

## CURRENT TAX PAYMENT ACT OF 1943

MAY 28, 1943.—Ordered to be printed

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

### CONFERENCE REPORT

[To accompany H. R. 2570]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2570) to provide for the current payment of the individual income tax, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

*That (a) this Act may be cited as the "Current Tax Payment Act of 1943".*

*(b) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code.*

#### SEC. 2. COLLECTION OF TAX AT SOURCE ON WAGES.

*(a) IN GENERAL.—Chapter 9 of the Internal Revenue Code (relating to employment taxes) is amended by inserting at the end thereof the following new subchapters:*

#### "SUBCHAPTER D—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

##### "SEC. 1621. DEFINITIONS.

*"As used in this subchapter—*

*"(a) WAGES.—The term 'wages' means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any*

medium other than cash; except that such term shall not include remuneration paid—

“(1) for services performed as a member of the military or naval forces of the United States, other than pensions and retired pay includible in gross income under Chapter 1, or

“(2) for agricultural labor (as defined in section 1426 (h)), or

“(3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

“(4) for casual labor not in the course of the employer's trade or business, or,

“(5) for services by a citizen or resident of the United States for a foreign government or for the government of the Commonwealth of the Philippines, or

“(6) for services performed by a nonresident alien individual, other than a resident of a contiguous country who enters and leaves the United States at frequent intervals, or

“(7) for such services, performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

“(8) for services for an employer performed by a citizen or resident of the United States while outside the United States (as defined in section 3797 (a) (9)) if the major part of the services for such employer during the calendar year is to be performed outside the United States, or

“(9) for services performed as a minister of the gospel.

For the purpose of paragraph (8) services performed on or in connection with an American vessel (as defined in section 1426 (g)) under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, or on or in connection with any vessel as an employee of the United States employed through the War Shipping Administration, shall not constitute services performed outside the United States.

“(b) **PAYROLL PERIOD.**—The term ‘payroll period’ means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term ‘miscellaneous payroll period’ means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

“(c) **EMPLOYEE.**—The term ‘employee’ includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term ‘employee’ also includes an officer of a corporation.

“(d) **EMPLOYER.**—The term ‘employer’ means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—

“(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term ‘employer’ (except for the purposes of subsection (a)) means the person having control of the payment of such wages; and

“(2) in the case of a person paying wages on behalf of a non-resident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term ‘employer’ (except for the purposes of subsection (a)) means such person.

“(e) *SINGLE PERSON*.—The term ‘single person’ means a person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) stating that such person is single, or is married and not living with husband or wife, and is not the head of a family.

“(f) *MARRIED PERSON*.—The term ‘married person’ means a person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) stating that he is married and living with husband or wife.

“(g) *MARRIED PERSON CLAIMING ALL OF PERSONAL EXEMPTION FOR WITHHOLDING*.—The term ‘married person claiming all of personal exemption for withholding’ means a married person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) stating that for the purposes of this subchapter such person claims all of the personal exemption and that for the purposes of this subchapter his spouse is claiming none of the personal exemption.

“(h) *MARRIED PERSON CLAIMING HALF OF PERSONAL EXEMPTION FOR WITHHOLDING*.—The term ‘married person claiming half of the personal exemption for withholding’ means a married person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) stating that for the purposes of this subchapter such person claims half of the personal exemption and that for the purposes of this subchapter his spouse is claiming not more than half of such exemption.

“(i) *MARRIED PERSON CLAIMING NONE OF PERSONAL EXEMPTION FOR WITHHOLDING*.—The term ‘married person claiming none of the personal exemption for withholding’ means a married person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) making no claim with respect to the personal exemption for the purposes of this subchapter.

“(j) *HEAD OF FAMILY*.—The term ‘head of a family’ means a person with respect to whom a withholding exemption certificate is in effect under section 1622 (h) stating that he is the head of a family.

“(k) *DEPENDENT*.—The term ‘dependent’ means a person included in a withholding exemption certificate in effect under section 1622 (h) as a person dependent upon and receiving his chief support from the employer and either under eighteen years of age or incapable of self-support because mentally or physically defective.

“*SEC. 1622. INCOME TAX COLLECTED AT SOURCE.*

“(a) *REQUIREMENT OF WITHHOLDING*.—Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to the greater of the following:

“(1) 20 per centum of the excess of each payment of such wages over the family status withholding exemption allowable under subsection (b) (1) (A), or

“(2) 3 per centum of the excess of each payment of such wages over the Victory tax withholding exemption allowable under subsection (b) (1) (B).

“(b) *WITHHOLDING EXEMPTION.*—

“(1) *In computing the tax required to be deducted and withheld under subsection (a), there shall be allowed as a withholding exemption with respect to the wages paid for each payroll period—*

“(A) *in computing the tax required to be deducted and withheld under subsection (a) (1), a family status withholding exemption determined in accordance with the following schedule:*

“*Family Status Withholding Exemption*

“Payroll period	Single person	Married person claiming whole of personal exemption for withholding or head of family	Married person claiming half of personal exemption for withholding	Married person claiming none of personal exemption for withholding	Each dependent, other than the first dependent in the case of the head of a family
Weekly.....	\$12	\$24	\$12	0	\$6
Biweekly.....	\$24	\$48	\$24	0	\$12
Semimonthly.....	\$20	\$52	\$26	0	\$13
Monthly.....	\$62	\$104	\$52	0	\$26
Quarterly.....	\$166	\$312	\$156	0	\$78
Semiannual.....	\$312	\$624	\$312	0	\$156
Annual.....	\$624	\$1,248	\$624	0	\$312
Daily or miscellaneous (per day of such period).....	\$1.70	\$3.40	\$1.70	0	\$ .85

“(B) *in computing the tax required to be deducted and withheld under subsection (a) (2), a Victory tax withholding exemption determined in accordance with the following schedule:*

“Payroll Period	Victory Tax Withholding Exemption
Weekly.....	\$12.00
Biweekly.....	24.00
Semimonthly.....	26.00
Monthly.....	52.00
Quarterly.....	156.00
Semiannual.....	312.00
Annual.....	624.00
Daily or Miscellaneous (per day of such period).....	1.70

“(2) *If wages are paid with respect to a period which is not a payroll period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.*

“(3) *In any case in which wages are paid by an employer without regard to any payroll period or other period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.*

“(4) *In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commis-*

sioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer, in computing the tax required to be deducted and withheld, to use the excess of the aggregate of the wages paid to the employee during the calendar week over the withholding exemption allowed by this subsection for a weekly payroll period.

“(5) In determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

“(c) *WAGE BRACKET WITHHOLDING.*—

“(1) At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a):

CURRENT TAX PAYMENT ACT OF 1943

If the payroll period with respect to an employee is weekly

And the wages are		And, (1) such person is a married person claiming none of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents	Eight dependents	Nine dependents		
At least	But less than	Or, (2) such person is a married person claiming half of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents				
		Or, (3) such person is a single person and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents				
		Or, (4) such person is a married person claiming all of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents						
		Or, (5) such person is head of a family and has—											
		No dependents or one dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents						
		The amount of tax to be withheld shall be—											
		\$0	\$10	\$1.00									
10	15	2.60	\$1.30	\$0.10									
15	20	3.60	2.30	1.10	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	
20	25	4.60	3.30	2.10	.90	.50	.50	.50	.50	.50	.50	.50	
25	30	5.60	4.30	3.10	1.90	.70	.60	.60	.60	.60	.60	.60	
30	40	7.00	5.80	4.60	3.40	1.00	1.00	.70	.70	.70	.70	.70	
40	50	9.00	7.80	6.60	5.40	1.20	3.00	1.80	1.00	1.00	1.00	1.00	
50	60	11.00	9.80	8.60	7.40	1.60	5.00	3.80	2.60	1.40	1.30	1.30	
60	70	13.00	11.80	10.60	9.40	2.00	7.00	5.80	4.60	3.40	2.20	2.20	
70	80	15.00	13.80	12.60	11.40	2.40	9.00	7.80	6.60	5.40	4.20	4.20	
80	90	17.00	15.80	14.60	13.40	2.80	11.00	9.80	8.60	7.40	6.20	6.20	
90	100	19.00	17.80	16.60	15.40	3.20	13.00	11.80	10.60	9.40	8.20	8.20	
100	110	21.00	19.80	18.60	17.40	3.60	15.00	13.80	12.60	11.40	10.20	10.20	
110	120	23.00	21.80	20.60	19.40	4.00	17.00	15.80	14.60	13.40	12.20	12.20	
120	130	25.00	23.80	22.60	21.40	4.40	19.00	17.80	16.60	15.40	14.20	14.20	
130	140	27.00	25.80	24.60	23.40	4.80	21.00	19.80	18.60	17.40	16.20	16.20	
140	150	29.00	27.80	26.60	25.40	5.20	23.00	21.80	20.60	19.40	18.20	18.20	
150	160	31.00	29.80	28.60	27.40	5.60	25.00	23.80	22.60	21.40	20.20	20.20	
160	170	33.00	31.80	30.60	29.40	6.00	27.00	25.80	24.60	23.40	22.20	22.20	
170	180	35.00	33.80	32.60	31.40	6.40	29.00	27.80	26.60	25.40	24.20	24.20	
180	190	37.00	35.80	34.60	33.40	6.80	31.00	29.80	28.60	27.40	26.20	26.20	
190	200	39.00	37.80	36.60	35.40	7.20	33.00	31.80	30.60	29.40	28.20	28.20	
\$200 or over		20% of the excess over \$200 plus											
		\$40.00	\$38.80	\$37.60	\$36.40	\$35.20	\$34.00	\$32.80	\$31.60	\$30.40	\$29.20		

If the number of dependents is in excess of the largest number of dependents shown, the amount of tax to be withheld shall be that applicable in the case of the largest number of dependents shown reduced by \$1.20 for each dependent over the largest number shown, except that in no event shall the amount to be withheld be less than 5 per centum of the excess of the median wage in the bracket in which the wages fall (or if the wages paid are \$200 or over, of the excess of the wages) over \$12, computed, in case such amount is not a multiple of \$0.10, to the nearest multiple of \$0.10.

If the payroll period with respect to an employee is biweekly

And the wages are		And, (1) such person is a married person claiming none of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents	Eight dependents	Nine dependents	
At least	But less than	Or, (2) such person is a married person claiming half of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (3) such person is a single person and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (4) such person is a married person claiming all of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents					
		Or, (5) such person is head of a family and has—										
		No dependents or one dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents					
		The amount of tax to be withheld shall be—										
		\$0	\$20	\$2.00								
20	30	5.00	\$2.60	\$0.20								
30	40	7.00	4.60	2.20	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50	
40	50	9.00	6.60	4.20	1.80	.60	.60	.60	.60	.60	.60	
50	60	11.00	8.60	6.20	3.80	1.40	.90	.90	.90	.90	.90	
60	80	14.00	11.60	9.20	6.80	4.40	2.00	1.40	1.40	1.40	1.40	
80	100	18.00	15.60	13.20	10.80	8.40	6.00	5.60	2.00	2.00	2.00	
100	120	22.00	19.60	17.20	14.80	12.40	10.00	7.60	5.20	3.80	2.60	
120	140	26.00	23.60	21.20	18.80	16.40	14.00	11.60	9.20	6.80	4.40	
140	160	30.00	27.60	25.20	22.80	20.40	18.00	15.60	13.20	10.80	8.40	
160	180	34.00	31.60	29.20	26.80	24.40	22.00	19.60	17.20	14.80	12.40	
180	200	38.00	35.60	33.20	30.80	28.40	26.00	23.60	21.20	18.80	16.40	
200	220	42.00	39.60	37.20	34.80	32.40	30.00	27.60	25.20	22.80	20.40	
220	240	46.00	43.60	41.20	38.80	36.40	34.00	31.60	29.20	26.80	24.40	
240	260	50.00	47.60	45.20	42.80	40.40	38.00	35.60	33.20	30.80	28.40	
260	280	54.00	51.60	49.20	46.80	44.40	42.00	39.60	37.20	34.80	32.40	
280	300	58.00	55.60	53.20	50.80	48.40	46.00	43.60	41.20	38.80	36.40	
300	320	62.00	59.60	57.20	54.80	52.40	50.00	47.60	45.20	42.80	40.40	
320	340	66.00	63.60	61.20	58.80	56.40	54.00	51.60	49.20	46.80	44.40	
340	360	70.00	67.60	65.20	62.80	60.40	58.00	55.60	53.20	50.80	48.40	
360	380	74.00	71.60	69.20	66.80	64.40	62.00	59.60	57.20	54.80	52.40	
380	400	78.00	75.60	73.20	70.80	68.40	66.00	63.60	61.20	58.80	56.40	
\$400 or over		20% of the excess over \$400 plus										
		\$80.00	\$77.60	\$75.20	\$72.80	\$70.40	\$68.00	\$65.60	\$63.20	\$60.80	\$58.40	

If the number of dependents is in excess of the largest number of dependents shown, the amount of tax to be withheld shall be that applicable in the case of the largest number of dependents shown reduced by \$2.40 for each dependent over the largest number shown, except that in no event shall the amount to be withheld be less than 3 per centum of the excess of the median wage in the bracket in which the wages fall (or if the wages paid are \$400 or over, of the excess of the wages) over \$24, computed, in case such amount is not a multiple of \$0.10, to the nearest multiple of \$0.10.

