individual has filed income tax returns for the last 3 years, within the last 3 years has failed to pay any tax within 10 days after notice and demand, has been assessed a negligence penalty within the last 3 years, has been or is under any criminal tax investigation (and the results of such investigation), or has been assessed a civil penalty for fraud. The President and the head of any agency requesting returns and return information under this section will be required to file annually a confidential report with the Joint Committee on Taxation identifying the taxpayers, the returns or return information involved, and the reason for requesting such returns or return information. However, the President will not be required to report on requests pertaining to current employees of the executive branch. The reports will be maintained by the Joint Committee on Internal Revenue Taxation for a period not exceeding 2 years unless, within that period of time, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

(*d*) *Tax criminal cases.*—Under present law, tax returns and other tax information of any taxpayer may be furnished upon request without written application to U.S. Attorneys and Justice Department attorneys in civil or criminal tax cases referred by the IRS to the Justice Department for prosecution or defense. Where the Justice Department is investigating a possible violation of the civil or criminal tax laws and the matter has not been referred to the Justice Department by the IRS, a Justice Department attorney or U.S. attorney may obtain tax information upon written application where it is "necessary in the performance of his official duties". The Justice Department can obtain the returns of potential witnesses and third parties. Also, the IRS will answer an inquiry from the Justice Department as to whether a prospective juror has been investigated by the IRS.

Under the Senate amendment, the Justice Department will continue to receive returns and return information with respect to the taxpayer whose civil or criminal tax liability is at issue. Written request is required in cases other than refund cases and cases referred by the IRS. The return or return information of a third party will be disclosed to the Justice Department in the event that the treatment of an item reflected on his return is or may be relevant to the resolution of an issue of the taxpayer's liability under the Code. The return or return information of a third party will also be disclosed to the Justice Department when the third party's return or return information relates or may relate to a transaction between the third party and

the taxpayer whose tax liability is or may be at issue and the return information pertaining to that transaction may affect the resolution of an issue of the taxpayer's liability. Disclosure of a third party return or return information will be made only pursuant to written request, except for refund cases and cases referred to Justice by the IRS. A third party return may also be disclosed in a court proceeding, subject to the same item and transactional tests described above, except that the items and transactions must have a direct relationship to the resolution of an issue of the taxpayer's liability. In tax cases, the Justice Department and the taxpayer whose liability is at issue will be allowed to inquire of the IRS as to whether a prospective juror has been under an audit or investigation by the IRS. However, responses to such inquiries are to be limited to the existence or nonexistence of an IRS investigation.

(*e*) *Nontax criminal cases.*—Under present law, a U.S. Attorney or an attorney of the Department of Justice may obtain tax information in any case "where necessary in the performance of his official duties". This may be obtained on written application, giving the name of the taxpayer, the kind of tax involved, the taxable period involved, and the reason inspection is desired. The application is to be signed by the U.S. Attorney involved or by the Attorney General, Deputy Attorney General, or an Assistant Attorney General. Tax information obtained by the Justice Department may be used in proceedings conducted by or before any department or establishment of the Federal Government or in which the United States is a party. The IRS also will answer an inquiry from the Justice Department as to whether a prospective juror has been investigated by the IRS.

Under the Senate amendment, tax information can be disclosed to the Justice Department and other Federal agencies for nontax criminal purposes only by order of a U.S. District Court. The order would be issued upon a showing (1) that there is probable cause to believe, based upon information believed to be reliable, that a specified criminal act has been committed, (2) that there is reason to believe that the information contained in the return is directly probative of the commission of the crime, and (3) that the information sought cannot reasonably be obtained from any other source. Only those parts of the return determined by the Court to be necessary to the investigation or prosecution would be subject to disclosure. The amendment authorizes the IRS, either upon its own initiative or pursuant to written request, to disclose in writing to the Justice Department or any other Federal agency, information relating to the possible violation of a Federal criminal law which is received from sources other than the taxpayer and his representatives.

(*f*) *Nontax civil matters.*—Under present law, U.S. Attorneys and officials of other Federal Agencies may obtain tax information in nontax civil cases in the same manner and to the same extent as in nontax criminal cases. The Senate amendment provides that disclosure of returns and return information cannot be made to the Justice Department or other Federal enforcement agencies in civil cases except in those instances where it is defending the United States in a suit involving a renegotiation of contracts previously determined by the Renegotiation Board. Disclosure would be allowed under the amendment to

Treasury personnel (other than employees of the IRS) of returns or return information for purposes of tax administration.

The GAO does not presently have independent authority to inspect tax returns. It does have access to tax returns when it audits IRS operations as agent of the Joint Committee on Taxation. H.R. 8948 (reported by the Government Operations Committee and passed by the House) would specifically authorize the GAO to conduct audits of the IRS and the Bureau of Alcohol, Tobacco and Firearms. H.R. 8948 would permit GAO to have access to tax returns and tax records to the extent necessary to conduct the audits.

The Senate amendment provides that the GAO can initiate audits of the IRS on its own or at the request of any committee of Congress. The amendment authorizes the GAO to inspect returns and return information to the extent necessary in conducting the audits. It is intended that the GAO examine returns and individual tax transactions only for the purpose of, and in the number necessary to serve as a reasonable basis for, evaluating the effectiveness, efficiency and economy of IRS operations and activities. It is not intended that the GAO would superimpose its judgment upon that of the IRS in individual tax cases. GAO would notify the Joint Committee on Taxation in writing of the subject matter of the planned audit and any plans for inspection of income tax returns. GAO could proceed with its planned audit unless the Joint Committee, by a two-thirds vote of its members, vetoes the GAO audit plan within 30 days of first receiving notice of the proposed audit from GAO.

(*g*) *Statistical use.*—The Census Bureau, the Bureau of Economic Analysis, the Federal Trade Commission, and the Securities & Exchange Commission are presently authorized to use tax returns and return information for statistical purposes.

Under the Senate amendment, Census, the BEA, the FTC, and non-IRS Treasury personnel could obtain tax returns and limited return information for statistical and research purposes. The BEA and the FTC would only receive corporate tax information. Publication of statistical studies identifying any particular taxpayer is prohibited.

(*h*) *Inspection by Federal agencies.*—Under present law, several agencies may generally inspect tax information for qualified purposes without a specific written request. Inspection of tax information on a general basis is made most often by HEW, the Renegotiation Board and the FTC.

Under the Senate amendment, limited disclosures on a general basis would be permitted to the Social Security Administration, the Railroad Retirement Board, the Department of Labor, the Pension Benefit Guaranty Corporation, and the Renegotiation Board in certain limited situations where the return information is directly related to programs administered by the agency in question.

(*i*) *State and local governments.*—On the written request of the State Governor, tax returns may presently be inspected by State tax officials for purposes of administering the State's tax laws. Tax information may also be obtained by the States for local governments to be used in administering the local tax laws.

The Senate amendment provides that Federal tax returns and return information may be disclosed to State tax officials solely for use in

administering the State's tax laws. The tax information would not be available to the State Governor or any other nontax personnel, or to local governments. No disclosure may be made to any State requiring taxpayers to attach to, or include in, State tax returns a copy of any portion of the Federal return (or any information reflected on the Federal return) unless the State adopts provisions of law by December 31, 1978 protecting the confidentiality of the Federal returns or return information.

In order to protect the confidentiality of returns which the States receive from the IRS under the present exchange programs, the returns are, in most States, processed on computers used solely by the State tax authorities. In certain States, however, the requirements of the tax authorities are not sufficient to justify a separate computer, and, accordingly, the tax authorities have the Federal tax returns processed on central computers shared by several State agencies which are operated by State employees who are not in the tax department. In such situations, the IRS requires that tax department personnel be present at all times when the Federal tax returns are being processed. The Senate amendment would permit those States currently time-sharing with other State agencies to continue to do so to the extent authorized and under the conditions specified in Treasury regulations.

(*j*) *Taxpayers with a material interest.*—Income tax return presently are open to certain persons with a material interest in those returns. For example, returns are open to the filing taxpayers, trust beneficiaries, partners, heirs of the decedent, etc.

Under the Senate amendment, persons with a material interest would continue to have the right to inspect returns and, where appropriate, return information to the same extent as provided under current regulations. Return information (in contrast to "returns") could be disclosed to persons with a material interest only to the extent the IRS determines this would not adversely affect the administration of the tax laws.

(*k*) *Miscellaneous disclosures.*—Also, under present law, address information is provided to the Federal Parent Locator Service regarding "absent parents" under Public Law 93–647 (section 453 of the Social Security Act). Under the Senate amendment, returns and return information of taxpayers and spouses could be disclosed to appropriate Federal, State and local agencies for purposes of, and only to the extent necessary in, locating deserting parents and determining ability to make support payments.

Several provisions of the regulations allow the disclosure of tax information for miscellaneous administrative and other purposes. In other cases, the statute specifically requires public disclosure and certain types of returns (e.g., applications for exempt status by organizations). Under the Senate amendment, returns would continue to be open to public inspection in those situations where public disclosure is provided for in present law. Limited disclosure of returns and return information would be permitted in some, but not all, of the miscellaneous situations where disclosure is permitted under present law.

(*l*) *Procedures and records concerning disclosure.*—Several different offices of the IRS presently have the responsibility for ap-

proving the disclosure of tax information to particular agencies. The IRS presently maintains records concerning disclosure, but the type of records maintained are not standardized as between, e.g., Service Centers, and a complete inventory of records is not maintained.

The Senate amendment provides that in those cases in which disclosure or inspection of returns or return information would be permitted, it would be permitted only at the times, in the manner, and at the places prescribed by regulations. The IRS, and each Federal and State agency receiving tax information, would be required to maintain a standardized system of permanent records on the use and disclosure of returns and return information.

(m) Safeguards.—Except for the general criminal penalty for unauthorized disclosure, the tax law does not presently provide rules for safeguarding tax information disclosed by the IRS to other agencies. The IRS has no authority to audit the safeguards established by other agencies or to stop disclosure to other agencies that do not properly maintain safeguards.

Under the Senate amendment, no tax information would be furnished by the IRS to another agency (including commissions, States, etc.) unless the other agency complies with a comprehensive system of administrative, technical, and physical safeguards designed to protect the confidentiality of the returns and return information. In the event of an unauthorized disclosure by the other agency or its failure to maintain adequate safeguards, the IRS could (subject to an administrative appeal procedure) terminate disclosure to that agency.

(n) Reports to Congress.—Since 1971, the Joint Committee has received from the IRS a semi-annual report on disclosure of tax information.

The Senate amendment requires the IRS to make a confidential report to the Joint Committee each year on all requests (and the reasons therefor) received for disclosure of tax returns or return information. The report would include, as a separate section to be publicly disclosed, a listing of all agencies receiving tax return information, the number of cases in which disclosure was made to them during the year, and the general purposes for which the requests were made. In addition, the IRS would be required to file a quarterly report with the tax committees regarding procedures and safeguards followed by recipients of returns and return information.

(o) Enforcement.—Under present law, unauthorized disclosure of a Federal income tax return or financial information appearing thereon by a Federal or State employee is a misdemeanor punishable by a fine of up to $1,000 or imprisonment of up to one year, or both. It is also a misdemeanor punishable in the same manner for any person to print or publish an income tax return or financial information appearing therein.

Under the Senate amendment, the criminal violation of the disclosure rules would become a felony punishable by a fine of up to $5,000 and imprisonment of up to 5 years, or both. It would also be a felony, subject to the same penalties, for any person willfully to receive returns or return information as a result of an offer by that person to exchange an item of material value for the unauthorized disclosure. A civil

remedy is provided for any taxpayer damaged by any unlawful disclosure of returns or return information.

(*p*) *Effective date.*—The provisions in the Senate amendment concerning the confidentiality of tax returns are effective as of January 1, 1977.

Conference agreement.—The conference agreement generally follows the Senate amendment with the modifications described below.

Under the conference agreement, a prospective employee will receive notice from the IRS at the time it receives a request for a tax check with respect to the prospective employee. The confidential report to the Joint Committee by the President and heads of agencies will be made quarterly rather than annually as provided in the Senate amendment.

In addition, the court order required for disclosure of tax information to the Justice Department and other Federal agencies in nontax criminal cases will be issued upon a showing that: (i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed; (ii) there is reason to believe that the return or return information is probative evidence of a matter in issue related to the commission of the criminal act; and (iii) the information sought to be disclosed cannot reasonably be obtained from any other source unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of the criminal act.

The first requirement set forth above ("reasonable cause . . .") is intended to be less strict than the "probable cause" standard (contained in the Senate amendment) for issuing a search warrant, and this "reasonable cause" requirement is to be construed according to the plain meaning of the words involved. The term "criminal act" includes any act with respect to which the criminal penalty provisions of a Federal nontax statute (which may also include civil penalty provisions) would apply. This court procedure contemplates an *in camera* inspection of the return or return information by the judge to determine whether any part or parts thereof meet the requirements outlined above. Only the part or parts of the return or return information determined by the court to meet these requirements would be subject to disclosure under this provision. In this regard, the conference agreement contemplates that the more personal the information involved (e.g., medical and psychiatric information), the more restrictive the court would be in allowing disclosure.

The return or return information could be introduced in an administrative or judicial hearing if the court finds that it is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. The credibility of a witness does not constitute a matter in issue for purposes of these rules. Thus, under the conference agreement a return or return information would not be admissible for purposes of "collateral impeachment" (i.e., discrediting a witness on matters not bearing upon the question of the commission of a crime on the guilt of a party).

The conference agreement modifies the provision in the Senate amendment requiring those States which require taxpayers to attach

to, or include in, their State tax return a copy of any portion of their Federal return (or any information reflected on the Federal return) to adopt provisions of law by December 31, 1978, protecting the confidentiality of the attached copy of the Federal return or of the included return information. Although the copy of the Federal return or the return information required by a State or local government to be attached to, or included in, the State or local return does not constitute Federal "return or return information", subject to the Federal confidentiality rules, the policy underlying this requirement is that the attached copy of the return and the included information should be treated by State and local governments as confidential rather than effectively as public information. However, it is not intended to require States to enact confidentiality statutes which are mirror images of the Federal statutes. The conference agreement makes it clear that State tax authorities can disclose State returns and return information, including any portion of the Federal return (or information reflected on the Federal return) which the State requires the taxpayer to attach to, or to include in, his State tax return, to any State or local officers or employees whose official duties or responsibilities require access to such State return or return information pursuant to the laws of such State.

The conference agreement also authorizes the GAO to review and evaluate the compliance by the Federal and State agencies which have received returns and return information from the IRS with the requirements regarding the use and safeguarding of the returns and return information.

The conference agreement modifies the disclosure of return information to the Federal, State and local child support enforcement offices by providing for disclosure of the information from IRS master files and permitting disclosure of other return information only to the extent that it cannot be reasonably obtained from another source.

The conference agreement authorizes the IRS to disclose to other Federal agencies the mailing addresses of taxpayers from whom the agencies are attempting to collect a claim under the Federal Claims Collection Act.

1203. Income Tax Return Preparers

House bill.—Present law provides that tax return preparers must sign returns they prepare, but no penalties are provided for failure to sign. Preparers are subject to criminal fraud penalties of fines up to $5,000 and 3 years' imprisonment for willfully aiding or assisting in the preparation of a fraudulent return. (Also, preparers are subject to penalties for improper disclosure of tax return information.)

Under the House bill, any person who prepares a return or claim for refund for compensation must meet specific disclosure requirements and is subject to penalties for negligent or fraudulent preparation of returns. Injunctions may be sought against preparers engaging in certain specified practices. The provision applies to documents prepared after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill with several modifications, including an exception for preparers of refund claims filed as a result of an IRS audit; authorization for the IRS to modify annual reporting requirements, provided de-

tailed records and information are available and accessible to the Service. Also, the injunction provision is modified to establish more specifically the practices against which injunctive relief may be obtained. The amendment applies to documents prepared after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

The conferees also clarified certain language that appears in the Finance Committee's Report relating to income tax return preparers. The amendment imposes a penalty for any understatement of tax liability caused by an income tax return preparer due to negligent or intentional disregard of rules and regulations. The conferees share the Finance Committee's intention, as stated in the Committee Report, that this provision be interpreted in a manner similar to existing section 6653(a) of the Code which imposes penalties for disregard of rules and regulations by taxpayers on their own returns. Consistent with section 6653(a), the Committee Report states that an income tax return preparer's good faith dispute about an interpretation of a statute is not considered negligent or intentional disregard of rules and regulations.

However, the Report of the Finance Committee goes on to state that an income tax return preparer may complete a return relying on case law that conflicts with rulings or regulations, "provided he clearly sets forth in the return the relevant rulings or regulations which he disputes and the judicial decision upon which he relies." Such disclosure is not required to avoid penalties under section 6653(a) of the Code, and the Committee did not intend that more stringent requirements be applied under the new section 6694(a). The conferees agree that while there may be instances in which some form of disclosure on a return would be necessary to avoid penalties under section 6694(a), that would depend on all the relevant facts and circumstances in the particular case, as is true under section 6653(a).

1204. Jeopardy and Termination Assessments

House bill.—Under present law, no court or administrative review is made of the appropriateness of a jeopardy or termination assessment. No restrictions are placed on sale of property seized pursuant to one type of jeopardy assessment. A termination assessment creates a "deficiency" and presumably short taxable years.

The House bill provides expedited Tax Court review of the appropriateness of jeopardy and termination assessments (and the amount thereof). It also provides restrictions on the sale of seized property until this review is completed. The provisions of the House bill apply to assessments where notice and demand take place after December 31, 1975.

Senate amendment.—The Senate amendment is generally the same as the House bill but contains several modifications. The Senate amendment requires the Internal Revenue Service to furnish the taxpayer with a written statement setting forth the basis for a jeopardy or termination assessment within 5 days after the assessment is made, and provides for administrative review within an additional 15 days. The taxpayer may then obtain an expedited de novo determination of the reasonableness of the assessment by a United States District Court.

The Commissioner has the burden of proof on whether it is reasonable for a jeopardy or termination assessment to stand, but the taxpayer has the burden of proof on the reasonableness of the amount assessed. In the case of termination assessments, the Senate amendment provide for notice of deficiency to the taxpayer only after the close of the normal taxable year and for no closing or reopening of a taxpayer's taxable year. The Senate amendment imposes the same restrictions on sale of seized property with respect to jeopardy assessments as the House bill, but the restrictions are broadened in the case of termination assessments. These provisions of the Senate amendment apply to assessments where the notice and demand take place after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment. In the court review of a jeopardy or termination assessment, the conference agreement places the burden of proof on the government as to whether the making of the jeopardy or termination assessment is reasonable under the circumstances, but places the burden of proof on the taxpayer as to the reasonableness of the amount assessed. The Report of the Committee on Finance (S. Rept. 94–938, p. 365) analogizes this division of the burden of proof to the division in a civil tax fraud case where the government has the burden of proof on the fraud issue, and the taxpayer the burden on the issue of a deficiency in tax. The analogy was used only to explain the division; neither the Committee on Finance nor the conferees intend that the government must carry its burden of proof in the court review of a jeopardy or termination assessment under the special evidentiary standard of proof applicable to proving civil fraud, i.e., "clear and convincing evidence." Rather, the usual standard is to apply, as it does where the government is given the burden of proof in a deficiency case on a tax issue it failed to raise in its notice of deficiency.

1205. Administrative Summons

House bill.—The House bill provides generally, in the case of a third party summons, the taxpayer (or other person to whom the summoned records pertain) is to receive notice of the summons from the Service at the time of its issuance and have the right to stay compliance by notifying the person summoned within 14 days not to comply with the summons. The Service is then required to seek enforcement of the summons in a Federal court and the taxpayer has standing to challenge such enforcement. Notice is not required in the case of an administrative summons to a bank issued in connection with IRS collection activities. In the case of a John Doe summons (where the identity of the taxpayer is not known) the Service must go into court, establish reasonable cause for requesting the summons, and receive court approval before issuing the summons.

Senate amendment.—The Senate amendment is generally similar to the House bill except that it permits the Service a 3-day grace period to mail the notice to the taxpayer. The amendment also provides for suspension of the criminal statute of limitations (as well as the civil statute, which is suspended under the House bill) where the summons is protested by the taxpayer. The amendment suspends the notice requirement where a summons is issued solely to determine if records exists or where notice may result in a material interference in an investigation. The amendment is intended to enable the Service to avoid

material interference with an investigation where it reasonably believes that this might occur; however, petitions by the Service are not to be granted automatically by the courts and the petitions (and supporting affidavits) must show reasonable cause. The amendment also provides for the reimbursement of witness costs in accordance with regulations.

Conference agreement.—The conference agreement follows the Senate amendment. In addition, the agreement clarifies the definition of a third-party record keeper, limiting this category to attorneys, accountants, banks, trust companies, credit unions, savings and loan institutions, credit reporting agencies, issuers of credit cards, and brokers in stock or other securities. The conference agreement makes it clear that the criminal and civil statutes of limitations are to be suspended where the notice who protests enforcement of the summons is either the taxpayer himself (as under the House and Senate bills), his nominee or agent, or another person actually under the direction or control of the taxpayer. A corporation controlled by the taxpayer, for example, is covered under this rule. On the other hand, if the third-party record keeper (attorney, accountant, bank, etc.) protested enforcement of the summons, this would not suspend the statute of limitations with respect to the taxpayer because the third-party record-keeper is not the noticee. (Also, these persons ordinarily would not be under the actual direction or control of the taxpayer.) The conference agreement also provides that the Service is not required to give notice or to follow the "John Doe" procedure where the purpose of the inquiry is simply to learn the identity of the person maintaining a numbered bank account (or similar arrangement). For purposes of these rules, a numbered bank account (or similar arrangement) is an account through which a person may authorize transactions solely through the use of a number, symbol, code name or other device not involving the disclosure of his identity. A person maintaining the account includes the person who established it and any person authorized to use the account or to receive records or statements concerning the account.

1206. Assessments in case of mathematical or clerical errors

House bill.—Under present law, where a tax deficiency results from a mathematical error, the taxpayer does not have a right to appeal to the Tax Court, as provided in other cases. In practice, the Internal Revenue Service allows the taxpayer time to explain and substantiate a claim that there is no error. The Service has applied the mathematical errors procedure in 5 general categories of mistakes, only one of which literally involves arithmetic miscalculations.

The House bill defines five sets of mathematical or clerical errors, and the procedure and timetable which is to be followed before the Service may assess a deficiency. Under the procedure, the taxpayer must be given an explanation of the error and time to file a request for abatement of the assessment. The Service may not assess a deficiency before the taxpayer has agreed to it or the specified period has expired. The provision covers: (1) arithmetic errors; (2) errors in transferring amounts on the tax forms; (3) missing schedules or forms; (4) inconsistent entries and computations; and (5) entries that exceed statutory limitations. The timetable allows (1) the taxpayer 90 days from date of notice to file a request for abatement, (2) the Service 60 days to abate or renew the assessment, and (3) the taxpayer another 30 days

to demand abatement. This provision applies to returns filed after December 31, 1975.

Senate amendment.—The Senate amendment modifies the House provision by allowing 60 days for the taxpayer to file a request for abatement. If such a request is filed, the Service must abate the assessment; the Service then may assert a deficiency. The amendment applies to returns filed after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(a). Withholding State Income Taxes From Military Personnel

House bill.—Under present law, Federal withholding of State income taxes from military personnel is prohibited. The House bill provides for Federal withholding of State income taxes where requested by a member of the military. Such withholding is to be implemented within 120 days of enactment.

Senate amendment.—The Senate amendment is the same as the House bill except that withholding is mandatory rather than voluntary.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(b). Withholding of State or Local Income Tax From Members of the National Guard or Ready Reserve

House bill.— Under present law, withholding of State or local income tax from members of the National Guard or ready reserve by the Federal Government is prohibited. The House bill requires the Federal Government to withhold in those cases when the State and local income taxes are paid for regular training. Withholding is to be implemented within 120 days of the date of enactment.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

1207(c). Voluntary Withholding of State Income Taxes From Federal Employees

House bill.—The House bill contains no provision.

Senate amendment.—Under present law, Federal withholding of State income taxes from Federal employees in States where withholding is voluntary is prohibited. The Senate amendment permits Federal withholding of State income taxes from Federal employees in States where it is voluntary when employees request it. This withholding is to be implemented within 120 days of date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1207(d). Withholding of Income Tax on Certain Gambling Winnings

House bill.—Under present law, withholding of Federal income tax from gambling winnings is not required although information reports must be submitted on winnings of $600 or more. The House bill imposes withholding at a 20-percent rate on winnings of more than $1,000 from

sweepstakes, wagering pools, and lotteries and from other types of gambling if the odds are 300 to 1 or more. The withholding applies to wagers made after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it does not apply to winnings from slot machines, keno, and bingo, or from State-conducted lotteries. This withholding applies to wagers made after September 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment except that the exemption for State-conducted lotteries applies only to winnings of $5,000 or less, and the withholding begins to apply 90 days after date of enactment. State-conducted sweepstakes and wagering pools are not included in the $5,000 exemption, but rather are treated the same as privately-conducted sweepstakes and wagering pools (and thus are subject to withholding on any net winnings exceeding $1,000). Under the conference agreement, it is intended that the term "wagering pools" is to include all pari-mutuel betting pools, including on- and off-track racing pools, and similar types of betting pools.

The conference agreement also makes it clear that withholding applies to winnings net of the ticket price, taking into account all tickets for identical wagers. For example, if one $100 bet and two $50 bets are placed on a single horse to win a single racetrack event, any winnings from the three tickets should be added together and the ticket prices of all three tickets should be deducted to determine net winnings. However, if the bets are placed on different horses or on different events, the net winnings are to be determined separately for each ticket.

In addition, under the conference agreement, the Internal Revenue Service is to report, prior to 1979, to the House Committee on Ways and Means and the Senate Committee on Finance on the operation of the present reporting system (IRS Form 1099) as applied to winnings from keno, bingo, and slot machine winnings and is to make a recommendation whether or not such winnings should be subject to withholding. The conferees also urge that, in the interim, the Internal Revenue Service modify the reporting requirements (on IRS Form 1099) with respect to winnings from these sources. This modification should include a lower threshold for the requirement that the payor report payments to the Internal Revenue Service to the extent that current reporting practices differ from that set out in the Internal Revenue Code (sec. 6041).

1207(e). Withholding of Federal Taxes on Certain Individuals Engaged in Fishing

House bill.—No provision.

Senate amendment.—Under present law, crewmen on boats taking fish or other forms of aquatic animal life are usually treated, for tax purposes, as regular employees, not as self-employed. Under the Senate amendment, crewmen on boats engaged in taking fish or other aquatic animal life with an operating crew of fewer than ten are to be treated as self-employed for Federal tax purposes if their sole remuneration is a share of the boat's catch (or the proceeds of the catch), or, in the case of an operation involving more than one boat, a share of the entire fleet's catch. This provision is to apply, in general, to services performed after December 31, 1971, in taxable years ending after that date.

Conference agreement.—The conference agreement follows the Senate amendment but modifies the amendment to require boat operators to report the weight of the catch distributed to each crewman, or, in cases of distributions of proceeds of the catch, the dollar amount distributed to each crewman. In addition, the retroactive date of the provision is not to result in requiring crewmen who have been treated as ordinary employees to pay the higher rate of social security tax required of self-employed individuals, nor are refunds of the employer's share of social security taxes to be made to boat operators in such cases. Otherwise, the provision is applicable to services performed after December 31, 1971.

Because the status of individuals as independent contractors or employees for Federal tax purposes presents an increasingly important problem of tax administration, the conferees agreed to join in the request of the Senate Finance Committee (S. Rept. 94–938, p. 604) that the staff of the Joint Committee on Taxation make a general study of this area. The conferees also join in urging the Internal Revenue Service not to apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area to past, as opposed to future taxable years until the requested staff study has been completed. Thus, the conferees agree with the statements on this aspect of the subject in the Finance Committee's Report (S. Rept. 94–938, p. 604), as amplified by the Chairman and ranking member of the Finance Committee on July 26, 1976, during consideration of H.R. 10612 by the Senate.

The conferees also make it clear that the designation of fishermen as "self-employed" is for the specific tax purpose only. It is not intended to effect their rights to bargain collectively or their status under the antitrust or other laws.

1208. State-Conducted Lotteries

House bill.—Under present law, an excise tax of 2 percent is placed on amounts wagered, and an annual occupational tax of $500 is imposed on each person who is liable for the wagering tax. In addition, a tax of $250 per year is imposed on coin gaming devices including those which dispense lottery tickets. An exemption is provided for sweepstakes or lotteries conducted by a State where the winners are determined by a horse race.

The House bill eliminates the rule that a winner of State lotteries be determined by a horse race and an exemption from the tax on gambling devices is provided for State lotteries. The change is effective for wagers made, or periods after, March 10, 1964.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

1209. Minimum Exemption From Levy for Wages, Salary, and Other Income

House bill.—Present law enumerates a relatively limited list of items of a taxpayer which are exempt from levy for taxes. These exempt items include unemployment benefits but not wages, salary, or other income (except that needed to pay pre-levy court-ordered child sup-

port). Present law also requires repeated levies in cases involving wages and salaries.

The House bill exempts from levy for taxes a minimum amount ($50 on a weekly basis, plus $15 per dependent) of wages, salary, or other income. It also allows continuous levies on wages and salaries.

These provisions of the House bill apply to levies made after December 31, 1975.

Senate amendment.—The Senate amendment is the same as the House bill except that it applies to levies made after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1210. Joint Committee Refund Cases

House bill.—No provision.

Senate amendment.—Under present law, a report concerning refunds of income, estate, gift and other types of taxes must be submitted to the Joint Committee on Taxation if the refund is in excess of $100,000.

The Senate amendment increases the jurisdictional amount for Joint Committee refund cases to $200,000. Also, the amendment adds refunds of taxes on private foundations and pension plans as subject to the report requirements and authorizes the Chief of Staff of the Joint Committee to conduct a post-audit review of other cases. The amendment is effective generally upon date of enactment, except that the post-audit review provision is effective on January 1, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

1211. Use of Social Security Numbers

House bill.—Under present law, a person required to file an income tax return must include an identifying number in his return; in general, individuals use their social security numbers for this purpose. It is a misdemeanor to willfully, knowingly, and deceitfully use a social security number for purposes relating to obtaining or increasing the amount of benefits under a Social Security Act or other Federally funded program. Under the Privacy Act of 1974, it is unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his social security account number, unless: (1) disclosure is required by Federal statute, or (2) disclosure is required by a Federal, State or local agency under statute or regulation adopted prior to January 1, 1975.

The House bill amends the Code to require use of a social security number as the taxpayer identifying number for Federal income tax purposes.

Senate amendment.—The Senate amendment requires that, except as otherwise specified under regulations, an individual shall use his social security number for Federal income tax purposes. It also makes a misdemeanor the willful, knowing, and deceitful use of a social security number for any purpose.

In addition, the Senate amendment changes the Privacy Act so that a State or political subdivision may use social security numbers

for the purpose of establishing the identification of individuals affected by any tax, general public assistance, driver's license, and motor vehicle registration laws. If the State or local Government did not use the social security number for identification under a law or regulation adopted prior to January 1, 1975, it may require an individual to furnish his social security number solely for the purpose of administering tax laws, as well as general public assistance, driver's license and motor vehicle registration laws, and also for the purpose of responding to requests for information from an agency operating pursuant to the provisions of parts A and D of Title IV of the Social Security Act. Any individual who discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the U.S. is guilty of a misdemeanor.

Conference agreement.—The conference agreement follows the Senate amendment.

1212. Interest on Mathematical Errors on Returns Prepared by IRS

House bill.—No provision.

Senate amendment.—Under present law, interest on any underpayment of tax runs from the original due date (regardless of extensions) to the date on which payment is received. The Senate amendment provides that in the case of an income tax deficiency attributable to a mathematical error on a return prepared by an IRS taxpayer service representative, interest will not begin to run until the 30th day after notice and demand for payment of the deficiency, provided the deficiency did not result from a failure by the taxpayer to provide information to the IRS taxpayer service representative or from a willful misrepresentation of information by the taxpayer. This provision applies to returns filed for taxable years beginning after the date of enactment.

Conference agreement.—The conference agreement authorizes the IRS to abate any portion of interest owed by a taxpayer as a result of a mathematical error on returns prepared by the Internal Revenue Service where the amounts in question are below tolerance levels established by the IRS. The two principal factors to be taken into account by the IRS in establishing the tolerance levels are (1) the cost of determining, assessing, and collecting the interest and (2) sound and equitable tax administration.

Sections Omitted From Senate Amendment No. 25:

Definitions of City for Purposes of Withholding for Federal Employees

House bill.—No provision in H.R. 10612. However, a separate House-passed bill (H.R. 10572) provides that the Federal Government may withhold city income taxes for certain unincorporated localities.

Senate amendment.—The Senate amendment modifies the definition of city for withholding purposes as in H.R. 10572.

Conference agreement.—The conference agreement omits this provision, since a bill (H.R. 10572), which contains this provision, was enacted into law (P.L. 94–358).

Voluntary Withholding of State Income Taxes for Certain Legislative Officers and Employees

House bill.—The House bill requires the paying officers for the House of Representatives to enter into agreements with requesting States to withhold State income tax from any Member or House employees who request it. (Subsequent to the Committee's action, the House passed H. Res. 732 which provides for the voluntary withholding of State income taxes for House Members, officers and employees.)

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this provision, as the provision has been separately adopted by the House of Representatives (H. Res. 732).

Award of Costs and Attorneys Fees to Prevailing Taxpayer

House bill.—No provision.

Senate amendment.—Under present law, there is no specific provision regarding costs and fees for tax litigation. However, the prevailing party in any civil litigation brought in the Federal District Courts by or against the U.S. Government may recover costs, but not attorneys' fees or expenses.

The Senate amendment provides that a prevailing taxpayer in any civil tax litigation may be awarded costs, including reasonable attorneys' fees up to $10,000, but only if it is found that it was unreasonable for the U.S. Government to bring the action. The amendment applies to civil actions and proceedings for redetermination of deficiencies commenced after the date of enactment.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 26

MISCELLANEOUS PROVISIONS

1301. Certain Housing Associations

House bill.—Under present law most cooperative housing corporations, condominium management associations and residential real estate management associations cannot qualify for exempt status.

The House bill provides that a cooperative housing corporation, condominium management association, or residential real estate management association may elect to be tax exempt with respect to its membership dues and assessments. On other income, an electing organization is taxed at corporate rates without the surtax exemption. This provision applies to taxable years beginning after December 31, 1973.