If the payroll period with respect to an employee is semimonthly

And the wages are		And, (1) such person is a married person claiming none of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents	Eight dependents	Nine dependents	
At least	But less than	Or, (2) such person is a married person claiming half of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (3) such person is a single person and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (4) such person is a married person claiming all of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents					
		Or, (5) such person is head of a family and has—										
		No dependents or one dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents					
		The amount of tax to be withheld shall be—										
		\$0	\$0	\$2.00								
20	30	5.00	\$2.40									
30	40	7.00	4.40	\$1.80	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	\$0.30	
40	50	9.00	6.40	3.80	1.20	.80	.60	.60	.60	.60	.60	
50	60	11.00	8.40	5.80	3.20	.90	.90	.90	.90	.90	.90	
60	80	14.00	11.40	8.80	6.20	3.60	1.30	1.30	1.30	1.30	1.30	
80	100	18.00	15.40	12.80	10.20	7.60	5.00	2.40	1.90	1.90	1.90	
100	120	22.00	19.40	16.80	14.20	11.60	9.00	6.40	3.80	2.50	2.60	
120	140	26.00	23.40	20.80	18.20	15.60	13.00	10.40	7.80	5.20	3.10	
140	160	30.00	27.40	24.80	22.20	19.60	17.00	14.40	11.80	9.20	6.60	
160	180	34.00	31.40	28.80	26.20	23.60	21.00	18.40	15.80	13.20	10.60	
180	200	38.00	35.40	32.80	30.20	27.60	25.00	22.40	19.80	17.20	14.60	
200	220	42.00	39.40	36.80	34.20	31.60	29.00	26.40	23.80	21.20	18.60	
220	240	46.00	43.40	40.80	38.20	35.60	33.00	30.40	27.80	25.20	22.60	
240	260	50.00	47.40	44.80	42.20	39.60	37.00	34.40	31.80	29.20	26.60	
260	280	54.00	51.40	48.80	46.20	43.60	41.00	38.40	35.80	33.20	30.60	
280	300	58.00	55.40	52.80	50.20	47.60	45.00	42.40	39.80	37.20	34.60	
300	320	62.00	59.40	56.80	54.20	51.60	49.00	46.40	43.80	41.20	38.60	
320	340	66.00	63.40	60.80	58.20	55.60	53.00	50.40	47.80	45.20	42.60	
340	360	70.00	67.40	64.80	62.20	59.60	57.00	54.40	51.80	49.20	46.60	
360	380	74.00	71.40	68.80	66.20	63.60	61.00	58.40	55.80	53.20	50.60	
380	400	78.00	75.40	72.80	70.20	67.60	65.00	62.40	59.80	57.20	54.60	
\$400 or over		80% of the excess over \$400 plus										
		\$80.00	\$77.40	\$74.80	\$72.20	\$69.60	\$67.00	\$64.40	\$61.80	\$59.20	\$56.60	

If the number of dependents is in excess of the largest number of dependents shown, the amount of tax to be withheld shall be that applicable in the case of the largest number of dependents shown reduced by \$2.80 for each dependent over the largest number shown, except that in no event shall the amount to be withheld be less than 5 per centum of the excess of the median wage in the bracket in which the wages fall (or if the wages paid are \$400 or over, of the excess of the wages) over \$28, computed, in case such amount is not a multiple of \$0.10, to the nearest multiple of \$0.10.



If the payroll period with respect to an employee is monthly

And the wages are		And, (1) such person is a married person claiming none of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents	Eight dependents	Nine dependents	
At least	But less than	Or, (2) such person is a married person claiming half of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (3) such person is a single person and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents			
		Or, (4) such person is a married person claiming all of personal exemption for withholding and has—										
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents					
		Or, (5) such person is head of a family and has—										
		No dependents or one dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents					
		The amount of tax to be withheld shall be—										
		\$0	\$40	\$4.00								
40	60	9.00	\$5.80									
60	60	11.00	6.80	\$0.60	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	\$0.10	
60	70	13.00	7.80	2.80	.40	.40	.40	.40	.40	.40	.40	
70	80	15.00	9.80	4.60	.70	.70	.70	.70	.70	.70	.70	
80	100	18.00	12.80	7.60	2.40	1.10	1.10	1.10	1.10	1.10	1.10	
100	120	22.00	16.80	11.60	6.40	1.70	1.70	1.70	1.70	1.70	1.70	
120	140	26.00	20.80	15.60	10.40	6.20	2.30	2.30	2.30	2.30	2.30	
140	160	30.00	24.80	19.60	14.40	9.20	4.00	2.90	2.90	2.90	2.90	
160	200	36.00	30.80	25.60	20.40	15.20	10.00	4.80	3.80	3.80	3.80	
200	240	44.00	38.80	33.60	28.40	23.20	18.00	12.80	7.60	5.00	5.00	
240	280	52.00	46.80	41.60	36.40	31.20	26.00	20.80	15.60	10.40	6.20	
280	320	60.00	54.80	49.60	44.40	39.20	34.00	28.80	23.60	18.40	15.20	
320	360	68.00	62.80	57.60	52.40	47.20	42.00	36.80	31.60	26.40	21.20	
360	400	76.00	70.80	65.60	60.40	55.20	50.00	44.80	39.60	34.40	29.20	
400	440	84.00	78.80	73.60	68.40	63.20	68.00	62.80	47.60	42.40	37.20	
440	480	92.00	86.80	81.60	76.40	71.20	66.00	60.80	55.60	50.40	45.20	
480	520	100.00	94.80	89.60	84.40	79.20	74.00	68.80	63.60	58.40	53.20	
520	560	108.00	102.80	97.60	92.40	87.20	82.00	76.80	71.60	66.40	61.20	
560	600	116.00	110.80	105.60	100.40	95.20	90.00	84.80	79.60	74.40	69.20	
600	640	124.00	118.80	113.60	108.40	103.20	98.00	92.80	87.60	82.40	77.20	
640	680	132.00	126.80	121.60	116.40	111.20	106.00	100.80	95.60	90.40	85.20	
680	720	140.00	134.80	129.60	124.40	119.20	114.00	108.80	103.60	98.40	93.20	
720	760	148.00	142.80	137.60	132.40	127.20	122.00	116.80	111.60	106.40	101.20	
760	800	156.00	150.80	145.60	140.40	135.20	130.00	124.80	119.60	114.40	109.20	
\$500 or over		20% of the excess over \$800 plus										
		\$160.00	\$154.80	\$149.60	\$144.40	\$139.20	\$134.00	\$128.80	\$123.60	\$118.40	\$113.20	

If the number of dependents is in excess of the largest number of dependents shown, the amount of tax to be withheld shall be that applicable in the case of the largest number of dependents shown reduced by \$5.20 for each dependent over the largest number shown, except that in no event shall the amount to be withheld be less than 3 per centum of the excess of the median wage in the bracket in which the wages paid fall (or if the wages paid are \$800 or over, of the excess of the wages) over \$52, computed, in case such amount is not a multiple of \$0.10, to the nearest multiple of \$0.10.

If the payroll period with respect to an employee is a daily payroll period or a miscellaneous payroll period

And the wages divided by the number of days in such period are—		And, (1) such person is a married person claiming none of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents	Eight dependents	Nine dependents		
At least	But less than	Or, (2) such person is a married person claiming half of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents				
		Or, (3) such person is a single person and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents	Seven dependents				
		Or, (4) such person is a married person claiming all of personal exemption for withholding and has—											
		No dependents	One dependent	Two dependents	Three dependents	Four dependents	Five dependents						
		Or, (5) such person is head of a family and has—											
		No dependents or one dependent	Two dependents	Three dependents	Four dependents	Five dependents	Six dependents						
		The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period											
		\$0	\$1	\$0.10	\$0.15								
1	2	.30	.45										
2	3	.60	.90	\$0.15									
3	4	.70	.85	.35	\$0.20	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05	\$0.05		
4	5	.90	.75	.55	.40	.30	.10	.10	.10	.10	.10		
5	6	1.10	.95	.75	.60	.40	.25	.10	.10	.10	.10		
6	7	1.30	1.15	.95	.80	.60	.45	.30	.15	.15	.15		
7	8	1.60	1.35	1.15	1.00	.80	.65	.50	.30	.15	.15		
8	9	1.70	1.55	1.35	1.20	1.00	.85	.70	.50	.35	.20		
9	10	1.90	1.75	1.55	1.40	1.20	1.05	.90	.70	.55	.35		
10	11	2.20	2.05	1.85	1.70	1.50	1.35	1.20	1.00	.85	.65		
12	14	2.80	2.45	2.25	2.10	1.90	1.75	1.60	1.40	1.25	1.05		
14	16	3.00	2.85	2.65	2.50	2.30	2.15	2.00	1.80	1.65	1.45		
16	18	3.40	3.25	3.05	2.90	2.70	2.55	2.40	2.20	2.05	1.85		
18	20	3.80	3.65	3.45	3.30	3.10	2.95	2.80	2.60	2.45	2.25		
20	22	4.20	4.05	3.85	3.70	3.50	3.35	3.20	3.00	2.85	2.65		
22	24	4.60	4.45	4.25	4.10	3.90	3.75	3.60	3.40	3.25	3.05		
24	26	5.00	4.85	4.65	4.50	4.30	4.15	4.00	3.80	3.65	3.45		
26	28	5.40	5.25	5.05	4.90	4.70	4.55	4.40	4.20	4.05	3.85		
28	30	5.80	5.65	5.45	5.30	5.10	4.95	4.80	4.60	4.45	4.25		
\$50 or over		20% of the excess over \$50 plus											
		\$6.00	\$5.85	\$5.65	\$5.50	\$5.30	\$5.15	\$5.00	\$4.80	\$4.65	\$4.45		

If the number of dependents is in excess of the largest number of dependents shown, the amount of tax to be withheld shall be that applicable in the case of the largest number of dependents shown reduced by \$0.15 for each dependent over the largest number shown, except that in no event shall the amount to be withheld be less than 3 per centum of the excess of the product of the median wage in the bracket in which the wages fall and the number of days in the period (or if the wages paid are \$50 or over, of the excess of the wages) over the product of \$1.70 and the number of days in the period, computed, in case such amount is not a multiple of \$0.05, to the nearest multiple of \$0.05.

"(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

"(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

"(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commissioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

"(5) If the wages exceed the highest wage bracket, in determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

"(d) **TAX PAID BY RECIPIENT.**—If the employer, in violation of the provisions of this subchapter, fails to deduct and withhold the tax under this subchapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

"(e) **NONDEDUCTIBILITY OF TAX IN COMPUTING NET INCOME.**—The tax deducted and withheld under this subchapter shall not be allowed as a deduction either to the employer or to the recipient of the income in computing net income for the purpose of any tax on income imposed by Act of Congress.

"(f) **REFUNDS OR CREDITS.**—

"(1) **EMPLOYERS.**—Where there has been an overpayment of tax under this subchapter, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under this subchapter by the employer.

"(2) **EMPLOYEES.**—For refund or credit in cases of excessive withholding, see section 322 (a).

"(g) **INCLUDED AND EXCLUDED WAGES.**—If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than thirty-one consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages,

then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

“(h) **WITHHOLDING EXEMPTION CERTIFICATES.**—Every employee receiving wages shall furnish his employer a signed withholding exemption certificate relating to his status for the purpose of computing the withholding exemption, or if the employer exercises his election under section 1622 (c) (relating to wage bracket withholding), for the purpose of computing the amount to be deducted and withheld under such subsection. In case of a change of status, a new certificate shall be furnished not later than ten days after such change occurs. The certificate shall be in such form and contain such information as the Commissioner may, with the approval of the Secretary, by regulations prescribe. Such certificate—

“(1) If furnished after the date of commencement of employment with the employer by reason of a change of status, shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least thirty days from the date on which such certificate is furnished to the employer, except that at the election of the employer such certificate may be made effective with respect to any previous payment of wages made on or after the date of the furnishing of such certificate. For the purposes of this paragraph the term ‘status determination date’ means January 1 and July 1 of each year.

“(2) If furnished otherwise than by reason of a change of status, shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is furnished to the employer.

A certificate which takes effect under this subsection shall continue in effect with respect to the employer until another such certificate furnished by the employee takes effect under this subsection. If no certificate is in effect under this subsection with respect to an employee, such employee shall be treated, for the purposes of the withholding exemption, or in case the employer exercises his election under section 1622 (c) (relating to wage bracket withholding), for the purpose of computing the amount to be deducted and withheld under such subsection, as a married person claiming none of the personal exemption for withholding and having no dependents.

“(i) **OVERLAPPING PAY PERIODS, AND SO FORTH.**—If a payment of wages is made to an employee by an employer—

“(1) with respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

“(2) without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

“(3) with respect to a period beginning in one and ending in another calendar year, or

“(4) through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee,

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations

prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

“(j) *WITHHOLDING ON BASIS OF AVERAGE WAGES.*—The Commissioner may, under regulations prescribed by him with the approval of the Secretary, authorize employers (1) to estimate the wages which will be paid to any employee in any quarter of the calendar year, (2) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and (3) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

“SEC. 1623. *LIABILITY FOR TAX.*

“The employer shall be liable for the payment of the tax required to be deducted and withheld under this subchapter, and shall not be liable to any person for the amount of any such payment.

“SEC. 1624. *RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.*

“If the employer is the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

“SEC. 1625. *RECEIPTS.*

“(a) *REQUIREMENT.*—Every employer required to deduct and withhold a tax in respect of the wages of an employee shall furnish to each such employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the wages paid by the employer to such employee during such calendar year, and the amount of the tax deducted and withheld under this subchapter in respect of such wages.

“(b) *STATEMENTS TO CONSTITUTE INFORMATION RETURNS.*—The statements required to be furnished by this section in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe. A duplicate of such statement if made and filed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary shall constitute the return required to be made in respect of such wages under section 147.

“(c) *EXTENSION OF TIME.*—The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any employer a reasonable extension of time (not in excess of 30 days) with respect to the statements required to be furnished under this section.

**"SEC. 1626. PENALTIES.**

**"(a) PENALTIES FOR FRAUDULENT RECEIPT OR FAILURE TO FURNISH RECEIPT.**—In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 1625 to furnish a receipt in respect of tax withheld pursuant to this subchapter who willfully furnishes a false or fraudulent receipt, or who willfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 1625, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof be fined not more than \$1,000, or imprisoned for not more than one year, or both.

**"(b) ADDITIONAL PENALTY.**—In addition to the penalty provided by subsection (a) of this section, any person required under the provisions of section 1625 to furnish a receipt in respect of tax withheld pursuant to this subchapter who willfully furnishes a false or fraudulent receipt, or who willfully fails to furnish a receipt in the manner, at the time, and showing the information required under section 1625, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of not more than \$50.

**"(c) FAILURE OF EMPLOYER TO FILE RETURN OR PAY TAX.**—In case of any failure to make and file return or pay the tax required by this subchapter, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to the tax shall not be less than \$10.

**"(d) PENALTIES IN RESPECT OF WITHHOLDING EXEMPTION CERTIFICATES.**—Any individual required to supply information to his employer under section 1622 (h) who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 1622, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than \$500, or imprisoned for not more than one year, or both.

**"SEC. 1627. OTHER LAWS APPLICABLE.**

"All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the tax under this subchapter.

**"SUBCHAPTER E—GENERAL PROVISIONS****"SEC. 1630. VERIFICATION OF RETURNS, ETC.**

**"(a) POWER OF COMMISSIONER TO REQUIRE.**—The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

**"(b) PENALTIES.**—Every person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be

subject to the penalties prescribed for perjury in section 125 of the Criminal Code.

**"SEC. 1631. USE OF GOVERNMENT DEPOSITARIES IN CONNECTION WITH PAYMENT OF TAXES.**

"The Secretary may authorize incorporated banks or trust companies which are depositaries or financial agents of the United States to receive any taxes under this chapter in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such taxes by such depositaries and financial agents is to be treated as payment of such taxes to the collectors.

**"SEC. 1632. ACTS TO BE PERFORMED BY AGENTS.**

"In case a fiduciary, agent or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Commissioner, under regulations prescribed by him with the approval of the Secretary, is authorized to designate such fiduciary, agent or other person to perform such acts as are required of employers under this chapter and as the Commissioner may specify. Except as may be otherwise prescribed by the Commissioner with the approval of the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent or other person so designated but, except as so provided, the employer for whom such fiduciary, agent or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

**(b) TECHNICAL AMENDMENTS.—**

(1) **AMENDMENT TO SECTION 34.**—Section 34 of the Internal Revenue Code (cross reference) is amended by striking out "453, 454, and 466 (e)" and inserting in lieu thereof "453 and 454".

(2) **AMENDMENT TO SECTION 322.**—Section 322 (f) of the Internal Revenue Code (cross reference) is amended to read as follows:

"(f) **TAX WITHHELD AT SOURCE.**—For refund or credit in case of withholding agent, see section 143 (f). For refund or credit in case of employer required to deduct and withhold tax on wages, see section 1622 (f)."

(c) **EXPIRATION DATE FOR WITHHOLDING AT SOURCE ON WAGES UNDER SUBCHAPTER D OF CHAPTER 1.**—Section 476 of the Internal Revenue Code (prescribing the expiration date for the taxes imposed by Subchapter D) is amended to read as follows:

**"SEC. 476. EXPIRATION DATE.**

"The tax imposed by Part I of this subchapter shall not apply with respect to any taxable year commencing after the date of cessation of hostilities in the present war. The tax imposed by Part II of such subchapter shall not apply with respect to any wages paid after June 30, 1943, unless paid during the calendar year 1943 with respect to a payroll period beginning on or before such date."

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect July 1, 1943, and shall be applicable to all wages paid on or after such date, except that such amendments shall not be applicable to wages paid during the calendar year 1943 with respect to a payroll period beginning before such date.

**SEC. 9. CREDIT FOR TAX WITHHELD AT SOURCE.**

Section 35 of the Internal Revenue Code (relating to the credit for tax withheld on wages) is amended to read as follows:

**"SEC. 35. CREDIT FOR TAX WITHHELD ON WAGES.**

*"The amount deducted and withheld as tax under Subchapter D of Chapter 9 during any calendar year upon the wages of any individual shall be allowed as a credit to the recipient of the income against the tax imposed by this chapter for the taxable year beginning in such calendar year. If more than one taxable year begins in any such calendar year such amount shall be allowed as a credit against the tax for the last taxable year so beginning."*

**SEC. 4. REFUNDS.**

**(a) EXCESSIVE WITHHOLDING, ETC.**—Section 322 (a) (2) of the Internal Revenue Code (relating to excessive withholding) is amended to read as follows:

*"(2) EXCESSIVE WITHHOLDING.—Where the amount of the tax withheld at the source under Part II of Subchapter D or Subchapter D of Chapter 9 exceeds the taxes imposed by this chapter against which the tax so withheld may be credited under section 35 or 466 (e), the amount of such excess shall be considered an overpayment.*

*"(3) CREDITS AGAINST ESTIMATED TAX.—The Commissioner is authorized to prescribe, with the approval of the Secretary, regulations providing for the crediting against the estimated tax for any taxable year of the amount determined by the taxpayer or the Commissioner to be an overpayment of the tax for a preceding taxable year."*

**(b) PRESUMPTION AS TO DATE OF PAYMENT.**—Section 322 (e) of the Internal Revenue Code (relating to presumption as to date of payment) is amended to read as follows:

*"(e) PRESUMPTION AS TO DATE OF PAYMENT.—For the purposes of this section, any tax actually deducted and withheld at the source during any calendar year under Part II of Subchapter D or under Subchapter D of Chapter 9 shall, in respect of the recipient of the income, be deemed to have been paid by him not earlier than the fifteenth day of the third month following the close of his taxable year with respect to which such tax is allowable as a credit under section 35 or section 466 (e). For the purposes of this section, any amount paid as estimated tax for any taxable year shall be deemed to have been paid not earlier than the fifteenth day of the third month following the close of such taxable year."*

**(c) DELEGATION OF AUTHORITY TO COLLECTORS TO MAKE REFUNDS.**—Section 3770 (a) of the Internal Revenue Code (relating to authority to make refunds) is amended (1) by striking out "(4)" at the beginning of paragraph (4) and inserting in lieu thereof "(5)"; and (2) by inserting after paragraph (3) the following:

*"(4) DELEGATION OF AUTHORITY TO COLLECTORS TO MAKE REFUNDS.—The Commissioner is authorized to delegate, with the approval of the Secretary, to collectors any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), or (3) of this subsection, or under section 322 or 1027, where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed \$1,000."*



(d) *OVERPAYMENTS.*—Section 3770 of the Internal Revenue Code (relating to authority to make credits and refunds) is amended by inserting at the end thereof the following:

“(c) *RULE WHERE NO TAX LIABILITY.*—An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.”

(e) *CROSS-REFERENCE.*—The last subsection of section 3771 of the Internal Revenue Code (relating to interest on overpayments) is amended to read as follows:

“(f) *ESTIMATED TAX AND TAX WITHHELD AT SOURCE.*—For date of payment in respect of estimated tax and of tax withheld at source on wages, see section 322 (e).”

(f) *REVIEW OF ALLOWANCE OF INTEREST.*—Section 3790 of the Internal Revenue Code (prohibiting administrative review of Commissioner's decisions) is amended by inserting at the end thereof the following: “In the absence of fraud or mistake in mathematical calculation, the allowance or nonallowance by the Commissioner, of interest on any credit or refund under the internal revenue laws shall not, except as provided in Chapter 5, be subject to review by any other administrative or accounting officer, employee, or agent of the United States.”

#### SEC. 5. CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE.

(a) *IN GENERAL.*—The Internal Revenue Code is amended by striking out sections 58, 59, and 60 and inserting in lieu thereof the following:

##### “SEC. 58. DECLARATION OF ESTIMATED TAX BY INDIVIDUALS.

“(a) *REQUIREMENT OF DECLARATION.*—Every individual<sup>1</sup> (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable) shall, at the time during the taxable year prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if—

“(1) his gross income from wages (as defined in section 1621)

“(A) in case such individual is single or married but not living with husband or wife: can reasonably be expected to exceed \$2,700 for the taxable year; or did exceed \$2,700 for the preceding taxable year; or

“(B) in case such individual is married and living with husband or wife: can, when added to the gross income which can reasonably be expected to be received by such husband or wife from wages (as so defined), reasonably be expected to exceed \$3,500 for the taxable year; or did when added to the gross income of such husband or wife from wages (as so defined) for the preceding taxable year, exceed \$3,500 for such preceding taxable year; or

“(2) his gross income from sources other than wages (as defined in section 1621)

“(A) in case such individual is single or married but not living with husband or wife: can reasonably be expected to exceed \$100 for the taxable year and his gross income to be such as will require the making of a return for the taxable year under section 51; or did exceed \$100 for the preceding taxable year and such individual either was required to make a return under

section 51 or 455 for such preceding taxable year or would have been so required if he had been single during the whole of such preceding taxable year; or

“(B) in case such individual is married and living with husband or wife: can, when added to the gross income which can reasonably be expected to be received by husband or wife from such sources, reasonably be expected to exceed \$100 for the taxable year and the aggregate gross income of such husband and wife can reasonably be expected to be such as will require the making of a return under section 51 or 455; or did, when added to the gross income of such husband or wife from such sources for the preceding taxable year, exceed \$100 for such preceding taxable year and such individual would have been required to make a return under section 51 or 455 for such preceding taxable year if he had been married and living with husband or wife during the whole of such preceding taxable year; or

“(3) in case such taxable year is the taxable year beginning in 1943, such individual was required to make a return under section 51 for the taxable year beginning in 1942, and his gross income from wages (as defined in section 1621) for such taxable year is greater than the gross income which can reasonably be expected to be received from wages for the taxable year beginning in 1943.

“(b) *CONTENTS OF DECLARATION.*—In the declaration required under subsection (a) the individual shall state—

“(1) the amount which he estimates as the amount of tax under this chapter for the taxable year, without regard to any credits under sections 32, 35, and 466 (e);

“(2) the amount which he estimates as the credits for the taxable year under sections 32, 35, and 466 (e); and

“(3) the excess of the amount estimated under paragraph (1) over the amount estimated under paragraph (2), which excess for the purposes of this chapter shall be held and considered the estimated tax for the taxable year.

The declaration shall also contain such other information for the purposes of carrying out the provisions of this chapter as the Commissioner, with the approval of the Secretary, may by regulations prescribe, and shall contain or be verified by a written statement that it is made under the penalties of perjury.

“(c) *JOINT DECLARATION BY HUSBAND AND WIFE.*—In the case of a husband and wife living together, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or wife is a nonresident alien. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

“(d) *TIME AND PLACE FOR FILING.*—The declaration required under subsection (a) shall be filed on or before the fifteenth day of the third month of the taxable year, except that if the requirements of subsection (a) are first met after such date, the declaration shall be filed on or before the fifteenth day of the last month of the quarter of the taxable year in which such requirements are first met. An individual may make amendments or revisions of a declaration filed under this subsection, under regulations

prescribed by the Commissioner with the approval of the Secretary. If so made, such amendments or revisions shall be filed on or before the fifteenth day of the last month of any quarter of the taxable year subsequent to that in which the declaration was filed and in which no previous amendments or revisions have been made or filed. Declarations and amendments and revisions thereof shall be filed with the Collector specified in section 53 (b) (1).

“(e) *EXTENSION OF TIME*.—The Commissioner may grant a reasonable extension of time for filing declarations and paying the estimated tax, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

“(f) *PERSONS UNDER DISABILITY*.—If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

“(g) *SIGNATURE PRESUMED CORRECT*.—The fact that an individual's name is signed to a filed declaration shall be prima facie evidence for all purposes that the declaration was actually signed by him.

“(h) *PUBLICITY OF DECLARATION*.—For the purposes of section 55 (relating to publicity of returns), a declaration of estimated tax shall be held and considered a return under this chapter.

“SEC. 59. PAYMENT OF ESTIMATED TAX.

“(a) *IN GENERAL*.—The estimated tax shall be paid in four equal installments except that—

“(1) if the declaration is filed (otherwise than pursuant to an extension of time) after the fifteenth day of the third month of the taxable year, the estimated tax shall be paid in equal installments the number of which is equal to the number of quarters remaining in the taxable year (including the quarter in which the declaration is filed); and

“(2) if any amendment or revision of a declaration is filed, the remaining installments shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease, as the case may be, in the estimated tax by reason of such amendment or revision; and

“(3) at the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

One installment of the estimated tax shall be paid at the time of making the declaration, and an installment thereof shall be paid on the fifteenth day of the last month of each succeeding quarter of the taxable year. Payment of any installment of the estimated tax shall be considered payment on account of the tax for the taxable year.

“(b) *ASSESSMENT*.—The estimated tax shall be assessed only to the extent paid.

“SEC. 60. SPECIAL RULES FOR APPLICATION OF SECTIONS 58 AND 59.

“(a) *FARMERS*.—In the case of an individual whose estimated gross income from farming for the taxable year is at least 80 per centum of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in section 58 (d), the declaration for the taxable year may be made at any time on or before the fifteenth day of the last month of the taxable year.

“(b) *APPLICATION TO SHORT TAXABLE YEARS.*—The application of sections 58, 59, and 294 (a) (3), (4), and (5) to taxable years of less than twelve months shall be as prescribed in regulations prescribed by the Commissioner with the approval of the Secretary.

“(c) *APPLICATION TO TAXABLE YEARS BEGINNING IN 1943.*—If the taxable year is the calendar year 1943, the fifteenth day of September, 1943, shall be substituted for the fifteenth day of March for the purposes of section 58 (d). If the taxable year begins in 1943 after January 1, the date which shall be substituted for the fifteenth day of the third month of the taxable year for the purposes of section 58 (d) shall be prescribed by regulations prescribed by the Commissioner with the approval of the Secretary. In either case installments of the estimated tax for such taxable year payable after September 1, 1943, shall be ratably decreased to reflect the payments on account of a taxable year beginning in 1942 which are treated as payments on account of the estimated tax for a taxable year beginning in 1943.”

(b) *ADDITIONS TO TAX.*—Section 294 (a) of the Internal Revenue Code (relating to additions to tax in case of nonpayment) is amended by inserting at the end thereof the following:

“(3) *FAILURE TO FILE DECLARATION OF ESTIMATED TAX.*—In the case of a failure to make and file a declaration of estimated tax within the time prescribed, there shall be added to the tax an amount equal to 10 per centum of the tax.

“(4) *FAILURE TO PAY INSTALLMENT OF ESTIMATED TAX.*—In the case of the failure to pay an installment of the estimated tax within the time prescribed, there shall be added to the tax \$2.50 or 2½ per centum of the tax, whichever is the greater, for each installment with respect to which such failure occurs.

“(5) *SUBSTANTIAL UNDERESTIMATE OF ESTIMATED TAX.*—If 80 per centum of the tax (determined without regard to the credits under sections 32, 35, and 466 (e)), in the case of individuals other than farmers exercising an election under section 60 (a), or 66⅔ per centum of such tax so determined in the case of such farmers, exceeds the estimated tax (increased by such credits), there shall be added to the tax an amount equal to such excess, or equal to 6 per centum of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. This paragraph shall not apply to the taxable year in which falls the death of the taxpayer.”

(c) *PENALTIES.*—Section 145 (a) of the Internal Revenue Code (relating to criminal penalties) is amended (1) by inserting after “return” wherever appearing therein the words “or declaration”, and (2) by inserting before “tax” wherever appearing therein the words “estimated tax or”.

(d) *PAYMENT BY INSTALLMENTS.*—Section 56 (b) of the Internal Revenue Code (relating to installment payments) is amended by striking out “The” at the beginning thereof and inserting in lieu thereof “Except in the case of an individual (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable), the”.

(e) *DATE FOR MAKING RETURN BY CERTAIN NONRESIDENT ALIENS.*—

(1) Section 217 (a) of the Internal Revenue Code (relating to returns by nonresident aliens) is amended by inserting after “In the

case of a nonresident alien individual" the following: "with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable,".

(2) Section 218 (a) of the Internal Revenue Code (relating to payment of tax by nonresident aliens) is amended by inserting after "In the case of a nonresident alien individual" the following: "with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable,".