Senate amendment.—The Senate amendment is generally the same as the House bill, except that cooperative housing corporations are not permitted to elect. Technical amendments are made in the definitions of association property, qualifying expenditures, and qualifying purposes. The Senate amendment also allows a cooperative housing corporation to take depreciation on property leased to tenant-stockholders, even though the tenant-stockholders may be able to depreciate their stock, if they use the proprietary lease or right of tenancy to which the stock is allocable in a trade or business or for the production of income. The Senate amendment also modifies the present law rule that a tenant-stockholder in a cooperative housing corporation must be an individual by permitting a lending institution which obtains stock in a cooperative housing corporation through foreclosure to be treated as a tenant-stockholder for up to three years. The Senate amendment generally applies to taxable years beginning after December 31, 1973. However, the provision relating to foreclosures by lending institutions applies to stock acquired after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1302. Treatment of Certain Crop Disaster Payments

House bill.—Under present law insurance proceeds received by a taxpayer as a result of destruction or damage to crops may be included in income in the taxable year following the year of their receipt, if it can be established that the income from the crops which were destroyed or damaged would otherwise have been properly included in income in the following taxable year. The House bill extends this provision to taxpayers using the cash receipts and disbursements method of accounting who receive certain payments pursuant to the Agricultural Act of 1949 if such payments are received as a result of (1) destruction or damage to crops caused by drought, flood or any other natural disaster, or (2) the inability to plant crops because of such a natural

disaster. The provision is effective for payments received after December 31, 1973, in taxable year ending after that date.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

1303. Tax Treatment of Certain 1972 Disaster Losses

House bill.—In the case of a 1972 disaster loss in a Presidentially designated disaster relief area, the tax on the first $5,000 of compensation received with respect to that loss is not to exceed the tax which would have been payable if the $5,000 (or lesser) deduction had not been claimed. This treatment applies only if elected by the taxpayer and only if certain conditions are satisfied. Any tax with respect to this $5,000 amount which was still unpaid on October 1, 1975, may be paid in three equal annual installments beginning on April 15, 1976.

Senate amendment.—The Senate amendment is the same as the House bill except that the first annual installment of tax liability still unpaid on October 1, 1975, is not due until April 15, 1977.

Conference agreement.—The conference agreement follows the Senate amendment. The provision is effective for all open years.

1304. Worthless Debts of Political Parties

House bill.—The House bill allows a deduction for worthless debts owed by political parties if the debts arise from bona fide sales of goods or services in the ordinary course of a trade or business, if more than 30 percent of the total business is with political parties, and if substantial efforts are made to collect the debt. The House bill applies for taxable years beginning after 1974 and to all prior open years.

Senate amendment.—The Senate amendment is the same as the House bill except that the amendment applies for taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees agreed that the provision of present law was not intended to apply to taxpayers whose primary business is to provide goods or services to political parties and that the conference agreement reflects Congress' original intent regarding present law.

1305. Tax-Exempt Bonds for Student Loans

House bill.—No provision.

Senate amendment.—Under present law, only interest on obligations issued by or on behalf of governmental entities such as States and their political subdivisions is exempt from Federal income taxation. In addition, even these obligations are generally not exempt if the proceeds might be used to purchase nonexempt securities or obligations whose yield will likely exceed the yield on the governmental obligations. Under the Senate amendment, obligations are to be exempt from tax if issued by nonprofit corporations organized or requested to act by a State or a political subdivision solely to acquire student loan notes. Student loan incentive payments made by the Commissioner of Education are not to be taken into account in determining whether the yield on student loan notes is higher than the yield on obligations issued to finance the student loan program. The provision is effective for obligations issued on or after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1306. Personal Holding Company Amendments

House bill.—No provision.

Senate amendment.—Under present law, royalties (other than mineral, oil or gas royalties and copyright royalties) received by a corporation are personal holding company income, regardless of how much income of other types the corporation may have. "Royalties" include amounts received for a license to use trade brands, secret processes, franchises and similar intangible property. Rents received by a corporation from leasing corporate "property" to a 25-percent or greater shareholder are personal holding income, only if over 10 percent of the company's income comes from other types of personal holding company income. In Rev. Rul. 71–596, 1971–2 Cum. Bull. 242, the IRS ruled that a company's income from licensing a major shareholder to make and sell a secret process is governed by the "royalty" rule rather than by the "rent" rule.

The Senate amendment treats intangible property as property subject to the shareholder rent rule, rather than the royalty rule, if the intangible property is used together with tangible property in an active trade or business conducted by the major shareholder who leases such intangible property from the corporation. The amendment applies to taxable years ending after December 31, 1964, and before January 1, 1972. No interest is to be paid on any refund received by a taxpayer under the amendment.

Conference agreement.—The conference agreement deletes the retroactive provision in the Senate amendment. In its place, the shareholder rent rule (of section 543(a)(6)) is amended to apply only to tangible property leased by a corporation to one or more of its major shareholders. (Even if income received by the corporation from renting tangible property to a major shareholder qualifies (under the tests in section 543(a)(6)), as nonpersonal holding company income, such income also constitutes rental income for purposes of the general rent rules in section 543(a)(2) and, as such, must also be tested under those rules.)

This amendment clarifies the shareholder rent rule, which has been interpreted by the courts to mean that amounts received by a corporation from leasing intangible property to a major shareholder are to be treated as royalty income (under sec. 543(a)(1)), regardless of whether such income also qualifies under the shareholder rent rule of sec. 543(a)(6). The amendment makes clear that income from the use of secret processes, trade brands and other intangible property (but not including certain specially-treated royalties), are always to be treated as personal holding company income under the general royalty rule (sec. 543(a)(1)), regardless of whether they are received from a shareholder of the corporation or from an unrelated third party.

The conference agreement provides, however, that solely for purposes of determining (under section 543(a)(6), as amended) whether over 10 percent of the corporation's income is derived from personal holding company income, income from a lease of intangible property to a 25 percent or greater shareholder is not to be treated as personal

holding company income. This special rule will apply only if the shareholder leases tangible property from the corporation a substantial amount of which he uses, along with the intangible property, in the active conduct of a trade or business.

The conference agreement also provides that even if income received by the corporation from renting tangible property to a major shareholder qualifies (under the tests in section 543(a)(6) as amended) as nonpersonal holding company income, such income also constitutes rental income for purposes of the general rent rules in section 543(a)(2) of present law and, as such, must also be tested under those rules.

Under the conference agreement, the provision applies to taxable years beginning after December 31, 1976.

1307. Work Incentive (WIN) and Federal Welfare Recipient Employment Tax Credits

House bill.—No provision.

Senate amendment.—Under present law, the work incentive (WIN) credit, equal to 20 percent of the wages paid during the first 12 months of employment to qualified AFDC recipients, is available to employers engaged in a trade or business who hired such employees. Qualified participants are certified by the local WIN agency. The credit is not available in the case of an employee who ceases to work for the original employer for an additional 12 months unless the employee voluntarily quits, becomes disabled, or is fired for misconduct. The amount of the credit available in any year is limited to the first $25,000 of tax plus one-half of tax liability in excess of $25,000. Under the Federal welfare recipient employment incentive tax credit (welfare recipient tax credit), which expired July 1, 1976, all private employers including those who provide employment for private household workers are eligible for the credit. Qualified employees are AFDC recipients who have received benefits for the 90 days preceding employment. The credit is essentially the same as the WIN credit: 20 percent of eligible wages, except that there is a limit of $5,000 a year on the annual eligible wages for non-business employees; the same overall credit limit of $25,000 of tax plus one-half of the excess also applies. There is no limit on the number of months the credit is available. The State or local welfare agency certifies recipients as qualified.

The Senate amendment makes the WIN credit available from the date of hiring if employment is not terminated without cause before the end of 90 days after the first 90 days of employment, and adds an additional exemption to the recapture rules to that there would be no recapture of the credit if the employee were laid off due to lack of business. It doubles the limit on the credit from $25,000 to $50,000 plus one-half of the excess over $50,000. The Senate amendment also doubles the limit on the welfare recipient tax credit from $25,000 to $50,000 plus one-half of the excess over $50,000. It provides a limit of 12 months for which the wages of any one employee would be eligible for the credit. The amendment authorizes the WIN agencies also to certify eligibility for the welfare recipient tax credit. The amendment extends the expiration date from July 1, 1976, to January 1, 1981.

Conference agreement.—The conference agreement follows the Senate amendment, except that the expiration date is moved up one year to January 1, 1980.

1308. Repeal of Excise Tax on Certain Light-Duty Truck Parts

House bill.—No provision.

Senate amendment.—Under present law, an 8-percent manufacturers excise tax applies to the sale of truck parts and accessories. However, no tax is imposed on such parts when included on a light-duty truck (10,000 lbs. or less) by the truck manufacturer, since the excise tax on light-duty trucks was repealed in 1971. If the part is added by a dealer (and is not considered to be "further manufacture"), the 8-percent tax applies. Under the Senate amendment, the 8-percent excise tax on truck parts and accessories is to be refunded or credited to the manufacturer where the part or accessory is sold on or in connection with the first retail sale of a light-duty truck. The provision applies to sales after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1309. Exemption From Manufacturers Excise Tax for Certain Articles Resold After Modification

House bill.—No provision.

Senate amendment.—Under present law, a 10-percent manufacturers excise tax is imposed on sales of bodies and chassis for heavy trucks, buses not used for mass transport, heavy trailers and semi-trailers, and highway tractors. An 8-percent tax is imposed on sales of parts or accessories for trucks and buses. Persons who obtain bodies or chassis and certain parts or accessories from different manufacturers and combine them are considered further manufacturers and must pay a 10-percent tax on their further sale, after credit for tax previously paid. Persons who buy the entire combination from a single manufacturer do not pay a manufacturers excise tax on a further sale.

Under the Senate amendment, a resale of an article subject to the 10-percent tax is not to be taxed merely because the article was combined with any coupling device, wrecker crane, loading and unloading equipment, aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor. The provision applies to resales on or after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1310. Franchise Transfers

House bill.—No provision.

Senate amendment.—Under present law, the transfer of a franchise, trademark or trade name is not the 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. No statutory rule prevents avoidance of this limitation through the use of partnerships. The Senate amendment adds a provision treating potential ordinary income from a franchise, trademark or trade name as an "unrealized receivable" of a partnership. The effect is to apply to partnerships the same rule that currently applies to sole proprietorships. This provision is effective for transactions occurring after December 31, 1976, in taxable years ending after that date.

Conference agreement.—The conference agreement follows the Senate amendment.

1311. Employer's Duties To Keep Records and To Report Tips

House bill.—No provision.

Senate amendment.—Under present law, employees must report to employers all tips received, including charge account tips. Employers must include such tips in reporting to the IRS the employees' wages subject to withholding. The IRS has recently ruled that sec. 6041(a) of the Code requires employers to report separately to the IRS charge account tips not reported to employers by employees and therefore not reported to IRS by employers as wages subject to withholding.

Under the Senate amendment, employers need only report to IRS the tips, including charge account tips, reported to the employers by their employees. In addition, the only records employers are required to retain in connection with charge account tips are statements of tips received furnished by their employees and charge receipts.

Conference agreement.—Under the conference agreement, the IRS is not to take action to enforce its recent rulings on these matters before 1979. Thus, the charge tip reporting rules are to be administered during this period as they were prior to the recent rulings. This provision is not intended to affect the Service's ability to effect audits in the area of tip income.

1312. Treatment of Certain Pollution Control Facilities

House bill.—No provision.

Senate amendment.—From 1969 through December 31, 1975, an election for 5-year amortization was available to a taxpayer who installed a new identifiable, certified pollution control facility in connection with property that was in operation before January 1, 1969. The amortizable basis of the facility was not eligible for the investment tax credit. The Senate amendment provides a 5-year amortization election for facilities installed in property in the past, makes amortization available for facilities that will prevent the creation or emission of pollutants, and provides a two-thirds investment credit for such facilities placed in service after December 31, 1976. The extension of the 5-year amortization election and its availability for preventive facilities apply for taxable years beginning after December 31, 1975. The investment credit provision applies for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment with modifications that extend the election to facilities that will prevent the creation or emission of pollutants when installed at the site of a plant or other property in existence before January 1, 1976, which do not lead to a significant increase in output or capacity, a significant extension of useful life, or a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility. For the purposes of this provision, significant means a change of more than 5 percent. Only one-half of the investment credit will be available for such pollution control facilities. In determining how significant is the effect of a pollution control facility upon output, capacity, costs or useful life of property, the relevant area for examination is to

be the operating unit most directly associated with the pollution control facility. The conference agreement also provides that the broader definition of a pollution control facility which is eligible for the amortization election does not apply in determining whether a facility is a pollution control facility eligible for tax-exempt industrial development bond financing.

The conference agreement extends the definition of a qualified pollution control facility to include, for example, a facility located at a plant site which prevents the creation of a pollutant by removing sulphur from fuel before it is burned at the plant. The definition includes such facilities as a recovery boiler that removes pollutants from material at some point in the otherwise unchanged production process at the plant. The conference agreement does not include as a qualified pollution control facility a facility that makes a significant change in a, or functions as a new, manufacturing or production process or facility. Where a plant that has employed heat to process a material changes to an electrolytic process, the latter is not a qualified pollution control facility because it is also a new manufacturing or production process even though it may prevent the creation and emission of pollutants.

1313. Qualification of Fishing Organizations as Tax-Exempt Agricultural Organizations

House bill.—No provision.

Senate amendment.—Under present law, fishing organizations may qualify as tax-exempt business leagues, but not as tax-exempt agricultural organizations. Tax-exempt agricultural organizations receive lower postal rates than do tax-exempt business leagues. Under the Senate amendment, the term "agricultural", for tax purposes, is to include the harvesting of aquatic resources. The provision is to be effective for all taxable years beginning after December 31, 1972.

Conference agreement.—The conference agreement follows the Senate amendment, but the rule is to be effective only for taxable years beginning after December 31, 1975.

1314. Subchapter S Corporation Shareholder Rules

House bill.—No provision.

Senate amendment.—Under present law, a corporation is required to have 10 or fewer shareholders in order to be eligible to elect and maintain subchapter S treatment.

Under the Senate amendment, 15 shareholders are allowed after the corporation has elected subchapter S treatment for 5 consecutive taxable years. In addition, a corporation may have up to 15 shareholders during this 5-year period if the additional shareholders have acquired their interests through inheritance. Also, where a husband and wife have treated as one shareholder, the surviving spouse and the deceased spouse's estate are treated as one shareholder. The amendments are effective which tax years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment except that it deletes the provisions under which a surviving spouse and the estate of a deceased spouse may be treated as 1 shareholder, since this provision is duplicated in another Senate amendment adopted by the conferees (Senate amendment numbered 62, section 2722).

1315. Application of Section 6013(e) of the Code (Innocent Spouse)

House bill.—No provision.

Senate amendment.—Section 6013(e) of the Code, enacted January 12, 1971, relieves a spouse from tax liability for income omitted from a tax return, if he or she is not responsible for the omission and did not benefit from the unreported income. The Senate amendment extends relief under the innocent spouse provision to taxpayers who, but for the *res judicata* effect of an adverse judicial decision, would have been relieved of liability under the 1971 statute. The amendment applies to all taxable years beginning after December 31, 1961, and ending on or before January 12, 1971, and is effective until the end of the first calendar year following the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1316. Modification in Limitations on Percentage Depletion for Oil and Gas Wells

House bill.—No provision.

Senate amendment.—Present law, adopted as part of the Tax Reduction Act of 1975, generally repeals percentage depletion for oil and gas but provides a limited exemption from repeal for taxpayers who are neither refiners nor retailers. In any event, percentage depletion is disallowed on proven property transferred after 1974. Also, percentage depletion on oil and gas is limited to 65 percent of the taxpayer's taxable income.

The Senate amendment modifies these provisions in certain respects to correct certain technical problems in connection with these provisions and to prevent instances of unintended hardship. Under the amendment, a taxpayer is not to be treated as a retailer in cases where gross sales of oil and gas products attributable to the taxpayer are less than $5 million in any one year. Also, bulk sales of oil or natural gas to industrial or utility customers are not to be treated as retail sales. Likewise, a taxpayer is not to be treated as a retailer, if all sales of oil or natural gas products occur outside the United States, and none of the taxpayer's domestic production is exported.

In addition, the amendment provides that oil or natural gas property is not to be treated as "transferred" property merely because there is a change in beneficiaries under a trust if the change occurs by reason of births, adoptions, or deaths involving a single family. Also, trusts are permitted to compute the 65 percent of taxable income limitation without regard to any deduction for distributions to beneficiaries. The rules outlined above are effective for taxable years beginning after December 31, 1974 (which is also the effective date of the provisions in the Tax Reduction Act of 1975).

Conference agreement.—The conference agreement follows the Senate amendment.

1317. Implementation of Federal-State Tax Collection Act of 1972

House bill.—No provision.

Senate amendment.—Under current law, a State whose individual income tax substantially conforms to the Federal individual income tax may enter into an agreement with the Internal Revenue Service for the IRS to collect and administer the State tax. At least two States

with 5 percent of the Federal individual tax returns must elect to have their taxes "piggybacked" for the piggyback system to be generally available. The Senate amendment makes explicit that no costs will be charged to any State for "piggybacking"; reduces to one the number of States necessary to start the system; and eliminates the requirement that 5 percent or more of Federal returns be initially involved in triggering the system. Also, it permits certain adjustments for State sales tax credits. The amendment takes effect upon the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

1318. Cancellation of Certain Student Loans

House bill.—No provision.

Senate amendment.—Under present law, gross income includes income from discharge of indebtedness. Gross income does not include amounts received as a scholarship or fellowship grant at an educational institution, unless such amounts represent compensation for services or are primarily for the benefit of the grantor. The Service has ruled that discharges of indebtedness on student loans issued after June 11, 1973, are includable in gross income.

The Senate amendment provides that no amount shall be included in gross income by reason of the discharge of all or part of a student loan if, pursuant to the loan agreement, such discharge is made if the individual works for a certain period of time in certain geographical areas or for certain classes of employers. This provision applies only to loans made by a governmental agency. The provision is effective for discharges of indebtedness made before January 1, 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1319. Simultaneous Liquidation of Parent and Subsidiary Corporations

House bill.—No provision.

Senate amendment.—Under present law, a corporation which sells its assets and liquidates completely within 12 months generally is not taxable on gain from its sale of assets. Its shareholders, however, are taxable on the liquidation proceeds they receive. The selling company in this situation is taxable, however, if it is a controlled subsidiary of a parent corporation. In this latter situation, the parent corporation is not taxable when it liquidates the subsidiary. If both the parent and the subsidiary plan to liquidate after the subsidiary sells its assets, however, two taxes may be imposed. The subsidiary may be taxed on its gain from the sale and the parent's shareholders may also be taxable when the parent liquidates.

The Senate amendment adds a rule that if a controlled subsidiary sells its assets and then both it and its parent corporation liquidate completely, only one tax will be imposed and that will fall only on the parent's shareholders. This rule would be effective for sales of assets under a plan of complete liquidation adopted on or after January 1, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

1320. Prepublication Expenditures

House bill.—Under present law, IRS regulations and Revenue Ruling 73–395, 1973–2 Cum. Bull. 87, deny a current deduction for research in connection with literary, historical, or similar projects. The ruling requires that publishers' prepublication expenditures must be capitalized and may be depreciated. The House bill, which applies to all open years, allows publishers to continue their customary, consistent tax accounting methods regarding prepublication expenditures without regard to Revenue Ruling 73–395 until the IRS issues new, prospective regulations.

Senate amendment.—The Senate amendment contains no provision.

Conference agreement.—The conference agreement follows the House bill with necessary technical changes.

1321. Contributions in Aid of Construction for Certain Utilities

House bill.—The House bill contains no provision.

Senate amendment.—Under a recent revenue ruling by the IRS, certain contributions in aid of construction are treated as income rather than nontaxable contributions to the capital of a utility. The Senate amendment treats certain contributions in aid of construction to water and sewage disposal utilities as nontaxable contributions to capital if cash contributions are spent for qualifying water or sewage disposal facilities before the end of the second taxable year following the year the contribution was received. This provision is effective for contributions made after January 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment with two modifications. Under the first modification, nontaxable treatment will not be accorded to customer connection fees. Customer connection fees include any payments made by a customer to the utility for the cost of installing the connection between the customer's property and the utility's main water or sewer lines (including the cost of meters and piping) and any amounts paid as service charges for stopping or starting service.

Where a utility receives a lump-sum amount as a payment for items which qualify for nontaxable treatment under this provision and for items which do not so qualify (such as customer connection fees), then the portion which qualifies for nontaxable treatment under this provision is to be determined on a case by case basis under the facts and the circumstances of each case. In addition, the mere fact that the applicable rate-making authority classifies an amount received by a utility as an amount for which nontaxable treatment is permitted is not conclusive of nontaxable treatment if such amounts actually are for items for which nontaxable treatment is not permitted.

Under the second modification, a requirement is added to insure that nontaxable treatment is accorded to only those utilities that are required to serve the public.

In providing these special rules for water and sewage disposal companies, the conferees intend that no inference should be drawn as to the proper treatment of such items by companies which are not water or sewage disposal utilities.

1322. Prohibition of Discriminatory State or Local Taxes on Generation or Transmission of Electricity

House bill.—No provision.

Senate amendment.—Under present law, any restrictions on the power of States or their political subdivisions to tax goods or services produced in the taxing State for nondomiciliary use outside the taxing State are derived from court interpretations of the interstate commerce clause of the Constitution.

The Senate amendment prohibits any State or political subdivision of a State from directly or indirectly imposing any tax on the generation or transmission of electricity which discriminates against out-of-State users. This provision is effective for taxable years beginning after June 30, 1974.

Conference agreement.—The conference agreement follows the Senate amendment.

1323. Deduction for Cost of Removing Architectural and Transportation Barriers for the Handicapped and Elderly

House bill.—No provision.

Senate amendment.—Generally, costs incurred to improve property used in a trade or business must be capitalized and may be depreciated over the useful life of the property. The Senate amendment provides an elective current deduction for the removal of architectural and transportation barriers to the handicapped and elderly in any facility or public transportation vehicle owned or leased for use in a trade or business. A second Senate amendment defines handicapped individuals to include the deaf and blind. The barrier removal must meet government standards. The maximum deduction is $25,000 per taxpayer for any taxable year. The amendment is effective for taxable years beginning after December 31, 1976, and ending before January 1, 1980.

Conference agreement.—The conference agreement follows the Senate amendment.

1324. Reports on High-Income Taxpayers

House bill.—No provision.

Senate amendment.—The Senate amendment instructs the Secretary of the Treasury to publish statistics on the tax liability of people with high total income, including the number and average income of high-income people with no income tax liability (after credits); the specific deductions, exclusions and credits used to avoid tax; the overall number of high-income individuals; and the total income and tax liability of the high-income group. Income, for this purpose, shall approximate real, economic income and shall include at least two adjustments: (1) adjusted gross income (AGI) shall be reduced by investment income and expense to the extent it does not exceed investment income; and (2) tax preference items excluded or deducted in arriving at AGI shall be added back into income for this purpose.

Also, the amendment directs the President to estimate in his annual economic report the change for the previous calendar year in the real tax burden resulting from the effect of inflation in eroding the real value of fixed dollar amounts used in determining tax rates, and to

project the change for the current calendar year. This tax change is to be estimated separately for the major sources of Federal revenues.

Conference agreement.—The conference agreement follows the Senate amendment on the report on high-income individuals, although it directs the Secretary to make the adjustments for investment interest and tax preferences separately, as well as together, so that there will be three definitions of "total income." The conference agreement deletes the direction to the President to make a report on the inflation-induced tax increase, but the conference committee urges the President to publish such information.

1325. Tax Treatment of Certified Historic Structures

House bill. No provision.

Senate amendment.—Under present law, the original users of depreciable real property constructed after July 24, 1969, are allowed to depreciate the property using accelerated methods of depreciation, including the 150 percent declining balance method (200 percent in the case of residential rental property). The Senate amendment provides that accelerated depreciation methods are not allowed with respect to real property constructed on a site which had been occupied by a certified historic structure which was demolished or substantially altered (other than by virtue of a certified rehabilitation). A "certified historic structure" is defined as a depreciable building or structure which is (a) listed in the National Register, (b) located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or (c) located in an historic district designated under a State or local statute containing criteria satisfactory to the Secretary of the Interior. A "certified rehabilitation" is defined to be any rehabilitation of a certified historic structure which the Secretary of the Interior has certified as being consistent with the historic character of such property or district. The required use of straight line depreciation applies to additions to the capital account after December 31, 1975, and before June 15, 1981.

Under present law, the expenses of demolishing an old building, and the remaining undepreciated basis of the demolished building, are deductible unless the building was acquired with a view toward its demolition. The Senate amendment provides that in case of the demolition of a certified historic structure, or of any other structure in a Registered Historic District unless certified by the Secretary of the Interior prior to its demolition not to be of historic significance to the district, no deduction is to be allowed for (1) the amount expended for its demolition, or (2) any loss sustained on account of the demolition. Deductions disallowed under this provision are to be treated as chargeable to the capital account with respect to the land on which the demolished structure was located and thus are not to be includable in the depreciable basis of any replacement structure. The disallowance of deductions applies to demolitions commencing after June 30, 1976, and before January 1, 1981.

Under present law, accelerated depreciation methods are generally not allowable with respect to used property acquired after July 24, 1969. A 125% declining-balance method may be employed to depreciate used residential property with a useful life of 20 years or more at the time of acquisition. The costs of rehabilitating an existing structure

must be capitalized and depreciated according to the method (straight-line or 125% declining balance) used to depreciate the structure. Under the Senate amendment, taxpayers are to be allowed an election to treat for depreciation purposes "substantially rehabilitated historic property" as if they were the original users of the property (i.e., they would be allowed to use the 150% (or 200% in the case of residential rental property) declining-balance method of depreciation with respect to the entire basis of the rehabilitated property). A "substantially rehabilitated historic property" is defined to be any certified historic property if the capital expenditures incurred in the certified rehabilitation of the property during the 24-month period ending on the last day of the taxable year exceed the greater of (1) the taxpayer's adjusted basis in the structure on the first day of the 24-month period or (2) $5,000. Accelerated depreciation on substantially rehabilitated historic property applies to additions to the capital account after June 30, 1976, and before July 1, 1981.

The Senate amendment also allows taxpayers an election, in lieu of claiming the depreciation deductions otherwise allowable, to amortize over a 60-month period the capital expenditures incurred in a certified rehabilitation of an historic structure. Amortization in excess of depreciation otherwise allowable is to be recaptured as ordinary income on a sale of the property. Five-year amortization applies to additions to capital account after June 14, 1976, and before June 15, 1981.

A charitable deduction is not allowed under present law for contributions to charity (not in trust) of less than the taxpayer's entire interest in the property unless it is a contribution of an undivided interest in the property, a contribution which would have been entitled to a charitable deduction if it had been made in trust, or a contribution of a remainder interest in real property consisting of personal residences or farms. Under the Senate amendment a deduction is allowed for the contribution to a charitable organization exclusively for "conservation purposes" of (1) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration or (2) a remainder interest in real property. The term "conservation purposes" is defined to mean the preservation of land areas for public recreation, education, or scenic enjoyment, the preservation of historically important land areas or structures, or the preservation of natural environmental systems. Such contributions also qualify as charitable contributions for estate and gift tax purposes. The deductions are allowable for charitable contributions and transfers made after June 13, 1976, and before June 14, 1977.

A charitable contribution includes a contribution to a governmental unit.

Conference agreement.—The conference agreement follows the Senate amendment.

1326. Supplemental Security Income for Victims of Certain Natural Disasters

House bill.—No provision.

Senate amendment.—In general, an SSI recipient living in someone else's household has his benefits reduced by one-third to reflect a lower level of need. P.L. 94-331 eliminated for up to six months the one-third reduction in the case of individuals displaced as a result of

a major disaster occurring between June 1, 1976 and December 31, 1976. The Senate amendment extends the period during which the one-third reduction may be suspended from six months to 18 months.

Conference agreement.—The conference agreement follows the Senate amendment.

1327. Exclusion of Countries Which Aid and Abet International Terrorists From Preferential Tariff Treatment

House bill.—No provision.

Senate amendment.—Under Title V of the Trade Act of 1974, eligible articles imported into the United States from beneficiary developing countries are duty free. Under section 502 of the Trade Act, certain countries are prohibited from being designated as beneficiary developing countries. The prohibitions apply to (1) Communist countries, generally speaking; (2) members of OPEC; (3) countries which have expropriated U.S. property without prompt, adequate, and effective compensation; (4) countries which do not cooperate with the United States to prevent narcotics from unlawfully entering the United States; (5) countries which do not eliminate reverse preferences; and (6) countries which do not recognize arbitral awards to U.S. citizens. Prohibitions (4), (5) and (6) may be waived by the President if he determines that such a waiver will be in the national economic interest of the United States.

Under the Senate amendment, a new prohibition is added to the definition of beneficiary developing country which provides that a country may not be designated if it aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism. This prohibition may be waived by the President if he determines that the waiver will be in the national economic interest of the United States.

Conference agreement.—The conference agreement follows the Senate amendment.

1328. Net Operating Loss Carryovers for Cuban Expropriation Losses

House bill. No provision.

Senate amendment.—Under present law, a taxpayer may carry over a net operating loss attributable to Cuban expropriation to each of 15 taxable years following the taxable year of the loss. The Senate amendment extends the carryover period for five years to 20 taxable years following the loss (all losses were claimed prior to December 31, 1965).

Conference agreement.—The conference agreement follows the Senate amendment. The conferees state that this is to be the final extension of the provision.

Sections Omitted From Senate Amendment No. 26:

Study of Tax Treatment of Married and Single Persons

House bill.—No provision.

Senate amendment.—Under the Senate amendment, the Joint Committee Staff is to study the tax treatment of married and single persons, as well as heads of households, to suggest changes toward improving equity in treatment. The study is to be completed by September 30, 1977.

Conference agreement.—The conference agreement omits this provision because the Joint Committee staff is studying this subject for the Ways and Means Task Force and will deliver its report to the Senate Finance Committee as well.

Prohibition of State-Local Taxation of Certain Vessels, Barges, or Other Craft

House bill.—No provision.

Senate amendment.—Under present law, Congress has not limited the power of States or of their political subdivisions to tax vessels using navigable waterways in interstate commerce. The Senate amendment prohibits any State or political subdivision of a State from taxing any vessel, barge, or other craft using navigable waters of the United States in interstate commerce. This prohibition, however, is not to be effective as to barges, vessels, or other craft incorporated under the laws of the taxing State; owned by individuals, partnerships, or corporations domiciled in, or residents of, the State; or having their home port in the State. The prohibition is also not to apply if the entire use of the craft takes place in a single State. This provision applies to taxable years ending after June 30, 1976.

Conference agreement.—The conference agreement omits this provision. Instead, conferees request that the Advisory Commission on Intergovernmental Relations study this area and report to the Congress its findings and recommendations.

SENATE AMENDMENT NUMBERED 27

CAPITAL GAINS

1401. Capital Loss Offset Against Ordinary Income

House bill.—Under present law, capital losses are deductible in full against capital gains. For individuals, the excess of capital losses over capital gains can be deducted against up to $1,000 of ordinary income each year, with an unlimited carryover to future years.

The House bill increases the amount of ordinary income against which capital losses may be deducted to $2,000 in 1976, to $3,000 in 1977, and to $4,000 in 1978 and subsequent years.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement raises the amount of ordinary income against which capital losses may be offset to $2,000 in 1977, and to $3,000 in 1978 and subsequent years.

1402. Holding Period for Long-Term Capital Gains

House bill.—Under present law, gains or losses on capital assets held for more than six months are considered long-term capital gains or losses. For individuals, 50 percent of the excess of net long-term capital gains over net short-term capital losses is deductible from income. Individuals may elect to have their first $50,000 of net long-term capital gains taxed at an alternative rate of 25 percent. Corporations have the option of paying an alternative tax of 30 percent on net long-term capital gains.

The House bill increases the holding period for long-term capital gains from six months to eight months for 1976, to 10 months for 1977, and to one year for 1978 and subsequent years, except for gains on agricultural commodity futures contracts.

Senate amendment.—The Senate amendment deletes the House provision.

Conference agreement.—The conference agreement lengthens the holding period defining long-term capital gains to 9 months in 1977 and one year in 1978 and subsequent years. Agricultural commodity futures contracts will retain the 6-month holding period in accordance with the House bill. In addition the requirement of present law that certain timber be treated as sold on the first day of the calendar year in which that timber is cut is deleted.

1403. Capital Loss Carryover for Mutual Funds

House bill.—The House bill extends the capital loss carryover period for mutual funds from 5 years to 8 years.

Senate amendment.—The Senate amendment is identical to the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

SENATE AMENDMENT NUMBERED 28

PENSION AND INSURANCE TAXATION

1501. Individual Retirement Account (IRA) for Spouse

House bill.—No provision.

Senate amendment.—Under present law, the IRA deduction is limited to $1,500 or 15 percent of compensation (whichever is less), so that a person without earned income is not allowed an IRA deduction. The IRA deduction is not allowed to a person for a contribution to the IRA of another person.

Under the Senate amendment, an individual with compensation (and who is eligible to deduct IRA contributions) can contribute up to $2,000 to an IRA that he and his non-employed spouse own jointly, or he can contribute up to $1,000 to his own IRA and $1,000 to an IRA separately owned by his spouse. The deduction is limited to 15 percent of compensation. Both spouses must consent to a distribution from a joint IRA. The $2,000 and the $1,000 IRAs would be alternatives to the $1,500 IRA allowed under present law. Contributions to the $2,000 and $1,000 IRAs would be offset by employer contributions under the rules for limited employee retirement accounts (under sec. 1502 of the House bill). The amendment would apply to taxable years beginning after 1976.

Conference agreement.—The conference agreement follows the Senate amendment except that a $1,750 limit ($875 for each spouse) was agreed to in lieu of the $2,000 limit. Also, the conference agreement provides that the deduction is allowed for contributions to separate IRAs for each spouse or to an IRA which has one subaccount for the husband and another for the wife. (The single account with two subaccounts could be considered a common investment fund.) Under the agreement, although the spouses own separate subaccounts, each could have a right of survivorship with respect to the subaccount of the other. The conference agreement does not permit a deduction for a contribution to an IRA which the husband and wife own jointly; but where a single IRA with subaccounts is used, each spouse could have a right of survivorship with respect to the subaccount of the other. Under the conference agreement, an IRA deduction is allowed under the new rules or the present rules (but not both).

1502. Limitation on Contributions to Certain H.R. 10 Plans

House bill.—No provision.

Senate amendment.—Under present law, a self-employed individual can set aside up to $750 of self-employment income in an H.R. 10 plan without regard to the usual rule limiting H.R. 10 plan contributions to 15 percent of self-employment income. However, due to a technical problem, a plan is disqualified if the contribution exceeds 25 percent of the individual's self-employment income.