(f) *TAXABLE YEARS TO WHICH APPLICABLE.*—The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1942, except that section 294 (a) (5) of the Internal Revenue Code shall not be applicable to a taxable year beginning in 1943 in the case of an individual not required to make a declaration under section 58 of the Internal Revenue Code for such year.

SEC. 6. RELIEF FROM DOUBLE PAYMENTS IN 1943.

(a) *TAX FOR 1942 NOT GREATER THAN TAX FOR 1943.*—In case the tax imposed by Chapter 1 of the Internal Revenue Code upon any individual (other than an estate or trust and other than a nonresident alien not subject to the provisions of sections 58, 59, and 60 of such chapter) for the taxable year 1942 (determined without regard to this section, without regard to interest or additions to the tax, and without regard to credits against the tax for amounts withheld at source) is not greater than the tax for the taxable year 1943 (similarly determined), the liability of such individual for the tax imposed by such chapter for the taxable year 1942 shall be discharged as of September 1, 1943, except that interest and additions to such tax shall be collected at the same time and in the same manner as, and as a part of, the tax under such chapter for the taxable year 1943. In such case if the tax for the taxable year 1942 (determined without regard to this section and without regard to interest or additions to the tax) is more than \$50, the tax under such chapter for the taxable year 1943 shall be increased by an amount equal to 25 per centum of the tax for the taxable year 1942 (so determined) or the excess of such tax (so determined) over \$50, whichever is the lesser. This subsection shall not apply in any case in which the taxpayer is convicted of any criminal offense with respect to the tax for the taxable year 1942 or in which additions to the tax for such taxable year are applicable by reason of fraud.

(b) *TAX FOR 1942 GREATER THAN TAX FOR 1943.*—In case the tax imposed by Chapter 1 of the Internal Revenue Code upon any individual (other than an estate or trust and other than a nonresident alien not subject to the provisions of sections 58, 59, and 60 of such chapter) for the taxable year 1942 (determined without regard to this section, without regard to interest or additions to the tax, and without regard to credits against the tax for amounts withheld at source) is greater than the tax for the taxable year 1943 (similarly determined), the liability of such individual for the tax imposed by such chapter for the taxable year 1942 shall be discharged as of September 1, 1943, except that interest and additions to such tax shall be collected at the same time and in the same manner as, and as a part of, the tax under such chapter for the taxable year 1943. In such case the tax under such chapter for the taxable year 1943 shall be increased by—

(1) the amount by which the tax imposed by such chapter for the taxable year 1942 (determined without regard to this section and without regard to interest and additions to such tax) exceeds the tax

imposed by such chapter for the taxable year 1943 (determined without regard to this section, without regard to interest and additions to such tax, and without regard to credits against such tax under section 466 (e) or under section 35 of such chapter), plus

(2) if the tax for the taxable year 1943 (determined without regard to this section, without regard to interest or additions to the tax, and without regard to credits against such tax under section 466 (e) or under section 35 of such chapter) is more than \$50, an amount equal to 25 per centum of the tax for the taxable year 1943 (so determined) or the excess of such tax (so determined) over \$50, whichever is the lesser. Such amount shall in no case exceed 25 per centum of the tax for the taxable year 1942 (determined without regard to this section and without regard to interest and additions to such tax) or the excess of such tax (so determined) over \$50, whichever is the lesser.

This subsection shall not apply in any case in which the taxpayer is convicted of any criminal offense with respect to the tax for the taxable year 1942 or in which additions to the tax for such taxable year are applicable by reason of fraud. An individual who becomes subject to tax for the taxable year 1943 under this subsection shall be an individual required to make a return for the taxable year 1943 under section 51 of the Internal Revenue Code.

(c) *ADDITIONAL INCREASE IN 1943 TAX WHERE INCREASED INCOME.*—

(1) *TAX FOR 1942 NOT GREATER THAN THAT FOR 1943.*—In the case of a taxpayer whose liability for the tax for the taxable year 1942 is discharged under subsection (a), and whose surtax net income for the base year plus \$20,000 is less than that for the taxable year 1942, the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year 1943 shall be increased by the excess of 75 per centum of the tax imposed by such chapter for the taxable year 1942 (determined without regard to this section and without regard to interest and additions to the tax) over a tentative tax computed as if the portion of the surtax net income for the taxable year 1942 which is not greater than the sum of the surtax net income for the base year plus \$20,000 constituted both the surtax net income for the taxable year 1942, and the net income for such taxable year after allowance of all credits against net income;

(2) *TAX FOR 1942 GREATER THAN THAT FOR 1943.*—In the case of a taxpayer whose liability for the tax for the taxable year 1942 is discharged under subsection (b) and whose surtax net income for the base year plus \$20,000 is less than that for the taxable year 1943, the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year 1943 shall be increased by the excess of 75 per centum of the tax imposed by such chapter for the taxable year 1943 (determined without regard to this section and without regard to interest and additions to the tax) over a tentative tax for the taxable year 1943 computed as if the portion of the surtax net income for such taxable year which is not greater than the sum of the surtax net income for the base year plus \$20,000 constituted both the surtax net income for the taxable year 1943, and the net income for such taxable year after allowance of all credits against net income.

For the purposes of this subsection "base year" means any one of the taxable years 1937, 1938, 1939, or 1940, to be selected by the taxpayer.

(d) RULES FOR APPLICATION OF SUBSECTIONS (A), (B), AND (C).—

(1) APPLICATION OF SUBSECTION (B) TO MEMBERS OF ARMED FORCES.—If the taxpayer is in active service in the military or naval forces of the United States or any of the other United Nations at any time during the taxable year 1942 or 1943, the increase in the tax for the taxable year 1943 under subsection (b) (1) shall be reduced by an amount equal to the amount by which the tax for the taxable year 1942 (determined without regard to this section) is increased by reason of the inclusion in the net income for the taxable year 1942 of the amount of the earned net income (as defined in section 25 (a) (4)).

(2) JOINT RETURNS.—If the taxpayer either for the taxable year 1942 or for the taxable year 1943 makes a joint return with his spouse, the taxes of the spouses for the taxable year for which a joint return is not made shall be aggregated for the purposes of subsections (a), (b), and (c), and in case the taxable year for which a joint return is not made is the taxable year 1943, the liability for the increase in the tax for the taxable year 1943 under subsections (b) and (c), shall be joint and several.

(3) FOREIGN TAX CREDIT AND APPLICATION OF SECTIONS 105, 106, AND 107.—The credit against the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year 1943 allowed by section 31 of such chapter (relating to taxes of foreign countries and of possessions of the United States), shall be determined without regard to subsections (a), (b), and (c). Sections 105, 106, and 107 of such chapter (relating to limitations on tax) shall be applied without regard to subsections (a), (b), and (c).

(4) SECTION 107 INCOME ATTRIBUTED TO BASE YEAR.—That portion of the compensation which is received or accrued in the taxable year 1942 (if the tax for such year is not greater than that for the taxable year 1943), or in the taxable year 1943 (if the tax for such year is less than that for the taxable year 1942), and which under section 107 of the Internal Revenue Code is attributed to the base year, shall for the purposes of subsection (c) be excluded in computing the surtax net income for the taxable year 1942 or 1943, as the case may be, and be included in computing the surtax net income for the base year.

(5) PARTNERSHIP BUSINESS FORMERLY OPERATED AS CORPORATION.—If, during the base year of any individual, such individual was a shareholder in a corporation and if substantially all of the assets of such corporation were at any time prior to May 1, 1943, acquired by such individual or a partnership of which he is a partner pursuant to the complete liquidation of such corporation, and if at all times after such liquidation up to and including the taxable year 1942 (if subsection (a) is applicable) or the taxable year 1943 (if subsection (b) is applicable) the trade or business of such corporation was carried on by such individual or partnership, for the purposes of subsection (c) such individual may compute his surtax net income for the base year as if the earnings and profits of the corporation for the taxable year ending with or within the base year

had all been distributed as dividends at the end of such taxable year. If the interest of such individual in the partnership is proportionately less than his interest in the corporation, his distributive share of such dividends shall for the purposes of this paragraph be adjusted to reflect such difference.

(6) *CERTAIN PORTIONS OF INCREASE IN 1943 TAX NOT PART OF ESTIMATED TAX.*—The amount by which the tax for the taxable year 1943 is increased under subsection (a), (b) (2), or (c) shall not be considered to be a part of the tax for such taxable year for the purposes of sections 58, 59, 60, and 294 (a), (3), (4) and (5) of the Internal Revenue Code.

(7) *TAXPAYER DYING IN TAXABLE YEAR 1942.*—If the individual dies during the taxable year 1942, subsections (a), (b), and (c) shall not apply.

(e) *EXTENSION OF TIME FOR PAYMENT OF PORTIONS OF INCREASE IN 1943 TAX.*—

(1) *TWENTY-FIVE PER CENTUM INCREASE UNDER SUBSECTION (A) OR (B).*—At the election of the taxpayer, made under regulations prescribed by the Commissioner with the approval of the Secretary, the Commissioner shall, except as hereinafter provided, extend the time for the payment of the portion of the tax for the taxable year 1943 equal to one-half of the amount of the 25 per centum increase therein under subsection (a) or (b) (2) for the taxable year 1943, in which case such portion shall be paid on or before the fifteenth day of the fifteenth month following the close of the taxable year. The Commissioner may condition the extension upon the furnishing by the taxpayer of a bond in such amount, not exceeding the amount with respect to which the extension applies, with such surety or sureties, as the Commissioner deems necessary, conditioned upon the payment of such amount in accordance with the terms of the extension. If such amount is not paid on or before the date on which it is payable, it shall be paid upon notice and demand from the Collector. If such amount is not paid on or before the date on which it is payable, there shall be collected, as a part of the tax, interest on such amount at the rate of 6 per centum per annum for the period beginning with the date on which such amount is payable and ending with the date on which it is paid.

(2) *INCREASE UNDER SUBSECTION (C).*—At the election of the taxpayer, made under regulations prescribed by the Commissioner with the approval of the Secretary, the Commissioner shall, except as hereinafter provided, extend the time for the payment of the portion of the tax for the taxable year 1943 equal to the increase therein under subsection (c), in which case such portion shall be paid in four equal annual installments, the first of which shall be paid on the fifteenth day of the fifteenth month following the close of the taxable year, and of the remaining installments one of which shall be paid on the last day of each succeeding twelve-month period, except that any installment may be paid prior to the date prescribed for its payment. The Commissioner may condition the extension upon the furnishing by the taxpayer of a bond in such amount,



not exceeding the amount of such increase, with such surety or sureties, as the Commissioner deems necessary, conditioned upon the payment of such amount in accordance with the terms of the extension. If the time for the payment of such portion is extended, there shall be collected, as a part of the tax, interest on each installment at the rate of 4 per centum per annum for the period beginning with the date prescribed for the payment of the tax for such taxable year and ending with the date on which such installment is paid or the date on which it is payable, whichever is the earlier. If any installment is not paid on or before the date on which it is payable, it and the remaining installments shall be paid upon notice and demand from the Collector. If any installment is not paid on or before the date on which it is payable, there shall be collected, as part of the tax, interest on such installment at the rate of 6 per centum per annum for the period beginning with the date on which such installment is payable and ending with the date on which it is paid.

(f) *TREATMENT OF PAYMENTS ON ACCOUNT OF 1942 TAX.*—Any payment (other than interest and additions to the tax) made on account of the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year 1942 upon a taxpayer whose liability for such tax is discharged under subsection (a) or (b) shall be considered as payment on account of the estimated tax for the taxable year 1943. In the case of any extension of time for the payment of such tax granted by the Commissioner prior to September 1, 1943, payment of the portion thereof which if such extension had not been granted would have been payable under section 56 (b) prior to such date shall be made notwithstanding subsection (a) or (b), but the foregoing provisions of this subsection shall apply to any such payment. In case the taxpayer becomes delinquent prior to September 1, 1943, in the payment of such tax or any installment thereof, subsection (a) or (b) shall not relieve the taxpayer of his liability for the tax, but the foregoing provisions of this subsection shall be applicable to payment of such liability. If any payment on account of the tax imposed by such chapter for the taxable year 1942 is made pursuant to a joint return made by husband and wife for such taxable year, and such payment is considered as a payment on account of the estimated tax for the taxable year 1943, such payment may be treated as a payment on account of the estimated tax of either the husband or the wife for such taxable year or may be divided between them.

(g) *USE OF TERM "TAXABLE YEAR."*—For the purposes of this section the terms "taxable year 1937", "taxable year 1938", "taxable year 1939", "taxable year 1940", "taxable year 1942", and "taxable year 1943" mean, respectively, the taxable year beginning in 1937, 1938, 1939, 1940, 1942, and 1943, respectively; and "taxable year" as applied to the taxable year 1942 or 1943 shall not include any period of less than twelve months unless occasioned by the death of the taxpayer or unless there is no taxable year of twelve months beginning in such calendar year.

(h) *REGULATIONS.*—This section shall be applied in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

**SEC. 7. ADDITIONAL ALLOWANCE FOR MEMBERS OF ARMED FORCES.**

(a) *IN GENERAL.*—Section 22 (b) (13) of the Internal Revenue Code (relating to additional allowance for military and naval personnel in computing net income) is amended to read as follows:

“(13) **ADDITIONAL ALLOWANCE FOR MILITARY AND NAVAL PERSONNEL.**—In the case of compensation received during any taxable year and before the termination of the present war as proclaimed by the President, by a member of the military or naval forces of the United States for active service in such forces during such war, or by a citizen or resident of the United States who is a member of the military or naval forces of any of the other United Nations for active service in such forces during such war, so much of such compensation as does not exceed \$1,500.”

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1942.

**SEC. 8. ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH.**

Chapter 1 of the Internal Revenue Code is amended by inserting after section 404 the following new supplement:

“Supplement U—Abatement of Tax for Members of Armed Forces Upon Death

**“SEC. 421. ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH.**

“In the case of any individual who dies on or after December 7, 1941, while in active service as a member of the military or naval forces of the United States or of any of the other United Nations and prior to the termination of the present war as proclaimed by the President, the tax imposed by this chapter shall not apply with respect to the taxable year in which falls the date of his death, and the tax under this chapter and under the corresponding title of each prior revenue law for preceding taxable years which is unpaid at the date of his death (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.”

**SEC. 9. ASSISTANT COMMISSIONERS.**

Subchapter B of Chapter 39 of the Internal Revenue Code is amended to read as follows:

**“SUBCHAPTER B—ASSISTANT COMMISSIONERS**

**“SEC. 3905. APPOINTMENT.**

“There shall be in the Bureau of Internal Revenue two Assistant Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate.

**“SEC. 3906. DUTIES.**

“The Assistant Commissioners shall perform such duties as may be prescribed by the Commissioner or required by law.”

SEC. 10. EXTENSION OF TIME IN CONNECTION WITH RELEASE  
OF POWERS OF APPOINTMENT.

Section 403 (d) (3) of the Revenue Act of 1942 is amended by striking out "July 1, 1943" wherever it appears and inserting in lieu thereof "March 1, 1944"; and section 452 (c) of the Revenue Act of 1942 is amended to read as follows:

"(c) RELEASE BEFORE MARCH 1, 1944.—

"(1) A release of a power to appoint before March 1, 1944, shall not be deemed a transfer of property by the individual possessing such power.

"(2) This subsection shall apply to all calendar years prior to 1944 and to that part of the calendar year 1944 prior to March 1, 1944."

And the Senate agree to the same.

R. L. DOUGHTON,  
HAROLD KNUTSON,  
DANIEL A. REED,  
THOMAS A. JENKINS,  
*Managers on the part of the House.*

WALTER F. GEORGE,  
DAVID I. WALSH,  
BENNETT CHAMP CLARK,  
HARRY F. BYRD,  
ARTHUR H. VANDENBERG,  
JAMES J. DAVIS,  
JOHN A. DANAHER (with  
reservations),  
*Managers on the part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2570) to provide for the current payment of the individual income tax, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

### COLLECTION OF INCOME TAX AT SOURCE ON WAGES

#### DESCRIPTION OF HOUSE AND SENATE BILLS.

Part II of subchapter D of chapter 1 of the Internal Revenue Code provides for collection at the source of a tax of 5 percent on the excess of all wages paid on or after January 1, 1943, over a specific exemption of \$624. The amount of tax collected at source under this provision is allowed as a credit against Victory tax and any excess thereof over the Victory tax imposed under part I of subchapter D is allowed as a credit against other income taxes imposed under chapter 1. Section 2 of the House bill would amend part II of subchapter D to provide for collection of a tax at source on wages paid on or after July 1, 1943, at a rate of 3 percent upon the excess of the wages paid over a specific exemption of \$624 and a rate of 17 percent (which was designed to approximate the yield of the normal tax and the first-bracket surtax on such wages) upon the excess over a withholding exemption, the amount of which depended on the employee's family status. Thus, the combined rates approximated the net Victory tax, the normal tax, and the first-bracket surtax on such wages. In lieu of withholding at the flat percentage rates on the excess of the wages over the exemptions, employers were granted an option to withhold a tax determined under tables provided in the bill under which the two portions of the tax were combined into a single amount to be withheld from each wage payment.

The Senate bill adopts the basic system of collection at source as provided in the House bill but makes a number of technical changes which are explained below. Under the bill as passed by the Senate, the methods of collection, payment, and administration of the withholding tax were coordinated generally with those applicable to the Social Security tax imposed on employees under section 1400 of the code. This proposal was made in order to facilitate the work of both the Government and the employer in administering the withholding system. Accordingly, section 2 of the Senate bill places the 20 percent withholding provisions in a new subchapter D of chapter 9 of the code. The new subchapter is entitled "Collection of Income Tax at Source on Wages." This amendment requires a change in the numbering of the various sections discussed below. This system of collection of income tax at source, like other income-tax laws, will apply in the Virgin Islands.

*Definitions.*

Subchapter D under the bill as passed by the Senate consists of sections 1621 to 1627, inclusive. Section 1621 provides definitions of the more important terms used in subchapter D. The general definition of the term "wages" contained in section 1621 (a) is the same as that contained in the House bill and in section 465 (a) of the code. The term is generally defined to include all remuneration whether designated as salary, wages, fees, commissions, etc., and whether paid in cash or property, if paid for services performed by an employee for his employer. Certain of the exceptions provided in existing law with respect to remuneration paid for given types of services are continued in identical language. These exceptions, numbered to conform to the bill, include remuneration paid (2) for agricultural labor as defined in section 1426 (h); (3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; and (4) for casual labor not in the course of the employer's trade or business.

Exception (1) relates to remuneration paid for services performed as a member of the military or naval forces of the United States, other than pensions and retired pay includible in gross income. The addition of the expression "includible in gross income under Chapter 1" is a clerical change required by a further clerical change in section 1622 (a) from the provisions of the corresponding section 466 (a) of the code.

The exception provided with respect to remuneration for services performed for a foreign government or instrumentality thereof was amended in the Senate bill (exception (5)) to make clear that the exception extends to remuneration paid to employees by the Commonwealth of the Philippines. The exception was also amended to make certain that the services must be performed for the particular government, or branch of such government.

The exception provided in existing law for services as an employee of a nonresident alien individual, foreign partnership, or foreign corporation, if such alien or foreign entity is not engaged in trade or business within the United States, was eliminated. In many cases, although not engaged in trade or business in the United States, such employers do have an office or place of business therein or agents by whom wages are paid to citizen or resident employees in the United States. The amendment requires the tax to be withheld in such cases.

Section 1621 (a) (6) provides an exception for remuneration paid for services performed by a nonresident alien individual other than a resident of a contiguous country who enters and leaves the United States at frequent intervals. This is the same clerical change as that made in the House bill from a similar exception relating to the requirement of withholding contained in section 466 (a) of the code. The effect of this exception is generally to exclude from withholding all nonresident alien individuals who are subject to withholding under the provisions of section 143 of the code. By express provision, the exception does not extend to residents of a contiguous country who enter and leave the United States at frequent intervals. Thus residents of Canada and Mexico falling in such category who are employed within and receive remuneration for services performed within the United States will be subject to withholding under the provisions of the bill. Such persons are subject to the tax imposed by sections 11, 12,

and 450 of the code, the same as in the case of citizens of the United States, upon the wages received for services performed within the United States and are not presently subject to withholding with respect to compensation for personal services under section 143.

Many persons falling within the category of residents of a contiguous country who enter and leave the United States at frequent intervals are employed by American railroads and steamship companies in transportation service which involves crossing and recrossing the border at frequent intervals. These and similar cases have many complicating factors and are not susceptible of appropriate treatment by rigid statutory rules. In addition, the exception of this general category of nonresident aliens from withholding under section 143 with respect to compensation rests within the discretion of the Commissioner. Accordingly, exception (7) authorizes the Commissioner to provide exceptions from withholding for such individuals under regulations prescribed with the approval of the Secretary.

Exception (8), relating to services performed while outside the United States, is a clarification of existing law designed to facilitate the use of certain presumptions in determining whether the major part of the services for an employer during the calendar year is to be performed outside the United States.

Exception (9) is a new provision excepting from the definition of "wages" remuneration paid for services performed as a minister of the gospel.

Section 1621 (a), relating to the definition of "wages," makes clear that the exception provided in paragraph (8) thereof with respect to services performed outside the United States does not extend to wages paid for services performed on an American vessel or upon any vessel as an employee of the United States employed through the War Shipping Administration. Hence, withholding is required upon the wages paid to (1) employees performing services on or in connection with an American vessel (as defined in section 1426 (g) of the code) under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States and (2) employees serving on or in connection with any vessel as an employee of the United States employed through the War Shipping Administration. This is in accordance with present administrative practice under existing law.

The term "payroll period" is defined in section 1621 (b) and is identical with that contained in the House bill and in section 465 (a) of the code. The Senate bill, however, added a definition of the term "miscellaneous payroll period." This term embraces any period for which a payment of wages is ordinarily made to the employee by his employer other than a weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period. Thus, if an employer's ordinary practice is to pay his employees for periods of 10 days, such 10-day periods are miscellaneous payroll periods.

Section 1621 (c) defines the term "employee" in the same terms as the House bill and section 465 (d) of the code.

Section 465 (c) and (e) of the code contains definitions of the terms "withholding agent" and "employer," respectively. Under the House bill and under the bill as passed by the Senate, the definition of withholding agent has been eliminated. Both bills generally define the term "employer" to mean the person for whom an individual

performs or performed any service, of whatever nature, as the employee of such person. This general definition is not adequate, however, to cover certain special cases, such as the case where the local agent of a nonresident alien individual, foreign partnership, or foreign corporation pays wages to a citizen or resident of the United States, and the case of the person making payment of wages in situations where the wage payments are not under the control of the person for whom the services are or were performed, as, for instance, in the case of certain types of pension payments. The House bill provided for these cases by an exception to the general definition of the term "employer" which provided that if the wages are paid by a person other than the person for whom the services are or were performed, the term "employer" means the person paying such wages. The Senate bill has restated the exception in order to make clear that it is designed solely to meet unusual situations and not intended as a departure from the basic purpose to centralize responsibility for withholding, returning, and paying the tax and furnishing receipts.

Accordingly, the Senate bill provides in section 1621 (d) (1) that if the person for whom the services are or were performed does not have control of the payment of the wages for such services the term "employer" means the person having control of the payment of such wages. Section 1621 (d) (2) provides that in the case of a person who pays wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, which is not engaged in trade or business within the United States the term "employer" means the person who pays the wages.

As stated, section 1621 (d) makes it clear that the responsibility for withholding, paying, and returning the tax and furnishing receipts rests with the employer, except as otherwise specifically provided in section 1624. In the case of a corporate employer having branch offices, the branch manager or other representative may actually, as a matter of internal administration, withhold the tax or prepare the receipts required under section 1625, but the responsibility and legal duty for withholding, paying, and returning the tax and furnishing the receipts rests with the corporate employer.

Under the bill as passed by the Senate, the tax required to be collected at the source is based upon the excess of the wage payment over the amount of the withholding exemption provided in section 1622 (b). The amount of the withholding exemption in a specific case is in general dependent upon the status of the individual employee as single, married, etc.; upon the number of his dependents; and, in the case of an employed married person whose spouse is also employed, the amount of the withholding exemption claimed by each spouse. In all cases the withholding exemption will be determined by the employer upon the basis of the information relative to status set forth in a withholding exemption certificate required to be furnished by the employee. Accordingly, definitions have been provided in sections 1621 (e) to (k), inclusive, for the purpose of enabling the employer to determine the status of wage earners with respect to the withholding exemption. Under these definitions, which are identical in all but one respect with those contained in the House bill, the terms "single person," "married person," "head of a family," and "dependent," have the meanings assigned to such terms for the purpose of the personal exemption and credit for dependents in section 25

and the regulations prescribed thereunder, but the application of the appropriate amount of withholding exemption in each case depends upon the furnishing of a withholding exemption certificate stating that the individual occupies the described status or is entitled to the withholding exemption with respect to dependents. If no certificate setting forth the status of the employee is furnished, no withholding exemption is allowed; and tax will be withheld upon the gross amount of the wage payment. If husband and wife are both employed, each may claim one-half of the withholding exemption allowed a married person or they may agree to allow one spouse to claim all of the withholding exemption, and the other spouse to claim none of the withholding exemption. The option in such case extends only to the withholding exemption allowed a married person which under the definition is termed the "personal exemption for withholding."

The withholding exemption provided with respect to dependents must be claimed by the spouse who furnishes the chief support for such dependent whether or not such spouse claims any part of the personal exemption for withholding. In the case of the head of a family having one or more dependents, one of such dependents is to be omitted in determining the number of dependents for the purpose of the withholding exemption with respect to dependents. The only respect in which the Senate bill differs from these provisions in the House bill is that the former proposes to qualify the definition of the term "married person claiming half of the personal exemption for withholding" contained in subsection (h) so that such amount of the personal exemption for withholding shall apply only where the withholding exemption certificate expressly states that for the purposes of the tax collected at the source on wages the employee's spouse is claiming not more than one-half of the personal exemption for withholding. This change is designed to bring this definition in line with the definition of "married person claiming all of personal exemption for withholding."

#### *Requirement of withholding.*

The House bill expressed the withholding requirement in terms of two portions of the tax required to be collected at source. The portion required to be withheld at the rate of 17 percent was based upon the excess of the wage payment over the amount of a withholding exemption which approximated the personal exemption of the wage earner under the regular income tax plus credit for dependents plus 10 percent of such exemption and credit, the combined amounts being prorated in accordance with the length of the particular payroll period. The portion required to be withheld at the rate of 3 percent was based upon the excess of each wage payment over the prorated withholding exemption of \$624 provided for Victory tax purposes. Thus, the employer would first apply one withholding exemption and rate to each payment of wages, then he would apply another withholding exemption and rate to such payment, and by adding the two results would arrive at the total amount of tax to be withheld. This amount would approximate the net Victory tax, the normal tax, and the first-bracket surtax on such wages.

The Senate bill is designed to achieve this same objective of withholding on wages an amount approximating the net Victory tax, the



normal tax, and the first-bracket surtax on such wages, but it is so framed that the employer will not be required to make two separate computations and add the result of each in order to arrive at the amount of tax required to be withheld from any one employee.

To accomplish this objective of simplifying the work of employers, section 1622 under the Senate bill changes the aggregate withholding exemption of \$552 for single persons provided in the House bill to \$624; the withholding exemption of \$1,320 for married persons to \$1,248; and the withholding exemption of \$408 for each dependent to \$312. These amounts are termed the family status withholding exemptions. Withholding would then be applied at the single rate of 20 percent on all amounts paid in excess of these exemptions, prorated in accordance with the length of the payroll period. The Senate bill provides, however, that in no case may the tax to be withheld be less than 3 percent of the amount of the wages for each payroll period in excess of the prorated \$624 Victory tax exemption.

The reason for the provision in section 1622 (a) that the amount to be withheld shall in no event be less than 3 percent of the amount in excess of the Victory tax withholding exemption is that the family status withholding exemption of a wage earner might equal or exceed the amount of his wages so that no withholding for normal tax and first-bracket surtax should take place, while at the same time his Victory tax withholding exemption might be less than the amount of his wages so that withholding for Victory tax purposes should take place. In other words, the provision is necessary to insure withholding for Victory tax purposes in the case of single persons with dependents having incomes between \$624 and the applicable exemption under the 20-percent withholding, which ranges upward from \$624 depending on the number of dependents, and in the case of married persons or heads of family with incomes between \$624 and the applicable exemption under the 20-percent withholding, which ranges upward from \$1,248 depending on the number of dependents. To illustrate: John Smith is a married person claiming the whole of the personal exemption for withholding and has one dependent. His weekly wage is \$30. His weekly family status withholding exemption is \$30 (\$24 because he is a married person claiming the whole of the personal exemption for withholding, plus \$6 because of his one dependent). Since his weekly family status withholding exemption equals the amount of his weekly wage, there will be no withholding for normal tax and first-bracket surtax purposes. However, John Smith's weekly Victory tax withholding exemption is \$12, and since his weekly wage is \$30, he has a Victory tax liability, and his employer will withhold \$0.54 (3 percent of \$18).