The Senate amendment allows a self-employed individual to set aside up to $750 of self-employment income in an H.R. 10 plan without regard to the usual 15-percent limitation or the 25-percent limitation. The exception would only apply if the individual's adjusted gross income does not exceed $15,000. The amendment applies to years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1503. Retirement Deductions for Members of Armed Forces Reserves and National Guard

House bill.—No provision.

Senate amendment.—Present law provides that a participant in a governmental plan is not allowed a deduction for an IRA contribution so that the deduction is not allowed to members of the Armed Forces Reserves and National Guard covered by the military retirement plan. The Senate amendment allows a member of the Armed Forces Reserves or National Guard to qualify for an IRA deduction for a year (if otherwise qualified) despite his participation in the military retirement plan if he has 90 or fewer days of active duty (other than for training) during the year. The Senate amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1504. Tax-Exempt Annuity Contracts in Closed-End Mutual Funds

House bill.—No provision.

Senate amendment.—Under present law, amounts contributed by certain tax-exempt organizations and educational institutions to provide annuities for employees are not included in the income of the employees if the contributions are used to purchase annuity contracts or are invested in open-end mutual funds. (An open-end mutual fund is a regulated investment company which issues redeemable shares.) The Senate amendments allows contributions for tax-sheltered annuities to be made to closed-end investment companies as well as to open-end mutual funds and annuity contracts. (A closed-end investment company is a regulated investment company which issues nonredeemable shares.) The amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

1505. Pension Fund Investments in Segregated Asset Accounts of Life Insurance Companies

House bill.—No provision.

Senate amendment.—Under present law, a segregated asset account can serve as an investment account and reserve for an insurance contract providing for annuities under which the premiums or benefits depend on the performance of the assets in the account. The Senate amendment clarifies present law by allowing a qualified pension plan to invest in an insurance contract with a segregated asset account even though the contract does not provide annuities. A pension fund can

invest assets in such an account in lieu of a trust if the investment is otherwise permitted under law. The amendment applies for taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment, and clarifies the treatment of pension fund investments in nonsegregated accounts.

1506. Study of Salary Reduction Pension Plans

House bill.—No provision.

Senate amendment.—On December 6, 1972, the IRS issued proposed regulations which would have changed the tax treatment of salary reduction, cafeteria, and cash or deferred profit-sharing plans. In order to allow time for congressional study of these areas, section 2006 of ERISA provided for a temporary freeze of the status quo until December 31, 1976. Under the Senate amendment the temporary freeze of the status quo (under which plans established before June 27, 1974, are governed by the law in effect prior to the 1972 proposed regulations) would be extended until January 1, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

1507. Consolidated Returns for Life and Mutual Insurance Companies

House bill.—No provision.

Senate amendment.—Under present law, life insurance companies cannot file consolidated returns with non-life companies. In addition, mutual casualty insurers are effectively precluded from filing consolidated returns with other types of companies. The Senate amendment allows life insurance companies and other mutual insurance companies to file consolidated returns with other companies under rules limiting the amount of non-life losses applied against life company income to one-half the loss or one-half of life company income, whichever is less. Non-life losses could not be carried back against life company income. Consolidated filing is allowed for taxable years beginning after 1977.

Conference agreement.—The conference agreement follows the Senate amendment but with substantial modifications. First, it postpones for five years, or until 1981, any consolidation of life insurance company returns with non-life insurance company returns. Second, in 1981 and subsequent years consolidated returns may be filed by a life company and another company only where they have been affiliated for the preceding 5 years. Third, the amount of any non-life company loss which may be so applied against life company income in 1981 and the proportion of the life insurance company income which may be so offset in 1981 is limited to 25 percent. Fourth, in 1982 the percentage referred to above is to be 30 percent, and thereafter the percentage is to be 35 percent.

1508. Guaranteed Renewable Life Insurance Contracts

House bill.—No provision.

Senate amendment.—Under present law, a life insurance company can deduct 10 percent of the increase in its reserves for nonparticipating contracts for a taxable year or, if greater, 3 percent of the premiums for the year (excluding the portion of the premiums which is

allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) if the policies are issued or renewed for at least 5 years. The Senate amendment provides that the time for which a policy is issued or renewed includes the period for which the insurer guarantees that the policy is renewable by the policyholder. The amendment applies to taxable years beginning after 1957.

Conference agreement.—The conference agreement follows the Senate amendment.

1509. Study of Expanded Participation in Individual Retirement Accounts

House bill.—Under present law, an individual who is an active participant in a qualified pension, etc., plan, a tax-sheltered annuity, or a governmental plan cannot make deductible contributions to an IRA. The House bill allows an IRA deduction to a participant in a qualified plans or tax-sheltered annuity. The deduction is allowed for a contribution to the plan (if the plan was in existence when the 1974 Pension Act was enacted) or to an IRA. The deduction is not allowed to a participant in a governmental plan. The usual IRA limits are reduced by forfeitures and amounts actually contributed to a defined contribution plan by an employer. Under a defined benefit plan, the limitation is reduced by the level cost of the plan benefits or the cost of benefits accruing during the year. Employers would report these amounts to employees. In addition, the bill provides that the special penalty tax imposed on excess contributions to an IRA does not apply if the contribution does not exceed $1,500 and the excess contributions are withdrawn before the tax return for the year is due.

Senate amendment.—The Senate amendment adopts provisions under which a participant in a governmental plan would be permitted to make deductible contributions to an IRA (but only if a provision like that in the House bill becomes effective for a participant in a *private* qualified plan). If the government employee-type IRA becomes effective, the IRA limits on deductions would continue to apply, but they would be reduced by the amount of the employer contributions under the regular pension plan allocable to the employee.

Conference agreement.—The conference agreement omits both the House provision and the Senate amendment. However, the conference agreement provides that the staff of the Joint Committee on Taxation is to study the LERA concept and report its findings to the Ways and Means Committee of the House and the Finance Committee of the Senate.

Section Omitted From Senate Amendment No. 28:

Tax-Free Rollover In Event of Plan Termination

House bill.—The bill permits tax-free rollover of a distribution from a tax-qualified plan to an individual retirement account (IRA) or to another qualified plan in the event of plan termination. (Provisions substantially similar to the House bill were enacted on April 15, 1976 (Public Law 94-267).)

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits the provision (because of the enactment of Public Law 94-267).

SENATE AMENDMENT NUMBERED 29

REAL ESTATE INVESTMENT TRUSTS

1601. Deficiency Dividend Procedure

House bill.—Under present law, a REIT is provided the same general conduit treatment that applies to a mutual fund. If a trust qualifies as a REIT, income of the REIT which is distributed to investors is taxed to them and not to the REIT. A REIT must distribute at least 90 percent of its REIT taxable income in the year earned or next succeeding year. Failure to meet the distribution requirement results in loss of REIT status.

The House bill provides for a deficiency dividend procedure which permits qualifying distributions to be made in subsequent years where an adjustment occurs that either increases the amount which the REIT is required to distribute to meet the 90-percent test or decreases the amount of dividends previously distributed for that year. This deficiency dividend procedure is available only if the entire amount of the adjustment was due to reasonable cause. A penalty is imposed where the deficiency dividend procedure is adopted based on the total amount of the adjustment.

Senate amendment.—The Senate amendment is the same as the House bill except that it (1) modifies the House bill to make the procedure available only where the entire amount of the adjustment was not due to fraud with intent to evade tax or willful failure to file an income tax return and (2) modifies the House bill to base the penalty on the amount of the adjustment to the extent that the deficiency dividend deduction is allowed.

Conference agreement.—The conference agreement follows the Senate amendment.

1602. Failure To Meet Income Source Tests

House bill.—Under present law, a REIT is required to derive annually at least 90 percent of its gross income from certain passive sources and at least 75 percent of its gross income from certain real estate sources. Failure to meet these requirements results in disqualification. Under the House bill, failure to meet the 75-percent or 90-percent requirements as a result of a determination will not result in disqualification if the REIT had reasonable grounds to believe and did before that it met the 75-percent and 90-percent tests. In addition, the House bill imposes a tax at normal corporate rates (48 percent) on the *net* income attributable to the amount by which the REIT fails the 75-percent or 90-percent requirements.

Senate amendment.—The Senate amendment modifies the House bill to provide that failure to meet the 75-percent or 90-percent requirements will not result in disqualification if (1) the REIT sets forth the source and nature of its gross income in its return, (2) the inclusion of

any incorrect information in this schedule is not due to fraud with intent to evade tax, and (3) the failure to meet the income source requirements is due to reasonable cause and not due to willful neglect. In addition, the Senate amendment imposes a 100-percent tax on the *net* income attributable to the *greater* of the amount by which the REIT fails the 75-percent or 90-percent requirements.

Conference agreement.—The conference agreement follows the Senate amendment.

1603. Treatment of Property Held for Sale to Customers

House bill.—Under present law, a REIT is not permitted to hold any property (other than foreclosure property) primarily for sale to customers in the ordinary course of its trade or business. Failure to meet the requirement results in disqualification. The House bill permits a REIT to derive one-percent of its gross income from property (other than foreclosure property) held for sale to customers without disqualification. In addition, the House bill imposes a tax at normal corporate rates (48 percent) on the net income from such property, up to one-percent of its gross income, and at twice the normal corporate rates (96 percent) on the net income from such property in excess of one-percent of its gross income.

Senate amendment.—The Senate amendment removes entirely the prohibition against holding property for sale to customers. Instead, it imposes a 100-percent tax on the net income from such property.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(a). Increase in 90-Percent Gross Income Requirement to 95 Percent

House bill.—Under present law, in order to qualify for real estate investment trust status, the trust must derive at least 90 percent of its income from certain passive sources. The House bill increases the percentage of gross income that must be derived from certain passive sources from 90-percent to 95-percent.

Senate amendment.—The Senate amendment follows the House bill, except that the increase applies to taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(b). Change in Definition of "Rents From Real Property"

House bill.—Under present law, "rents from real property" qualify for both the 75-percent and 90-percent requirements. "Rents from real property" does not include (1) amounts received for customary services if separate charges are made for such services, (2) amounts attributable to the rental of personal property even if incidental to the rental of real property, and (3) amounts which are contingent upon the net income or profits of anybody deriving income from property.

The House bill modifies the definition of "rents from real property" to include (1) amounts received for customary services even if separate charges are made for such services and (2) amounts attributable to personal property incidental to the rental of real property if the amount allocable to personal property is less than 15 percent of total rent.

Senate amendment.—The Senate amendment follows the House bill. In addition, the Senate amendment provides that where a REIT leases to a prime tenant with a rent based on a percentage of the prime tenant's gross receipts and the prime tenant subleases to a subtenant with a rent based on a percentage of the subtenant's net income or profits, only a portion of the rent received from the prime tenant does not qualify as "rents from real property."

Conference agreement.—The conference agreement follows the Senate amendment.

1604(c). Change in Distribution Requirements

House bill.—No provision.

Senate amendment.—Under present law, in order to qualify for REIT status, a trust must distribute 90-percent of its REIT taxable income. If a trust qualifies for REIT status, the nonqualifying income is not subject to tax at the REIT level if such income is distributed to its shareholders.

The Senate amendment deletes the tax on nonqualifying income. Instead, the Senate amendment increases the distribution requirement from 90 percent to 95 percent for taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1604(d). Termination or Revocation of Election

House bill.—No provision.

Senate amendment.—Under present law, a REIT which loses its status as a REIT in one year can requalify in the next subsequent year even if the REIT purposefully did not qualify in the preceding year. The Senate amendment provides that a REIT which voluntarily disqualifies itself from REIT status cannot requalify for 5 years.

Conference agreement.—The conference agreement follows the Senate amendment.

1605. Excise Tax on Distributions Made After Taxable Year

House bill.—Under present law, a REIT can elect to treat dividends paid during one year as qualifying distributions for the next preceding year even though the REIT's shareholders are not taxed until the distribution is received. The House bill imposes an excise tax on a REIT to the extent that it fails to distribute 75-percent of the income it is required to distribute during the year the income is earned.

Senate amendment.—The Senate amendment follows the House bill, except that it delays the application of the excise tax to taxable years beginning after 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

1606. Allowance of Net Operating Loss Carryover

House bill.—No provision.

Senate amendment.—Under present law, a REIT is not allowed to use a net operating loss carryover to reduce its taxable income and distribution requirements. The Senate amendment allows the net operating loss deduction to a REIT for carryovers but not carrybacks.

Conference agreement.—The conference agreement follows the Senate amendment.

1607. Alternative Tax in Case of Capital Gains

House bill.—No provision.

Senate amendment.—Under present law, a REIT is taxed on its net capital gains less amounts of net capital gain distributed to shareholders at a flat 30-percent rate. It cannot reduce its net capital gains by ordinary losses as is permitted ordinary corporations. The Senate amendment permits a REIT to reduce its net capital gains by its ordinary losses if it does not use the alternative tax (30 percent) on net capital gain.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 30
RAILROAD PROVISIONS

1701(a). Railroad Ties

House bill.—Under present law, railroads generally use retirement-replacement depreciation for track costs under which original track costs are capitalized and later replacements are entirely or partly deducted currently.

The House bill allows a current deduction for costs of replacing one type of railroad tie with another type of tie. The provision applies to amounts paid or incurred after December 31, 1974.

Senate amendments.—A committee amendment allows a deduction of costs for an improved type of tie to the extent of the current costs for the type of tie which is replaced, effective for amounts paid or incurred after December 31, 1975. Under a floor amendment, the full cost of replacement ties could be deducted currently.

Conference agreement.—The conference agreement adopts the Senate floor amendment.

1701(b). Investment Credit Limitation for Railroads

House bill.—No provision.

Senate amendment.—Present law provides that investment credits which may be used are generally limited to 50 percent of tax liability for the taxable year. Public utilities, however, are allowed to use their credits up to 100 percent of tax liability for taxable years ending in 1975 and 1976, and in percentages which are reduced annually by 10 percentage points for later years until 1981, when the limitation returns to 50 percent.

The Senate amendment allows railroads to take credits up to 100 percent of tax liability for 1976 and 1977 with annual reductions of 10 percentage points thereafter until the limitation returns to 50 percent in 1982. The amendment applies to tax years ending after December 31, 1975.

Conference agreement.—The conference agreement adopts the Senate amendment but moves the effective date forward one year so that it will begin to apply in taxable years ending after December 31, 1976, and the limitation will return to 50 percent in 1983. In addition, the conferees specified that only a railroad, and not a lessor of railroad property, is entitled to this temporary increase in the investment credit limitation.

1702. Amortization of Railroad Grading and Tunnel Bores

House bill.—Domestic railroad common carriers may presently amortize railroad grading and tunnel bores placed in service after 1968 on a straight-line basis over a 50-year period. The House bill extends this same treatment on an elective basis to railroad grading and tunnel bores placed in service before January 1, 1969.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

1703. Investment Credit Limitation for Airlines

House bill.—No provision.

Senate amendment.—Present law provides that investment credits which may be used are generally limited to 50 percent of tax liability for the tax year. Public utilities, however, are allowed to use their credits up to 100 percent of tax liability for taxable years ending in 1975 and 1976, and in percentages which are reduced annually by 10 percentage points for later years until 1981, when the limitation returns to 50 percent. The Senate amendment allows airlines to take credits up to 100 percent of tax liability for 1976 and 1977 with annual reductions of 10 percentage points thereafter until the limitation returns to 50 percent in 1982. The amendment applies to taxable years ending after December 31, 1975.

Conference agreement.—The conference agreement adopts the Senate amendment but moves the effective date forward one year so that it will begin to apply in taxable years ending after December 31, 1976, and the limitation will return to 50 percent in 1983. The conferees also decided to include all common carrier airlines as eligible for this temporary increase in the limitation and it was specified that only an airline, and not a lessor of airline property, is entitled to the increased limitation.

Section Omitted from Senate Amendment No. 30:

Amortization of Track Accounts

House bill.—No provision.

Senate amendment.—Under present law, railroads generally use retirement-replacement depreciation for track costs under which original track costs are capitalized and later replacements are entirely or partly deducted currently.

The Senate amendment allows domestic railroads 10-year amortization on capitalized costs for railroad track materials and installation. A deduction under this provision is to be deferred to the extent it causes a taxpayer to have a loss from its railroad operations. The Senate amendment applies to costs of track materials placed in service after December 31, 1975.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 31 (OMITTED)

TAX CREDIT FOR GARDEN TOOLS

House bill.—The House bill provides a new 7-percent tax credit for the first $100 of home garden tool purchases. It is effective for expenses paid in taxable years beginning after December 31, 1975.

Senate amendment.—No provision.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 32

REPEAL AND REVISION OF OBSOLETE, ETC., PROVISIONS OF CODE

1900–1907; 1951–52

DEADWOOD PROVISIONS

House bill.—The House bill repeals or modifies obsolete and rarely used provisions of the Internal Revenue Code of 1954. It also makes simplifying changes in Code terminology.

Senate amendment.—The Senate amendment generally is the same as the House bill, with certain conforming changes. However, the Senate amendment modifies the House bill's definition of the term "or his delegate" as it is used in the Code in references to powers exercised by the Secretary of the Treasury or his delegate.

Conference agreement.—The conference agreement generally follows the "Deadwood" provisions as modified by the Senate amendment. However, the conference agreed to the House bill's definition of the term "or his delegate", with the understanding that the definition is not to have any impact with respect to existing delegations of authority.

SENATE AMENDMENT NUMBERED 33 (OMITTED)

ENERGY-RELATED PROVISIONS

House bill.—No provision.

Senate amendment.—The Senate amendment includes a series of energy-related provisions. It includes a (1) residential insulation credit, (2) residential solar and geothermal energy equipment credit, (3) residential heat pump credit, (4) credit for wind-related residential energy equipment, (5) business insulation credit, (6) business solar and geothermal equipment credit, (7) investment credit for wind-related energy equipment used in the production of electricity, (8)

12-percent investment credit for certain energy conversion and production equipment (including equipment for waste conversion, organic fuel conversion, railroads, deep coal mining and shale oil conversion), (9) deduction for geothermal energy development costs, (10) denial of investment credit for portable air conditioners and heaters, (11) study of recycling incentives, (12) repeal of excise tax on buses and bus parts, (13) revision of excise tax treatment of rerefined lubricating oil, (14) exemption from excise tax on special motor fuels in certain nonhighway use, and (15) duty-free exchange of crude oil.

Conference agreement.—The conference agreement omits the provisions in the Senate amendment, as the Finance Committee has reported the Senate amendment in a separate House-passed bill (H.R. 6860).

SENATE AMENDMENT NUMBERED 34

TAX-EXEMPT ORGANIZATIONS

2101. Modification of Foundation Self-Dealing Rules in 1969 Act Relating to Leased Property

House bill.—No provision.

Senate amendment.—Under present law, self-dealing rules generally prevent sales, exchanges, or leases of property between private foundations and disqualified persons. There are transitional rules for certain sales of excess business holdings by foundations and continuation of certain leases. There is no transition rule which permits a sale of leased property by a foundation to a disqualified person. The Senate amendment permits a foundation to sell, exchange, or otherwise dispose of certain property to a disqualified person where the property is now being leased to the disqualified person (pursuant to a binding contract which was in effect on October 9, 1969) if the foundation receives no less than fair market value for the property. This provision applies to disposition made after the date of enactment and before January 1, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

2102. Private Foundation Set-Asides

House bill.—No provision.

Senate amendment.—Under present law, an amount "set aside" by a foundation for a special project may be treated as a qualifying distribution for the payout requirements only if approved in advance by the IRS. The foundation must establish that set-asides will be paid out for a specific project within 5 years and that the project can better be accomplished by a set-aside than by immediate payment. As an alternative to present set-aside rules, the Senate amendment permits set-asides without advance IRS approval under temporary, relaxed rules which require principally that—

(1) the set-aside be for a project which will not be completed before the end of the year;

(2) the foundation distributes in each year after 1975 (or if later, after the end of the fourth taxable year following its creation) not less than the required payout; and

(3) during the 4 years prior to the first taxable year beginning after 1975 (or if later, after the end of the fourth taxable year following its creation) the foundation has distributed an aggregate amount not less than the sum of a percentage of the regular, required payout increasing by 20% annually. The amendment applies to taxable years beginning on or after January 1, 1975.

Conference agreement.—The conference agreement follows the Senate amendment, and also adds a technical amendment to hold the statute of limitations on assessments and collections open during the extended payout period.

2103. Mandatory Payout Rate for Private Foundations

House bill.—No provision.

Senate amendment.—Under present law, a private foundation must distribute for charitable purposes the greater of (1) all its adjusted net income or (2) an annually determined variable percentage of its noncharitable assets. The percentage is set at 6.75 percent for taxable years beginning in 1976. The Senate amendment reduces the mandatory payout requirement to 5 percent and provides that this percentage is to be permanent. The amendment applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment and also establishes certain explicit rules for valuing a private foundation's noncharitable assets in determining the required charitable expenditures (minimum investment return). In determining the value of securities for minimum charitable expenditures purposes, their fair market value (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of (1) the size of the bloc of such securities, (2) the fact that the securities are securities in a closely held corporation, or (3) the fact that the sale of such securities would result in a forced or distress sale, the securities could not be liquidated within a reasonable period of time except at a price less than fair market value. Any reduction in value for any of the three reasons shall not in the aggregate exceed 10 percent of the fair market value of the securities.

2104. Extension of Time To Amend Charitable Remainder Trust Governing Instruments

House bill.—Under the Tax Reform Act of 1969, in order for an estate tax charitable deduction to be allowable for the bequest of a remainder interest to charity, the remainder interest must be in the form of a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. Present law also contains special transitional rules which permit post-death modifications of wills and trusts created before September 21, 1974, which contain bequests of remainder interests to charity, to conform to the new requirements of the Tax Reform Act of 1969, if the modifications were made before December 31, 1975. The House bill did not contain a provision on this issue. However, the House has already passed a two-year extension of these transitional rules in H.R. 9889 to permit modifications until December 31, 1977.

Senate amendment.—The Senate amendment extends the time for modification of wills and trusts which contain bequests of remainder interests to charity to qualify for an estate tax charitable deduction until December 31, 1977, and also allows wills and trusts created after September 21, 1974, and before December 31, 1977, to qualify for the extension.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees state that this is to be the last extension of these transitional rules.

2105. Unrelated Trade or Business Income of Trade Shows, State Fairs, etc.

House bill.—No provision.

Senate amendment.—Under present law, tax-exempt organizations are taxed on their "unrelated business taxable income". "Unrelated business taxable income" has been interpreted to include certain income from fairs and expositions sponsored by tax-exempt organizations and rental income from display space leased at a convention or trade show if the exhibitor is permitted to sell his wares at the convention or trade show. The Senate amendment exempts from the unrelated business income tax the income from fairs and expositions of an exempt charitable, social welfare, or agricultural organization, which operates a public entertainment activity that meets certain conditions. In order to qualify for the exemption, the organization must also regularly conduct, as one of its substantial exempt purposes, a fair or exposition which is both agricultural and educational. Where the exemption applies, the conducting of qualified public entertainment activities will not affect the tax-exempt status of the sponsoring organization.

In addition, the Senate amendment exempts from the unrelated business income tax the income from conventions and trade shows of certain exempt organizations (generally, unions and trade associations) which regularly conduct as one of their exempt purposes conventions or trade show activity which stimulates interest in, and demand for, an industry's products in general. There are also a series of conditions which must be met by a qualifying convention and trade show activity. Where the exemption applies, the conducting of qualified convention or trade show activities will not affect the tax-exempt status of the sponsoring organization.

The amendment applies to income from fairs and expositions in taxable years after 1962 and to income from conventions and trade shows in taxable years beginning after 1969.

Conference agreement.—The conference agreement follows the Senate amendment, except that it deletes the portion of the amendment which provides that the tax-exempt status of a union or trade association will not be affected by its conducting of qualified convention or trade show activities. The deletion of this provision insures that the union or trade association must have substantial exempt activities other than its conducting a convention or trade show. In addition, the conference agreement modifies the effective date of the Senate amendment to make the exemption for conventions and trade shows applicable to taxable years beginning after the date of enactment. However, no change is made in the effective date of the provisions of the Senate amendment concerning fairs and expositions.

2106. Declaratory Judgments Regarding Tax-Exempt Status of Charitable, etc., Organizations

House bill.—Under present law, the Tax Court can hear declaratory judgment suits only on the tax status of employee retirement

plans. In no other case may an individual or an organization seek a declaratory judgment as to an organization's tax-exempt status. Under the House bill, the Federal district courts and the United States Tax Court are granted jurisdiction in a suit brought by an organization in an actual controversy in a case involving an IRS determination (or failure to make a determination) with respect to the organization's status as tax exempt, as a qualified charitable contribution donee, as a private foundation, or as a private operating foundation. This provision applies to pleadings filed more than 1 year after the date of enactment but only with respect to IRS determinations (or requests for determinations) made after the date of enactment.

Senate amendment.—The Senate amendment is the same as the House bill, except that jurisdiction is granted only to the Federal district court for the District of Columbia, the U.S. Court of Claims, and U.S. Tax Court, and the amendment applies to pleadings filed more than 6 months after the date of enactment but only with respect to IRS determinations (or requests for determinations) made after January 1, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

Sections Omitted From Senate Amendment No. 34:

Reduction of Private Foundation Excise Tax on Investment Income

House bill.—No provision.

Senate amendment.—Under present law, a 4-percent tax is imposed on the net investment income of private foundations. The Senate amendment reduces the rate of tax from 4 percent to 2 percent, effective for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement omits this provision.

Alcoholism Trust Fund

House bill.—No provision.

Senate amendment.—Under present law, excise taxes are imposed on alcohol, wine and beer, but there is no provision for any trust fund.

The Senate amendment establishes a trust fund to pay 50 percent of the cost of occupational alcoholism programs for employed persons by HEW through the National Institute for Alcohol Abuse and Alcoholism. Any organization applying may receive at most matching funds for new programs. Up to 10 percent of the fund is allowed for administration, and the remaining funds may be used for treatment and prevention of underserved populations. The funds are to be provided by appropriation acts, as no specific revenues are earmarked.

Conference agreement.—The conference agreement omits this provision.

Exclusion of Certain Companion Sitting Placement Services from Employment Tax Requirements

House bill.—No provision.

Senate amendment.—Under present law, certain tax payment and reporting requirements are placed upon employers in regard to

F.I.C.A. (social security) and F.U.T.A. (unemployment) taxes and withholding at the source on wages. The Senate amendment excepts companion sitter placement services from the definition of "employer" for purposes of Federal employment taxes if the service does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis. The provision applies to taxable years beginning after 1975.

Conference agreement.—The conference agreement omits this provision. The conferees note that the Joint Committee staff is studying for the Senate Finance Committee the overall definitions of "independent contractor" and "employee" for Federal tax purposes. This subject will be included in the study. The conferees urge that the Service withdraw its Revenue Ruling 74-414 on babysitting placement services.

Minimum Distribution Requirements to Include Miscellaneous Distributions

House bill.—No provision.

Senate amendment.—Under present law, qualifying distributions of private foundations include only amounts expended in furtherance of charitable purposes. A private foundation must exercise expenditure responsibility with respect to grants or contributions to organizations other than public charities. Expenditure responsibility requires a foundation to exert all reasonable efforts and to establish adequate procedures to see that these grants are properly used, to obtain reports on these grants, and to make reports to the Internal Revenue Service. Also, if an amount is spent for a purpose other than a charitable purpose, it will be a taxable expenditure.

The Senate amendment provides that qualifying distributions include contributions to an unincorporated association or other organization by a private foundation for charitable, civic, or community activities to the extent such contributions do not exceed $200 per donee organization and the amount contributed is not to defray the expense of an activity which is illegal or in violation of public policy. The Senate amendment also provides that in determining whether expenditure responsibility has been exercised, the size of the grant is to be taken into account. These provisions apply to taxable years beginning after date of enactment with respect to contributions made after such date.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 35

ESTATE AND GIFT TAX PROVISIONS

House bill.—No provision.

Senate amendment.—The Senate amendment included a series of modifications in the estate and gift tax provisions.

Conference agreement.—This amendment was reported in technical disagreement. (See the appendix.)

SENATE AMENDMENT NUMBERED 36

OTHER AMENDMENTS

2301. Outdoor Advertising Displays

House bill.—The House bill contains no provision.

Senate amendment.—Present law provides that if real property is involuntarily converted as the result of a condemnation, and the taxpayer uses the proceeds to obtain "like kind" replacement property, gain on the conversion is not recognized. There is conflicting authority as to whether billboards and other outdoor advertising displays qualify as real property for purposes of this non-recognition rule. Under the Senate amendment, an irrevocable election is provided for taxpayers to treat qualifying outdoor advertising displays as real property. In addition, replacement real property will be considered as "like kind" even though the replacement property is a different type of real property interest than the taxpayer held in an outdoor advertising display which was involuntarily converted. The amendment is effective for taxable years beginning after 1970.

Conference agreement.—The conference agreement follows the Senate amendment. In addition, the conferees specified that the availability of this election to treat outdoor advertising displays as real property should not be interpreted to prevent owners of such displays from treating them as personal property.

2302. Excise Tax Treatment of Large Cigars

House bill.—No provision.

Senate amendment.—Present law provides a bracket system of excise taxes on certain cigars, under which the rate varies depending on the amount of the intended retail price of the cigar. The maximum tax is $20 per thousand on cigars retailing for 20 cents or more each. The Senate amendment changes the bracket system to an ad valorem tax of 8½ percent of the wholesale price (retaining the $20 per thousand maximum). The change is to be effective on the first month which begins more than 90 days after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2303. Gain From Sales or Exchanges Between Related Parties

House bill.—No provision.

Senate amendment.—Under present law, gain from a sale or exchange of depreciable property is denied capital gain treatment if the sale is between a husband and wife, or between an individual and a corporation if over 80 percent of the value of the corporation's stock is owned by the individual, his spouse, and his minor children or grandchildren. The courts have held that this provision does not apply to

gain from the sale of depreciable property between 2 corporations controlled by the same individual (or his family).

The Senate amendment strengthens present law in two principal ways: (1) the amendment broadens the scope of this provision to cover a sale or exchange of depreciable property between commonly controlled corporations; and (2) the amendment broadens the constructive ownership rules which trigger the restrictions under this provision to include the taxpayer's parents, his adult children, and any trust, estate or partnership of which the taxpayer is a beneficiary or partner. In addition, the Senate amendment makes this provision apply where an individual owns 80 percent or more (rather than only over 80 percent) of a corporation. These rules apply to sales or exchanges after the date of enactment, except sales or exchanges made pursuant to a binding contract entered into before the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2304. Armed Forces Health Professions Scholarships

House bill.—No provision.

Senate amendment.—Under IRS rulings, amounts received under the Armed Forces Health Professions Scholarship Program (and similar programs) are taxable as compensation for future employment (because a special 3-year legislative exemption ended December 31, 1975). The Senate amendment excludes from income in 1976, 1977, 1978 and 1979 amounts received under the Armed Forces Health Professions Scholarship Program (and similar programs) by a member of a uniformed services participating in the programs in 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

2305. Exchange Funds

House bill.—Under present law, a group of investors may not pool appreciated stocks or other property in a new corporation without payment of capital gains tax on the appreciation. This rule was added in 1966. Present law is silent on the possibility of using a partnership or a trust as the vehicle to pool and diversify investments tax-free. On April 28, 1975, the Internal Revenue Service issued a private ruling holding that an exchange fund can be formed tax-free (under present law) as a publicly syndicated limited partnership.

The House bill contains no provision dealing with this subject. However, on May 2, 1976, the House passed H.R. 11920, which:

(1) Amends the partnership rules to make taxable the contribution of property to an exchange fund formed as a partnership (general or limited);

(2) Makes taxable a merger or other reorganization involving an undiversified investment company (such as a merger of a personal holding company owning a limited group of stocks with a widely-diversified mutual fund); and

(3) Makes taxable any future transactions where similar diversification of investments is sought through a trust or a common trust fund.

Senate amendment.—The Senate amendment is generally the same as the provisions of H.R. 11920, except for—

(1) an exception for family partnerships; and

(2) a later effective date for partnership exchange funds.

Under the family partnership exception, a family group may share income from a pool of stocks if—

(1) the partnership is a general partnership,

(2) over 95 percent of the partnership is owned by the same family, and

(3) gain on a sale of stock is taxable to the partner who originally contributed the property to the partnership.

The amendment has the same effective dates as H.R. 11920, except that in the case of partnerships, certain transfers after February 17, 1976, are excepted if before March 27, 1976, the partnership either filed a request for a private letter ruling from the Service or filed a registration statement with the SEC.

Conference agreement.—The conference agreement follows the Senate amendment (including the effective date provisions thereof), except that the family partnership exception is deleted.

2306. Distributions by Subchapter S Corporations

House bill.—No provision.

Senate amendment.—Under present law, the shareholders of a subchapter S corporation are taxed each year on the income of the corporation regardless of whether the income is distributed to the shareholders. The undistributed taxable income may be subsequently distributed tax-free to the shareholders. However, an earnings and profits rule (concerning accelerated depreciation) generally applicable to corporations may cause a distribution to be a taxable dividend rather than a distribution of previously taxed income. The Senate amendment allows a subchapter S corporation's previously taxed income to be distributed to the shareholders tax free even though as a result of accelerated depreciation the corporation has undistributed earnings and profits. The amendment is effective for taxable years beginning after December 31, 1975.

Conference action.—The conference agreement follows the Senate amendment.

Sections Omitted From Senate Amendment No. 36:

Tax Counseling for the Elderly

House bill.—No provision.

Senate amendment.—The Senate amendment authorizes the IRS to enter into agreements with private organizations to provide training and technical assistance to prepare volunteers as tax consultants for the elderly. It authorizes tax-free reimbursement to volunteers for transportation, meals and other expenses. The Secretary would be authorized to hire retiree-annuitants who would work up to 720 hours a year without losing their pensions. The provision also authorizes Secretary to provide publicity for tax provisions of particular importance to the elderly.

Conference agreement.—The conference agreement omits this provision.

Commission on Value Added Taxation

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 20-member Commission to study the effects of a value-added tax on Government finance, savings, consumption, capital formation and international trade policy, as well as considering the tax as an alternative revenue source for social security financing. A final report is due to the President and to Congress not later than December 31, 1977. Up to $1,000,000 is authorized for the Commission.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 37

UNITED STATES INTERNATIONAL TRADE COMMISSION

2401–2406. U.S. International Trade Commission

House bill.—No provision.

Senate amendment.—Under present law (section 330(d) of the Tariff Act of 1930), if a majority of the Commissioners on the International Trade Commission voting on an escape clause or market disruption case under section 201 or 406 of the Trade Act of 1974, respectively, cannot agree on an injury determination or a remedy finding or recommendation, then the President may consider the "findings" agreed upon by one-half the number of Commissioners voting to be the "findings" of the Commission. If the Commission is equally divided into two groups, the President may consider the finding of either group to be the finding of the Commission. Also under present law, a Commissioner must leave office on the day his term expires whether or not his successor is ready to take office.