The specific wage levels at which only the 3-percent rate is applicable are readily ascertainable, and the Commissioner's regulations can furnish a list of those levels so that employers will not need to make computations in order to determine whether the 3-percent or full 20-percent rate is applicable. For example, a married person with one dependent who claims all of the personal exemption for withholding and who receives less than \$33.18 a week will be subject only to a withholding tax of 3 percent on the amount received in excess of the prorated \$624 Victory tax exemption. For all such persons receiving a weekly wage of \$33.18 or over the rate of withholding will be 20

percent on the amount in excess of the applicable family status withholding exemption.

Under the Victory tax withholding provisions the liability for withholding is placed upon the person having control of the payment of wages. Section 1622 under the Senate bill, like the House bill, specifically designates the "employer" as the person required to withhold and collect the tax. This is a clarifying change. A clerical amendment in the House bill eliminated the provision in section 466 (a) which restricts the withholding to wages includible in gross income. The same change is made in the Senate bill. This limitation, which was designed to exclude from withholding the amount of any wage payment exempted under the law from the tax imposed by chapter 1 of the code, is rendered unnecessary by the changes made in the definition of the term "wages." The phrase "to any individual" was stricken from the requirement of withholding in order to avoid any implication that withholding should not apply merely because wages are received by a corporation, such as a corporate executor of a deceased employee.

#### *Withholding exemption.*

The amount of the withholding exemption applicable with respect to any payment of wages is determined under the provisions of section 1622 (b) under the Senate bill. The House bill changed the term "withholding deduction" contained in the Victory tax provisions to "withholding exemption" in order to avoid confusion. The latter designation is also used in the Senate bill. For convenience of reference, the withholding exemption allowable in computing tax at the 20-percent rate has, in the Senate bill, been designated the "family status withholding exemption" and that allowable in computing tax at the 3-percent rate the "Victory tax withholding exemption." The amount of the withholding exemption applicable to all wage payments is determined under the schedules provided in section 1622 (b) and the rules relative to the application of such schedules in certain types of cases are provided in paragraphs (2), (3), and (4) of subsection (b). The schedule of family status withholding exemptions applicable for the purpose of the 20-percent rate provided in subsection (a) (1) is as follows:

#### *Family status withholding exemption*

Payroll period	Single person	Married person claiming whole of personal exemption for withholding or head of family	Married person claiming half of personal exemption for withholding	Married person claiming none of personal exemption for withholding	Each dependent other than the first dependent in the case of the head of a family
Weekly.....	\$12.00	\$24.00	\$12.00	0	\$6.00
Biweekly.....	24.00	48.00	24.00	0	12.00
Semimonthly.....	26.00	52.00	26.00	0	13.00
Monthly.....	52.00	104.00	52.00	0	26.00
Quarterly.....	156.00	312.00	156.00	0	78.00
Semiannual.....	312.00	624.00	312.00	0	156.00
Annual.....	624.00	1,248.00	624.00	0	312.00
Daily or miscellaneous (per day of such period)...	1.70	3.40	1.70	0	.85

The schedule of Victory tax withholding exemptions for the withholding rate of 3 percent is as follows:

Payroll period:	Victory tax withholding exemption
Weekly.....	\$12. 00
Biweekly.....	24. 00
Semimonthly.....	26. 00
Monthly.....	52. 00
Quarterly.....	156. 00
Semiannual.....	312. 00
Annual.....	624. 00
Daily or miscellaneous (per day of such period).....	1. 70

The first schedule was changed in the Senate bill from that contained in the House bill, for the reasons stated above. The latter schedule is the same as that provided in section 466 (b) of the code with the exception of an additional line setting forth the amount of the withholding exemption applicable with respect to wages paid for a single day's service in the case of a daily or miscellaneous payroll period, and the designation, "Victory tax withholding exemption." Except for the designation, the schedule is the same as that in the House bill. Under the rules prescribed in paragraphs (2) and (3) of the subsection, the daily or miscellaneous payroll period exemption will be used for computing the amount of the withholding exemption in the case of wages paid on a daily basis, for any period not otherwise provided for in the schedules, or for wages paid without regard to any period. For instance, in the case of wages paid for a 10-day payroll period, the amount of the withholding exemption applicable is \$1.70 per day multiplied by the number of days in such period, or \$17. The same rules apply to the withholding exemption schedule applicable for the purpose of computing the tax at the 20-percent rate.

The rules prescribed in paragraphs (2), (3), and (4) of section 1622 (b) are the same in substance as those provided in paragraphs (2), (3), and (4) of section 466 (b) of the code, and the same as those in the House bill. The Senate bill inserts "withholding" before "exemption." This is a clarifying change.

Paragraph (4) of section 1622 (b) is substantially the same as paragraph (2) of section 466 (b) of the code except that it is made clear that the rule there prescribed is applicable only if authorized by the Commissioner under appropriate regulations. Under this provision, if wages are paid for a period of less than a week or, in the case of wages paid without regard to any period, if the time described in paragraph (3) is less than 1 week, the employer may, if so authorized by the Commissioner, compute the amount of the tax on the basis of the excess of the wages paid during the calendar week over the withholding exemption allowable for a weekly payroll period. If the employer is not authorized to use such method, the tax will be based upon the excess of the wages paid, prorated on a daily basis, over the amount of the daily withholding exemption of \$1.70. The application of this provision is illustrated by the following example:

If a married person (having no dependents) claiming all of the personal exemption for withholding receives in a calendar week \$8 per day for 4 days, his employer may be authorized to withhold upon the amount in excess of \$24 (or \$8) at 20 percent, so that the total amount withheld would be \$1.60. Hence, under such method withholding

would apply beginning with the payment made for the fourth day, since the employee would have received \$24 for the first 3 days. On the other hand, if not so authorized, the employer must use the amounts specified in the schedules for a daily or miscellaneous payroll period, in which case the amount withheld for each day would be 20 percent of the excess of \$8 over \$3.40 (\$4.60), or \$0.92, and the total amount withheld would be four times the latter amount, or \$3.68.

Paragraph 5 of section 1622 (b) under the Senate bill is a new provision which, in order to simplify the work of the employer who withholds under the schedule method, permits him to round out the wages to the nearest dollar in computing the amount of tax to be withheld.

Paragraph (5) of section 466 (b) of the code provides that the total withholding exemption allowed an employee with respect to wages received from any one employer during the calendar year shall not exceed the amount of the withholding exemption allowable for an annual payroll period. This limitation operates to prevent an excessive withholding exemption and consequent underwithholding of the tax in those cases in which the employee receives regular wages plus additional wages in the form of bonuses, commissions, etc. The Senate bill, like the House bill, eliminates this paragraph as unnecessary. Under section 1622 (i) in the Senate bill, the Commissioner is vested with authority to provide appropriate rules for the determination of the withholding exemption applicable in such cases under which the withholding exemption allowed to an employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

#### *Wage bracket withholding.*

Under the provisions of section 1622 (c) under the Senate bill, employers may at their option withhold a tax determined under tables provided in such section to be deducted from each wage payment. Such tax shall be in lieu of the tax computed under the percentage rates and required to be withheld under the provisions of subsection (a). The change made in subsection (b) under the Senate bill with respect to the withholding exemption made it possible to provide one table applicable to each payroll period for all employees, regardless of their marital and dependency status. The resulting redesigning and reduction in the number of tables should substantially simplify the employer's task and the amounts withheld will very closely approximate the amounts which would be withheld under the more numerous tables of the House bill. Under this section, tables are provided for weekly, biweekly, semimonthly, and monthly payroll periods. For the convenience of employers making payment of wages for payroll periods other than those comprehended by the above-mentioned tables, or for periods which do not constitute a payroll period, or making payment of wages without regard to any particular period of time, a further table described as the table applicable to a daily payroll period or a miscellaneous payroll period is provided. Under this table the amount of the tax required to be withheld is determined by multiplying the amount of tax shown opposite the particular daily wage bracket by the number of days in the period for which wages are paid or, in the case of wages paid without regard to a period of time, by the number of days which have elapsed between such wage payments, since the date of commencement of employment

during the calendar year, or January 1, of the calendar year, whichever is the later.

The rules relating to the application of the above-mentioned tables to specific types of cases are prescribed in paragraphs (2), (3), and (4) of section 1622 (c) under the Senate bill. These rules are in substance the same as those prescribed in paragraphs (2), (3), and (4) of section 466 (b) of the code, and are identical, apart from minor changes, with those prescribed in the House bill, for the purpose of determining the amount of the withholding exemption in cases where the tax is determined by application of the percentage rate to the wages paid. For example, if wages are paid for a period which does not constitute a payroll period, paragraph (2) of section 1622 (c) provides that the amount of tax to be withheld shall be computed by multiplying the tax shown opposite the appropriate wage bracket in the miscellaneous table by the number of days contained in the period for which such wages were paid. Paragraph (4) of that section provides that if wages are paid for a period of less than 1 week the employer may be authorized by the Commissioner to compute the tax under the table applicable in the case of a weekly payroll period. If the employer is authorized to use the table applicable to the weekly payroll period, the aggregate of the wages paid to the employee during the calendar week shall be considered as the weekly wage.

Paragraph 5 of section 1622 (c) under the Senate bill is a new provision which, in order to simplify the work of the employer who withholds under the table method with respect to employees whose wages exceed the highest wage bracket in any table, permits him to round out the wages to the nearest dollar in computing the amount of tax to be withheld.

#### *Tax paid by recipient.*

Section 1622 (d) under the Senate bill is substantially the same as section 466 (d) of the code and the corresponding provision of the House bill. However, the language has been changed in order to make clear that nothing contained in the subsection should be construed to relieve the employer of the duty imposed by law to withhold and pay the tax. Under this provision, payment by the recipient of the income of the tax required to be withheld by the employer relieves the employer from payment of the tax but does not relieve him from liability for additions to the tax or penalties for failure to withhold, collect, and pay the tax in accordance with the provisions of the subchapter.

#### *Nondeductibility of tax.*

Section 1622 (e) under the Senate bill provides that the tax withheld and collected at the source on wages shall not be allowed as a deduction either to the employer or the recipient of the income in computing net income. However, provision is made by an amendment to section 35 of the code for credit for tax withheld at source in the case of the recipient of the income. This represents a clerical change from the House bill.

#### *Refunds or credits.*

Subsection (f) provides that the refund or credit of any overpayment of the tax required to be withheld and collected shall be made to the employer only to the extent that the amount of the overpay-

ment was actually withheld and collected from the employee. The provision differs from the House bill by reason of the fact that the provisions of law applying to the Social Security tax on employees under section 1400 have been made applicable. The subsection contains a cross-reference to the provision for credit or refund to recipients of income in the case of excessive withholding.

*Included and excluded wages.*

Subsection (g) under the Senate bill is identical with the corresponding provision of the House bill. This subsection provides that if the remuneration paid for services performed during one-half or more of any payroll period constitutes wages, all the remuneration paid for such period shall be deemed to be wages; but if the remuneration paid for services performed during more than one-half of such payroll period does not constitute wages, then none of the remuneration paid for such period shall be deemed to be wages. The subsection has application only to remuneration paid for a period of not more than 31 consecutive days which constitutes an established payroll period within the meaning of the definition contained in section 1621 (b). It has no application to remuneration paid at irregular intervals or to remuneration paid without regard to any period. The 31-day limitation is intended to minimize changes in pay periods in order to avoid withholding.

*Withholding exemption certificates.*

Subsection (h) of section 1622 under the Senate bill requires every employee receiving wages to furnish his employer a signed withholding exemption certificate in such form and containing such information as the Commissioner may, with the approval of the Secretary, by regulations prescribe. The purpose of the certificate is to enable the employer to determine the amount of the withholding exemption applicable to the wages of each employee or, if the employer elects under section 1622 (c) to adopt wage-bracket withholding, the amount to be withheld under that subsection. The status of the employee as single person, married person claiming all of personal exemption for withholding, married person claiming half of personal exemption for withholding, married person claiming none of personal exemption for withholding, head of family, and the dependents to be taken into account by the employer for withholding purposes, are to be determined in accordance with the certificate furnished by the employee. Once in effect a certificate is to continue in effect until another certificate furnished by the employee takes effect. If no certificate is in effect with respect to an employee, the employer is to treat such employee as a married person claiming none of the personal exemption for withholding so that with respect to such employee there will be no withholding exemption in effect. Similarly, if the employer uses the wage-bracket tables, the amounts to be withheld from the wages of an employee with respect to whom there is no withholding certificate in effect are to be determined in accordance with the tables provided in the case of a married person claiming none of the personal exemption for withholding. In case of a change of status, the employee is required to furnish a new certificate not later than 10 days after such change occurs. This is a change from the House bill, designed to make clear that in the case of a change of status the employee must furnish a new certificate showing that change.

Under the House bill, changes in the employee's withholding exemption status are permitted at any time, but it is provided that the employer shall have at least 30 days from the date of notification of a change in status before being required to give effect to such change. Under subsection (h) of the Senate bill the employer is not required to give effect to a change in status more than twice during each calendar year. The modified rule is as follows:

(1) If the employee furnishes a withholding exemption certificate after the date of commencement of employment, the certificate is to take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days from the date on which such certificate is furnished. For the purposes of this provision, the status determination dates are fixed as January 1 and July 1 of each year. These provisions are a modification of those under the House bill, designed to allow employers ample time in which to adjust payroll and other accounting records to conform to the withholding exemption certificates furnished by employees after the date of commencement of employment. Wherever feasible, however, employers may give earlier effect to such certificates. (2) If the employee furnishes a withholding exemption certificate on or before the date of commencement of employment, the certificate is to take effect as of the beginning of the first payroll period ending on or after the date on which the certificate is furnished or with respect to the first payment of wages made without regard to a payroll period on or after such date.

The rules set forth under (1) above are applicable to all wage earners who are employed on July 1, 1943, when the new withholding provisions take effect. The rules under (2) above apply in the case of new employment or reemployment, after an interruption in employment with the same employer, occurring after July 1, 1943. In applying these rules in the case of an employee intermittently hired and rehired by the same employer at frequent intervals, such employee shall be deemed to have commenced his employment at the time of the first hiring.

*Overlapping pay periods, etc.*

Section 1622 (i) under the Senate bill authorizes the Commissioner, under regulations prescribed with the approval of the Secretary, to provide suitable rules for the determination of the withholding exemption and the application of the wage-bracket tables with respect to various types of wage payments which do not fall readily within the statutory pattern which is necessarily designed to fit the customary type of periodic wage payments. The problems intended to be covered by these regulations are those arising generally in case of supplementary payments in the form of bonuses, commissions, dismissal wages, and the like, made in addition to periodic wage payments, and payments made with respect to periods beginning in one calendar year and ending in a different calendar year. The Senate bill changed the language of the corresponding provision of the House bill in order to make clear that the purpose of this provision is to limit the withholding exemption allowed to an employee in any calendar year to an amount approximating the withholding exemption allowable with respect to an annual payroll period.

Payments supplementary to periodic wage payments are made in various ways. Such payments may consist of commissions or bonuses paid each payroll period and covering the same or different periods as the regular wage payment or they may be made without regard to any particular period. The actual payment of the supplementary remuneration may or may not coincide with an actual payment of periodic wages. Such payments of supplementary remuneration raise the problem as to the proper handling of the withholding exemption and the wage-bracket tables in order to provide for the allowance of the appropriate withholding exemption and the deduction of the appropriate amount of tax.

For example, an employee's remuneration may consist of wages paid at periodic intervals plus additional wages in the form of a bonus paid at the end of each 6 months' period. If the tax required to be withheld and collected at the source is computed independently with respect to each such payment of wages, after giving effect to the withholding exemption applicable to each such payment, it is apparent that such employee will have been allowed the entire amount of the withholding exemption to which he is entitled for a full calendar year. Hence, he should not be entitled to any withholding exemption with respect to wage payments made by the same employer during the balance of the calendar year. The same result would obtain if the tax on the periodic wage payments was withheld under the table applicable to such periods and the tax on the bonus was withheld on the percentage basis after allowance of the amount of the withholding exemption applicable to a 6 months' period. It is obviously more desirable to have the withholding exemption to which the employee is entitled spread over the wage payments for the entire calendar year. Moreover, it is considered undesirable to burden the employer with the necessity of keeping records in order to determine at a given time the aggregate amount of the withholding exemption previously allowed to the employee.

Under the Senate bill, as in the House bill, the maximum amount allowable as a withholding exemption to an employee with respect to the wages paid by any one employer during the calendar year should approximate the amount of the withholding exemption allowed for an annual payroll period, whether such exemption is based on the schedules provided in subsection (b) of section 1622 or is reflected in the tables contained in subsection (c). For these reasons, it is expected that the Commissioner will provide reasonable regulations for the appropriate treatment of all such supplementary or overlapping wage payments. Such regulations should insure, on the one hand, that the amount of tax withheld by the employer will approximate the amount that would be withheld and collected if all wages paid to the employee by such employer were paid at periodic intervals throughout the calendar year and, on the other hand, that the employee will receive the benefit of withholding exemptions approximating in the aggregate the amounts specified under the schedules for an annual payroll period.

*Withholding on basis of average wages.*

The Senate bill added a new provision, which is contained in subsection (j), to permit withholding to be based on average wages. Under this provision, the Commissioner may, under regulations,



authorize employers to estimate the wages which will be paid to any employee in any quarter of a calendar year; determine the amount to be withheld and collected upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and to withhold and collect upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually withheld and collected upon the wages of such employee during such quarter to the amount otherwise required to be withheld during such quarter. This provision is designed to promote the efficient functioning of the withholding system in cases where there is steady employment and little fluctuation in wages between pay periods, so that a reasonably accurate average can be estimated, and it is expected that the Commissioner's regulations will prescribe rules appropriate to that end.

*Liability for tax.*

Section 467 of the code consists of subsections (a), (b), and (c). The House bill changed the headings and combined subsections (a) and (b) into new subsection (a). These were clerical amendments made because of the new definition of the term "employer" contained in section 465 (d) under the House bill and effected no substantive change in the law. Subsection 465 (b) under the House bill, relating to adjustments, was identical with section 467 (c) of the code. Under the Senate bill the corresponding section (sec. 1623) omits the provision for adjustments, since the adjustment authorization provision of section 1401 (c) of the code is made applicable.

*Returns.*

The House bill provides for quarterly returns by the employer of tax withheld at source. The Senate bill omits the House provisions with respect to return and payment of the tax by employers. These requirements, under the Senate bill, are governed by the applicable provisions which apply to the tax imposed by section 1400. The provisions of the House bill relating to the determination of deficiencies have also been omitted in the Senate bill.

The change in the Senate bill from a system of collection, payment, and administration based upon the principles applicable to the income tax to a system of collection, payment, and administration based upon the principles underlying the collection of the social-security tax on wages has been made in order to promote efficiency and flexibility in the administration of the tax by the Government and the operations of the employer thereunder. This change, however, does not contemplate any departure from the basic principle that the responsibility and legal duty for withholding and paying the tax, etc., rests with the employer. In view of this basic principle, the Senate bill, in section 1624, retains the provision of the House bill that if the United States, a State, Territory, or political subdivision, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing is the employer, the return of the tax may be made by the officer or employee having control of the payment of wages or other officer or employee appropriately designated for that purpose.

*Receipts.*

Section 469 of the code, relating to receipts, was amended by the House bill in two respects. Subsection (a) of section 469 was amended to eliminate the language which requires the employer to show on the receipt the period of employment covered by such receipt. As so amended, the section would specifically require only that the receipts show the amount of wages paid and the amount of tax withheld with respect thereto. The Commissioner is granted authority to prescribe by regulations the form and content of such receipts and, if he finds it necessary, he may require that the periods of employment be shown. Subsection (b) of section 469 of the House bill provided that the receipts should be in lieu of the information returns with respect to wages, but information returns would still be required with respect to remuneration not subject to withholding. Under the Senate bill, these House provisions are retained as section 1625 (a) and (b), and a clerical amendment is made in the heading and in the reference to "subchapter" rather than "part." The Senate bill contemplates that a duplicate of each receipt shall be furnished to the Government and provides that the furnishing of such duplicates shall be in lieu of the filing of form 1099 information returns.

Subsection (c) of section 1625 under the Senate bill alters the provisions relating to extension of time for the furnishing of receipts to employees. By the terms of the amendment the Commissioner under regulations prescribed by him with the approval of the Secretary is empowered to grant to any employer a reasonable extension of time (not in excess of 30 days) with respect to the receipts required to be furnished to employees. Thus, the extension privilege will no longer be limited to the receipt to be furnished on the day on which the last payment of wages is made but may be applied in the case of receipts to be furnished at the close of the calendar year.

*Penalties.*

Under the House bill subsections (a) and (b) of section 470, relating to penalties for fraudulent receipts or failure to furnish receipts, are identical with existing law. Under the Senate bill these penalty provisions remain substantially the same. The section has been renumbered as section 1626 and certain other clerical amendments have been made to adjust the provisions to the section of chapter 9 of the code.

Under the House bill subsection (c) of section 470 was amended to increase from \$5 to \$10 the minimum addition to the tax for failure by the employer to make and file a return required by this subchapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law. The Senate bill retains this provision as section 1626 (c) with clerical changes required by the shift to chapter 9 of the code.

Section 470 (d) was a new provision added to the code by the House bill. This section provides appropriate penalties applicable to employees who willfully supply false or fraudulent withholding exemption certificates or who willfully fail to supply information which would decrease the withholding exemption. The penalty in each instance is a fine of not more than \$500 or imprisonment of not more than 1 year, or both, and such penalties are in lieu of those provided in section 145 (a) of the code. This provision with minor

modifications is retained in the Senate bill as section 1626 (d). As amended the statutory language makes clear that the penalties are applicable in the case of an employee who willfully supplies false and fraudulent information, or who willfully fails to supply information, which would require an increase in the tax to be withheld at source on his wages. Reference to section 145 (a) was eliminated because of the change from chapter 1 to chapter 9 of the code.

Under the bill as passed by the Senate, as has been previously noted, the withholding provisions have been shifted to chapter 9 of the code. To reflect this technical alteration an additional section has been added to the withholding provisions, namely, section 1627, and a subchapter E, to follow subchapter D of chapter 9, has been added. These new provisions are discussed below.

#### *Other Laws Applicable.*

Section 1627 under the Senate bill provides that all provisions of law, including penalties, applicable with respect to the social-security tax on employees imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of new subchapter D of chapter 9, be applicable with respect to the tax imposed under that subchapter.

#### *Verification of Returns.*

Subchapter E of chapter 9 under the Senate bill contains certain provisions which will apply to chapter 9 generally. Under that bill there are two sections in subchapter E, namely, section 1630 and section 1631.

General provisions with respect to verification of returns, and related matters, are contained in section 1630. The Commissioner is empowered under subsection (a) to require that any return, statement, or other document required to be filed under chapter 9 shall contain or be verified by a written declaration that such return, statement, or other document is made under the penalties of perjury. To exercise this power the Commissioner is to prescribe appropriate regulations with the approval of the Secretary. The subsection makes clear that the declaration made under the penalties of perjury shall be in lieu of any oath otherwise required. Thus, the regulations may provide that the oath may be dispensed with in the case of employers making returns under chapter 9.

Subsection (b) of section 1630 provides for penalties in the case of a person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter. The subsection states that such person shall be guilty of a felony, and, upon conviction, shall be subject to the penalties prescribed for perjury in section 125 of the Criminal Code.

#### *Special Provision for Payment of Withheld Taxes.*

Section 1631 relates to the use of incorporated banks or trust companies (which are depositaries or financial agents of the United States) in connection with the payment of taxes under chapter 9. Under this section the Secretary may authorize such incorporated banks and trust companies to receive any taxes under chapter 9 in such manner, at such times, and under such conditions as he may prescribe. If the

Secretary should make such authorization, he shall prescribe the manner, times, and conditions under which the receipt of chapter 9 taxes by authorized incorporated banks and trust companies is to be treated as payment of such taxes by the collectors. Withholding under the new system will involve very considerable amounts of tax moneys which will be withheld from the wages of employees. These funds will not belong to the employers. It may well prove desirable to provide a method by which these funds will be turned over by employers, and reach their way into the Treasury, more rapidly and more currently than, for example, on a quarterly basis. The purpose of section 1631 is to provide a flexible method by which this objective may be accomplished without placing an undue strain on the administrative tax collection machinery.

*Technical amendments.*

Section 2 (b) of the House bill was a technical amendment changing the heading of subchapter D of chapter 1 of the Internal Revenue Code. This amendment is unnecessary under the new structure provided in the Senate bill; accordingly, section 2 (b) of the Senate bill contains other technical amendments in keeping with the rearrangement effected thereunder. Paragraph (1) amends section 34 of the code by omitting reference to section 466 (c), relating to credit for Victory tax withheld at source under the system in effect prior to July 1, 1943. Paragraph (2) amends section 322 (f) of the code, which is likewise a cross-reference provision, to provide a cross-reference to section 1622 (f), relating to refunds or credits to employers and to recipients of income, instead of to section 466 (f), the present credit provision relating to the Victory tax.

Section 476 of the code provides that the taxes imposed by subchapter D of chapter 1 shall not apply to any taxable year commencing after the date of cessation of hostilities in the present war. Section 2 (c) of the House bill amends section 476 to limit the application of this provision to the Victory tax imposed by part I of subchapter D of chapter 1. Section 2 (c) of the Senate bill amends section 476 so that the tax imposed by part II of subchapter D of chapter 1 shall not apply with respect to any wages paid after June 30, 1943. Wages (as defined in sec. 1621 (a)) paid after that date will be subject to the provisions of subchapter D of chapter 9.

*Effective date.*

Section 2 (d) of the Senate bill, relating to the effective date, provides that the amendments made by section 2 (a) and (b) shall take effect on July 1, 1943, and shall be applicable to all wages paid on or after such date.

CONFERENCE AMENDMENT.

The conference amendment retains with the following changes the provisions of the Senate bill with respect to collection of income tax at source on wages:

In section 1621 (b) the word "daily" has been inserted in the definition of a miscellaneous payroll period. This is a clerical change.

In section 1622 (b) (2) and section 1622 (c) (2) the parenthetical expression "(including Sundays and holidays)" has been inserted in the interest of clarity.

Paragraph (5) of section 1621 (c) provides that in determining the amount to be deducted and withheld under the table method the wages may, at the election of the employer, be computed to the nearest dollar. This provision has been changed to qualify the rule so as to make it clear that it is applicable only if the wages exceed the highest wage bracket in the applicable table. Thus, the rule is applicable in the case of a weekly payroll period where the weekly wage exceeds \$200.

The provisions of section 1622 (h) have been amended in order to provide more logical rules for the effective date of withholding exemption certificates. The first rule, contained in paragraph (1), has been limited to certificates furnished after the date of commencement of employment with the employer by reason of a change of status. The second rule, contained in paragraph (2), has been extended to include the case of any certificate furnished otherwise than by reason of a change of status.

Section 1622 (h) has also been amended by adding the expression "and having no dependents". The purpose of this change is to avoid any misapprehension as to the consequences in a case where no withholding certificate is in effect.

A new paragraph (4) has been added to section 1621 (i). This paragraph authorizes the Commissioner, with the approval of the Secretary, to prescribe regulations for determining the manner of withholding and the amount to be deducted and withheld, in the case of a payment of wages by an employer to an employee through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee. In such a case the withholding exemption of the employee for any one year is to approximate the withholding exemption allowable with respect to an annual payroll period. To illustrate the application of this provision: Five companies maintain a central agency which carries on the administrative work of the companies. This central agency or organization consists of a staff of stenographers, clerks, bookkeepers, and so forth. The expenses of the central agency, including wages paid to the foregoing employees, are borne by the companies in certain agreed proportions. Under the arrangement, each company is the employer of each employee on the staff of the central agency. Under the provisions of new paragraph (4), the Commissioner is authorized to provide that each such employee will be entitled in any one year only to an aggregate withholding exemption which shall approximate the withholding exemption allowable with respect to an annual payroll period, rather than to five such withholding exemptions.

A complementary provision has been inserted as new section 1632. This section is made a part of subchapter E of chapter 9 of the code. Consequently, its provisions are applicable with respect to all of the taxes imposed under chapter 9. This section provides that in case a fiduciary, agent, or other person has the control, receipt, custody, or disposal of, or pays, the wages of an employee or group of employees, employed by one or more employers, the Commissioner, under regulations prescribed by him with the approval of the Secretary, is authorized to designate such fiduciary, agent, or other person, to perform such acts as are required of employers under chapter 9 and as the Commissioner may specify. If such designation is made, all

provisions of law (including penalties) applicable in respect of an employer shall be applicable to such fiduciary, agent, or other person so designated, except as may be otherwise prescribed by the Commissioner with the approval of the Secretary. However, except as so provided, the employer for whom such fiduciary, agent, or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

Thus, in the illustration given above of the five companies maintaining a central agency to carry on their administrative work, the Commissioner may designate such central agency or organization to perform such of the acts with respect to withholding, return and payment of the tax, the furnishing of receipts, and so forth, as the Commissioner may specify. However, such a designation relieves the employer of responsibility only to the extent that the Commissioner prescribes.