The Senate amendment provides that the President must consider as the finding of the Commission on remedy the remedy finding agreed upon by a plurality of the Commissioners voting on an escape clause or market disruption case if there is no majority finding on remedy. If the Commission is divided on the remedy question into two or more equal groups, the President must consider the finding of one group as the finding of the Commission on remedy. The Senate amendment does not change present law with respect to the vote on injury, but only those Commissioners voting affirmatively on injury may vote on the remedy question. For purposes of the Congressional override in sections 202 and 203 of the Trade Act of 1974, the plurality finding on remedy and the finding chosen by the President in the case of a tie vote on remedy are considered to be the findings of the Commission.

Under the Senate amendment, a Commissioner may continue to serve until his successor takes office. The Senate amendment also increases the membership of the Commission from six to seven members, and makes certain procedural and organizational changes in the Commission.

Conference agreement.—Under the conference agreement, if a majority of the Commissioners voting on an escape clause or market disruption case cannot agree on a remedy finding, then the remedy finding agreed upon by a plurality of not less than 3 Commissioners shall be treated as the remedy finding of the Commission for the purposes of the Congressional override in sections 202 and 203 of the Trade Act of 1974. If the Commission is tied on the remedy vote, and each voting group includes not less than 3 Commissioners, then (1) if the President takes the action recommended by one of those groups, the remedy finding agreed upon by the other group shall, for

purposes of the Congressional override, be treated as the remedy finding of the Commission, or (2) if the President takes action which differs from the action agreed upon by both such groups, the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission for purposes of the Congressional override. It is the intention of the conferees that this apply only for purposes of implementing the Congressional override in sections 202 and 203 of the Trade Act of 1974. It is not intended that this provision affect in any way the rules of procedure of the International Trade Commission.

Further, the conferees strongly urge the Commissioners to reach majority agreement on all determinations, findings, and recommendations in all cases.

Under the conference agreement, a Commissioner may continue to serve as a Commissioner after the expiration of his term of office until his successor is appointed and qualified.

SENATE AMENDMENT NUMBERED 38

ADDITIONAL MISCELLANEOUS AMENDMENTS

2501. Certain Disability Payments for Injuries Resulting from Acts of Terrorism

House bill.—No provision.

Senate amendment.—Present law contains no special provision for disability payments to civilian government employees resulting from acts of terrorism. The committee amendment allows disability payments for injuries to civilian government employees resulting from acts of terrorism the same exclusion as combat-related injuries which are provided for in a separate amendment. The amendment applies to taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

2502. Contributions of Certain Government Publications

House bill.—No provision.

Senate amendment.—In most situations, Government publications received by taxpayers without charge (e.g., copies of the Congressional Record received by Members of Congress) or at a reduced price are treated as capital assets under current law. One consequence of that treatment is that taxpayers can claim a deduction for the full fair market value of any Government publication which they contribute to a charity (such as a library or a university) for a use related to the charity's exempt purpose. Under the Senate amendment, U.S. Government publications which are received by any taxpayer from the Government without charge or below the price at which they are sold to the general public are no longer to be treated as capital assets in the hands of the taxpayer receiving the publications. This treatment is also to apply to any Government publication held by a taxpayer in whose hands the basis of that publication is determined by reference to its basis in the hands of a person receiving it free or at a reduced price. This provision applies to sales, exchanges, and contributions made after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

2503. Lobbying by Public Charities

House bill.—Under present law, an organization is not exempt from income tax and cannot receive deductible contributions as a charity unless "no substantial part of the activities of [the organization] is carrying on propaganda, or otherwise attempting, to influence legislation."

There is no provision in this bill. However, H.R. 13500, as passed by the House, allows public charities (other than churches, conventions and associations of churches, and certain support organizations) to elect to come under a new expenditures test for lobbying. The new test establishes sliding scale limitations for overall lobbying and grass roots lobbying. An excise tax is imposed on minor violations; loss of exemption is reserved for sustained excessive violations. H.R. 13500 requires disclosure of lobbying expenditures by electing organizations. An organization eligible to elect cannot become exempt under section 501(c)(4) (social welfare organizations) if it loses its section 501 (c)(3) charitable exemption because of excessive lobbying. H.R. 13500 prohibits persons from deducting out-of-pocket expenditures on behalf of any charity if the expenditures are made to influence legislation. H.R. 13500 generally applies to taxable years beginning after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 13500, except that rules disallowing deductions for out-of-pocket expenditures made to influence legislation do not apply to expenditures of organizations that are not eligible to elect the new expenditures tests. This provision is generally effective for taxable years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees observe that, although this provision of the Senate amendment is identical to H.R. 13500 (except that rules disallowing deductions for out-of-pocket expenditures made to influence legislation do not apply to expenditures of organizations that are not eligible to elect the new expenditures tests), the report of the Committee on Finance on this provision (S. Rept. 94–938, pt. 2, p. 79) is an abbreviated version of the report of the Committee on Ways and Means accompanying H.R. 13500 (H. Rept. 94–1210). The conferees do not wish the passage of this provision to be construed as a rejection of the matters contained in the House Committee Report accompanying H.R. 13500 and therefore specifically incorporate the additional matters contained in such report and not in the report of the Committee on Finance by reference, except for the following paragraph contained in the House report accompanying H.R. 13500 with respect to which the conferees specifically take no position:

> "Your committee's bill excludes from the new rules not only churches and conventions or associations of churches, but also integrated auxiliaries of churches or of conventions or associations of churches. Because proposed regulations have recently been published regarding the meaning of the term "integrated auxiliary" and because that term is used in this bill, your committee wishes to make it clear—in agreement with the conclusions of the proposed regulations—that theological seminaries, religious youth organizations, and men's fellowship associations which are associated with churches would generally constitute integrated auxiliaries. Your committee also intends (in agreement with the conclusions in the proposed regulations) that hospitals, elementary grade schools, orphanages, and old-age homes are organizations which frequently are established without regard to church

relationships and are to be treated for these purposes the same as corresponding secular charitable, etc., organizations that is, such entities are not to be regarded as "integrated auxiliaries." (See H. Rept. 91–782, p. 286, the conference report on H.R. 13270, the Tax Reform Act of 1969.) However, in a given case, a hospital, school, orphanage, or home may nevertheless be excluded from election under this bill because it is a member organization of an affiliated group which includes a church. Members of affiliated groups which include churches, et cetera, are treated the same as churches, et cetera, for purposes of this bill." (H. Rept. 94–1210, pp. 15–16.)

2504. Tax Liens, etc., Not To Constitute Acquisition Indebtedness

House bill.—No provision.

Senate amendment.—Generally, under present law, an exempt organization is taxed on investment income only to the extent there is "acquisition indebtedness" on the investment property generating the income. The Internal Revenue Service has taken the position that special assessments (payable in installments) imposed by a State or local governmental unit constitute acquisition indebtedness.

The Senate amendment provides that amounts of indebtedness for taxes or special assessments by State or local governmental units and secured by a lien on property are not acquisition indebtedness until, and to the extent that, the amounts become due and payable and the organization has had an opportunity to pay them. This provision applies to all taxable years ending after December 31, 1969.

Conference agreement.—The conference agreement follows the Senate amendment.

2505. Extension of Private Foundation Transitional Rule For Sale of Business Holdings

House bill.—No provision.

Senate amendment—Under present law, the self-dealing rules for private foundations contain a transition rule which expired on January 1, 1975. This rule permitted private foundations to sell, exchange, or otherwise dispose of, certain "nonexcess" business holdings to disqualified persons.

The Senate amendment extends the period for application of this transitional rule. This provision applies to dispositions occurring after the date of enactment and before January 1, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

2506. Private Operating Foundations; Imputed Interest

House bill.—No provision.

Senate amendment.—Under present law, private operating foundations, including libraries and museums, normally are required to spend annually for charitable purposes an amount equal to at least two-thirds of their minimum investment return. The Senate amendment reduces the amount that a private operating foundation must spend for charitable purposes to 3 percent of its noncharitable assets.

Present law also requires each private non-operating foundation to distribute annually an amount equal to the greater of the foundation's

adjusted net income or its minimum investment return. Adjusted net income includes imputed interest. The Senate amendment excludes from a private foundation's adjusted net income amounts of imputed interest on sales made prior to January 1, 1970.

Under present law, all private foundations pay an excise tax equal to 4 percent of their net investment income. The Senate amendment exempts libraries and museums from the tax on net investment income if the library or museum elects to spend for charitable purposes an amount equal to 5 percent of its noncharitable assets.

Conference agreement.—The conference agreement follows the Senate amendment on the exclusion of imputed interest from the adjusted net income of a private foundation. However, the conference agreement deletes the portion of the Senate amendment reducing the required payout for private operating foundations and exempting libraries and museums from the tax on net investment income in certain cases.

2507. Study of Tax Incentives by Joint Committee

House bill. No provision.

Senate amendment.—The Senate amendment requires the Joint Committee to study, in consultation with Treasury, tax incentives, especially as used to provide stimulus to the economy during recession. A report is to be made to the Senate Finance Committee and the House Ways and Means Committee no later than September 30, 1977.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 39

OTHER MISCELLANEOUS AMENDMENTS

2601. Group Prepaid Legal Services

House bill.—No provision.

Senate amendment.—Under present law, depending on the structure of the specific group legal services plan, an employee must pay tax on either (1) his share of employer contributions to the plan on his behalf, or (2) the value of legal services or reimbursements received by him under the plan. The Senate amendment excludes from an employee's income both (1) employer contributions and (2) benefits received under qualified group legal services plans. It applies to plans established to provide personal legal services for employees, their spouses and dependents through prepayment of, or advance provision for, legal fees. Plans must be organized through tax-exempt organizations or trusts (or established through insurance companies). To qualify, plans must be nondiscriminatory with respect to enrollment and benefits. Limitations are placed on amounts contributed to provide benefits for employee-shareholders or owners. A transition period is provided for existing plans to meet the statutory requirements. The amendment applies to taxable years beginning after December 31, 1973.

Conference agreement.—The conference agreement follows the Senate amendment, except that it applies prospectively only for five taxable years beginning after December 31, 1976, and ending before January 1, 1982. The conference agreement also requires a study of the provision by the Departments of the Treasury and of Labor, with final reports to be submitted to the House Committee on Ways and Means and to the Senate Committee on Finance not later than December 31, 1980.

2602. Certain Hospital Services

House bill.—No provision.

Senate amendment.—Under present law, income received by tax-exempt hospitals from providing services to other tax-exempt hospitals is taxed as "unrelated business taxable income." The Senate amendment exempts from the tax on unrelated business income the income that a tax-exempt hospital receives for providing certain services to other small tax-exempt hospitals each serving 100 or fewer inpatients.

Conference agreement.—The conference agreement generally follows the Senate amendment, with one modification. Under that modification, the exemption from the unrelated business income tax is provided only to the extent that the services are provided at a fee or other charge that does not exceed the actual cost of providing those

services plus a reasonable amount for a return on the capital goods used in providing those services. For this purpose, the actual cost of providing the services includes straight-line depreciation. The conferees intend that the IRS not require that hospitals providing the services keep detailed records to substantiate compliance with this new requirement, so long as the fees charged for the services provided by the hospital reasonably approximate the cost of providing those services.

2603. Clinical Services of Cooperative Hospitals

House bill.—No provision.

Senate amendment.—Under present law, cooperative organizations providing certain specified services for tax-exempt hospitals are also tax-exempt organizations. The specified permissible services do not include clinical services. The Senate amendment adds clinical services to the specified services permitted to be performed by a tax-exempt cooperative service organization.

Conference agreement.—The conference agreement follows the Senate amendment.

2604. Certain Charitable Contributions of Inventory

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer's deduction for contributions of appreciated ordinary income property, such as inventory, is limited to the taxpayer's basis in the property. The Senate amendment generally allows corporations a deduction for the basis plus one-half of the appreciation of ordinary income property, such as inventory, but the deduction in no event is to exceed twice the basis of the contributed property. The new provisions apply only to property donated to a public charity or private operating foundation for use in its exempt purpose for the care of the ill, the needy, or infants and do not apply to amounts treated as ordinary income because of "recapture" rules. Also, property which does not satisfy the relevant requirements of the Federal Food, Drug, and Cosmetic Act is not eligible for an increased deduction under these provisions. These provisions apply to contributions made after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

Sections Omitted From Senate Amendment No. 39:

Credit for Certain Education Expenses

House bill.—No provision.

Senate amendment.—The Senate amendment provides a credit for certain educational expenses paid by an individual for himself, his spouse, or his dependents. It applies to tuition, fees, books and supplies in regard to college programs leading to undergraduate degrees and to vocational courses leading to program certificates, but only for full-time students. The credit is limited to $100 in 1977, $150 in 1978, $200 in 1979, and $250 in 1980 and following years.

Conference agreement.—The conference agreement omits this provision.

The conferees on the part of the House state that every effort will be made to give the House of Representatives an opportunity to consider this provision in separate legislation.

Interest on Certain Governmental Obligations for Hospital Construction

House bill.—No provision.

Senate amendment.—Under present law, public hospitals operated by governmental units may be financed with tax-exempt bonds. Private hospitals are not included among exempt activities for which tax-exempt industrial development bonds may be issued without limit. Thus, private hospitals are not eligible for tax-exempt industrial development bonds, except under the $1 million or $5 million small issue exemption. The Senate amendment increases the $5 million small issue exemption to $20 million for private hospitals which are certified as necessary by appropriate State agencies. The amendment applies to obligations issued after December 31, 1976, in taxable years beginning after that date.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 40

House bill.—No provision.

Senate amendment.—The Senate amendment is the heading "Title XXVII".

Conference agreement.—The conference agreement follows the Senate amendment.

ADDITIONAL SENATE AMENDMENTS

SENATE AMENDMENT NUMBERED 41

2701. Employee Stock Ownership Plan Regulations

House bill.—No provision.

Senate amendment.—The Senate amendment prohibits retroactive application of Treasury and Labor Department regulations under the Internal Revenue Code of 1954, title I of the 1974 Pension Act, and the Tax Reduction Act of 1975 relating primarily to employee stock ownership plans.

Conference agreement.—The conference agreement reaffirms Congressional intent with respect to employee stock ownership plans and expresses concern that administrative rules and regulations may frustrate Congressional intent. In this connection, it has come to the attention of Congress that proposed regulations issued by both the Department of the Treasury and the Department of Labor on July 30, 1976, may make it virtually impossible for ESOPs, and especially leveraged ESOPs, to be established and function effectively. The following areas are of specific concern to the conferees.

(1) *Independent third party.*—The proposed rules would prohibit loans (or loan guarantees) by fiduciaries to employee stock ownership plans unless the loans are arranged and approved by an independent third party. These rules would, for example, prevent a bank which serves as trustee for an ESOP from making a loan to the plan and would prevent the employer-fiduciary who established the plan from providing a loan guarantee.

In view of other rules presently in effect, which require that the interest rate for any such loan be reasonable, that the loan be primarily for the benefit of participants or their beneficiaries, and that the only collateral the plan can give the lender is the employer's stock purchased with the loan proceeds, the requirement of an independent third party is unduly burdensome. Consequently, the conferees believe that the regulations should deal directly with possible abuses which may occur in the administration of plans rather than attempting to require a plan to incur the burden of dealing through an independent third party. Similarly, the conferees believe that an independent third party should not be required to arrange and approve a sale of stock between an employer (or shareholder of the employer) and an ESOP. The conferees have not considered whether the principles applicable to ESOPs in connection with loans to the plan or sales of employer stock should apply in the case of other exemptions from the prohibited transaction rules and, accordingly, no inference should be drawn regarding those other exemptions.

(2) *Put option.*—The proposed regulations would require that an employer provide each employee who receives stock from a leveraged ESOP or an investment credit ESOP with a 2-year "put option" if the stock is not listed on an exchange.

Although the conferees agree that a market should be provided for employer stock distributed by an ESOP to an employee, the conferees believe that a put option for a period considerably shorter than two years will properly protect employees and that a put under which the employer must pay for tendered stock over too short a period would effectively deny the employer the benefits of capital formation Congress sought to provide it under an ESOP. On the contrary, the conferees believe that the payment by the employer could be made in substantially equal installments payable over a reasonable period, taking into account the need to protect employees and the need of the employer for capital.

(3) *Stock purchased with loan proceeds.*—Under the proposed regulations, employer stock held by an ESOP which is purchased with the proceeds of a loan is to be placed in a suspense account from which it is to be released under a formula which is not in accordance with the common business practice under which the stock is released from the account as loan principal is amortized.

The conferees believe that the regulations should allow the stock to be released as the loan principal is repaid if (a) the principal is amortized over a reasonable period (taking into account the facts and circumstances, including the interests of plan participants and the employer's need for capital), and (b) the employees are adequately informed regarding their rights to employer stock held by the plan.

(4) *Allocation of stock.*—Under the proposed regulations, employer stock acquired by an ESOP with loan proceeds must be allocated to plan participants as it is released from the suspense account discussed in (3) above.

The conferees believe that the regulations should permit the allocation of stock to be made in accordance with a formula more similar to that provided for ESOPs in the Trade Act of 1974 (19 U.S.C. § 2373(f)(4)).

(5) *Voting rights.*—The proposed regulations would require that employees be permitted to direct the voting of employer stock allocated to their accounts under a leveraged ESOP even though other types of employee plans need not provide employees with these rights. (The Tax Reduction Act of 1975 requires that employees be permitted to direct the voting of employer stock allocated to their accounts under an investment credit ESOP but not by other ESOPs.)

The conferees believe that the regulations should not distinguish between leveraged ESOPs and other employee plans in this regard.

(6) *Dividend restrictions.*—Under the proposed regulations, employer stock held by an ESOP must have unrestricted dividend rights. Dividend restrictions are commonly required in connection with loans. Consequently, the conferees believe that such restrictions should be permitted if they are required in connection with a loan to the ESOP for the purchase of employer securities (but only if the restrictions terminate when the loan is repaid) or if they apply also to a significant portion of the employer stock not held by the ESOP.

(7) *Right of first refusal.*—The proposed regulations prohibit a leveraged ESOP from acquiring with the proceeds of a loan employer stock subject to a right of first refusal. Because the shareholders of many corporations (especially smaller businesses) believe that a right of first refusal is necessary to protect their interests, the conferees believe that the prohibition will have a chilling effect upon the establishment of ESOPs and should not be prescribed.

(8) *Treatment of sale as redemption.*—Under the proposed regulations, the sale of stock by a corporate shareholder to the corporation's ESOP could, depending upon the facts and circumstances, be treated as a redemption of the stock by the corporation. If the sale is treated as a redemption, the proceeds of the sale could be considered dividend income rather than capital gain. The conferees believe if such a rule is authorized and proper, its application should not be restricted to ESOPs.

(9) *Nonvoting common stock, etc.*—The proposed regulations impose special rules on ESOPs which limit the extent to which the plan can acquire employer securities, other than voting common stock with unrestricted dividend rights, with the proceeds of a loan. (The Tax Reduction Act of 1975 does not allow the additional investment credit for nonvoting employer stock.) The conferees believe that the usual rules applicable to employee plans properly protect the interests of plan participants and that these special rules are not needed.

(10) *Prepayment penalty.*—The proposed regulations specifically prohibit any loan made to an ESOP from containing a provision for a prepayment penalty. The conferees believe that the question of such penalties should be a matter of negotiation between the ESOP and the lender and that prepayment penalties should not be prohibited in all cases (they shall not be allowed, of course, if for example, paymet of a penalty would be imprudent).

(11) *No calls or other options.*—The proposed regulations prohibit stock acquired with an ESOP loan from being subject to any calls or other options. There is no provision for restrictions which may be required by State law. The conferees believe that in the limited situation where restrictions are imposed by law, stock in an ESOP should be permitted to have restrictions necessary to comply with the law.

(12) *Comparability.*—The proposed regulations do not permit an ESOP and another plan to be considered a single plan for purposes of determining whether the plans meet the anti-discrimination requirements of the tax law. Although the conferees agree that an ESOP and another type of plan should not be considered a single plan for this purpose, the conferees believe that this rule should not be applied to disqualify a plan already in existence and that two or more ESOPs can be considered as a single plan in testing the coverage and contributions or benefits under the plans.

As stated in the Report of the Senate Finance Committee on the bill, an ESOP is designed to "build equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes." (Sen. Rept. No. 94–938, page 180.) The conferees understand that under the proposed regulations, an ESOP could be integrated with the social security system so that employer stock would not be allocated to employees substantially in proportion

to their compensation. The conferees believe that social security integration is not consistent with the purposes of an ESOP. The conferees believe, however, the prohibition on integration should not apply to ESOPs which are now integrated.

(13) *Inferences.*—Although the conferees have commented on the merits of the proposed regulations, these comments should not be taken as inferring approval or disapproval of the provisions not commented upon.

SENATE AMENDMENT NUMBERED 42

Expenses of Amateur Athletes Engaging in National or International competition

House bill.—No provision.

Senate amendment.—Presently, there is no tax credit for expenses of amateur athletes. The Senate amendment allows a tax credit for 20 percent of the first $2,500 of an amateur athlete's nonreimbursed expenses of engaging in certain national or international sports competition, such as in Olympic or Pan American games or trials, world championships, or national championships in the United States. The portion of the credit not used by an athlete can be claimed by the athlete's parent (if the athlete is a dependent) or spouse, with certain limitations, for his expenditures on behalf of the athlete. This provision applies to expenses paid or incurred in taxable years beginning after the date of enactment.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 43

2702. Exemption of Certain Amateur Athletic Organizations From Tax

House bill.—No provision.

Senate amendment.—Under present law, organizations which teach youth or which are affiliated with charitable organizations may be exempt under section 501(c)(3) and may receive tax-deductible contributions. Other organizations which foster national or international amateur sports competition may be exempt from taxation under other provisions (such as 501(c)(4) or (6)) but often do not qualify to receive tax-deductible contributions.

The Senate amendment permits an organization the primary purpose of which is to foster national or international amateur sports competition to qualify as an organization described in section 501(c)(3) and to receive tax-deductible contributions. This provision applies after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment but provides that, to qualify for tax exemption as a charitable organization and for the receipt of deductible contributions, the organization must not make available athletic equipment or facilities. This restriction is intended to prevent the allowance of these benefits for organizations which, like social clubs, provide facilities and equipment for their members. This provision is not intended to

adversely affect the qualification for charitable tax-exempt status or tax deductible contributions of any organization which would qualify under the standards of existing law.

SENATE AMENDMENT NUMBERED 44

2703. Taxable Status of Pension Benefit Guaranty Corporation

House bill.—No provision.

Senate amendment.—Under present law a corporation organized under an Act of Congress is not generally exempt from Federal taxation unless that Act so provides. The Pension Benefit Guaranty Corporation was not specifically exempted from Federal taxation by ERISA (the Employee Retirement Income Security Act of 1974). The Senate amendment amends ERISA to clarify the intent of Congress that the Pension Benefit Guaranty Corporation is to be exempt from all Federal taxation except taxes imposed under the Federal Insurance Contributions Act (social security taxes) and the Federal Unemployment Tax Act (unemployment taxes). The exemption applies from September 2, 1974 (the date of enactment of ERISA).

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 45

2704. Level Premium Plans Covering Owner-Employees

House bill.—No provision.

Senate amendment.—Under present law an owner-employee covered by an H.R. 10 plan may contribute each year an amount in excess of the general H.R. 10 percentage limit (15 percent of earned income, but not in excess of $2,500 in any case) to a plan funded with level payment annuity contracts, if the fixed payment does not exceed $7,500 and does not exceed the owner-employee's three-year average of deductible amounts. The amount in excess of 15 percent of the owner-employee's earned income is not deductible. A separate provision for all qualified plans limits contributions to 25 percent of earned income. The Senate amendment allows the owner-employee to make such level payments without regard to the overall 25-percent limitation. The rule applies for years beginning after 1975 (the effective date of the overall limitation).

Conference agreement.—The conference agreement follows the Senate amendment but adds rules regarding the treatment of contributions under the anti-discrimination rules applicable to pension plans.

SENATE AMENDMENT NUMBERED 46

2705. Lump-Sum Distributions From Pension Plans

House bill.—No provision.

Senate amendment.—Under present law, the part of a lump-sum distribution earned before 1974 is treated as capital gain and the post-1973 part is taxed, if the taxpayer elects, as ordinary income in a "separate basket", with 10-year income averaging. If the election is not made, the post-1973 part of the distribution is taxed as ordinary income under the usual rules.

Under the Senate amendment a taxpayer may irrevocably elect to treat all of a lump sum distribution as if it were earned after 1973 so that it will be taxed as ordinary income in a separate basket, with 10-year income averaging. The election applies to distributions made after 1975 in taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 47 (omitted)

Deductions for attending Foreign Conventions

House bill.—No provision.

Senate amendment.—The Senate amendment affirms that Internal Revenue Service regulations relating to foreign travel for business purposes accurately reflect the intent of Congress and represent a responsible limitation on the deduction of foreign travel expenses paid or incurred in connection with the attendance at business meetings and conventions held outside the United States.

Conference agreement.—The conference agreement omits this provision. (This matter is dealt with in connection with section 602, Senate Amendment number 19.)

SENATE AMENDMENT NUMBERED 48

2706. Tax Treatment of the Grantor of Certain Options

House bill.—Under present IRS rulings, gain from the lapse of an option and gain or loss from a closing transaction in options is generally treated as ordinary income or loss. The House bill contains no provision in this area. However, House-passed H.R. 12224 provides that gain from the lapse of an option and gain or loss from a closing transaction in options is to be treated as short-term capital gain or loss.

Senate amendment.—The Senate amendment is the same as H.R. 12224.

Conference agreement.—The conference agreement adopts the Senate amendment. The provisions, which apply to options granted after September 1, 1976, are the same as those of H.R. 12224, and the conferees agree with the interpretation of those provisions in House Report 94–1192.

In addition, the conferees clarify the intent that income from a closing transaction in options, as well as income from the lapse of an option, is to be treated as qualifying income. For purposes of section 851(b)(4), the "issuer" of an option is the corporation whose stock or securities underlie the option (even though the option may be written by an options exchange, for example).

The conferees understand that a question exists under present law as to whether a corporation realizes income when warrants to purchase the corporation's stock expire unexercised. This issue was not considered by the Congress in connection with this amendment, and no inference is intended (for the past or for the future) with respect to whether the expiration of warrants issued by a corporation for its own stock should, or should not, result in recognition of taxable income to the corporation.

SENATE AMENDMENT NUMBERED 49

2707. Exempt-Interest Dividends of Regulated Investment Companies

House bill.—No provision.

Senate amendment.—Under present law, distributions by a regulated investment company (commonly called a mutual fund) from capital gains recognized by it may be treated as capital gain to its shareholders (i.e., the character of the capital gain is "flowed-through" to the shareholders). Under certain conditions, similar flow-through treatment is provided for dividend income. However, there is presently no flow-through treatment for tax-exempt interest and, consequently, distributions of tax-exempt interest by a regulated investment company are taxable income to its shareholders. The Senate amendment permits, in certain cases, the character of tax-exempt interest distributed by a regulated investment company to flow-through as tax-exempt interest to its shareholders. The new rules apply to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 50 (omitted)

Amortization of Replacement Railroad Ties

House bill.—No provision.

Senate amendment.—The amendment would permit railroads which currently use the retirement-replacement method of depreciating track costs to deduct currently the full cost of replacement ties.

Conference agreement.—The conference agreement omits this provision. (This matter, however, is dealt with in section 1701(a), Senate amendment numbered 30.)

SENATE AMENDMENT NUMBERED 51 (omitted)

Commission on Tax Simplification and Modernization

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 9-member Commission on Tax Simplification and Modernization to study the modernization and simplification of the Internal Revenue Code, including possible reduction in rates by modifying or eliminating deductions, exemptions, credits, etc. The Commission is to begin on February 1, 1977, with appointments to be made within 30 days. A final report to the President and Congress is to be made not later than August 1, 1978. An appropriation of up to $1 million is authorized.

Conference agreement.—The conference agreement omits this provision. The Treasury Department is currently conducting a study on this subject, and is expected to submit its study in January 1977. In addition, the conference agreement (see No. 507 above) directs the Joint Committee on Taxation to make a study on tax simplification and to report by June 30, 1977.

SENATE AMENDMENT NUMBERED 52

2708. Common Trust Fund Treatment of Certain Custodial Accounts

House bill.—No provision.

Senate amendment.—Under present law, banks may hold in a common trust fund assets held by the bank in its capacity as trustee, executor, administrator or guardian. The Senate amendment extends common trust treatment to cover custodial accounts, such as uniform gifts to minors act accounts.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 53

Business Use of the Home

House bill.—No provision.

Senate amendment.—The amendment includes as a business use of the home the use of the home in connection with the management, conservation, or maintenance of property held for the production of income if that is the substantial business of the taxpayer.

Conference agreement.—The conference agreement omits this provision. (This provision is dealt with in connection with section 601, Senate amendment numbered 19.)

SENATE AMENDMENT NUMBERED 54

2709. Transfers of Oil and Gas Property Within the Same Controlled Group or Family

House bill.—No provision.

Senate amendment.—The Senate amendment permits percentage depletion to be retained on property which is transferred by individuals, corporations and other entities, all of which are part of the same controlled group after the transfer (and thus must continue to combine oil production to determine the maximum number of barrels of oil eligible for percentage depletion). However, if any transferee ceases to be part of the same controlled group as the transferor at some later time, percentage depletion is to be disallowed with respect to the transferred property as of that date (in order to prevent a proliferation of the limited exemption from the repeal of percentage depletion. This provision is effective January 1, 1975, and is applicable to taxable years ending after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 55

2710. Support Test for Dependent Children of Separated or Divorced Parents

House bill.—No provision.

Senate amendment.—Under present law, the noncustodial parent receives an exemption for a child (of separated or divorced parents)

if (1) he or she contributes at least $1,200 for support of all the children, and (2) the custodial parent does not clearly establish more support for the child than the noncustodial parent. Otherwise, the custodial parent receives the exemption. The Senate amendment allows the noncustodial parent to receive an exemption for a child if he or she contributes at least $1,200 for *each* of the children (in addition to the other requirements in present law). The amendment is effective after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment and is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT NUMBERED 56

2711. Study of Expanded Stock Ownership

House bill.—No provision.

Senate amendment.—The Senate amendment establishes a 15-member Commission on Expanded Stock Ownership to study broadening stock ownership through employee stock ownership plans (ESOPs) and other means. A final report is to be made to the President and the Congress not later than March 30, 1978.

Conference agreement.—The conference agreement omits the Senate amendment; however the conference agreement changes the name of the existing Joint Pension Task Force to the Joint Pension, Profit-sharing and Employee Stock Ownership Plan Task Force, and provides that the Task Force is to study employee stock ownership plans. The Task Force, which may consult others who have information concerning employee stock ownership plans, is to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance by March 31, 1978.

SENATE AMENDMENT NUMBERED 57 (OMITTED)

Definition of Low and Moderate Income Housing

House bill.—No provision.

Senate amendment.—For purposes of the provision permitting 5-year amortization of certain low-income rental housing rehabilitation expenditures, the amendment expands the definition of low-income housing in a manner consistent with the definition presently established for leased housing under section 8 of the Housing Act of 1937.

Conference agreement.—The conference agreement omits this provision. (However, this provision is dealt with in connection with section 201, Senate amendment numbered 4.)

SENATE AMENDMENT NUMBERED 58

2712. Deferral of Gain on Involuntary Conversion of Real Property

House bill.—No provision.

Senate amendment.—Under present law, a taxpayer can elect to defer any gain realized on the involuntary conversion of real property held for productive use in a trade or business (and not stock in trade

or other property held primarily for sale) if the converted property is replaced by property of a like kind. However, in order to qualify, the converted property must be replaced no later than two years after the close of the first taxable year in which any of the gain is realized. If the taxpayer makes the election, the statutory period for assessment of a deficiency does not expire until 3 years after notice of replacement or notice of intent not to replace.

The Senate amendment removes the limits on the types of real property eligible for deferral by eliminating the requirement that the replacement property be similar or related in service or use to the converted property. The amendment extends the period for replacement to four years after the close of the first taxable year in which any of the gain from the conversion is realized. It extends the statutory period for assessment of a deficiency to 5 years after notice of replacement or notice of intent not to replace. The provision applies to dispositions of property after 1974 unless condemnation proceedings began prior to the date of enactment.

Conference agreement.—The conference agreement does not remove the limits on the types of eligible real property. However, it follows the Senate amendment in extending the replacement period but the extension is only to three years.

SENATE AMENDMENT NUMBERED 59

2713. Sale of Residence by Elderly

House bill.—No provision.

Senate amendment.—Under present law, if a taxpayer who has attained age 65 sells his principal residence, he may exclude from income the entire gain on the sale if the adjusted sales price is $20,000 or less. However, if the adjusted sales price exceeds $20,000, he may exclude only that portion of the gain which $20,000 bears to the adjusted sales price. The Senate amendment increases the $20,000 amount to $35,000. It applies to taxable years beginning after 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 60 (OMITTED)

Valuation of Certain Property for Purposes of the Federal Estate Tax

House bill.—No provision.

Senate amendment.—The requirements in existing estate tax laws which (1) allow historical sites to be valued at current use (rather than at highest and best use) if the value is at least 25 percent of the decedent's adjusted gross estate, (2) permits all open space real property to be eligible for current use valuation, and (3) allows both the time the decedent owned the property and the time a member of his family owned the property to count for purposes of satisfying the ownership and qualified use requirements under the special valuation rules.

Conference agreement.—The conference agreement omits this provision. (This provision is discussed in connection with Senate amendment numbered 35.)

SENATE AMENDMENT NUMBERED 61 (OMITTED)

Exemption From Taxation for Certain Mutual Deposit Guarantee Funds

House bill.—No provision.

Senate amendment.—Under present law, nonprofit mutual corporations or associations organized before September 1, 1957, for the purpose of providing reserve funds for, and insurance of, shares or deposits in savings and loan associations, cooperative banks, or mutual savings banks are exempt from income tax. The Senate amendment extends the exemption to cover organizations organized before January 1, 1969, and permits qualifying organizations to provide reserve funds for, and insurance of, shares or deposits in credit unions. This provision applies to taxable years beginning after December 31, 1975.

Conference agreement.—The conference agreement omits the Senate amendment.

SENATE AMENDMENT NUMBERED 62

2714. Additional Changes in Subchapter S Shareholder Rules

House bill.—No provision.

Senate amendment.—Under present law, a corporation is required to have 10 or fewer shareholders in order to elect and maintain subchapter S treatment. A trust may not be a shareholder in a subchapter S corporation. Also, a husband and wife are treated as one shareholder where the stock is community property or held jointly by them. All shareholders must consent to an election or revocation of subchapter S status. However, a subchapter S election will be terminated if any new shareholder fails to consent to the election, generally within a period of 30 days.

The Senate amendment provides that where either husband or wife, or both, die, the estate of the deceased will be treated as one shareholder with the surviving spouse (or her estate) if husband and wife were treated as one shareholder while both were living and the stock continues to be held in the same proportions as before death. In addition, grantor trusts and voting trusts are to be eligible shareholders; and, any type of trust which receives stock under a will is to be an eligible shareholder, but only for a period of 60 days. Finally, a subchapter S election will not be terminated unless a new shareholder affirmatively refuses to consent to the election within 60 days. The Senate amendment is effective for tax years beginning after December 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment.

SENATE AMENDMENT NUMBERED 63

2715. Individual Retirement Accounts for Volunteer Firefighters

House bill.—No provision.

Senate amendment.—Under present law an active participant in a governmental plan in a taxable year is not allowed a deduction for a contribution to an individual retirement account (IRA) for that year.

For taxable years beginning after 1975, the Senate amendment extends the deduction for contributions to an IRA to a person who would be eligible for an IRA but for membership in a volunteer fire department or in a governmental plan for volunteer firemen.

Conference agreement.—The conference agreement follows the Senate amendment, but limits the deduction to firefighters who have not accrued an annual benefit in excess of $1,800 (when expressed as a single life annuity payable at age 65) under a firefighter's plan.

SENATE AMENDMENT NUMBERED 64 (omitted)

Exemption From Items of Minimum Tax Preference

House bill.—No provision.

Senate amendment.—The amendment provides that any preference for construction period interest for purposes of the minimum tax on individuals is not to apply to moderate-income housing (defined as housing which rents for 120 percent of fair market rental as determined by HUD) and to housing held as inventory for sale. In addition, any preference for excess investment interest is not to apply to amounts paid with respect to moderate-income housing if the property is acquired or contracted pursuant to a binding, written contract, or financing contract entered into before 1982.

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 65

Certain Sales of Low-Income Housing Projects: Recapture of Depreciation on Real Property; Section 167(k)

House bill.—No provision.

Senate amendment.—The amendment expands the definition of low-income housing for purposes of certain sales of low-income housing projects, recapture of depreciation, and rapid amortization of rehabilitation expenditures, by including moderate-income housing (which is defined as housing the rent for which does not exceed 120 percent of fair market rental as determined by HUD).

Conference agreement.—The conference agreement omits this provision.

SENATE AMENDMENT NUMBERED 66

2716. Livestock Sold on Account of Drought

House bill.—No provision.

Senate amendment.—Under the Senate amendment, a cash method taxpayer may elect to include in the taxable year following the taxable year of sale or exchange income from the sale or exchange of livestock sold on account of drought. This treatment is limited to income from the sale or exchange of livestock (1) the number of which is in excess of usual business practice, and (2) which would not have been sold but for the drought. Also, the drought must occur in an area which is designated as eligible for Federal assistance. The election is effective for taxable years beginning after 1975.

Conference agreement.—The conference agreement follows the Senate amendment, but the election is available only to a taxpayer whose principal trade or business is farming.

SENATE AMENDMENT NUMBERED 67 (omitted)

SENSE OF THE SENATE REGARDING REVENUE LOSS FROM THE BILL

House bill.—No provision.

Senate amendment.—The Senate amendment provides that it is the sense of the Senate that the conference on the part of the Senate shall, to the extent practicable, reduce the revenue loss from the Act for the fiscal year 1977 to $15.3 billion.

Conference agreement.—The conference agreement does not include the Senate amendment.

APPENDIX ON AMENDMENT NUMBERED 35

(RELATING TO ESTATE AND GIFT TAX REFORM)

In the accompanying conference report, Senate amendment numbered 35 is reported in disagreement. The text of the amendment which will be offered in the House of Representatives and the Senate is as follows:

SEC. 2201. UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES; UNIFIED CREDIT IN LIEU OF SPECIFIC EXEMPTIONS.

(a) CHANGES IN ESTATE TAX.—

(1) IMPOSITION OF TAX; RATE SCHEDULE.—Section 2001 (relating to rate of tax) is amended to read as follows:

"SEC. 2001. IMPOSITION AND RATE OF TAX.

"(a) IMPOSITION.—A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

"(b) COMPUTATION OF TAX.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (c) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) the aggregate amount of tax payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976.

For purposes of paragraph (1)(B), the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(c) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	***The tentative tax is:***
Not over $10,000	*18 percent of such amount.*
Over $10,000 but not over $20,000	*$1,800, plus 20 percent of the excess of such amount over $10,000.*
Over $20,000 but not over $40,000	*$3,800, plus 22 percent of the excess of such amount over $20,000.*
Over $40,000 but not over $60,000	*$8,200, plus 24 percent of the excess of such amount over $40,000.*
Over $60,000 but not over $80,000	*$13,000, plus 26 percent of the excess of such amount over $60,000.*
Over $80,000 but not over $100,000	*$18,200, plus 28 percent of the excess of such amount over $80,000.*

Over $100,000 but not over $150,000	*$23,800, plus 30 percent of the excess of such amount over $100,000.*
Over $150,000 but not over $250,000	*$38,800, plus 32 percent of the excess of such amount over $150,000.*
Over $250,000 but not over $500,000	*$70,800, plus 34 percent of the excess of such amount over $250,000.*
Over $500,000 but not over $750,000	*$155,800, plus 37 percent of the excess of such amount over $500,000.*
Over $750,000 but not over $1,000,000	*$248,300, plus 39 percent of the excess of such amount over $750,000.*
Over $1,000,000 but not over $1,250,000	*$345,800 plus 41 percent of the excess of such amount over $1,000,000.*
Over $1,250,000 but not over $1,500,000	*$448,300, plus 43 percent of the excess of such amount over $1,250,000.*
Over $1,500,000 but not over $2,000,000	*$555,800, plus 45 percent of the excess of such amount over $1,500,000.*
Over $2,000,000 but not over $2,500,000	*$780,800, plus 49 percent of the excess of such amount over $2,000,000.*
Over $2,500,000 but not over $3,000,000	*$1,025,800, plus 53 percent of the excess of such amount over $2,500,000.*
Over $3,000,000 but not over $3,500,000	*$1,290,800, plus 57 percent of the excess of such amount over $3,000,000.*
Over $3,500,000 but not over $4,000,000	*$1,575,800, plus 61 percent of the excess of such amount over $3,500,000.*
Over $4,000,000 but not over $4,500,000	*$1,880,800, plus 65 percent over the excess of such amount over $4,000,000.*
Over $4,500,000 but not over $5,000,000	*$2,205,800, plus 69 percent of the excess of such amount over $4,500,000.*
Over $5,000,000	*$2,550,800, plus 70 percent of the excess of such amount over $5,000,000.*

"(d) ADJUSTMENT FOR GIFT TAX PAID BY SPOUSE.—For purposes of subsection (b)(2), if—

"(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

"(2) the amount of such gift is includible in the gross estate of the decedent,

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent."

(2) ALLOWANCE OF UNIFIED CREDIT.—Part II of subchapter A of chapter 11 (relating to credits against the estate tax) is amended by inserting before section 2011 the following new section:

"SEC. 2010. UNIFIED CREDIT AGAINST ESTATE TAX.

"(a) GENERAL RULE.—A credit of $47,000 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

"(b) PHASE-IN OF $47,000 CREDIT.—

"In the case of decedents dying in:	*Subsection (a) shall be applied by substituting for '$47,000' the following amount:*
1977	*$30,000*
1978	*34,000*
1979	*38,000*
1980	*42,500*

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before

its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

"*(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001.*"

(3) TERMINATION OF CREDIT FOR GIFT TAX.—Section 2012 (relating to credit for gift tax) is amended by adding at the end thereof the following new subsection:

"*(e) SECTION INAPPLICABLE TO GIFTS MADE AFTER DECEMBER 31, 1976.—No credit shall be allowed under this section with respect to the amount of any tax paid under chapter 12 on any gift made after December 31, 1976.*"

(4) REPEAL OF SPECIFIC EXEMPTION.—Section 2052 (relating to exemption for purposes of the estate tax) is hereby repealed.

(5) ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DEATH.—Section 2035 (relating to transactions in contemplation of death) is amended to read as follows:

"*SEC. 2035. ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.*

"*(a) INCLUSION OF GIFTS MADE BY DECEDENT.—Except as provided in subsection (b), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a tranfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.*

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

"*(1) any bona fide sale for an adequate and full consideration in money or money's worth, and*

"*(2) any gift excludable in computing taxable gifts by reason of section 2503(b) (relating to $3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513 (a).*

"*(c) INCLUSION OF GIFT TAX ON CERTAIN GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse after December 31, 1976, and during the 3-year period ending on the date of the decedent's death.*"

(b) CHANGES IN GIFT TAX.—

(1) RATE OF TAX.—Subsection (a) of section 2502 (relating to rate of gift tax) is amended to read as follows:

"*(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—*

"*(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over*

"*(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters.*"

(2) UNIFIED CREDIT.—Subchapter A of chapter 12 (relating to determination of gift tax liability) is amended by adding at the end thereof the following new section:

"SEC. 2505. UNIFIED CREDIT AGAINST GIFT TAX.

"(a) GENERAL RULE.—In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar quarter an amount equal to—

"(1) $47,000, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

"(b) PHASE-IN OF $47,000 CREDIT.—

"In the case of gifts made:	Subsection (a)(1) shall be applied by substituting for '$47,000' the following amount:
After December 31, 1976, and before July 1, 1977	$6,000
After June 30, 1977, and before January 1, 1978	$30,000
After December 31, 1977, and before January 1, 1979	$34,000
After December 31, 1978, and before January 1, 1980	$38,000
After December 31, 1979, and before January 1, 1981	$42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed under subsection (a) for any calendar quarter shall not exceed the amount of the tax imposed by section 2501 for such calendar quarter."

(3) REPEAL OF SPECIFIC EXEMPTION.—Section 2521 (relating to specific exemption in the case of the gift tax) is hereby repealed.

(c) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CHANGES IN ESTATE TAX.—

(A) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended—

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000.",

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate"; and

(iv) by adding at the end thereof the following new subsection:

"(f) LIMITATION BASED ON AMOUNT OF TAX.—The credit provided by this section shall not exceed the amount of the tax imposed by section 2001, reduced by the amount of the unified credit provided by section 2010."

(B) CREDIT FOR GIFT TAX.—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the unified credit provided by section 2010".

(C) CREDIT FOR TAX ON PRIOR TRANSFERS.—

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(e)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

(D) RATE OF TAX IN CASE OF NONRESIDENTS NOT CITIZENS.—Section 2101 (relating to tax imposed in the case of estates of nonresidents not citizens) is amended to read as follows:

"SEC. 2101. TAX IMPOSED.

"(a) IMPOSITION.—Except as provided in section 2107, a tax is hereby imposed on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

"(b) COMPUTATION OF TAX.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the amount of the adjusted taxable gifts.

"(c) ADJUSTMENTS FOR TAXABLE GIFTS.—

"(1) ADJUSTED TAXABLE GIFTS DEFINED.—For purposes of this section, the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503 as modified by section 2511) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(2) ADJUSTMENT FOR CERTAIN GIFT TAX.—For purposes of this section, the rules of section 2001(d) shall apply.

"(d) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:	***The tentative tax is:***
Not over $100,000	*6% of such amount.*
Over $100,000 but not over $500,000	*$6,000, plus 12% of excess over $100,000.*
Over $500,000 but not over $1,000,000	*$54,000, plus 18% of excess over $500,000.*
Over $1,000,000 but not over $2,000,000	*$144,000, plus 24% of excess over $1,000,000.*
Over $2,000,000	*$384,000, plus 30% of excess over $2,000,000."*

(E) CREDIT IN CASE OF ESTATES OF NONRESIDENTS NOT CITIZENS.—

(i) Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) UNIFIED CREDIT.—

"(1) IN GENERAL.—A credit of $3,600 shall be allowed against the tax imposed by section 2101.

"(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit under this subsection shall be the greater of—

"(A) $3,600, or

"(B) that proportion of $15,075 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(3) PHASE-IN OF PARAGRAPH (2)(B) AMOUNT.—In the case of a decedent dying before 1979, paragraph (2)(B) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$8,480' for '$15,075',

"(B) in the case of a decedent dying during 1978, by substituting '$10,080' for '$15,075',

"(C) in the case of a decedent dying during 1979, by substituting '$11,680' for '$15,075', and

"(D) in the case of a decedent dying during 1980, by substituting '$13,388' for '$15,075'.

"(4) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

"(5) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010."

(ii) Subsection (c) of section 2107 (relating to expatriation to avoid tax) is amended to read as follows:

"(c) CREDITS.—

"(1) UNIFIED CREDIT.—

"(A) IN GENERAL.—A credit of $13,000 shall be allowed against the tax imposed by subsection (a).

"(B) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this paragraph shall not exceed the amount of the tax imposed by subsection (a).

"(2) OTHER CREDITS.—The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with subsections (a) and (b) of section 2102. For purposes of subsection (a) of section 2102, sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under paragraph (1) were allowed under section 2010."

(F) REPEAL OF SPECIFIC EXEMPTION.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

(G) CREDIT FOR FOREIGN DEATH TAXES.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

(H) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(I) LIABILITY OF RECIPIENTS OF CERTAIN PROPERTY.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(J) RETURN BY EXECUTOR.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended—

(i) by striking out "$60,000" in paragraph (1) and inserting in lieu thereof "$175,000";

(ii) by striking out "$30,000" in paragraph (2) and inserting in lieu thereof "$60,000"; and

(iii) by adding at the end thereof the following new paragraphs:

"(3) PHASE-IN OF FILING REQUIREMENT AMOUNT.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'.

"(4) ADJUSTMENT FOR CERTAIN GIFTS.—The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

"(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

"(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

(K) REVOCABLE TRANSFERS.—

(i) Paragraph (1) of section 2038(a) (relating to revocable transfers) is amended by striking out "in contemplation of decedent's death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(ii) Paragraph (2) of section 2038(a) (relating to revocable transfer) is amended by striking out "in contemplation of his death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(L) PROPERTY WITHIN THE UNITED STATES.—Subsection (b) of section 2104 (relating to revocable transfers and transfers in contemplation of death) is amended by striking out "AND TRANSFERS IN CONTEMPLATION OF DEATH" in the subsection heading and inserting in lieu thereof "AND TRANSFERS WITHIN 3 YEARS OF DEATH".

(M) PRIOR INTERESTS.—Section 2044 (relating to prior interests) is amended by striking out "specifically provided therein" and inserting in lieu thereof "specifically provided by law".

(N) CLERICAL AMENDMENTS.—

(i) The item relating to section 2001 in the table of sections for part I of subchapter A of chapter 11 is amended to read as follows:

"Sec. 2001. Imposition and rate of tax."

(ii) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Unified credit against estate tax."

(iii) The table of sections for part III of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"Sec. 2035. Adjustments for gifts made within 3 years of decedent's death."

(iv) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(2) CHANGES IN GIFT TAX.—

(A) TAXABLE GIFTS FOR PRECEDING YEARS AND QUARTERS.—Subsection (a) of section 2504 (relating to taxable gifts for preceding years and quarters) is amended by striking out "except that" and all that follows and inserting in lieu thereof "except that the specific exemption in the amount, if any, allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of calendar years or calendar quarters ending before January 1, 1977, for purposes of computing the tax for any calendar quarter."

(B) CLERICAL AMENDMENTS.—

(i) The table of sections for subchapter A of chapter 12 is amended by adding at the end thereof the following new item:

"Sec. 2505. Unified credit against gift tax."

(ii) The table of sections for subchapter C of chapter 12 is amended by striking out the item relating to section 2521.

(d) *EFFECTIVE DATES.*—

(1) *The amendments made by subsections (a) and (c)(1) shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a)(5) and subparagraphs (K) and (L) of subsection (c)(1) shall not apply to transfers made before January 1, 1977.*

(2) *The amendments made by subsections (b) and (c)(2) shall apply to gifts made after December 31, 1976.*

SEC. 2202. INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS; FRACTIONAL INTERESTS OF SPOUSE.

(a) *INCREASE IN ESTATE TAX MARITAL DEDUCTION.—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:*

"(1) *LIMITATION.—*

"(A) *IN GENERAL.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—*

"(i) *$250,000, or*

"(ii) *50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).*

"(B) *ADJUSTMENT FOR CERTAIN GIFTS TO SPOUSE.—If a deduction is allowed to the decedent under section 2523 with respect to any gift made to his spouse after December 31, 1976, the limitation provided by subparagraph (A) (determined without regard to this subparagraph) shall be reduced (but not below zero) by the excess (if any) of—*

"(i) *the aggregate of the deductions allowed to the decedent under section 2523 with respect to gifts made after December 31, 1976, over*

"(ii) *the aggregate of the deductions which would have been allowable under section 2523 with respect to gifts made after December 31, 1976, if the amount deductible under such section with respect to any gift were 50 percent of its value.*

"(C) *COMMUNITY PROPERTY ADJUSTMENT.—The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—*

"(i) *the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2)(B), over*

"(ii) *the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B).*"

(b) *INCREASE IN GIFT TAX MARITAL DEDUCTION.—Subsection (a) of section 2523 (relating to deduction for gift to spouse) is amended to read as follows:*

"(a) *ALLOWANCE OF DEDUCTION.—*

"(1) *IN GENERAL.—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.*

"(2) *LIMITATION.—The aggregate of the deductions allowed under paragraph (1) for any calendar quarter shall not exceed the sum of—*

"(A) *$100,000 reduced (but not below zero) by the aggregate of the deductions allowed under this section for preceding calendar quarters beginning after December 31, 1976; plus*

"(B) *50 percent of the lesser of—*

"(i) *the amount of the deductions allowable under paragraph (1) for such calendar quarter (determined without regard to this paragraph); or*

"(ii) *the amount (if any) by which the aggregate of the amounts determined under clause (i) for the calendar quarter and for each preceding calendar quarter beginning after December 31, 1976, exceeds $200,000.*"

(c) *FRACTIONAL INTEREST OF SPOUSE.—*

(1) *IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection:*

"(b) *CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.—*

"(1) *INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.*

"(2) *QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term 'qualified joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—*

"(A) *such joint interest was created by the decedent, the decedent's spouse, or both,*

"(B)(i) *in the case of personal property, the creation of such joint interest constituted in whole or in part a gift for purposes of chapter 12, or*

"(ii) *in the case of real property, an election under section 2515 applies with respect to the creation of such joint interest, and*

"(C) *in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants.*"

(2) *AMENDMENT OF RELATED GIFT TAX PROVISION.—Subsection (c) of section 2515 (relating to election with respect to tenancies by the entirety) is amended to read as follows:*

"(c) *EXERCISE OF ELECTION.—*

"(1) *IN GENERAL.—The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined without regard to this section), in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).*

"(2) *SUBSEQUENT ADDITIONS IN VALUE.—If the election provided by subsection (a) has been made with respect to the creation of*

any tenancy by the entirety, such election shall also apply to each addition made to the value of such tenancy by the entirety.

"(3) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of any election under subsection (a) with respect to any property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest."

(3) CLERICAL AMENDMENT.—Section 2040 is amended by striking out "The value" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—The value".

(d) EFFECTIVE DATES.—

(1)(A) Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) If—

(i) the decedent dies after December 31, 1976, and before January 1, 1979,

(ii) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before January 1, 1977, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(iii) the formula referred to in clause (ii) was not amended at any time after December 31, 1976, and before the death of the decedent, and

(iv) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

(3) The amendments made by subsection (c) shall apply to joint interests created after December 31, 1976.

SEC. 2203. VALUATION FOR PURPOSES OF THE FEDERAL ESTATE TAX OF CERTAIN REAL PROPERTY DEVOTED TO FARMING OR CLOSELY HELD BUSINESSES.

(a) GENERAL RULE.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

"SEC. 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

"(a) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.—

"(1) GENERAL RULE.—If—

"(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

"(2) LIMITATION.—The aggregate decreasc in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $500,000.

"(b) QUALIFIED REAL PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified real property' means real property located in the United States which, on the date of the decedent's death, was being used for a qualified use, but only if—

"(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

"(i) on the date of the decedent's death, was being used for a qualified use, and

"(ii) was acquired from or passed from the decedent to a qualified heir of the decedent,

"(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such real property was owned by the decedent or a member of the decedent's family and used for a qualified use, and

"(ii) there was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business, and

"(D) such real property is designated in the agreement referred to in subsection (d)(2).

"(2) QUALIFIED USE.—For purposes of this section, the term 'qualified use' means the devotion of the property to any of the following:

"(A) use as a farm for farming purposes, or

"(B) use in a trade or business other than the trade or business of farming.

"(3) ADJUSTED VALUE.—For purposes of paragraph (1), the term 'adjusted value' means—

"(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

"(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

"(c) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.—

"(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(A) *the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or*

"(B) *the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,*

then there is hereby imposed an additional estate tax.

"(2) AMOUNT OF ADDITIONAL TAX.—

"(A) IN GENERAL.—*The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—*

"(i) *the adjusted tax difference attributable to such interest, or*

"(ii) *the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).*

"(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.—*For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—*

"(i) *the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to*

"(ii) *a similar excess determined for all qualified real property.*

"(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—*For purposes of subparagraph (B), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.*

"(D) PARTIAL DISPOSITIONS.—*For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—*

"(i) *the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and*

"(ii) *the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.*

"(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.—In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or (A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

"(5) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

"(6) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(7) CESSATION OF QUALIFIED USE.—For purposes of paragraph (1)(B), real property shall cease to be used for the qualified use if—

"(A) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the property qualified under subsection (b), or

"(B) during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating 3 years or more during which—

"(i) in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

"(ii) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

"(d) ELECTION; AGREEMENT.—

"(1) ELECTION.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

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

"(1) QUALIFIED HEIR.—The term 'qualified heir' means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(3) CERTAIN REAL PROPERTY INCLUDED.—In the case of real property which meets the requirements of subparagraph (C) of subsection (b)(1), residential buildings and related improvements on such real property occupied on a regular basis by the owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

"(4) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

"(5) FARMING PURPOSES.—The term 'farming purposes' means—

"(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

"(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

"(C)(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market.

"(6) MATERIAL PARTICIPATION.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

"(7) METHOD OF VALUING FARMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

"(i) the excess of the average annual gross cash rental for comparable land used for farming purposes and lo-

cated in the locality of such farm over the average annual State and local real estate taxes for such comparable land, by

"*(ii) the average annual effective interest rate for all new Federal Land Bank loans.*

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the 5 most recent calendar years ending before the date of the decedent's death.

"*(B) EXCEPTION.—The formula provided by subparagraph (A) shall not be used—*

"*(i) where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or*

"*(ii) where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).*

"*(8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.—In any case to which paragraph (7)(A) does not apply, the following factors shall apply in determining the value of any qualified real property:*

"*(A) The capitalization of income which the property can be expected to yield for farming or closely held business purposes over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors,*

"*(B) The capitalization of the fair rental value of the land for farmland or closely held business purposes,*

"*(C) Assessed land values in a State which provides a differential or use value assessment law for farmland or closely held business,*

"*(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and*

"*(E) Any other factor which fairly values the farm or closely held business value of the property.*

"*(f) STATUTE OF LIMITATIONS.—If qualified real property is disposed of or ceases to be used for a qualified use, then—*

"*(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or cessation shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or cessation, and*

"*(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.*

"*(g) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation,*

or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) SPECIAL LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

"SEC. 6324B. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.

"(a) GENERAL RULE.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

"(b) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified farm real property—

"(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

"(c) CERTAIN RULES MADE APPLICABLE.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) SUBSTITUTION OF SECURITY FOR LIEN.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section."

(c) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF ADDITIONAL TAX IMPOSED UNDER SECTION 2032A.—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

"(1) the additional tax imposed by section 2032A(c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property."

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

"Sec. 2032A. Valuation of certain farm, etc., real property."

(2) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2204. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.

(a) GENERAL RULE.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

"SEC. 6166. ALTERNATE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

"(a) 5-YEAR DEFERRAL; 10-YEAR INSTALLMENT PAYMENT.—

"(1) IN GENERAL.—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 65 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

"(2) LIMITATION.—The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

"(A) the closely held business amount, bears to

"(B) the amount of the adjusted gross estate.

"(3) DATE FOR PAYMENT OF INSTALLMENTS.—If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

"(4) ELIGIBILITY FOR ELECTION.—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent.

"(b) DEFINITIONS AND SPECIAL RULES.—

"(1) INTEREST IN CLOSELY HELD BUSINESS.—For purposes of this section, the term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(2) RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

"(A) TIME FOR TESTING.—Determinations shall be made as of the time immediately before the decedent's death.

"(B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) INDIRECT OWNERSHIP.—Property 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. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(3) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.—For purposes of the 65-percent requirement of subsection (a)(1), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(4) VALUE.—For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

"(5) CLOSELY HELD BUSINESS AMOUNT.—For purposes of this section, the term 'closely held business amount' means the value of the interest in a closely held business which qualifies under subsection (a)(1).

"(6) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

"(c) SPECIAL RULE FOR INTERESTS IN 2 OR MORE CLOSELY HELD BUSINESSES.—For purposes of this section, interests in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent's gross estate more than 20 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall

be treated as having been included in determining the value of the decedent's gross estate.

"*(d) ELECTION.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.*

"*(e) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.*

"*(f) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—*

"*(1) INTEREST FOR FIRST 5 YEARS.—Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.*

"*(2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.*

"*(3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.*

"*(4) SELECTION OF SHORTER PERIOD.—If the executor has selected a period shorter than 5 years under subsection (a)(3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.*

"*(g) ACCELERATION OF PAYMENT.—*

"*(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—*

"*(A) If—*

"*(i) one-third or more in value of an interest in a closely held business which qualifies under subsection (a)(1) is distributed, sold, exchanged, or otherwise disposed of, or*

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a)(1), made with respect to such interest, equal or exceed one-third of the value of such trade or business,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies—

"(i) subparagraph (A)(i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

"(ii) subparagraph (A)(ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a)(3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

"(C) Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as an interest qualifying under subsection (a)(1).

"(D) Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) UNDISTRIBUTED INCOME OF ESTATE.—

"(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

"(B) *For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—*

"(i) *the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deduction for distributions, etc.);*

"(ii) *the amount of tax imposed for the taxable year on the estate under chapter 1; and*

"(iii) *the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).*

"(3) FAILURE TO PAY INSTALLMENT.—*If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.*

"(h) ELECTION IN CASE OF CERTAIN DEFICIENCIES.—

"(1) IN GENERAL.—*If—*

"(A) *a deficiency in the tax imposed by section 2001 is assessed,*

"(B) *the estate qualifies under subsection (a)(1), and*

"(C) *the executor has not made an election under subsection (a),*

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(2) TIME OF ELECTION.—*An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.*

"(3) EFFECT OF ELECTION ON PAYMENT.—*If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a)(2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.*

"(i) REGULATIONS.—*The Secretary shall prescribe such regulations as may be necessary to the application of this section.*

"(j) CROSS REFERENCES.—

"(1) Security.—
"For authority of the Secretary to require security in the case of an extension under this section, see section 6165.
"(2) Lien.—
"For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.
"(3) Period of limitation.—
"For extension of the period of limitation in the case of an extension under this section, see section 6503(d).
"(4) Interest.—
"For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601."

(b) 4-PERCENT INTEREST RATE.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) 4-PERCENT RATE ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166.—

"(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) 4-PERCENT PORTION.—For purposes of this subsection, the term '4-percent portion' means the lesser of—

"(A) $345,800 reduced by the amount of the credit allowable under section 2010(a); or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

"(3) TREATMENT OF PAYMENTS.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 4-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 4-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 4-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166."

(c) REASONABLE CAUSE SUBSTITUTED FOR UNDUE HARDSHIP IN DETERMINING ELIGIBILITY FOR EXTENSIONS OF PAYMENT OF ESTATE TAX.—

(1) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

"(2) ESTATE TAX.—The Secretary may, for reasonable cause, extend the time for payment of—

"(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

"(B) any part of any installment under section 6166 or 6166A (including any part of a deficiency prorated to any installment under such section),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case

of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

(2) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:

"*(b) AMOUNT DETERMINED AS DEFICIENCY.—*

"*(1) INCOME, GIFT, AND CERTAIN OTHER TAXES.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.*

"*(2) ESTATE TAX.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.*

"*(3) NO EXTENSION FOR CERTAIN DEFICIENCIES.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.*"

(3) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"*(b) EXTENSION FOR REASONABLE CAUSE.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a).*"

(4) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163, 6166, or 6166A".

(d) SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166.—

(1) IN GENERAL.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

"***SEC. 6324A. SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166 OR 6166A.***

"*(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 6166 or 6166A, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty,*

and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) *SECTION 6166 LIEN PROPERTY.—*

"(1) *IN GENERAL.—For purposes of this section, the term 'section 6166 lien property' means interests in real and other property to the extent such interests—*

"(A) *can be expected to survive the deferral period, and*

"(B) *are designated in the agreement referred to in subsection (c).*

"(2) *MAXIMUM VALUE OF REQUIRED PROPERTY.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—*

"(A) *the deferred amount, and*

"(B) *the aggregate interest amount.*

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151 (a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

"(3) *PARTIAL SUBSTITUTION OF BOND FOR LIEN.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.*

"(c) *AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—*

"(1) *consenting to the creation of the lien under this section with respect to such property, and*

"(2) *designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or 6166A or this section.*

"(d) *SPECIAL RULES.—*

"(1) *REQUIREMENT THAT LIEN BE FILED.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323 (f) has been filed by the Secretary. Such notice shall not be required to be refiled.*

"(2) *PERIOD OF LIEN.—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.*

"(3) *PRIORITIES.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—*

"(A) REAL PROPERTY TAX AND SPECIAL ASSESSMENT LIENS.—To the extent provided in section 6323(b)(6).

"(B) REAL PROPERTY SUBJECT TO A MECHANIC'S LIEN FOR REPAIRS AND IMPROVEMENTS.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

"(C) REAL PROPERTY CONSTRUCTION OR IMPROVEMENT FINANCING AGREEMENT.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h).

"(4) LIEN TO BE IN LIEU OF SECTION 6324 LIEN.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

"(5) ADDITIONAL LIEN PROPERTY REQUIRED IN CERTAIN CASES.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g) or 6166A(h).

"(6) LIEN TO BE IN LIEU OF BOND.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

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

"(1) DEFERRED AMOUNT.—The term 'deferred amount' means the aggregate amount deferred under section 6166 or 6166A (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(2) AGGREGATE INTEREST AMOUNT.—The term 'aggregate interest amount' means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(3) DEFERRAL PERIOD.—The term 'deferral period' means the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A.

"(4) APPLICATION OF DEFINITIONS IN CASE OF DEFICIENCIES.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the

due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A."

(2) DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL LIEN UNDER SECTION 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166 or 6166A) shall be treated as the furnishing of bond with respect to the amount for which the time for payment has been extended under section 6166 or 6166A."

(e) AMENDMENTS OF SECTION 303.—

(1) EXTENSION OF PERIOD FOR DISTRIBUTION.—Paragraph (1) of section 303(b) (relating to distributions in redemption of stock to pay death taxes) is amended my striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or ", and by adding at the end thereof the following new subparagraph:

"(C) If an election has been made under section 6166 or 6166A and if the time prescribed by this subparagraph expires at a later date than the time prescribed by subparagraph (B) of this paragraph, within the time determined under section 6166 or 6166A for the payment of the installments."

(2) RELATIONSHIP OF STOCK TO DECEDENT'S ESTATE.—

(A) Subparagraph (A) of section 303(b)(2) is amended to read as follows:

"(A) IN GENERAL.—Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent's gross estate exceeds 50 percent of the excess of—

"(i) the value of the gross estate of such decedent, over

"(ii) the sum of the amounts allowable as a deduction under section 2053 or 2054."

(B) The first sentence of subparagraph (B) of section 303(b)(2) is amended by striking out "the 35 percent and 50 percent requirements" and inserting in lieu thereof "the 50 percent requirement".

(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (b) of section 303 is amended by adding at the end thereof the following new paragraphs:

"(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (a) shall apply to a distribution by a corporation only to the extent that the interest of the shareholder is reduced directly (or through a binding obligation to contribute) by any payment of an amount described in paragraph (1) or (2) of subsection (a).

"(4) ADDITIONAL REQUIREMENTS FOR DISTRIBUTIONS MADE MORE THAN 4 YEARS AFTER DECEDENT'S DEATH.—In the case of amounts distributed more than 4 years after the date of the decedent's

death, subsection (a) shall apply to a distribution by a corporation only to the extent of the lesser of—

"(A) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which remained unpaid immediately before the distribution, or

"(B) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which are paid during the 1-year period beginning on the date of such distribution."

(4) STOCK WITH SUBSTITUTED BASIS.—Subsection (c) of section 303 (relating to stock with substituted basis) is amended by striking out "limitation specified in subsection (b)(1)" and inserting in lieu thereof "limitations specified in subsection (b)".

(f) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166 or 6166A."

(2) Section 7403(a) (relating to action to enforce lien or to subject property to payment of tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any acceleration of payment under section 6166 (g) or 6166A(h) shall be treated as a neglect to pay tax."

(3) Paragraph (2) of section 2011(c) (relating to credit for State death taxes) is amended by striking out "section 6161" and inserting in lieu thereof "section 6161, 6166 or 6166A".

(4) The last sentence of section 2204(b) is amended by striking out "has not been extended under" and inserting in lieu thereof "has been extended under".

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.
"Sec. 6166A. Extension of time for payment of estate tax where estate tax consists largely of interest in closely held business.".

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are as amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2205. CARRYOVER BASIS.

(a) *GENERAL RULE.—*

(1) AMENDMENT OF SECTION 1014.—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) DECEDENTS DYING AFTER DECEMBER 31, 1976.—In the case of a decedent dying after December 31, 1976, this section shall not apply to any property for which a carryover basis is provided by section 1023."

(2) CARRYOVER BASIS.—Part II of subchapter O of chapter 1

(relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

"SEC. 1023. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 1976.

"(a) GENERAL RULE.—

"(1) CARRYOVER BASIS.—Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

"(2) LOSS ON PERSONAL AND HOUSEHOLD EFFECTS.—In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

"(b) CARRYOVER BASIS PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'carryover basis property' means any property which is acquired from or passed from a decedent (within the meaning of section 1014(b)) and which is not excluded pursuant to paragraph (2) or (3).

"(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term 'carryover basis property' does not include—

"(A) any item of gross income in respect of a decedent described in section 691;

"(B) property described in section 2042 (relating to proceeds of life insurance);

"(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent's beneficiary under chapter 1;

"(D) property included in the decedent's gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

"(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under section 422(c)(1), 423(c), or 424(c)(1); and

(F) property described in section 1014(b)(5).

"(3) $10,000 EXCLUSION FOR CERTAIN ASSETS.—

"(A) EXCLUSION.—The term 'carryover basis property' does not include any asset—

"(i) which, in the hands of the decedent, was a personal or household effect, and

"(ii) with respect to which the executor has made an election under this paragraph.

"(B) LIMITATION.—The fair market value of all assets designated under this subsection with respect to any decedent shall not exceed $10,000.

"(C) ELECTION.—An election under this paragraph with respect to any asset shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of tax imposed by section 2001 or 2101 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes as—

"(1) the net appreciation in value of such property, bears to

"(2) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(d) $60,000 MINIMUM FOR BASES OF CARRYOVER BASIS PROPERTIES.—

"(1) IN GENERAL.—If $60,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subsection (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

"(A) the net appreciation in value of such property, bears to

"(B) the net appreciation in value of all such property.

"(2) SPECIAL RULE FOR PERSONAL OR HOUSEHOLD EFFECT.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

"(3) NONRESIDENT NOT CITIZEN.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

"(e) FURTHER INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAX PAID BY TRANSFEREE OF PROPERTY.—If—

"(1) any person acquires appreciated carryover basis property from a decedent, and

"(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or the District of Columbia for which the estate is not liable, then the basis of such property (after any adjustment under subsection (h), (c), or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property acquired by such person which is subject to such taxes.

"(f) SPECIAL RULES AND DEFINITIONS FOR APPLICATION OF SUBSECTIONS (c), (d), AND (e).—

"(1) FAIR MARKET VALUE LIMITATION.—The adjustments under subsection (c), (d), and (e) shall not increase the basis of property above its fair market value.

"(2) NET APPRECIATION.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (d), such adjusted basis shall be increased by the amount of any adjustment under subsection (c), and, for purposes of subsection (e), such adjusted basis shall be increased by the amount of any adjustment under subsection (c) or (d).

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c), the term 'Federal and State estate taxes' means—

"(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.

"(4) CERTAIN MARITAL AND CHARITABLE DEDUCTION PROPERTY TREATED AS NOT SUBJECT TO TAX.—For purposes of subsection (c) and (e), property shall be treated as not subject to a tax—

"(A) with respect to the tax imposed by section 2001 or 2101, to the extent that a deduction is allowable with respect to such property under section 2055 or 2056 or under section 2106(a)(2), and

"(B) with respect to State estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

"(5) APPRECIATED CARRYOVER BASIS PROPERTY.—For purposes of this section, the term 'appreciated carryover basis property' means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

"(g) OTHER SPECIAL RULES AND DEFINITIONS.—

"(1) FAIR MARKET VALUE.—For purposes of this section, when not otherwise distinctly expressed, the term 'fair market value' means value as determined under chapter 11.

"(2) PROPERTY PASSING FROM THE DECEDENT.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

"(3) DECEDENT'S BASIS UNKNOWN.—If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

"(4) CERTAIN MORTGAGES.—For purposes of subsections (c), (d), and (e), if—

"(A) there is an unpaid mortgage on, or indebtedness in respect of, property,

"(B) such mortgage or indebtedness does not constitute a liability of the estate, and

"(C) such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness.

"(h) ADJUSTMENT TO BASIS FOR DECEMBER 31, 1976, FAIR MARKET VALUE.—

"(1) MARKETABLE BONDS AND SECURITIES.—If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

"(2) PROPERTY OTHER THAN MARKETABLE BONDS AND SECURITIES.—

"(A) IN GENERAL.—If—

"(i) the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

"(ii) the value of such carryover basis property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection) shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF INCREASE.—The amount of the increase under this subparagraph for any property is the sum of—

"(i) the excess referred to in subparagraph (A)(ii), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

"(ii) the adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

"(C) APPLICABLE FRACTION.—For purposes of subparagraph (B)(i), the term 'applicable fraction' means, with respect to any property, a fraction—

"(i) *the numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and*

"(ii) *the denominator of which is the total number of days in such holding period.*

"(D) SUBSTANTIAL IMPROVEMENTS.—*Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.*

"(E) DEFINITIONS.—*For purposes of this paragraph—*

"(i) *The term 'marketable bond or security' means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.*

"(ii) *The term 'holding period' means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent's death.*

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

(3) AMENDMENT OF SECTION 1016.—*Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:*

"(23) *to the extent provided in section 1023, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976.*"

(4) AMENDMENTS OF SECTION 691.—

(A) *Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:*

"(A) *The term 'estate tax' means Federal and State estate taxes (within the meaning of section 1023(f)(3)).*"

(B) *Section 691(c)(2)(C) is amended to read as follows:*

"(C) *The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate.*"

(5) REPEAL OF SECTION 1246(e).—*Section 1246 (relating to gain on foreign investment company stock) is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.*

(b) NONRECOGNITION OF GAIN WHERE CERTAIN APPRECIATED CARRYOVER BASIS PROPERTY IS USED IN SATISFACTION OF A PECUNIARY BEQUEST.—*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. 1040. USE OF CERTAIN APPRECIATED CARRYOVER BASIS PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—*If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with ap-*

preciated carryover basis property (as defined in section 1023(f)(5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11.

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

"(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange."

(c) LIMITATION OF INCREASE IN BASIS FOR GIFT TAX PAID TO THAT PORTION OF GIFT TAX ATTRIBUTABLE TO NET APPRECIATION IN VALUE.—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR GIFTS MADE AFTER DECEMBER 31, 1976.—

(A) IN GENERAL.—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

"(i) the net appreciation in value of the gift, bears to

"(ii) the amount of the gift.

"(B) NET APPRECIATION.—For purposes of paragraph (1), the net apppreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift."

(d) INFORMATION REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

"SEC. 6039A. INFORMATION REGARDING CARRYOVER BASIS PROPERTY ACQUIRED FROM A DECEDENT.

"(a) IN GENERAL.—Every executor (as defined in section 2203) shall furnish the Secretary such information with respect to carryover basis property to which section 1023 applies as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WHO ACQUIRE PROPERTY FROM A DECEDENT.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item."

(2) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6694. FAILURE TO FILE INFORMATION WITH RESPECT TO CARRYOVER BASIS PROPERTY.

"(a) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Any executor who fails to furnish information required under subsection (a) of section 6039A 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 reasonble cause and not to willful neglect, shall pay a penalty of $100 for each such failure, but the total amount imposed for all such failures shall not exceed $5,000.

"(b) INFORMATION REQUIRED TO BE FURNISHED TO BENEFICIARIES.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under such subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of $50 for each such failure, but the total amount imposed for all such failures shall not exceed $2,500."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Carryover basis for certain property acquired from a decedent dying after December 31, 1976.
"Sec. 1024. Cross references."

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

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

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

"Sec. 6694. Failure to file information with respect to carryover basis property."

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

(2) The amendment made by subsection (c) shall apply to gifts made after December 31, 1976.

SEC. 2206. CERTAIN GENERATION-SKIPPING TRANSFERS.

(a) IMPOSITION OF TAX.—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

"Subchapter A—Tax Imposed

"SEC. 2601. TAX IMPOSED.

"A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

"SEC. 2602. AMOUNT OF TAX.

"(a) GENERAL RULE.—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in section 2001(c) (as in effect on the date of transfer) on the sum of—

"(A) the fair market value of the property transferred determined as of the date of transfer (or in the case of an election under subsection (d), as of the applicable valuation date prescribed by section 2032),

"(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied,

"(C) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the deemed transferor before this transfer, and

"(D) if the deemed transferor has died at the same time as, or before, this transfer, the taxable estate of the deemed transferor, over

"(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B), (C), and (D) of paragraph (1).

"(b) MULTIPLE SIMULTANEOUS TRANSFERS.—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur by reason of the same event, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to—

"(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

"(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

"(c) DEDUCTIONS, CREDITS, ETC.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection, no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

"(2) CHARITABLE DEDUCTIONS ALLOWED.—The deduction under section 2055, 2106(a)(2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

"(3) UNUSED PORTION OF UNIFIED CREDIT.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the credit under section 2010(a) (relating to unified credit) which exceeds the sum of—

"(A) the tax imposed by section 2001, and

"(B) the taxes theretofore imposed by section 2601 with respect to this deemed transferor,

shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

"(4) CREDIT FOR TAX ON PRIOR TRANSFERS.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601. For purposes of the preceding sentence, section 2013 shall be applied as if so much of the property subject to tax under section 2601 as is not taken into account for purposes of determining the credit allowable by section 2013 with respect to the estate of the deemed transferor passed from the transferor (as defined in section 2013) to the deemed transferor.

"(5) COORDINATION WITH ESTATE TAX.—

"(A) ADJUSTMENTS TO MARITAL DEDUCTION.—If the generation-skipping transfer occurs at the same time as, or within 9 months after, the death of the deemed transferor, for purposes of section 2056 (relating to bequests, etc., to surviving spouse), the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

"(B) CERTAIN EXPENSES ATTRIBUTABLE TO GENERATION-SKIPPING TRANSFER.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, for purposes of this section, the amount taken into account with respect to such transfer shall be reduced—

"(i) in the case of a taxable termination, by any item referred to in section 2053 or 2054 to the extent that a deduction would have been allowable under such section for such item if the amount of the trust had been includible in the deemed transferor's gross estate and if the deemed transferor had died immediately before such transfer; or

"(ii) in the case of a taxable distribution, by any expense incurred in connection with the determinaton, collection, or refund of the tax imposed by section 2601 on such transfer.

"(C) CREDIT FOR STATE INHERITANCE TAX.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, there shall be allowed as a credit against the tax imposed by section 2601 an amount equal to that portion of the estate, inheritance, legacy, or

succession tax actually paid to any State or the District of Columbia in respect of any property included in the generation-skipping transfer, but only to the extent of the lesser of—

"(i) that portion of such taxes which is levied on such transfer, or

"(ii) the excess of the limitation applicable under section 2011(b) if the adjusted taxable estate of the decedent had been increased by the amount of the transfer and all prior generation-skipping transfers to which this subparagraph applied which had the same deemed transferor, over the sum of the amount allowable as a credit under section 2011 with respect to the estate of the decedent plus the aggregate amounts allowable under this subparagraph with respect to such prior generation-skipping transfers.

"(d) ALTERNATE VALUATION.—

"(1) IN GENERAL.—In the case of—

"(A) 1 or more generation-skipping transfers from the same trust which have the same deemed transferor and which are taxable terminations occurring at the same time as the death of such deemed transferor; or

"(B) 1 or more generation-skipping transfers from the same trust with different deemed transferors—

"(i) which are taxable terminations occurring on the same day; and

"(ii) which would, but for section 2613(b)(2), have occurred at the same time as the death of the individuals who are the deemed transferors with respect to the transfers;

the trustee may elect to value all of the property transferred in such transfers in accordance with section 2032.

"(2) SPECIAL RULES.—If the trustee makes an election under paragraph (1) with respect to any generation-skipping transfer, section 2032 shall be applied by taking into account (in lieu of the date of the decedent's death) the following date:

"(A) in the case of any generation-skipping transfer described in paragraph (1)(A), the date of the death of the deemed transferor described in such paragraph, or

"(B) in the case of any generation-skipping transfer described in paragraph (1)(B), the date on which such transfer occurred.

"(e) TRANSFERS WITHIN 3 YEARS OF DEATH OF DEEMED TRANSFEROR.—Under regulations prescribed by the Secretary, the principles of section 2035 shall apply with respect to transfers made during the 3-year period ending on the date of the deemed transferor's death. In the case of any transfer to which this subsection applies, the amount of the tax imposed by this chapter shall be determined as if the transfer occurred after the death of the deemed transferor and appropriate adjustments shall be made with respect to the amount of any prior transfer which is taken into account under subparagraph (B) or (C) of subsection (a)(1).

"SEC. 2603. LIABILITY FOR TAX.

"(a) PERSONAL LIABILITY.—

"(1) IN GENERAL.—If the tax imposed by section 2601 is not paid, when due then—

"(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

"(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

"(2) LIMITATION OF PERSONAL LIABILITY OF TRUSTEE WHO RELIES ON CERTAIN INFORMATION FURNISHED BY THE SECRETARY.—

"(A) INFORMATION WITH RESPECT TO RATES.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceed the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

"(B) AMOUNT OF REMAINING EXCLUSION.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

"(i) the amount furnished by the Secretary to the trustee as being the amount of the exclusion for a transfer to a grandchild of the grantor of the trust which may reasonably be expected to remain with respect to the deemed transferor, is less than

"(ii) the amount of such exclusion remaining with respect to such deemed transferor.

"(3) LIMITATION ON PERSONAL LIABILITY OF DISTRIBUTEE.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

"(b) LIEN.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

"Subchapter B—Definitions and Special Rules

"SEC. 2611. GENERATION-SKIPPING TRANSFER.

"(a) GENERATION-SKIPPING TRANSFER DEFINED.—For purposes of this chapter, the terms 'generation-skipping transfer' and 'transfer' mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

"(b) GENERATION-SKIPPING TRUST.—For purposes of this chapter, the term 'generation-skipping trust' means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

"(c) ASCERTAINMENT OF GENERATION.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

"(1) an individual who is a lineal descendent of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

"(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described and an individual who has been at any time married to the grantor shall be assigned to the grantor's generation,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) GENERATION-SKIPPING TRUST EQUIVALENT.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) EXAMPLES OF ARRANGEMENTS TO WHICH SUBSECTION RELATES.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) REFERENCES TO TRUST INCLUDE REFERENCES TO TRUST EQUIVALENTS.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"SEC. 2612. DEEMED TRANSFEROR.

"(a) GENERAL RULE.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) DETERMINATION OF RELATIONSHIP.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

"SEC. 2613. OTHER DEFINITIONS.

"(a) TAXABLE DISTRIBUTION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary. For purposes of the preceding sentence, an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary.

"(2) SOURCE OF DISTRIBUTIONS.—If, during the taxable year of the trust, there are distributions out of the income of the trust (within the meaning of section 643(b)) and out of other amounts, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) PAYMENT OF TAX.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) CERTAIN DISTRIBUTIONS EXCLUDED FROM TAX.—The term 'taxable distribution' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by subsection (b)(6), and

"(B) any transfer to the extent such transfer is subject to tax imposed by chapter 11 or 12.

"(b) TAXABLE TERMINATION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. Such term does not include a termination of the interest or power of any person who at no time has had anything other than a future interest or future power (or both) in the trust.

"(2) *TIME CERTAIN TERMINATIONS DEEMED TO OCCUR.*—

"(A) *WHERE 2 OR MORE BENEFICIARIES ARE ASSIGNED TO SAME GENERATION.*—*In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.*

"(B) *SAME BENEFICIARY HAS MORE THAN 1 INTEREST OR POWER.*—*In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.*

"(C) *UNUSUAL ORDER OF TERMINATION.*—

"(i) *IN GENERAL.*—*If*—

"(I) *but for this subparagraph, there would have been a termination (determined after the application of subparagraphs (A) and (B)) of an interest or power of a younger generation beneficiary (hereinafter in this subparagraph referred to as the 'younger beneficiary'), and*

"(II) *at the time such termination would have occurred, a beneficiary (hereinafter in this subparagraph referred to as the 'older beneficiary') of the trust assigned to a higher generation than the generation of the younger beneficiary has a present interest or power in the trust,*

then, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

"(ii) *SPECIAL RULES.*—*If clause (i) applies with respect to any younger beneficiary*—

"(I) *this chapter shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary; and*

"(II) *the value of the property taken into account for purposes of determining the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the older beneficiary.*

"(D) *SPECIAL RULE.*—*Subparagraphs (A) and (C) shall also apply where a person assigned to the same generation as, or a higher generation than, the person whose power or interest terminates has a present power or interest immediately*

after the termination and such power or interest arises as a result of such termination.

"*(3) DEEMED TRANSFEREES OF CERTAIN TERMINATIONS.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, except to the extent provided in regulations prescribed by the Secretary, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.*

"*(4) TERMINATION OF POWER.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).*

"*(5) CERTAIN TERMINATIONS EXCLUDED FROM TAX.—The term 'taxable termination' does not include—*

"*(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by paragraph (6), and*

"*(B) any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.*

"*(6) $250,000 LIMIT ON EXCLUSION OF TRANSFERS TO GRANDCHILDREN.—In the case of any deemed transferor, the maximum amount excluded from the terms 'taxable distribution' and 'taxable termination' by reason of provisions exempting from such terms transfers to the grandchildren of the grantor of the trust shall be $250,000. The preceding sentence shall be applied to transfers from one or more trusts in the order in which such transfers are made or deemed made.*

"*(7) COORDINATION WITH SUBSECTION (a).—*

"*(A) TERMINATIONS TAKE PRECEDENCE OVER DISTRIBUTIONS.—If—*

"*(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and*

"*(ii) such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution,*

then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

"*(B) CERTAIN PRIOR TRANSFERS.—To the extent that—*

"*(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer,*

"*(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer, and*

"(iii) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer, the terms 'taxable termination' and 'taxable distribution' do not include this later transfer.

"(c) YOUNGER GENERATION BENEFICIARY; BENEFICIARY.—For purposes of this chapter—

"(1) YOUNGER GENERATION BENEFICIARY.—The term 'younger generation beneficiary' means any beneficiary who is assigned to a generation younger than the grantor's generation.

"(2) TIME FOR ASCERTAINING YOUNGER GENERATION BENEFICIARIES.—A person is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer (or, in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers).

"(3) BENEFICIARY.—The term 'beneficiary' means any person who has a present or future interest or power in the trust.

"(d) INTEREST OR POWER.—For purposes of this chapter—

"(1) INTEREST.—A person has an interest in a trust if such person—

"(A) has a right to receive income or corpus from the trust, or

"(B) is a permissible recipient of such income or corpus.

"(2) POWER.—The term 'power' means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

"(e) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF GRANTOR NOT TAKEN INTO ACCOUNT IN CERTAIN CASES.—For purposes of this chapter, if any individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

"(f) EFFECT OF ADOPTION.—For purposes of this chapter, a relationship by legal adoption shall be treated as a relationship by blood.

"SEC. 2614. SPECIAL RULES.

"(a) BASIS ADJUSTMENT.—If property is transferred to any person pursuant to a generation-skipping transfer which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer. If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from decedent dying after December 31, 1976, fair market value).

"(b) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States and—

"(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

"(2) if the deemed transferor has died at the same time as, or before, the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

"(c) DISCLAIMERS.—

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

"Subchapter C—Administration

"SEC. 2621. ADMINISTRATION.

"(a) GENERAL RULE.—Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) if the deemed transferor is not alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

"(2) if the deemed transferor is alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

"(b) SECTIONS 6166 AND 6166A NOT APPLICABLE.—For purposes of this chapter, sections 6166 and 6166A (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) shall not apply.

"(c) RETURN REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

"(A) the person who is required to make such return shall be—

"(i) in the case of a taxable distribution, the distributee, and

"(ii) in the case of a taxable termination, the trustee; and

"(B) the return shall be filed—

"(i) in the case of a generation-skipping transfer occurring before the death of the deemed transferor, on or before the 90th day after the close of the taxable year of the trust in which such transfer occurred, or

"(ii) in the case of a generation-skipping transfer occurring at the same time as, or after, the death of the deemed transferor, on or before the 90th day after the last day prescribed by law (including extensions) for

filing the return of tax under chapter 11 with respect to the estate of the deemed transferor (or if later, the day which is 9 months after the day on which such generation-skipping transfer occurred).

"(2) INFORMATION RETURNS.—The Secretary may by regulations require the trustee to furnish the Secretary with such information as he determines to be necessary for purposes of this chapter.

"SEC. 2622. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts."

(b) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CLERICAL CHANGE.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

"CHAPTER 13. Tax on certain generation-skipping transfers."

(2) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX IMPOSED ON CERTAIN GENERATION-SKIPPING TRANSFERS.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

"(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

"(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

"(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer."

(3) INCOME IN RESPECT OF A DECEDENT.—Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR GENERATION-SKIPPING TRANSFERS.—For purposes of this section—

"(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c)(5)(C) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a);

"(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

"(C) under regulations prescribed by the Secretary, any item of gross income subject to the tax imposed under

section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611(a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined)."

(4) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Section 303 is amended by adding at the end thereof the following new subsection:

"*(d) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Under regulations prescribed by the Secretary, where stock in a corporation is subject to tax under section 2601 as a result of a generation-skipping transfer (within the meaning of section 2611(a)), which occurs at or after the death of the deemed transferor (within the meaning of section 2612)—*

"*(1) the stock shall be deemed to be included in the gross estate of the deemed transferor;*

"*(2) taxes of the kind referred to in subsection (a)(1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of the deemed transferor's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax);*

"*(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and*

"*(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer.*"

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, any generation-skipping transfer.

For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) TRUST EQUIVALENTS.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply.

SEC. 2207. ORPHANS' EXCLUSION.

(a) GENERAL RULE.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN.

"(a) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, if—

"(1) the decedent does not have a surviving spouse, and

"(2) the decedent is survived by a minor child who, immediately after the death of the decedent, has no known parent,

then the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to such child, but only to the extent that such interest is included in determining the value of the gross estate.

"(b) LIMITATION.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) with respect to interests in property passing to any minor child shall not exceed an amount equal to $5,000 multipled by the excess of 21 over the age (in years) which such child has attained on the date of the decedent's death.

"(c) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTEREST.—A deduction shall be allowed under this section with respect to any interest in property passing to a minor child only to the extent that a deduction would have been allowable under section 2056(b) if such interest had passed to a surviving spouse of the decedent. For purposes of this subsection, an interest shall not be treated as terminable solely because the property will pass to another person if the child dies before the youngest child of the decedent attains age 21.

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

"(1) MINOR CHILD.—The term 'minor child' means any child of the decedent who has not attained the age of 21 before the date of the decedent's death.

"(2) ADOPTED CHILDREN.—A relationship by legal adoption shall be treated as replacing a relationship by blood.

"(3) PROPERTY PASSING FROM THE DECEDENT.—The determination of whether an interest in property passes from the decedent to any person shall be made in accordance with section 2056(d)."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Bequests, etc., to certain minor children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2208. ADMINISTRATIVE CHANGES.

(a) FURNISHING OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. FURNISHING ON REQUEST OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION.

"(a) GENERAL RULE.—If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapters 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination.

"(b) CONTENTS OF STATEMENT.—A statement required to be furnished under subsection (a) with respect to the value of an item of property shall—

"(1) explain the basis on which the valuation was determined or proposed,

"(2) set forth any computation used in arriving at such value, and

"(3) contain a copy of any expert appraisal made by or for the Secretary.

"(c) EFFECT OF STATEMENT.—Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary."

(2) CONFORMING AND CLERICAL AMENDMENTS.—

(A) Section 2031 (defining gross estate) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For executor's right to be furnished on request a statement regarding any valuation made by the Secretary within the gross estate, see section 7517."

(B) Section 2512 (relating to valuation of gifts) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For individual's right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that individual, see section 7517."

(C) The table of sections for chapter 77 is amended by adding at the end thereof the following:

"Sec. 7517. Furnishing on request of statement explaining estate or gift valuation."

(b) SPECIAL RULE FOR FILING RETURNS WHERE GIFTS IN CALENDAR QUARTER TOTAL $25,000 OR LESS.—Subsection (b) of section 6075 (relating to gift tax returns) is amended to read as follows:

"(b) GIFT TAX RETURNS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

"(2) *SPECIAL RULE WHERE GIFTS IN A CALENDAR QUARTER TOTAL $25,000 OR LESS.—If the total amount of taxable gifts made by a person during a calendar quarter is $25,000 or less, the return under section 6019 for such quarter shall be filed on or before the 15th day of the second month after—*

"(A) *the close of the first subsequent calendar quarter in the calendar year in which the sum of—*

"(i) *the taxable gifts made during such subsequent quarter, plus*

"(ii) *all other taxable gifts made during the calendar year and for which a return has not yet been required to be filed under this subsection,*

exceeds $25,000, or

"(B) *if a return is not required to be filed under subparagraph (A), the close of the fourth calendar quarter of the calendar year.*

"(3) *NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—In the case of a nonresident not a citizen of the United States, paragraph (2) shall be applied by substituting '$12,500' for '$25,000' each place it appears.*"

(c) *PUBLIC INDEX OF FILED TAX LIENS.—*

(1) *INITIAL FILING OF NOTICE.—*

(A) *Section 6323(f) (relating to filing of notice of lien) is amended by adding at the end thereof the following new paragraph:*

"(4) *INDEX.—The notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in a public index at the district office of the Internal Revenue Service for the district in which the property subject to the lien is situated.*"

(B) *Paragraph (2) of section 6323(f) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraphs (1) and (4)".*

(2) *REFILING OF NOTICE.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:*

"(A) *if such notice of lien is refiled in the office in which the prior notice of lien was filed and the fact of refiling is entered and recorded in an index in accordance with subsection (f)(4); and*".

(d) *EFFECTIVE DATES.—*

(1) *The amendments made by subsection (a)—*

(A) *insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1954, shall apply to the estates of decedents dying after December 31, 1976, and*

(B) *insofar as they relate to the tax imposed under chapter 12 of such Code, shall apply to gifts made after December 31, 1976.*

(2) *The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.*

(3) *The amendment made by subsection (c) shall take effect—*

(A) *in the case of liens filed before the date of the enactment of this Act, on the 270th day after such date of enactment, or*

(B) in the case of liens filed on or after the date of enactment of this Act, on the 120th day after such date of enactment.

SEC. 2209. MISCELLANEOUS PROVISIONS.

(a) INCLUSION OF STOCK IN DECEDENT'S ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS.—Subsection (a) of section 2036 (relating to transfer with retained life estate) is amended by adding at the end thereof of the following new sentence:
"For purposes of paragraph (1), the retention of voting rights in retained stock shall be considered to be a retention of the enjoyment of such stock."

(b) DISCLAIMERS.—

(1) AMENDMENT OF GIFT TAX PROVISIONS.—Subchapter B of chapter 12 (relating to transfers for purposes of the gift tax) is amended by adding at the end thereof the following new section:

"SEC. 2518. DISCLAIMERS.

"(a) GENERAL RULE.—For purposes of this subtitle, if a person makes a qualified disclaimer with respect to any interest in property, this subtitle shall apply with respect to such interest as if the interest had never been transferred to such person.

"(b) QUALIFIED DISCLAIMER DEFINED.—For purposes of subsection (a), the term 'qualified disclaimer' means an irrevocable and unqualified refusal by a person to accept an interest in property but only if—

"(1) such refusal is in writing,

"(2) such writing is received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates not later than the date which is 9 months after the later of—

"(A) the day on which the transfer creating the interest in such person is made, or

"(B) the day on which such person attains age 21,

"(3) such person has not accepted the interest or any of its benefits, and

"(4) as a result of such refusal, the interest passes to a person other than the person making the disclaimer (without any direction on the part of the person making the disclaimer).

"(c) OTHER RULES.—For purposes of subsection (a)—

"(1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST.—A disclaimer with respect to an undivided portion of an interest which meets the requirements of the preceding sentence shall be treated as a qualified disclaimer of such portion of the interest.

"(2) POWERS.—A power with respect to property shall be be treated as an interest in such property."

(2) AMENDMENT OF ESTATE TAX PROVISIONS.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

"SEC. 2045. DISCLAIMERS.

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518."

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 12 is amended by adding at the end thereof the following:

"Sec. 2518. Disclaimers."

(B) The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2045. Disclaimers."

(4) TECHNICAL AND CONFORMING CHANGES.—

(A) Paragraph (2) of section 2041(a) (relating to release of general powers of appointment) is amended by striking out the second sentence thereof.

(B) The first sentence of subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by striking out "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)".

(C) The second sentence of subsection (a) of section 2055 is amended—

(i) by striking out "an irrevocable" and inserting in lieu thereof "a qualified", and

(ii) by striking out "such irrevocable" and inserting in lieu thereof "such qualified".

(D) Section 2056 (relating to bequests, etc., to surviving spouse) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(E) Subsection (a) of section 2056 is amended by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (c)".

(F) Subsection (b) of section 2514 (relating to powers of appointment for purposes of the gift tax) is amended by striking out the second sentence thereof.

(c) CERTAIN RETIREMENT BENEFITS.—

(1) EXCLUSION FROM GROSS ESTATE OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(e) EXCLUSION OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the value of the gross estate the value of an annuity receivable by any beneficiary (other than the executor) under—

"(1) an individual retirement account described in section 408(a),

"(2) an individual retirement annuity described in section 408(b), or

"(3) a retirement bond described in section 409(a).

If any payment to an account described in paragraph (1) or for an annuity described in paragraph (2) or a bond described in paragraph (3) was not allowable as a deduction under section 219 and was not a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to

the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death."

(2) EXCLUSION FROM GROSS ESTATE OF SELF-EMPLOYED PLANS.—The fifth sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent."

(3) EXCLUSION INAPPLICABLE IN CASE OF LUMP SUM DISTRIBUTIONS.—The first sentence of subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "other payment receivable by any beneficiary" and inserting in lieu thereof "other payment (other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A)) receivable by any beneficiary)".

(4) GIFT TAX TREATMENT OF ELECTIONS UNDER CERTAIN RETIREMENT PLANS.—

(A) INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(i) Subsection (a) of section 2517 (relating to certain annuities under qualified plans) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) an individual retirement account described in section 408(a) an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)."

(ii) Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by striking out "other than paragraph (4)" and inserting in lieu thereof "other than paragraphs (4) and (5)".

(iii) Subsection (c) of section 2517 (defining employee) is amended by adding at the end thereof the following new sentence: "In the case of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established."

(B) SELF-EMPLOYED PLANS.—The last sentence of section 2517(b) (relating to transfers attributable to employee contributions) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of an

individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) of subsection (a) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than such individual and, to the extent not so allowable, shall be considered to be made by such individual."

(5) GIFT TAX TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Section 2517 (relating to certain annuities under qualified plans) is amended by redesignating subsection (c) (as amended by paragraph (4)(A)(iii)) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXEMPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made—

"(1) by his employer or former employer under a trust or plan described in paragraph (1) or (2) of subsection (a), or toward the purchase of a contract described in paragraph (3) of subsection (a), which under subsection (b) are not considered as contributed by the employee, or

"(2) by the employee to a retirement plan described in paragraph (5) of subsection (a),

a transfer of benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(A) is attributable to such contribution or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of the State."

(d) INCOME TAX TREATMENT OF CERTAIN EXPENSES OF ESTATE.—Section 642(g) (relating to disallowance of double deductions) is amended by inserting after "shall not be allowed as a deduction" the following: "(or as an offset against the sales price of property in determining gain or loss)".

(e) EFFECTIVE DATES.—

(1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply to transfers made after June 22, 1976.

(2) FOR SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to transfers creating an interest in the person disclaiming made after December 31, 1976.

(3) FOR SUBSECTION (c).—

(A) The amendments made by paragraphs (1), (2), and (3) of subection (c) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendments made by paragraphs (4) and (5) of subsection (c) shall apply to transfers made after December 31, 1976.

(4) FOR SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2210. CREDIT AGAINST CERTAIN ESTATE TAXES.

(a) IN GENERAL.—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

(b) AMOUNT OF CREDIT—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed (and interest thereon) by chapter 11 of the Internal Revenue Code of 1954.

(c) DEED REQUIREMENTS.—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United State which is satisfactory to the Attorney General or his designee.

(d) ACCEPTANCE AS NATIONAL FOREST.—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) INTEREST.—Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reason of the provisions of this section for any period before the date of such transfer.

(f) EFFECTIVE DATE.—The provisions of this section shall be effective on the date of the enactment of this Act.

APPENDIX A:

STATEMENT OF MANAGERS FOR AMENDMENT NUMBERED 35

ESTATE AND GIFT TAX PROVISIONS

Joint Explanatory Statement of the Committee of Conference

The House bill (H.R. 10612) did not contain revisions to the estate and gift taxes, and as a result Senate amendment numbered 35 will be taken back to the House of Representatives and Senate in technical disagreement. The amendment which will be offered in the House of Representatives and Senate relating to estate and gift taxes substantially modifies the Senate amendment and adopts many of the provisions contained in H.R. 14844. In those cases where the proposed amendment follows H.R. 14844, the conferees agree with and incorporate the explanation of those provisions contained in House Report 94–1380 (the Ways and Means Committee Report on H.R. 14844), except as modified in this statement.

Unified Credit

H.R. 14844.—Under present law, the estate of each decedent who was a resident or citizen of the U.S. is entitled to an exemption of $60,000 for estate tax purposes and a donor who is not a nonresident alien is entitled to an exemption of $30,000 for gift tax purposes. H.R. 14844 provides a unified credit in lieu of the present exemptions for estate and gift taxes. The amount of the credit is $30,000 for gifts made in, and for estates of decedents dying in, 1977 and increases $5,000 each year until 1979 when the credit is $40,000 (equivalent to an exemption of $153,750).

Senate amendment.—The Senate amendment provides a credit in lieu of the present exemption for estate tax purposes, but retains the present gift tax exemption. The amount of the credit is $30,000 for estates of decedents dying in 1977 and increases $5,000 each year until 1981 when the credit is $50,000 (equivalent to an exemption of $197,667).

Conference agreement.—The conference agreement provides a unified credit of $47,000 (equivalent to an exemption of $175,625) in lieu of the present exemptions for estate and gift taxes. The credit is to be phased-in over a 5-year period. Subject to a transitional rule for certain gifts, the amount of the credit is $30,000 for gifts made in, and decedents dying in, 1977, $34,000 in 1978, $38,000 in 1979, $42,500 in 1980, and $47,000 in 1981.

The unified credit allowable is to be reduced by an amount equal to 20 percent of the amount allowed as a specific exemption under present law for gifts made after September 8, 1976, and before January 1, 1977. However, the unified credit is not to be reduced for any

amount allowed as a specific exemption for gifts made prior to September 9, 1976. As a transitional rule for gift tax purposes, only $6,000 of the unified credit can be applied with respect to gifts made after December 31, 1976, and prior to July 1, 1977.

Unification of Estate and Gift Tax Rates

H.R. 14844.—Under present law, an estate tax is imposed upon transfers at death and a gift tax is imposed on gifts during lifetime. Each tax has a separate rate schedule with the gift tax rate schedule being three-fourths of the estate tax rate schedule for corresponding brackets.

H.R. 14844 provides a unified rate schedule for estate and gift taxes. The lowest effective rate (after taking into account the unified credit) is 32 percent. The highest rate is 70 percent for cumulative taxable transfers in excess of $5 million. This provision applies to estates of decedents dying after December 31, 1976, and gifts made after that date.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows H.R. 14844.

The conference agreement modifies the method of determining the tax imposed on transfers of U.S. property by a decedent who was a nonresident alien. Since a separate schedule with reduced rates is provided for estates of nonresident aliens, the deathtime credit, or "offset," for tax on lifetime transfers, which is applied against the tax computed on cumulative lifetime and deathtime transfers, is to be determined under the same rate schedule that is applicable at death rather than the schedule that applies to the lifetime transfers of all donors.

Transfers Made Within 3 Years of Death

H.R. 14844.—Under present law, transfers made within 3 years of death are presumed to be made in "contemplation of death" and included in the decedent's gross estate unless the executor can prove to the contrary.

H.R. 14844 eliminates the contemplation of death presumption and provides for the inclusion in the decedent's gross estate of all gifts (in excess of the $3,000 annual exclusion) made within the 3-year period prior to the decedent's death.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

This provision applies to gifts made after December 31, 1976.

Gross-up for Gift Taxes

H.R. 14844.—Under present law, the tax paid with respect to a gift is not included in the estate or gift tax base. Thus, an amount equal to the gift tax will be removed from a decedent's gross estate and also allowed as a credit against estate tax if the gift is included in the gross estate even though the transfer is a "death-bed transfer." However, if the transfer had not been made during lifetime, the entire amount would be included in the decedent's gross estate.

H.R. 14844 requires the gift tax on gifts made within 3 years of the decedent's death to be included (or "grossed-up") in the decedent's gross estate.

This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Increase in Estate Tax Marital Deduction

H.R. 14844.—Under present law, the estate of each decedent is permitted a deduction for property passing to a surviving spouse up to one-half of the adjusted gross estate.

H.R. 14844 increases the maximum estate tax marital deduction to the greater of $250,000 or one-half of the decedent's adjusted gross estate.

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844.

Conference agreement.—The conference agreement follows both H.R. 14844 and the Senate amendment.

Increase in Gift Tax Marital Deduction

H.R. 14844.—Under present law, in the case of gifts, the maximum allowable deduction is one-half of the value of the property transferred to the spouse.

H.R. 14844 provides an unlimited marital deduction for the first $100,000 of lifetime transfers to a spouse. Thereafter, the deduction allowed is 50 percent of gifts in excess of $200,000.

This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Joint Interests

H.R. 14844.—Under present law, the entire value of property owned in joint tenancy is included in the decedent's gross estate except for the portion of property which is attributable to the consideration furnished by the survivor.

H.R. 14844 replaces the "consideration furnished test" with a fractional interest rule in certain cases where property is held by husband and wife with rights of survivorship. Under the fractional interest rule, where a joint tenancy is created by a transfer subject to gift tax at the time of creation, the property is then treated as belonging 50 percent to each spouse for estate tax purposes.

This provision applies to joint interests created after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Special Valuation for Certain Property

H.R. 14844.—Under present law, the value of the property included in the gross estate of the decedent is its fair market value at the date of the decedent's death (or at the alternate valuation date). One of the most important factors in determining fair market value is the "highest and best use" to which the property can be put.

H.R. 14844 provides that, if certain conditions are met, the executor may elect to value qualified real property included in the decedent's gross estate on the basis of such property's value in its current use rather than on the basis of its highest and best use. Qualified real property includes property used for farming or other closely held business use. This special valuation may not be used to decrease the value of the decedent's gross estate by more than $500,000. Also, H.R. 14844 provides specific valuation methods for qualifying real property.

In general, the tax benefits derived from the special valuation are recaptured if the property is disposed of to nonfamily members or ceases to be used for farming or closely held business purposes within 15 years after the death of the decedent (with a phase-out of the amount recaptured over the last 5 years).

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844 except that (1) the special valuation is available for woodland, open pastoral space and historical sites in addition to farms (but not other closely held businesses), (2) the special valuation can reduce the value of the decedent's gross estate by $1 million rather than $500,000 and (3) specified valuation methods for qualifying real property are not provided.

The Senate amendment provides for recapture similar to H.R. 14844 but shortens the recapture period to 10 years (with a phase-out of the amount recaptured over the last 8 years).

A Senate floor amendment (1) modifies the requirements for historical sites to allow an historical site to qualify if the value is at least 25 percent of the decedent's adjusted gross estate, (2) strikes "pastoral" from open pastoral space, and (3) allows both the time the decedent owned the property and the time a member of his family owned the property to count for purposes of satisfying the ownership and qualified use requirements (5 out of the 8 years preceding the decedent's death).

Conference agreement.—The conference agreement follows H.R. 14844. The conferees intend to make it clear that the rules for special valuation apply to property which passes in trust. Trust properly shall be deemed to have passed from the decedent to a qualified heir to the extent that the qualified heir has a present interest in that trust property.

Extension of Time for Payment of Estate Tax

H.R. 14844.—Under present law, the estate tax generally must be paid nine months after the decedent's death. However, there are two provisions which permit the estate tax to be paid over a period of up to 10 years. In order to qualify under the first provision (sec. 6166), the value of the closely held business must exceed 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent. In order to qualify under the second provision (sec. 6161), the executor must show that payment on the original due date would cause "undue hardship."

H.R. 14844 modifies the first provision discussed above (sec. 6166) by providing for extended payments during a 15-year period for the

estate tax attributable to a farm or other closely held business (including a trade or business of being an artist, craftsman, etc.) In order to qualify, the farm or other closely held business must constitute at least 65 percent of the adjusted gross estate. No tax (i.e., only interest) must be paid during the first 5 years and thereafter the tax is payable in equal installments over the next 10 years. A special 4 percent interest rate is provided for the estate tax attributable to the first $1 million of farm or other closely held business property.

H.R. 14844 substitutes a "reasonable cause" standard for the ten-year discretionary extension of estate tax instead of the existing "undue hardship" standard.

A special lien is provided for payment of the deferred taxes and, where this lien procedure is followed, the executor is discharged from personal liability.

This provision applies to estates of decedents dying after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844 except that (1) in order to qualify, the value of the farm or closely held business must exceed 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent, (2) the tax is payable in 12 annual installments beginning at the end of the third year following the due date for the estate tax return, and (3) the special interest rate is 6 percent.

Conference agreement.—In general, the conference agreement makes 4 changes to existing law.

First, the conference agreement follows both H.R. 14844 and the Senate amendment which substitute a "reasonable cause" standard for the "undue hardship" standard under present law in the case of the ten-year discretionary extension for payment of estate tax (sec. 6161 (a)(2)). For this purpose, the term "reasonable cause" is to have the same meaning as under present law for granting discretionary extensions up to twelve months (regs. § 20.6161-1(a)).

Second, the conference agreement retains the present ten-year extension for payment of estate tax (sec. 6166) where the value of a closely held business exceeds 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent.

Third, the conference agreement adopts the 15-year extension contained in H.R. 14844 as an alternative provision for extending the payment of estate tax attributable to a closely held business that constitutes 65 percent of the decedent's adjusted gross estate.

Fourth, the conference agreement provides a special lien procedure for payment of the estate tax deferred under either of the two extensions for closely held businesses. The executor will be discharged from personal liability where this special lien procedure is followed.

Carryover of Basis of Property

H.R. 14844.—Under present law, the cost or other basis of property acquired from or passing from a decedent generally is "stepped-up" to its fair market value at the date of death (or the alternative valuation date). However, where property is transferred by gift, the basis of the property in the hands of the donee is generally the same as the donor's basis (i.e., the donor's basis is "carried over" to the donee).

H.R. 14844 provides that the basis of most property acquired from or passing from a decedent who dies after December 31, 1976, is to be the same as the decedent's basis immediately before his death (with certain adjustments). The aggregate basis of all carryover basis property may be increased to a minimum of $60,000. In addition, a $10,000 exemption is provided for household and personal effects of the decedent. The provision is effective for property passing from decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844 with one modification. Under this modification, the adjusted basis of property which the decedent is treated as holding on December 31, 1976, is increased, for purposes of determining gain (but not loss), by the amount by which the fair market value of property on December 31, 1976, exceeds its adjusted basis on that date. However, the basis cannot be increased above its estate tax value. In essence, this modification continues existing law with respect to appreciation in property accruing before January 1, 1977, and provides everyone with a "fresh start."

The "fresh start" rule is applicable to any property held by the decedent which reflects the basis of that property on December 31, 1976. Thus, property held by the decedent at his death which he acquired in a nontaxable exchange with other property which the decedent held on December 31, 1976, is eligible for the "fresh start" provision. Likewise, property acquired by the decedent as a gift or from a trust (see discussion below) qualifies for the "fresh start" treatment if the donor or trustee held the property on December 31, 1976. The Treasury Department is to issue regulations providing rules where the decedent has property which reflects the basis of property held on December 31, 1976, to which the decedent has made capital improvements or other additions to the basis of the property.

In order to avoid the necessity of obtaining an appraisal on all property held on December 31, 1976, the conference agreement contains a provision which requires that all property other than securities for which market quotations are readily available, is to be valued under a special valuation method. The special rule is to be used where the carryover basis property is property whose basis does not reflect the basis of property which, on December 31, 1976, was a marketable bond or security. In general, the special rule determines the adjustment by assuming that any appreciation occurring since the acquisition of the property until the date of the decedent's death occurred at the same rate over the entire time that the decedent is treated as holding the property.

Under the special rule, the amount of the increase in basis is equal to the sum of (1) the amount of all depreciation, amortization, or depletion allowed or allowable with respect to the property during the period the decedent is treated as holding the property prior to January 1, 1977, and (2) the portion of the appreciation on the asset since its purchase that is assumed to have occurred during the period that the decedent is treated as holding the property prior to January 1, 1977.

The appreciation treated as occurring before December 31, 1976, is determined by multiplying the total amount of appreciation over the entire period during which the decedent is treated as holding the property by a ratio. The ratio is determined by dividing the number of days that the property is considered to be held by the decedent before January 1, 1977, by the total number of days that the property is considered to be held by the decedent.

The total amount of appreciation is computed by subtracting from the fair market value of the property on the date of the decedent's death a recomputed basis, which is basically equal to the purchase cost of the property. For purposes of this rule, the fair market value of property on the date of the decedent's death is to be determined under the special valuation rule for farms or other closely held businesses if that rule is elected for estate tax purposes (sec. 2032A), but determined without regard to the alternate valuation rule (sec. 2032).

The special valuation method must be used for all property other than marketable bonds or securities. Thus, the special valuation method must be used even though the executor or beneficiary of the decedent can establish the fair market value of the property on December 31, 1976, is other than the value determined under the special valuation method.

Where the decedent (or his predecessor) made a substantial improvement to any property, the Treasury Department is to issue regulations under which that substantial improvement is treated as a separate property for purposes of this special rule.

Under the conference agreement, the December 31, 1976, value of marketable bonds or securities must be determined by their market value on December 31, 1976. Marketable bonds or securities are securities which are listed on the New York Stock Exchange, the American Stock Exchange, or any city or regional exchange in which quotations appear on a daily basis, including foreign securities listed on a recognized foreign national or regional exchange; securities regularly traded in the national or regional over-the-counter market, for which published quotations are available; securities locally traded for which quotations can readily be obtained from established brokerage firms; and units in a common trust fund. The value of such securities is to be determined using the normal methods of valuation for estate and gift tax purposes.

Where the "fresh start" rule applies, the amount of the increase in basis that is permitted under the "fresh start" rule is not to be reduced even though the property is subject to depreciation, depletion, etc. The Treasury Department is to issue regulations determining the application of the "fresh start" rule where gain from the sale of the property is subject to special rules taxing all or a portion of the gain as ordinary income (sec. 306, 1245, 1250, etc.) and where the property is held by a trust or partnership in which the decedent was a beneficiary or a partner.

Any increase in basis permitted by the "fresh start" rule is made before any other adjustments are made to the property's basis for Federal and State death taxes and minimum basis.

The carryover basis provision is effective for property acquired from, or passing from, a decedent after December 31, 1976.

Generation-Skipping Transfers

H.R. 14844.—Under present law, a gift or estate tax is generally imposed upon the transfer of property by gift or by reason of death. However, the termination of an interest of a beneficiary (who is not the grantor) in a trust, life estate, or similar arrangement is not a taxable event unless the beneficiary under the trust has a general power of appointment with respect to the trust property. H.R. 14844 imposes a tax in the case of generation-skipping transfers under a trust or similar arrangement. An exclusion is provided for transfers to a grandchild of a grantor of the trust to the extent that the total transfers per child of the grantor do not exceed $1 million.

Senate amendment.—The Senate amendment is basically the same as H.R. 14844 except that no exclusion is provided for transfers to a grandchild of the grantor.

Conference agreement.—The conference agreement generally follows the rules of the House bill with respect to technical matters, and the conferees agree with the explanation of these provisions appearing at pages 46–59 of House Report 94–1380 (the Ways and Means Committee Report on H.R. 14844), except as modified in this report. Under the conference agreement, the exclusion for transfers to a grandchild of the grantor is $250,000.

The conference agreement also includes several technical amendments to H.R. 14844.

As under H.R. 14844, the basis of property which is subject to tax as a generation-skipping transfer is to be increased (but not above the value of this property used in determining the amount of the tax) by an amount equal to the tax imposed with respect to the appreciation element in the value of the property (determined as of the applicable valuation date). Property in a generation-skipping trust is also to receive the benefit of the "fresh start" based on a December 31, 1976 valuation date, which is provided, under the conference agreement, for property passing or acquired from a decedent (in connection with the rules under the conference agreement concerning "carryover basis"). Of course, this "fresh start" is only to be available to the extent that property passing through the trust is subject to the tax on generation-skipping transfers and the taxable transfer occurs at or after the death of the deemed transferor. Where these conditions are satisfied, property held in a generation-skipping trust, or by the grantor of a generation-skipping trust, on December 31, 1976, is to receive an adjustment to basis equal to the excess (if any) of the fair market value of the property on that date over the basis of the property in the hands of the trust or its grantor, for purposes of determining gain but not loss. Other issues in this area are to be determined under regulations and, to the extent practicable, the rules with respect to carryover basis in the case of property which is subject to the tax on generation-skipping transfers are to be similar to the rules which apply in the case of other property passing or acquired from a decedent. Of course, the trust is not to be eligible for the $60,000 minimum basis or the $10,000 exclusion for personal or household effects. (Even if these provisions were applicable they would be fully utilized by the estate of the deemed transferor in almost every case.)

The conference agreement provides that the alternate valuation date is to be available where a taxable termination occurs at the death of the deemed transferor. In this case the election to use the alternate valuation date is to be made by the trustee of the generation-skipping trust (who is also the person liable for the tax under these circumstances) and it is not required that the executor of the deemed transferor's estate also elect the alternate valuation date (since different persons are liable for the tax and the estate and the trust may have a different investment experience during the 6-month period). The trustee is required to make a timely filing of the tax return (including any extensions) in order to receive the alternate valuation date. Each trustee of a trust in which there is a taxable termination may elect the alternate valuation date for the property subject to tax, regardless of whether any trustee of any other trust as to which there is a taxable termination upon the death of the deemed transferor also elects the alternate date. However, where more than one taxable termination occurs in the same trust at the same time, the trustee must select the same valuation date for all the transferred property.

As explained in the Ways and Means Committee Report (p. 50), where two or more members of the same generation have present interests in the same trust, a taxable termination generally does not occur until the last of these interests terminates. Under the conference agreement, the alternate valuation date is also to be available in these circumstances. For example, if a trust is created providing discretionary distribution of income to the grantor's children, A, B, and C, with the remainder to be distributed to the grantor's great-grandchildren, then upon the death of the survivor of A, B, and C, the trustee could elect to use the alternate valuation date (6 months from the death of the survivor) with respect to all of the trust assets.

In addition, the conference agreement modifies the rule on terminations to cover cases where members of several different generations have a present interest or power in the same trust. Under these circumstances, if the interest of the member (or members) of the younger generation terminate first (because of an unusual order of death, or for some other reason), tax is to be postponed until the interest of the older generation also terminates. For example, assume that a discretionary trust is created providing the income for life to the grantor's spouse and his two children, A and B, with the remainder to be distributed to their grandchildren. Under the conference agreement if A and B both predecease the spouse, no taxable termination would occur until the death of the spouse, at which time a taxable termination would occur. (A and B would be the deemed transferors, and the tax base would be determined at the time of the taxable termination, i.e., the death of the spouse.)

These rules concerning postponed terminations apply where two or more persons hold present interests or powers in the trust simultaneously, and also apply where a beneficiary who is a member of the same (or a higher) generation as the beneficiary whose interest has terminated holds a present interest or power in the trust immediately after the termination. For example, assume that the trust provides income for life to the grantor's nephew, subject to a limited power of appointment exercisable by the nephew upon his death, with the

principal to be distributed to the nephew's issue. If the nephew exercises the power by providing that the trust income is to be paid to his wife for life, before the distribution of principal to his issue, tax is postponed until the death of the wife. (Of course, only one tax is imposed at that time, the nephew is the deemed transferor, and the tax base is computed as of the date of the death of the nephew's spouse.)

In certain cases, the rule under the conference agreement may cause several taxable terminations to occur at the same time. For example, assume a trust is created for the benefit of the grantor's nephew and his nephew's son for life, with the remainder to be distributed to the nephew's grandson. If the nephew's son dies before the nephew, no tax would be imposed at that time; upon the death of the nephew, however, a tax would be imposed on the termination of the nephew's interest. The amount of this tax would then be deducted from the tax base (the value of the trust assets) and the tax which had been postponed upon the death of the nephew's son would then be imposed. (The reason for deducting the tax imposed on the termination of the nephew's interest is to avoid a double tax; the net result under the conference agreement is that the generation-skipping tax will be essentially the same, even where there is an unusual order of death.)

The conference agreement also provides that in connection with the credit for previously taxed property, the value of the property subject to the tax on generation-skipping transfers which is not taken into account for purposes of the estate tax (e.g., the excess over the actuarial value of the deemed transferor's life interest taken into account under present law) is to be taken into account for purposes of the credit allowed for the generation-skipping transfer tax. Minor technical changes are made with respect to the marital deduction, and the deduction for losses and expenses of the trust. The conferees intend that any permitted increase in the amount of the marital deduction by reason of a generation-skipping transfer occurring after the death of the decedent is not to be treated as a terminable interest solely by reason of the fact that the maximum amount of the deduction is not known as of the date of the decedent's death. The conference agreement also provides that, where certain rights to income are subject to the tax on generation-skipping transfers, the income tax treatment of so-called "income in respect of a decedent" will apply to certain types of income. Thus the recipient of this income (whether the trustee or a beneficiary of the trust) is entitled to a deduction (in computing the income tax on this income) for the generation-skipping tax in the same way as the recipient is allowed a deduction for the estate tax under present law (sec. 691(c)). Also, under the conference agreement, where a generation-skipping transfer which is subject to tax occurs after the death of the deemed transferor, section 303 treatment is to be available. The trust and the actual estate of the deemed transferor are to be treated separately for purposes of the section 303 qualification requirements.

The conference agreement also provides that where the deemed transferor dies within three years after a generation-skipping transfer, the transfer is to be brought back for purposes of the tax on generation-skipping transfers. (This is closely analogous to the estate tax treatment of gifts made within 3 years of the decedent's death under the conference agreement for estate tax purposes.) In other words, the generation-skipping transfer is to be taxed, under these circumstances, at the deemed transferor's transfer tax rate taking account his cumulative lifetime and deathtime transfers (and not just his adjusted taxable gifts as of the date of the generation-skipping transfer).

The conferees also wish to clarify that for purposes of the new disclaimer rules (sec. 2518), the event which triggers the 9-month period allowed for an effective disclaimer is the generation-skipping transfer (either a taxable termination or a taxable distribution).

Under the conference agreement, returns are to be filed in accordance with regulations. To the extent practicable, the regulations are to provide that the return is to be filed by the trustee in the case of a taxable termination, and by the distributee in the case of a taxable distribution. In the case of a generation-skipping transfer occurring before the death of the deemed transferor (generally a taxable distribution), the return is not due until 90 days after the close of the taxable year of the trust in which the transfer occurs. In the case of a transfer occurring at or after the death of the deemed transferor, the return is due at the later of (1) 90 days after the estate tax return of the deemed transferor is due, or (2) 9 months after the generation-skipping transfer occurs. (Rule (2) will generally be used in cases where a taxable termination is postponed because there are several present interests in the same trust.) The Treasury Department is given regulatory authority to require the filing of such information returns as may be needed. The conferees intend that the Service will establish procedures whereby the person required to file a return in connection with any generation skipping transfer may receive information from the Service concerning the deemed transferor's marginal transfer tax rate base, and other information which is necessary in order to properly prepare the return (or any refund claim).

Under the conference agreement, generation-skipping transfers are generally subject to the procedural rules of Subtitle F which are applicable to gift and estate taxes but, of course, the specific provisions of the conference agreement override this general rule in the area of filing requirements. However, where not inconsistent with the conference agreement, the provisions of Subtitle F apply and the Internal Revenue Service, for example, may grant an extension of up to 6 months for filing any return required with respect to a generation-skipping transfer, where reasonable cause can be shown (sec. 6081), or grant an extension for the payment of the tax (see sec. 6161).

The conferees also wish to clarify several additional points.

The conference agreement provides that transfers to the grandchild of the grantor of a trust are not to be treated as taxable transfers except to the extent that the total amount of the transfers exceed $250,000 for each deemed transferor (i.e., the child of the grantor who is the parent of the grandchild receiving the transfer). This exclusion is to be available in any case where the property vests in the grandchild (i.e., the property interests will be taxable in the grandchild's estate) as of the time of the termination or distribution, even where the property continues to be held in trust for the grandchild's benefit, and regardless of whether the grandchild receives his interest under the express terms of the trust, or as the result of the exercise (or lapse) of a power of appointment with respect to the trust.

Under the conference agreement, the Treasury Department is given authority to prescribe "separate share" rules, to determine whether a trust in which there are several interests should be treated as one trust, as two or more separate trusts. For this purpose, it is expected that the regulations will, to the extent practicable, prescribe rules which are substantially similar to those which apply presently to the income taxation of trusts (under Subchapter J).

Under the conference agreement, where a beneficiary has more than one interest or power in a generation-skipping trust, the imposition of the generation-skipping tax is generally delayed until the termination of the last power or interest of that beneficiary in the trust. For example, where an individual is entitled to receive all of the trust income until the individual dies or reaches age 35 and also has a power commencing at age 35 to withdraw 5 percent of the trust corpus for life, the generation-skipping tax will be imposed at the death of the individual and not when the individual reaches age 35.

However, the amount subject to tax at that time is the cumulative value (not in excess of 100 percent of the value of the trust assets determined as of the time of the termination or the alternate valuation date) subject to these interests and powers. In this case, the individual held a full income interest in the trust until age 35, so the tax base is the value of the trust assets (determined as of the time of the taxable termination, i.e., the individual's death). If the individual had held only a power to withdraw 5 percent of the trust corpus annually (or $5,000, whichever is greater), the tax base equals the value of the trust corpus determined as of the date of the individual's death (i.e., the date of the taxable termination) because the entire trust was "subject to the power." (This is the result regardless of the number of years for which the power was held, exercised, or allowed to lapse, and regardless of the average value of the trust during this period.)[1] Likewise, if the individual were a beneficiary under a power to invade corpus subject to an ascertainable standard relating to his health, ed-

[1] The interpretation given to this provision by the example appearing in the first full paragraph on page 54 of the Ways and Means Committee Report is inconsistent with the intent of the conferees. Under the conference agreement, the full value of the trust corpus is to be treated as the tax base (In the example appearing on page 54, the tax base equals $90,000 plus any appreciation accumulated at the end of the 15-year period, and subject to any adjustments chargeable to corpus.)

ucation, support or maintenance, the tax is to be the value of the trust corpus (determined as of the date of the termination) because the full trust is subject to the power.

The assignment of a beneficiary's interest in a generation-skipping trust is not to be treated as a taxable termination. For example, assume a trust provided that the income was to be paid to the grantor's nephew for life, with the remainder to be distributed to the nephew's son upon his death. If the nephew assigned his life income interest (with or without receiving consideration), this would not constitute a termination of that interest for purposes of the tax on generation-skipping transfers. However, the death of the nephew would constitute a taxable termination and the tax would be imposed based upon the value of the trust at that time.

In the case of a taxable distribution, the "transferee" for purposes of the tax on generation-skipping transfers is, of course, the person receiving the distribution. In the case of a taxable termination the "transferee" is generally any person who has a present interest or power in the trust or trust property after the termination.[2] For example, assume that a trust is created for the benefit of the grantor's nephew for life, then to the nephew's son for life and, upon the death of the nephew's son, the entire trust is to be distributed to the issue of the nephew's son, *per stirpes*. Upon the death of the nephew, the nephew's son is the transferee with respect to the entire trust (because he is entitled to all of the trust income). Upon the death of the nephew's son, each of his issue entitled to receive a portion of the trust assets is to be treated as a transferee to the extent of that portion. The same result would follow in the case of a trust which provided that upon the death of the nephew the income was to be distributed, on a discretionary basis, to the nephew's son and the son's issue with the principal to be distributed to the issue of the nephew's son upon the son's death; in this case the nephew's son would be the transferee of the entire trust upon the death of the nephew.[3] Upon the death of the nephew's son, his issue would become the transferees.

The term "transferee" is to be further defined in regulations. The conferees intend that these regulations will prevent situations where attempts are made to minimize tax through the use of nominal transferees.

Under the conference agreement, as under H.R. 14844 (Ways and Means Committee Report, p. 53) there are rules designed to prevent the imposition of a second tax "to the extent that" the value of the

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[2] Generally the person would receive his present interest immediately after the taxable termination. However, in certain cases, there might be an intervening interest in a person (i.e., a charity) which is not a transferee (sec. 2611(c)(7)). In this case, the transferee is the person having the next succeeding interest. (In the example which appears in the text, the nephew's son would be the transferee upon the death of the nephew, even if the trust provided that the income was to be paid to charity for 10 years after the date of the nephew's death. Of course, if the nephew's son died before the expiration of the 10-year intervening interest, no taxable termination would occur upon his death under the conference agreement because the nephew's son would never have held anything other than a "future interest" in the trust (sec. 2613(b)(1)).)

[3] The nephew's son has an income interest in the entire trust, he represents the oldest generation then having a present interest or power and, for purposes of determining who is a transferee, it is presumed under the conference agreement that any discretion with respect to the trust will be exercised *per stirpes* (sec. 2613(b)(2)).

property in the trust has already been taxed once to a particular generation. For example, assume that a trust provides income for life to the grantor's nephew, then to the nephew's son for life, then to the grantor's niece for life and upon her death the principal is to be distributed to her daughter. Assume that all of these transfers in fact occur, and that upon the death of the nephew the value of the trust assets subject to tax is $100.000: upon the death of the niece the value of the trust assets is $200,000. Under the conference agreement, only $100.000 is to be subject to tax upon the death of the niece, because $100,000 of value was previously subject to generation-skipping tax upon the death of the nephew.

Also, under the conference agreement, these rules preventing the imposition of a second tax (where there are two or more deemed transfers of the same trust property attributable to the same generation) are not to be applied where this would have the effect of avoiding the tax with respect to any other transfer.

The conference agreements generally follows the rule of the Senate bill with respect to the effective dates with certain modifications. Thus, the tax does not apply in the case of transfers under irrevocable trusts in existence on April 30, 1976, or in the case of decedents dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and which was not amended (except in respects which do not result in the creation of, or increase the amount of, a generation-skipping transfer) at any time after that date. The 1982 date is extended in certain cases where the testator is incompetent to change his will.

For purposes of this transitional rule, a change of trustee is not a change creating or increasing the amount of a generation-skipping transfer. Also, an amendment changing the beneficiaries, or a change in the size of the share used for the benefit of a particular beneficiary, does not disqualify the trust under the transition rule, so long as the number of younger generations provided for under the trust (or the potential duration of the trust in terms of younger generation beneficiaries) is not expanded and the total value of the interests of all beneficiaries in each generation below the grantor's generation is not increased. For example, assume a revocable trust was created prior to April 30, 1976, for the benefit of the grantor's nephews, A, B, and C, in equal shares for life, with the remainder to be distributed to the children of A, B, and C. A becomes disabled and the trust is modified to increase his share of the income; this does not disqualify the trust because it does not create or increase the amount of a generation-skipping transfer. Likewise, if the trust is amended to include nephew D as an income beneficiary, this would not disqualify the trust under the transition rules. However, if the trust were amended so that the income was to be held in trust for the lives of the children of A, B, and C, with the remainder distributed to the nephews' grandchildren, this would increase generation-skipping (by increasing the number of generations skipped) and would disqualify the trust. An amendment creating a power of appointment would also disqualify the trust if there were any possibility, under the power of appointment, of increasing the number of generations which might be skipped.

In some cases, a trust which is irrevocable on April 30, 1976, might also be subject to a power of appointment under which it might be possible for the property to continue to be held in trust for the benefit of new beneficiaries, some of whom might be members of the generation younger than any beneficiaries expressly covered under the trust prior to the exercise of the power. Under the conference agreement the grandfather provision will apply to such a trust which includes a limited power of appointment, so long as the exercise of the power (including the creation of a new trust) cannot result in the creation of an interest which postpones, or a new power which can be validly exercised so as to postpone, the vesting of any estate or interest in the trust property for a period ascertainable without regard to the date of the creation of the trust.

Redemption of Stock To Pay Estate Tax

H.R. 14844.—Under present law, stock in a closely held corporation that is redeemed within 4 years of the decedent's death is taxed as capital gain rather than as dividend income. To qualify, the value of the decedent's stock in the closely held business must be either 35 percent of the gross estate or 50 percent of the taxable estate. The value of the redeemed stock qualifying for this treatment cannot exceed the sum of all death taxes plus funeral and administration expenses.

H.R. 14844 requires that, in order to qualify for capital gains treatment, the value of the decedent's stock of the closely held corporation must exceed 65 percent of the value of the adjusted gross estate. The stock that can qualify for capital gains treatment is limited to stock which is redeemed from a shareholder whose interest in the estate is reduced (either directly or through a binding obligation to contribute) by the payment of the death taxes and funeral and administration expenses. In addition, H.R. 14844 extends the time for redemption to 15 years in cases where an election has been made for the deferred payment of taxes.

This provision applies to decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844, except that the 65-percent limit is reduced to 50 percent.

Orphans' Exclusion

H.R. 14844.—There is no provision under present law which allows an estate tax deduction for the value of any interest in property which passes or has passed from a decedent to an orphaned child.

H.R. 14844 provides an estate tax deduction for amounts which pass to a child of the decedent if the child is under 21 years of age and there is no surviving spouse (or known surviving parent) of the decedent. The maximum deduction under this provision is $5,000 for each year the child is under age 21. This provision applies to estate of decedents dying after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Requirement That IRS Furnish a Statement Explaining Estate or Gift Valuation

H.R. 14844.—Under present law, the IRS can require that the executor submit a copy of any appraisals he has obtained in determining the value of property included in the decedent's gross estate. However, there is no administrative provision which provides an affirmative requirement on the part of the IRS to disclose the method or basis used by the IRS in arriving at its determination of value.

H.R. 14844 provides that if the IRS makes a determination of the value of any item of property for purposes of the estate or gift tax laws or the generation-skipping tax, the executor or donor may request that the IRS furnish a written statement explaining the basis on which the valuation was determined. This provision applies to estates of decedents dying after December 31, 1976, and gifts and generation-skipping transfers occurring after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Gift Tax Returns

H.R. 14844.—Under present law, gift tax returns generally must be filed for each calendar quarter in which a donor transfers by gift an amount in excess of the annual $3,000 exclusion per donee.

H.R. 14844 provides that a gift tax return must be filed on a quarterly basis only when the sum of (1) taxable gifts made during the calendar quarter plus (2) all other taxable gifts made during the calendar year for which a return has not been filed, exceeds $25,000. This provision applies to gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Public Index of Filed Tax Liens

H.R. 14844.—Under present law, a Federal tax lien generally takes priority over other interests in property subject to the lien which are held by purchasers, holders of security interests and certain other persons if notice of the tax lien has been appropriately filed before such interests were acquired.

H.R. 14844 provides that a Federal tax lien is not effective over other interests unless the fact of filing is entered and recorded on a public index at the place of filing in such a manner that a reasonable inspection would disclose the existence of the lien. This provision is effective on the 90th day after enactment in the case of notices filed on or after the date of enactment. The provision is effective on the 180th day after enactment in the case of liens filed before the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement provides that a notice of a lien is not to be treated as meeting the filing requirements

unless a public index of the lien is maintained at the district Internal Revenue Service office in which the property subject to the lien is situated. For this purpose, an index of liens affecting real property would be maintained in the district office for the area in which the real property is physically located. In the case of liens affecting personal property, the index would be maintained in the district office for the area in which the residence of the taxpayer is located at the time the notice of lien is filed.

The conferees understand that the Internal Revenue Service also will use its best efforts to make follow-up checks on the recordation or indexing of notices of lien which are filed after date of enactment with offices designated under local law as the place for filing notices of lien.

The conference agreement is effective on the 120th day after enactment in the case of notices filed on or after the date of enactment. In the case of liens filed before the date of enactment, the conference agreement is effective on the 270th day after enactment.

Inclusion of Stock in Decedent's Estate Where Decedent Retained Voting Rights

H.R. 14844.—Under present law, an inter vivos transfer made by the decedent is included in his gross estate if he retained for his lifetime either the right to possess or enjoy the property or the right to designate the person who will possess or enjoy the property. In *U.S. v. Byrum*, the U.S. Supreme Court held that the retention of the power to vote stock in a closely held corporation did not require the stock to be included in the decedent's gross estate.

H.R. 14844 requires the inclusion of stock in the gross estate of the decedent if the decedent retained the voting rights in the stock. This provision also applies to transfers made after June 22, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Disclaimers

H.R. 14844.—Under present law, there are several estate and gift tax provisions which provide rules governing the tax consequences of an effective disclaimer. However, the provisions do not contain uniform rules on what constitutes an effective disclaimer for estate and gift tax purposes.

H.R. 14844 provides a single set of definitive rules for disclaimers for purposes of estate, gift, and generation-skipping transfer taxes. This provision generally applies to transfers creating an interest in the person disclaiming made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

The conferees intend to make it clear that the 9-month period for making a disclaimer is to be determined in reference to each taxable transfer. For example, in the case of a general power of appointment where the other requirements are satisfied, the person who would be

the holder of the power will have a 9-month period after the creation of the power in which to disclaim and the person to whom the property would pass by reason of the exercise or lapse of the power would have a 9-month period after a taxable exercise, etc., by the holder of the power in which to disclaim. Similarly, in the case where a lifetime transfer is included in the transferor's gross estate because he had retained an interest in the property (e.g. sec. 2038), the person who would receive an interest in the property during the lifetime of the grantor will have a 9-month period after the original transfer in which to disclaim and a person who would receive an interest in the property on or after the grantor's death would have a 9-month period after the grantor's death in which to disclaim if the other requirements of the provision are satisfied (e.g., that person had not accepted the interest or any of the benefits attributable to the interest before making the disclaimer).

Estate and Gift Tax Exclusions for Qualified Retirement Benefits

H.R. 14844.—Under present law, the value of a survivor's interest in an annuity purchased by the decedent is included in the decedent's gross estate. However, an exclusion for estate and gift tax purposes is provided for the value of the portion of a survivor's annuity attributable to employer contributions to a qualified retirement plan.

H.R. 14844 excludes from the gross estate a survivor's interest in an H.R. 10 plan and an individual retirement account. This bill removes the exclusion for all lump-sum distributions of the survivor's interest. This provision applies to decedents dying and gifts made after December 31, 1976.

Senate amendment.—No provision.

Conference agreement.—The conference agreement generally follows H.R. 14844.

The conference agreement modifies the provisions of H.R. 14844 to make it clear that a distribution from an individual retirement account to a beneficiary does not have to be in the form of a typical commercial annuity contract to qualify for the exclusion. Generally, the exclusion is to be available in situations where a liquidity problem might exist because the schedule of payments to be made from the account will not provide current funds to pay the estate tax. Under the conference agreement, the exclusion will be available if the distribution from an individual retirement account to the beneficiary consists of an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death. For this purpose, payments under an annuity contract are to be considered to be "substantially equal" under a variable annuity if the variance in payments are not solely attributable to tax avoidance motives. Of course, the annuity or other arrangement need not provide payments for the life of the beneficiary. Generally, satisfaction of the 3-year payment standard will be based on the payment provisions of the account or the settlement options, if any, elected no later than the earlier of the date the estate tax return is filed or the

date on which the return is required to be filed (including extensions of time to file).

Gift Tax Treatment of Certain Community Property

H.R. 14844.—Under present law, in community property States, no portion of a survivor annuity in a qualified plan attributable to employer contributions is includible in the gross estate of the employee's spouse if the spouse predeceased the employee. However, for gift tax purposes, if an employee predeceases his spouse in a community property State, the surviving spouse is treated as having made a gift of one-half of any benefits payable to other beneficiaries.

H.R. 14844 provides a gift tax exclusion (similar to the existing estate tax exclusion) for the value, to the extent attributable to employer contributions, of any interest of an employee's spouse in a specified annuity contract, or retirement plan payments. This provision is effective for calendar quarters beginning after December 31, 1976.

Senate amendment.—The Senate amendment is the same as H.R. 14844.

Conference agreement.—The conference agreement follows H.R. 14844 and the Senate amendment.

Income Tax Treatment of Certain Selling Expenses of Estates and Trusts

H.R. 14844.—Under present law, an estate or trust is not permitted to deduct any item for income tax purposes if that same item is deducted for estate tax purposes. However, a number of courts have held that items which reduce the sales price, such as selling expenses, can be deducted for estate tax purposes as well as reduce the sales price for income tax purposes.

H.R. 14844 provides that an item may not be used to offset the sales price for income tax purposes if the same item is deducted for estate tax purposes. This provision applies to taxable years ending after the date of enactment.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows H.R. 14844.

Estate Tax Credit For Payment in Kind

H.R. 14844.—No provision.

Senate amendment.—Under present law, in addition to legal tender, it is lawful for the Secretary of the Treasury to accept checks or money orders in payment of tax liability. There is no provision authorizing the Secretary of the Treasury to accept other forms of payment, such as the conveyance of real property.

The Senate amendment allows the Secretary of the Treasury to accept conveyance of real property located within the boundaries of the Toiyabe National Forest as payment of estate tax imposed on the estate of LaVere Redfield. This provision is effective on the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment, but provides that interest will accrue if the property is not conveyed expeditiously.

APPENDIX B: Revenue Estimates on House, Senate and Conference Versions of H.R. 10612

TABLE 1.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS, SUMMARY AND BY TITLE [1]

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
SUMMARY															
Tax reform	1,692	1,761	2,034	2,227	2,474	−262	−783	−930	−764	−842	1,593	1,719	2,038	2,118	2,470
Estate and gift tax							−1,042	−1,367	−1,688	−2,006		−728	−921	−1,134	−1,449
Extension of tax cuts	−8,827	−7,631	−6,765	−7,088	−5,889	−17,326	−14,820	−11,668	−12,171	−12,747	−17,326	−13,776	−7,966	−8,348	−7,212
Total	−7,135	−5,870	−4,731	−4,861	−3,415	−17,588	−16,645	−13,965	−14,623	−15,595	−15,733	−12,785	−6,849	−7,364	−6,191
BY TITLE															
I and II—Limitation on artificial losses and other amendments related to tax shelters	783	584	664	718	826	184	110	116	152	203	417	395	501	488	527
III—Minimum and maximum tax	1,083	1,188	1,302	1,416	1,544	819	979	1,129	1,235	1,353	1,095	1,283	1,464	1,603	1,758
IV—Extensions of individual income tax reductions [2]	−5,851	−3,148	−3,305	−3,471	−3,645	−14,350	−9,293	−5,802	−5,975	−6,162	−14,350	−9,293	−4,506	−4,731	−4,968
V—Tax simplification in the individual income tax	−486	−437	−452	−473	−494	−693	−727	−766	−807	−855	−409	−442	−457	−478	−499
VI—Business-related individual income tax provisions	229	241	282	309	316	214	226	268	301	310	215	231	273	306	315
VII—Accumulation trusts	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
VIII—Capital formation	−1,325	−3,321	−3,470	−3,627	−2,244	−1,765	−3,957	−4,242	−4,531	−4,826	−1,457	−3,593	−3,796	−4,000	−2,499
IX—Small business provisions	[2] −1,676	−1,177				−1,676	−2,221	−2,406	−2,579	−2,771	−1,676	−1,177			

X—Changes in the treatment of foreign income	104	26	51	84	88	283	191	223	302	378	150	108	182	197	198
XI—Amendments affecting DISC	500	598	614	636	694	78	347	530	566	688	468	553	559	598	728
XII—Administrative provisions	107	71	71	71	71	−13	97	53	53	53	88	55	55	55	55
XIII—Miscellaneous provisions	−108	−57	−57	−42	−42	−107	−23	−144	−250	−374	−100	1	−92	−168	−251
XIV—Treatment of certain capital losses; holding period for capital gains and losses	−31	−2	46	36	17	−13	−21	−25	−34	−51	−2	35	104	98	83
XV—Pension and insurance taxation	−414	−396	−435	−476	−502	−9	−51	−83	−78	−70	−8	−19	−20	−22	−22
XVI—Real estate investment trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
XVII—Railroad provisions	−26	−16	−16	−16	−16	−92	−149	−134	−119	−106	−87	−139	−116	−96	−80
XVIII—Tax credit for home garden tools	−24	−22	−24	−24	−26										
XX—Energy related provisions						−311	−505	−441	−76	−67					
XXI—Tax-exempt organizations						−8	−45	−41	−42	−43	−5	−5	(2)	(2)	(2)
XXII—Estate and gift taxes						−17	−1,042	−1,367	−1,688	−2,006		−728	−921	−1,134	−1,449
XXIII—Other amendments							−15	−10	−1	5	−17	−15	−15	−9	−7
XXIV—U.S. International Trade Commission															
XXV—Additional miscellaneous provisions						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
XXVI—Other miscellaneous amendments						−27	−500	−756	−980	−1,174	−24	−30	−38	−45	−57
XXVII—Additional Senate floor amendments						−85	−46	−67	−72	−78	−31	−5	−24	−24	−23
Total	−7,135	−5,870	−4,731	−4,861	−3,415	−17,588	−16,645	−13,965	−14,623	−15,595	−15,733	−12,785	−6,849	−7,364	−6,191

[1] Does not include Title XIX—Repeal and Revision of Obsolete, Rarely Used, Etc., Provisions.

[2] Less than $5 million.

[3] This reflects the House passed version of H.R. 10612 after eliminating the effect of the Revenue Adjustment Act of 1975.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS,[1] BY CONFERENCE BILL TITLE AND SECTIONS

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLES I AND II						**PART I. TAX REFORM**									
Tax Shelters															
	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
Real estate provisions:															
Limitation on deductions (LAL)	99	114	200	231	261	----									
Limitation on deductable losses of limited partners						5	6	23	54	90	----				
Amortization of real property construction period interest and taxes											102	126	190	152	149
Recapture of depreciation on real property	9	18	28	38	56	7	14	21	29	42	9	18	28	38	56
5 year amortization of low income housing	−1	−3	−3	−3	−4	−1	−4	−8	−8	−7	−1	−4	−8	−8	−7
Farming provisions:															
Limitation on deductions (LAL)	99	36	37	39	40	----									
Limitation on deductions to amount at risk	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on deductions for for farming syndicates						79	31	31	33	34	86	32	32	33	34
Accrural accounting for farm corporations	44	30	30	30	30	----									
Termination of additions to excess deductions account	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	8	18	18	18	18
Oil and gas provisions:											(2)	(2)	(2)	(2)	(2)
Limitation on deductions (LAL)	220	80	25	15	28	----									

Limitation on duductions to amount at risk	(2)	(2)	(2)	(2)	(2)	50	18	6	3	6	50	18	6	3	6
Recapture of intangible drill-costs	7	14	42	51	65						7	14	42	51	65
Movie provisions:															
Limitation on deductions (LAL)	33	32	33	33	33										
Limitation on deductions to amount at risk	(2)	(2)	(2)	(2)	(2)	1	8	12	16	17	3	10	14	17	18
Capitalization, rules						29	19	9	4	4	29	19	9	4	4
Equipment leasing provisions:															
Limitation on deductions (LAL)	12	17	21	22	17										
Limitation on deductions to amount at risk						6	14	17	17	14	4	14	17	17	14
Sports franchise provisions:															
Limitation on deductions (LAL)	1	2	4	4	5										
Allocation of basis to player contracts	1	4	6	6	8	(2)	(2)	(2)	(2)	(2)	1	4	6	6	8
Recapture of depreciation on player contracts	6	5	5	5	6	7	6	7	7	7	7	6	7	7	7
Partnership provisions:															
Partnership syndication and organization fees	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Retroactive allocations of partnership income or loss	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Partnership special allocations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on deductable losses of limited partners						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on additional first year depreciation for partnerships	12	10	10	10	10	12	10	10	10	10	12	10	10	10	10
Interest provisions:															
Prepaid interest	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Limitation on deduction of nonbusiness interest	241	225	226	237	271						100	110	130	140	145
Repeal present law limitation on interest deduction						—11	—12	—12	—13	—14					
Other provisions: Scope of waiver of statute of limitations in case of hobby loss elections	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total, titles I and II	783	584	664	718	826	184	110	116	152	203	417	395	501	488	527

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE III															
Minimum Tax and Maximum Tax															
301—Minimum tax for individuals	1,083	1,188	1,302	1,416	1,544	756	831	914	1,005	1,106	1,032	1,135	1,249	1,373	1,51
Minimum tax for corporations						59	124	185	194	204	59	124	185	194	204
302—Maximum tax amendments						4	24	30	36	43	4	24	30	36	43
Total	1,083	1,188	1,302	1,416	1,544	819	979	1,129	1,235	1,353	1,095	1,283	1,464	1,603	1,758
TITLE V															
Tax Simplification in the Individual Income Tax															
501—Revision of tax tables for individuals															
502—Deduction for alimony allowed in determining adjusted gross income	−47	−44	−49	−54	−59	−7	−44	−49	−54	−59	−7	−44	−49	−54	−59
503—Revision of retirement income credit	−391	−340	−340	−340	−340	−391	−340	−340	−340	−340	−391	−340	−340	−340	−340
504—Credit for child care expenses	−379	−363	−399	−439	−483	−414	−398	−434	−474	−518	−384	−368	−404	−444	−488
505—Changes in exclusion for sick pay and certain military, etc., disability pensions	380	357	387	417	450	129	122	131	142	152	380	357	387	417	450
506—Moving expenses	−49	−47	−51	−57	−62	−10	−67	−74	−81	−90	−7	−47	−51	−57	−62
507—Tax revision study by Joint Committee															
Total	−486	−437	−452	−473	−494	−693	−727	−766	−807	−855	−409	−442	−457	−478	−499
TITLE VI															
Business Related Individual Income Tax Provisions															

601—Deductions for expenses attributable to business use of homes, rental of vacation homes, etc	213	212	241	276	313	207	206	235	268	305	207	206	235	268	305
602—Deductions for attending foreign conventions	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
603—Change in tax treatment of qualified stock options	10	24	36	28	−2	7	20	33	33	5	7	20	33	33	5
604—Legislators' travel expenses away from home	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
605—Deduction for guarantees of business bad debts to guarantors not involved in business	6	5	5	5	5						1	5	5	5	5
Total	229	241	282	309	316	214	226	268	301	310	215	231	273	306	315
TITLE VII															
Accumulation Trusts															
701—Accumulation trusts	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
TITLE VIII															
Capital Formation															
801—(See Part III of this table)															
802—First-in, first-out treatment of investment credit amounts (For extension of 10-percent credit see Part III of this table)						(*)	(*)	−5	−20	−40	(*)	(*)	−5	−20	−40
Extension of expiring investment credit						−9	−20	−11							
803—Employee stock ownership plans						−385	−584	−717	−837	−917	−107	−257	−303	−332	−189
804—Investment credit in the case of movie and television films	[6] −25	[6] −15	[6] −10	[6] −10	(*)	[6] −45	[6] −20	[6] −15	[6] −15	−5	[6] −37	[6] −18	[6] −13	[6] −13	−3
805—Investment credit in the case of certain ships						−26	−23	−29	−37	−45	−13	−12	−15	−18	−23
806—Additional net operating loss carryover years; limitations on net operating loss carryovers						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
807—Small fishing vessel construction reserves						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Donations of works of art by artists to charitable organizations						—	−4	−5	−5	−5					
Total	−25	−15	−10	−10	(*)	−465	−651	−782	−914	−1,012	−157	−287	−336	−383	−255

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE X															
Changes in the Treatment of Foreign Income															
Part I—Foreign tax provisions affecting individuals abroad:															
1011—Income earned abroad by U.S. citizens living or residing abroad	9	21	34	48	48	33	28	28	28	28	44	38	38	38	38
1012—Income tax treatment of nonresident alien individuals who are married to citizens or residents of the United States	—6	—5	—5	—5	—5	—21	—5	—5	—5	—5	—1	—5	—5	—5	—5
1013—Foreign trusts having one or more U.S. beneficiaries to be taxed currently to grantor	12	10	10	10	10	2	10	10	10	10	12	10	10	10	10
1014—Interest charge on accumulation distributions from foreign trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1015—Excise tax on transfers of property to foreign persons to avoid Federal income tax	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Part II—Amendments Affecting Tax Treatment of Controlled Foreign Corporations and Their Shareholders:															
1021—Amendment of provision relating to investment in U.S. property by controlled foreign corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1022—Repeal of exclusion for earnings of less developed country corporations for purposes of section															

1248	14	10	10	10	10	14	10	10	10	10	14	10	10	10	10
1023—Exclusion from subpart F of certain earnings of insurance companies	−14	−10	−10	−10	−10	−14	−10	−10	−10	−10	−14	−10	−10	−10	−10
1024—Shipping profits of foreign corporations	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Limitation on definition of foreign base company sales income in the case of certain agricultural products	−14	−10	−10	−10	−10	----									
Part III—Amendments Affecting Treatment of Foreign Taxes:															
1031—Requirement that foreign tax credit be determined on overall basis	51	35	39	45	45	73	50	50	50	50	51	35	39	45	45
1032—Recapture of foreign losses	2	8	14	22	28	2	8	14	22	28	2	8	14	22	28
1033—Dividends from less developed country corporations to be grossed up for purposes of determining United States income and foreign tax credit against that income	80	55	55	55	55	80	55	55	55	55	80	55	55	55	55
1034—Treatment of capital gains for purposes of foreign tax credit	14	10	10	10	10	14	10	10	10	10	14	10	10	10	10
1035—Foreign oil and gas extraction income	−10	−10	−7	−3	—	4	33	60	60	60	−6	23	50	50	50
1036—Underwriting income	----					(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1037—Third tier foreign tax credit when section 951 applies	----					−4	−1	−10	−10	−10	−4	−10	−10	−10	−10
Part IV—Money or Other Property Moving Out of or Into the United States:															
1041—Portfolio debt investments in United States of nonresident aliens and foreign corporations	−55	−115	−125	−135	−145	−55	−115	−125	−65	----	−55	−115	−125	−135	−145
1042—Changes in ruling requirements under section 367; certain changes in section 1248	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1043—Contiguous country branches of domestic life insurance companies	−12	−8	−8	−8	−8	−12	−8	−8	−8	−8	−12	−8	−8	−8	−8
1044—Transitional rule for bond, etc., losses of foreign banks	(2)	----				(2)	----				(2)	----			

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
Part V—Special Categories of Foreign Tax Treatment:															
1051—Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States	14	10	10	10	10	6	10	10	10	10	6	10	10	10	10
1052—Western Hemisphere trade corporations	19	25	34	45	50	19	25	34	45	50	19	25	34	45	50
1053—Repeal of provisions relating to China Trade Act corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Part VI—Denial of Certain Tax Benefits on International Boycotts and Bribe-produced Income						142	100	100	100	100	(2)	32	70	70	70
Total, title X	104	26	51	84	88	283	191	223	302	378	150	108	182	197	198
TITLE XI															
Amendments affecting DISC															
1101—Amendments affecting DISC	500	598	614	636	694	78	347	530	566	688	468	553	559	598	728
TITLE XII															
Administrative provisions															
1207—Withholding: Withholding of Federal tax on gambling winnings	107	71	71	71	71		110	66	66	66	101	68	68	68	68
Withholding of Federal tax on certain individuals engaged in fishing [7]						—13	—13	—13	—13	—13	—13	—13	—13	—13	—13
1212—Abatement of interest when															

return is prepared for taxpayer by the Internal Revenue Service						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Award of costs to prevailing taxpayer						(2)	(2)	(2)	(2)	(2)					
Total	107	71	71	71	71	−13	97	53	53	53	88	55	55	55	55
TITLE XIII															
Miscellaneous Provisions															
1301—Tax treatment of certain housing associations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1302—Treatment of certain disaster payments	−48	−42	−42	−42	−42	−48	−42	−42	−42	−42	−48	−42	−42	−42	−42
1303—Tax treatment of certain 1972 disaster losses	−60	−15	−15			−60	−15	−15			−60	−15	−15		
1304—Tax treatment of certain debts owed by political parties, etc., to accrual basis taxpayers	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1305—Tax-exempt bonds for student loans						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1306—Personal holding company income amendments						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1307—Work incentive program expenses						−3	−7	−11	−14	−17	−3	−7	−11	−14	−9
1308—Repeal of excise tax on light-duty truck parts						−3	−3	−3	−3	−3	−3	−3	−3	−3	−3
1309—Exclusion from excise tax on certain articles resold after modification						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1310—Franchise transfers						(2)	(2)	(2)	(2)	(	(2)	(2)	(2)	(2)	(2)
1311—Employers' duties in connection with the recording and reporting of tips						(2)	(2)	(2)	(2)	(2)	(2)	(2)			
1312—Treatment of certain pollution control facilities						52	78	−34	−152	−275	59	102	18	−70	−160
1313—Clarification of status of certain fishermen's organizations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1314—Changes in subchapter S rules						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1315 Application of section 6013 (e) of the Internal Revenue Code of 1954						(2)	(2)				(2)	(2)			
1316—Amendments to rules relating to limitation on percentage depletion in case of oil and gas wells						−24	−10	−10	−10	−10	−24	−10	−10	−10	−10

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
1317—Implementation of Federal-State Tax Collection Act of 1972															
1318—Cancellation of certain student loans															
1319—Treatment of gain or loss on sales or exchanges in connection with simultaneous liquidation of a parent and subsidiary corporation						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Taxation of certain barges prohibited						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
1320—Regulations relating to tax treatment of certain prepublication expenditures of publishers															
1321—Contributions in aid of construction for certain utilities															
1322—Prohibition of discriminatory State taxes on production and consumption of electricity					[3]	−16	−11	−11	−11	−11	−16 [4]	−11	−11	−11	−11
1323—Allowance of deduction for eliminating architectural and transportation barriers for the handicapped															
1324—High income taxpayer report		[3]				−4	−10	−10	−6		−4	−10	−10	−6	
1325—Tax incentives to encourage the preservation of historic structures															
1326—Amendment to Supplemental Security Income Program						−1	−3	−8	−12	−16	−1	−3	−8	−12	−16
1327—Trade Act of 1974 Amendments															
1328—Extension of carryover period for Cuban expropriation losses						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)

Study of tax treatment of married and single persons															
Total	−108	−57	−57	−42	−42	−107	−23	−144	−250	−374	−100	1	−92	−168	−251
TITLE XIV															
Treatment of Certain Capital Losses; Holding Period for Capital Gains and Losses															
1401—Increase in amount of ordinary income against which capital loss may be offset	−175	−245	−306	−322	−339						−22	−162	−248	−260	−273
1402—Increase in holding period required for capital gain or loss to be long term	157	264	377	392	407						33	218	377	392	407
1403—Allowance of 8-year capital loss carryover in case of regulated investment companies	−13	−21	−25	−34	−51	−13	−21	−25	−34	−51	−13	−21	−25	−34	−51
Total	−31	−2	46	36	17	−13	−21	−25	−34	−51	−2	35	104	98	83
TITLE XV															
Pension and Insurance Taxation															
Tax-free rollover of certain amounts distributed on account of termination of pension, etc., plan [8]	−60	−70	−70	−70	−70										
1501—Retirement savings for certain married individuals						−3	−21	−23	−24	−25	−2	−14	−15	−17	−17
1502—Limitation on contributions to certain pension, etc., plans						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Participation by Government employees in individual retirement accounts, etc. [9]															
Limited employee retirement accounts [9]	−414	−396	−435	−476	−502										
1503—Participation by members of reserves or national guard in individual retirement accounts, etc						−6	−5	−5	−5	−5	−6	−5	−5	−5	−5
1504—Certain investments by annuity plans															
1505—Segregated asset accounts															
1506—Study of salary reduction pension plans															

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
1507—Consolidated returns for life and other insurance companies						−25	−55	−49	−40						
1508—Treatment of certain life insurance contracts guaranteed renewable						(2)	(2)	(2)	(2)	(2)					
1509—Study of expanded participation in IRAs															
Total	−414	−396	−435	−476	−502	−9	−51	−83	−78	−70	−8	−19	−20	−22	−22
TITLE XVI															
Real Estate Investment Trusts															
1601—1608—Real estate investment trusts	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
TITLE XVII															
Railroad Provisions															
1701—Certain provisions relating to railroads	(2)	(2)	(2)	(2)	(2)	−34	−76	−81	−74	−69	−29	−66	−65	−53	−41
1702—Amortization over 50-year period of railroad grading and tunnel bores placed in service before 1969	−26	−18	−18	−18	−18	−26	−18	−18	−18	−18	−26	−18	−18	−18	−18
1703—Certain provisions relating to airlines						−32	−55	−35	−27	−21	−32	−55	−35	−27	−21
Total	−26	−18	−18	−18	−18	−92	−149	−134	−119	−108	−87	−139	−118	−98	−80
TITLE XVIII															
Tax Credit for Home Garden Tool Expenses															

Tax credit for home garden tool expenses	−24	−22	−24	−24	−26					

TITLE XX

Energy Related Provisions [11]

2001—Insulation and other energy-conserving alteration of principal residence:					
Insulation of residence	−208	−320	−272		
Insulation of ducts	−14	−29	−25		
Burners and igniters	−34	−66	−56		
2002—Residential solar and geothermal energy equipment:					
Solar energy and geothermal equipment tax credit	(9)	(9)	−4	−29	−31
Heat pump tax credit	−3	−5	−6		
Qualified wind-related tax credit	(9)	(9)	(9)	(9)	(9)
2003—Investment tax credit changes relating to energy conservation and production:					
Providing investment credit of 10% on qualified business insulation placed in existing structures during 1977 and 1978	−11	−26	−15		
20% investment credit on solar, wind-related, and geothermal energy equipment in business structures through 1980 and 10% in 1981	(9)	(9)	(9)	(9)	(9)
Increasing investment credit to 12 percent [10] on:					
Waste conversion equipment	(9)	(9)	(9)	(9)	
Organic fuel conversion equipment	(9)	(9)	(9)	(9)	
Railroad equipment	−2	−5	−5	−3	
Deep mining coal equipment	−4	−11	−12	−8	
Coal processing equipment	(9)	(9)	(9)	(9)	(9)
Shale oil conversion equipment	−2	−5	−6	−3	

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
2004—Depletion of geothermal energy sources						−7	−15	−16	−18	−21					
2005—Changes in investment credit relating to air-conditioning and space heaters						(2)	(2)	(2)	(2)	(2)					
2006—Study of recycling incentives															
2007—Repeal of excise tax on buses and bus parts						−22	−20	−21	−12	−12					
2008—Re-refined lubricating oil						−4	−3	−3	−3	−3					
2009—Nonhighway use of special motor fuels						(2)	(2)	(2)	(2)	(2)					
2010—Duty-free exchange of crude oil															
Total [11]						−311	−505	−441	−76	−67					
TITLE XXI															
Tax Exempt Organizations															
2101—Disposition of private foundation property under transition rules of Tax Reform Act of 1969						(2)	(2)				(2)	(2)			
2102—New private foundations set-asides						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2103—Minimum distribution amount for private foundations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2104—Extension of time to amend charitable remainder trust governing instrument						−5	−5				−5	−5			
Reduction of private foundation investment income excise tax						(2)	−35	−36	−37	−38					
2105—Unrelated trade or business income of trade shows, State fairs, etc.															

Charitable organizations not subject to an unrelated business income tax on rental income from trade shows	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
County fairs not subject to an unrelated business income tax	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
2107—Declaratory judgments with respect to section 501(c)(3) status and classification										
Alcoholism Trust Fund										
Individuals providing companion sitting placement services										
Minimum distribution requirements to include consideration of miscellaneous distributions	—3	—5	—5	—5	—5					
Total	(2)	(2)	(2)	(2)	(2)					
TITLE XXIII	—8	—45	—41	—42	—43	—5	—5	(2)	(2)	(2)
Other Amendments										
2301—Outdoor advertising displays										
2302—Tax treatment of large cigars	—7	—7	—7	—7	—7	—7	—7	—7	—7	—7
2303—Treatment of gain from sales or exchanges between related parties	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	( )
2304—Application of section 117 to certain education programs for members of the uniformed services [3]	—10	—8	—8	—2		—10	—8	—8	—2	
Tax counseling for the elderly	(2)	(2)	(2)	(2)	(2)					
Commission on value added taxation										
2305—Exchange funds										
2306—Distributions by subchapter S corporations	(2)	(2)	5	8	12	(2)	(2)	(2)	(2)	(2)
Total	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
TITLE XXIV	—17	—15	—10	—1	5	—17	—15	—15	—9	—7
United States International Trade Commission										

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
TITLE XXV															
Additional Miscellaneous Provisions															
2501—Certain disability income						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2502—Contributions of certain government publications						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2503—Lobbying by public charities						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2504—Tax liens, etc., not to constitute acquisition indebtedness						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2505—Extension of self-dealing transition rules for private foundations						(*)					(*)				
2506—Imputed interest						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2507—Tax incentives study															
Total						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
TITLE XXVI															
Other Miscellaneous Amendments															
Credit for certain expenses incurred in providing education							−467	−711	−926	−1,103					
Interest on certain governmental obligations for hospital construction						−1	−3	−7	−9	−14					
2603—Prepaid legal expenses						−7	−8	−16	−21	−33	−5	−8	−16	−21	−33
2604—Certain hospital services						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2605—Clinical services of cooperative hospitals						(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
2606—Special rule for certain charitable contributions of inventory and other property						−19	−22	−22	−24	−24	−19	−22	−22	−24	−24
Total						−27	−500	−756	−980	−1,174	−24	−30	−38	−45	−57
TITLE XXVII															
Additional Senate Floor Amendments															

2701—Employee stock ownership plans										
Expenses of amateur athletes engaging in national or international competition	(1)	(1)	(1)	(1)	(1)					
2702—Exemption of certain amateur athletic organizations from tax	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
2703—Taxable status of pension benefits guaranty corporation										
2704—Level premium plans covering owner-employees	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
2705—Lump-sum distributions from qualified pension, etc., plans	−10	−10	−9	−9	−8	−10	−10	−9	−9	−8
2706—Tax treatment of the grantor of options of stock, securities, and commodities	5	10	10	10	10	3	10	10	10	10
2707—Exempt-interest dividends of regulated investment companies	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Commission on tax simplification and modernization										
2708—Common trust fund treatment of certain custodial accounts										
2709—Transfers of oil and gas property within the same controlled group or family	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
2710—Support test for dependent children of divorced, etc., parents										
2711—Study of expanded stock ownership										
2712—Involuntary conversions of real property	−34	−15	−15	−15	−15	(1)	(1)	(1)	(1)	(1)
2713—Sale of residence by elderly	−4	−25	−25	−25	−25	−4	−25	−25	−25	−25
Valuation of certain property for purposes of the Federal estate tax	(1)	(1)	(1)	(1)	(1)					
Exemption from taxation for certain mutual deposit guarantee funds	(1)	(1)	(1)	(1)	(1)					
2714—Additional changes in subchapter S shareholder rules	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
2715—Participation by certain volunteer firemen in individual retirement accounts	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Exemption from items of minimum tax preference	−22	−26	−28	−30	−34					

See footnotes at end of table.

TABLE 2.—REVENUE EFFECT OF TAX REFORM, ESTATE AND GIFT TAX, AND TAX CUT PROVISIONS [1] BY CONFERENCE BILL TITLE AND SECTIONS—Continued

PART I. TAX REFORM—Continued

[In millions of dollars; fiscal years]

	House of Representatives					Senate					Conference				
	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981	1977	1978	1979	1980	1981
Certain sales of low-income housing projects; recapture of depreciation on real property; section 167(k)								(2)	−3	−6					
2716—Livestock sold on account of drought						−20	20				−20	20			
Sense of the Senate with respect to reduction of revenue loss from bill in conference															
Total						−85	−46	−67	−72	−78	−31	−5	−24	−24	−23
Total for Part I, Tax Reform	1,692	1,761	2,034	2,227	2,474	−252	−783	−930	−764	−842	1,593	1,719	2,038	2,118	2,470
PART II. ESTATE AND GIFT TAX															
TITLE XXII															
Estate and Gift Taxes															
Total [10]						−1,042	−1,367	−1,688	−2,006		−728	−921	−1,134	−1,449	
PART III. EXTENSION OF TAX REDUCTIONS															
TITLE IV															
Extension of Individual Income Tax Reductions															
401—Extensions of individual income tax reductions:															
(a) Per capita tax credit						−9,509	−3,462				−9,509	−3,462			

(b) Standard deduction	[1] −5,851	−3,148	−3,305	−3,471	−3,645	−4,146	−4,481	−4,506	−4,731	−4,968	−4,146	−4,481	−4,506	−4,731	−4,968
(c) Earned income credit						−695	−1,350	−1,296	−1,244	−1,194	−695	−1,350			
402—Refunds of earned income credit disregarded in the administration of Federal programs and federally assisted programs															
Total	−5,851	−3,148	−3,305	−3,471	−3,645	−14,350	−9,293	−5,802	−5,975	−6,162	−14,350	−9,293	−4,506	−4,731	−4,968
TITLE VIII															
Capital Formation															
801—Extension of $100,000 limitation on used property for the investment credit	−38	−142	−149	−156	−118	−38	−142	−149	−156	−164	−38	−142	−149	−156	−118
802—Extension of 10 percent investment credit	−1,262	−3,164	−3,311	−3,461	−2,126	−1,262	−3,164	−3,311	−3,461	−3,650	−1,262	−3,164	−3,311	−3,461	−2,126
Total	−1,300	−3,306	−3,460	−3,617	−2,244	−1,300	−3,306	−3,460	−3,617	−3,814	−1,300	−3,306	−3,460	−3,617	−2,244
TITLE IX															
Small Business Provisions															
901—Small business provisions	[14] −1,676	−1,177				−1,676	−2,221	−2,406	−2,579	−2,771	−1,676	−1,177			
Total for Part III, Extension of Tax Reductions	−8,827	−7,631	−6,765	−7,088	−5,889	−17,326	−14,820	−11,668	−12,171	−12,747	−17,326	−13,776	−7,966	−8,348	−7,219
Grand total, Parts I, II, and III	−7,135	−5,870	−4,731	−4,861	−3,415	−17,588	−16,645	−13,965	−14,623	−15,595	−15,733	−12,785	−6,849	−7,364	−6,191

[1] This table has omitted Title XIX—Repeal and Revision of Obsolete, Rarely Used, Etc., Provisions

[2] Less than $5 million.

[3] The revenue impact of this provision cannot be estimated until the Internal Revenue Service determines the deduction level.

[4] The revenue impact of this provision cannot be estimated until the Bureau of Labor Statistics determines the deduction level.

[5] The revenue impact of this provision will not be very great; its magnitude, however, is not determinable because of lack of information regarding the practices of the state legislators during the period covered by the provision.

[6] Reflects liability of prior years.

[7] It is estimated that this provision will decrease budget receipts by $65,000,000 in the aggregate over the next 5 fiscal years.

[8] This provision has been enacted into law; the estimates, therefore, are not included in the total for Title XV.

[9] The LERA provision of the House bill was not adopted by the Senate Finance Committee; however, a provision was adopted which would permit a participant in a Government plan to make deductible IRA contributions if the LERA provision should be adopted.

[10] From 10% to 12%.

[11] House provisions on energy are contained in House-passed H.R. 6860. The conference agreement omits the provisions in the Senate amendment as the Finance Committee has reported the Senate amendment in separate House-passed bill (H.R. 6860). The section numbers shown under this title are those under Title XX of the Senate version of the bill.

[12] There is also an estimated $2,000,000 decrease in budget receipts for fiscal year 1976 under this provision.

[13] While the House version of the Tax Reform Act of 1976 does not include estate and gift tax provisions, the Estate and Gift Tax Reform Act of 1976 as reported by the Ways and Means Committee is estimated to reduce fiscal year receipts as follows: 1977, $15 million; 1978 $615 million; 1979, $805 million; 1980, $982 million; and 1981, $917 million.

[14] This reflects the House passed version of H.R. 10612 after eliminating the effect of the Revenue Adjustment Act of 1975.

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