The expression "an employee" contained in section 1622 (i), following paragraph (4) of that subsection has been changed to "the employee". This is a clarifying change.

Section 1625 (c), relating to extensions of time for the furnishing of receipts, has been changed by striking out the words "to employees". This is a clarifying change designed to make certain that the Commissioner's authority to grant extensions of time for the furnishing of receipts extends to the receipts required to be furnished by the employer with his return of withheld taxes.

Sections 2 (c) and (d), relating respectively to the expiration date of the withholding provisions of the Victory tax (Part II, subchapter D of chapter 1 of the code) and the effective date of the withholding provisions under subchapter D, chapter 9 of the code, have been changed. The change with respect to the expiration date of withholding under the Victory tax provides that such withholding shall not apply with respect to any wages paid after June 30, 1943, unless such wages are paid during the calendar year 1943 with respect to a payroll period beginning on or before June 30, 1943. The change with respect to the effective date of withholding under the bill provides that such withholding shall take effect July 1, 1943, and shall be applicable to all wages paid on or after such date, except that it shall not be applicable to wages paid during 1943 with respect to a payroll period beginning before July 1, 1943.

#### MISCELLANEOUS AMENDMENTS

##### DESCRIPTION OF HOUSE AND SENATE BILLS.

###### *Credit for tax withheld at source on wages.*

Section 3 of the Senate bill amends section 35 of the code to provide that the amount of the tax withheld and collected under subchapter D of chapter 9 shall be allowed as a credit to the recipient of the income against the income (including Victory) tax imposed by chapter 1. The credit for the amount withheld during any calendar year upon the wages is to be allowed as a credit to the recipient of the income against the tax for the last taxable year beginning in such calendar year. Apart from a clarifying change this provision is substantially the same as the corresponding provision in the House bill.

*Excessive withholding.*

Section 4 (a) of the Senate bill, which amends section 322 (a) (2) of the code, relating to excessive withholding, is the same in substance as section 3 (a) of the House bill, which made a clarifying amendment to section 322 (a) (2).

*Authority to make credits against estimated tax.*

Section 4 (a) also adds a new paragraph (3) to section 322 (a). This provision authorizes the Commissioner to prescribe with the approval of the Secretary regulations providing for a credit against estimated tax for any taxable year of the amount determined by the taxpayer or the Commissioner to be an overpayment of the tax for a preceding taxable year.

Under the new procedure in the declaration and payment of the estimated tax (the first installment of which will generally be payable at the same time as the making of the return and final payment of the tax for the preceding taxable year) a class of cases will arise in which it is apparent that the tax for the preceding taxable year has been overpaid. The Commissioner should have the same authority to credit an overpayment of the tax for a preceding taxable year against the estimated tax for the current taxable year as he has under existing law with respect to the tax for the current taxable year. Permitting the taxpayer on his return or on his declaration to compute the overpayment and credit it against his estimated tax in his declaration would obviate unnecessary remittances by the taxpayer of the estimated tax and unnecessary refunds by the Commissioner. The administration of the provisions of the bill may therefore require some crediting procedure as to the estimated tax in addition to that now provided in section 322 (a) (1).

In the absence of administrative experience in the field, it seemed wiser, in providing such additional credit, not to require the credit to be made or permitted, but to grant authority to the Commissioner to make or permit this type of credit, together with authority by regulation to specify the terms, conditions, extent, and effect of the credit to be made or permitted to be made. Among the matters to be covered by the regulations if the authority is exercised are—

(1) Whether and to what extent and under what conditions the taxpayer shall be allowed to take the credit on his declaration; and (2) whether the effect of the credit (whether taken by the taxpayer or made by the Commissioner) is to be like the credit allowed under section 35 of the code or like the credit specified by section 322 (a) (1). If, under this provision, the Commissioner authorizes a credit against the estimated tax of the character of that prescribed in section 322 (a) (1), such credit will constitute a payment of the estimated tax both generally and for the purposes of section 59 (b); and if the determination of the overpayment proves to have been erroneous, the year for which the overpayment was determined is adjusted.

*Presumption as to date of payment.*

Section 4 (b) of the Senate bill amends section 322 (e) of the code, relating to presumption as to date of payment, to include tax actually withheld and collected at the source under subchapter D of chapter 9; to insure the application of the rule to the proper taxable year; and to provide for the application of the same rule with respect to payments of estimated tax.

*Delegation of authority to collectors to make refunds.*

Subsection (c) of section 4 of the Senate bill amends section 3770 (a) of the code, relating to authority to make refunds. New paragraph (4) has been added which authorizes the Commissioner to delegate, with the approval of the Secretary, to the various collectors any authority, duty, or function which the Commissioner is required to exercise or perform with respect to the making of refunds, and the like, in respect of any individual, estate, or trust, where the amount involved does not exceed \$1,000. This provision makes it possible for the Commissioner to delegate to the collectors the function of making refunds of such amounts, not in excess of \$1,000, as the Commissioner may prescribe. This provision will permit the administrative authorities to handle refunds more expeditiously.

*Rule where no tax liability.*

Section 4 (d) of the Senate bill adds new subsection (c) to section 3770 of the code. Under this provision an amount paid as tax shall not be considered not to constitute an overpayment solely because there was no tax liability in respect of which that amount was paid.

The income-tax law requires the taxpayer to make a return of his tax and to pay the tax so returned. These requirements contemplate that in the discharge of these duties at the time, place, and manner prescribed, honest mistakes will occur—mistakes both as to the amount of the tax and as to the existence of any tax liability; and that such honest mistakes made incident to the bona fide orderly compliance with the actual or reasonably apparent duties of the taxpayer are to be corrected under the provisions of law governing overpayments. It is believed that existing law so provides. The language of certain court decisions (holding that certain payments, not made incident to a bona fide and orderly discharge of actual or reasonably apparent duties imposed by law, are not overpayments and accordingly that interest is not payable) has been read by some as meaning that no payment can result in an overpayment if no tax liability actually existed. It is not believed that such reading is in any way a statement of existing law. The provisions of the bill, however, emphasize the need for clarity in this regard.

Under the bill as passed by the Senate, two requirements become basic features of the income tax: (1) The declaration and payment of the estimated tax; and (2) the withholding and collection by the employer of tax from the wages of employees, and the return and payment as such of the amount by the employer to the Government. Honest mistakes incident to faithful and orderly compliance will, of course, occur, just as they have in the older procedures of the tax. The doubts expressed as to the existence of an overpayment in case it ultimately turns out that there is no tax, it is believed should be put to rest, and to this end the amendment to section 3770 of the code was inserted in the Senate bill. It is thought that the code does not contemplate that liability for interest can be cast on the Government by merely dumping money as taxes on the collector, by disorderly remittances to him of amounts not computed in pursuance of the actual or reasonably apparent requirements of the code, or not transmitted in accordance with the procedures set up by the code, or by other abuses of tax administration. As to these, a proper application of existing law will enable the courts, in the future as generally in the past, to deny treatment as overpayments to these improper payments.



*Cross reference.*

Section 4 (e) of the Senate bill changes the designation of the last subsection of section 3771 to subsection "(f)". This is a cross reference provision.

*Review of allowance of interest.*

Section 4 (f) of the Senate bill corresponds to section 3 (b) of the House bill and amends section 3790 of the code relating to prohibition of administrative review of the Commissioner's decision on the merits of claims presented under the internal revenue laws. Because of the difficulty of applying the rules provided in the House bill, the Senate bill has extended the scope of section 3790 to include interest on any credit or refund under the internal revenue laws.

## CONFERENCE AMENDMENT.

The conference amendment retains with the following changes the provisions of the Senate bill covering miscellaneous amendments:

Section 4 (a) of the Senate bill, amending section 322 (a) (2) of the code (relating to excessive withholding), has been amended to make clear that where the amount of the tax withheld at source on wages is in excess of the income (including Victory) tax imposed by chapter 1, the amount of such excess shall be considered an overpayment. This amendment does not effect any change in substance.

Section 4 (b) of the Senate bill, which amends section 322 (e) of the code (relating to presumption as to date of payment) has been amended in two respects: First, it has been changed to provide that the tax actually deducted and withheld at the source on wages shall be deemed to have been paid by the recipient of the income not earlier than the fifteenth day of the third month following the close of his applicable taxable year; second, a clerical change is made, which omits the reference to the case of a nonresident alien individual. This second change is required by reason of the conference change which makes the return date of certain nonresident alien individuals the same as the return date for citizens and residents of the United States.

Section 4 (c) of the Senate bill, which amends section 3770 (a) of the code by authorizing delegation of authority to collectors to make refunds, has been changed to make clear that the amount involved, i. e., \$1,000, is to be determined without regard to interest, penalties, additions to the tax, and additional amounts. Such items are, however, within the scope of the authorized delegation.

The references throughout the foregoing portion of the bill to withholding at the source have been made uniform, so that the reference now is to "deduction and withholding". These are clerical changes, and do not effect any change in substance.

## CURRENT PAYMENT OF TAX NOT WITHHELD AT SOURCE

## DESCRIPTION OF HOUSE AND SENATE BILLS.

The House bill provided for a system of current payment of individual income tax only to the extent of a so-called estimated basic tax (net Victory tax plus normal tax plus first-bracket surtax) on income not constituting wages subject to withholding at source. The system proposed under the Senate bill provides for the current col-

lection of all individual income (including Victory) tax on income to the extent that such taxes are not paid through withholding at source.

Section (5) of the Senate bill strikes sections 58, 59, and 60 of the code, which are cross-reference provisions, and inserts in lieu thereof new sections 58, 59, and 60 to provide for the current payment of that portion of the individual's tax liability not required to be withheld at source. Withholding at source is at a rate designed to approximate the net Victory tax, the normal tax, and first-bracket surtax and applies only with respect to wages (as defined in sec. 1621). The current payment system is designed to provide for collection during the taxable year of the remaining tax liability for such year. Accordingly, it provides for the current collection of the net Victory tax on income not subject to withholding at source, for the current collection of the surtax above the first bracket on wages, and for the current collection of the normal tax and surtax on income not subject to withholding at source. The amount of the current payment is to be determined upon the basis of a declaration by the taxpayer of his estimated tax liability for the current taxable year.

*Requirement of declaration.*

Subsection (a) of section 58 under the Senate bill prescribes the rules for determining what persons are required to make a declaration of estimated tax. Nonresident aliens and estates and trusts are specifically excepted from the requirement to make such declaration and from the current payment system. Under the House bill, nonresident alien individuals who are residents of a contiguous country and who enter and leave the United States at frequent intervals were not excepted from the requirement for a declaration. The Senate bill excepted all nonresident aliens from the operation of the current payment system.

The requirements as to who shall make and file a declaration are based generally upon the amount and kind of the estimated gross income for the current taxable year or the amount and kind of the actual gross income for the preceding taxable year, and the personal status of the individual as single or married at the time prescribed for the making of the declaration. Under the House bill, the amounts of gross income which determined the necessity for a declaration of estimated tax were based upon the amounts which determined the necessity for a return under section 51. Under the Senate bill provision is made for declarations of estimated tax in certain cases by persons required to make returns of Victory tax under the provisions of section 455, even though such persons would not be required to make returns under the provisions of section 51. These amendments are designed to collect the Victory tax currently in the case of individuals who are not subject to withholding at the source and to equalize the system of current collection as between such persons and persons subject both to the Victory tax and the regular income tax.

Under the conditions set forth in section 58 (a) in the Senate bill every individual who, at the time prescribed for the making of the declaration, is single or is married but not living with husband or wife shall make and file a declaration of his estimated tax for the taxable year if—

- (1) His gross income from wages (as defined in sec. 1621) can reasonably be expected to exceed \$2,700 for the taxable year; or

(2) His gross income from wages (as defined in sec. 1621) did exceed \$2,700 for the preceding taxable year; or

(3) It can reasonably be expected that for the taxable year his gross income from sources other than wages (as defined in sec. 1621) will exceed \$100 and his gross income from all sources will amount to \$500 or more; or

(4) His gross income for the preceding taxable year from sources other than wages (as defined in sec. 1621) did exceed \$100 and his gross income from all sources for the preceding taxable year was \$500 or more.

Every individual who, at the time prescribed for the making of the declaration, is married and living with husband or wife shall make a declaration of his estimated tax for the taxable year if—

(1) It can reasonably be expected that for the taxable year, such individual will receive gross income from wages (as defined in sec. 1621) and the aggregate gross income of such individual and such spouse from wages will exceed \$3,500; or

(2) In the preceding taxable year, such individual received gross income from wages (as defined in sec. 1621) and the aggregate gross income of such individual and such spouse from wages exceeding \$3,500; or

(3) It can reasonably be expected that for the taxable year such individual will receive gross income from sources other than wages (as defined in sec. 1621), the aggregate gross income of such individual and such spouse from sources other than wages will exceed \$100, and (a) the gross income from all sources of such individual will exceed \$624 or (b) the aggregate gross income of such individual and such spouse from all sources will amount to \$1,200; or

(4) In the preceding taxable year such individual received gross income from sources other than wages (as defined in sec. 1621), the aggregate gross income of such individual and such spouse from sources other than wages exceeded \$100, and (a) the gross income from such sources of such individual for the preceding taxable year exceeded \$624, or (b) the aggregate gross income from all sources of such individual and such spouse for the preceding taxable year was \$1,200 or more.

For the purposes of section 58, the amount of the gross income which the taxpayer can reasonably be expected to receive or, in the case of a taxpayer upon the accrual basis, the amount which can reasonably be expected to accrue, shall be determined upon the basis of the facts and circumstances existing as of the time prescribed for the making of the declaration.

#### *Contents of declaration.*

Subsection (b) of section 58 in the Senate bill prescribes the rules relative to the form and content of the taxpayer's declaration of estimated tax. It is required generally that the declaration shall be in such form and contain such information as may be prescribed by the Commissioner under regulations approved by the Secretary. Subsection (b) specifically requires that the declaration shall state (1) the amount which the taxpayer estimates as the amount of his tax under sections 11 and 12, or section 400, as the case may be, and the Victory tax imposed

by section 450 (adjusted for the credit provided in sec. 453), without regard to any credits for tax withheld at source; (2) the amount which he estimates as the amount of the credits allowable for the taxable year under sections 32, 35, and 466 (e) on account of tax withheld at source on tax-free covenant bonds and wages; and (3) the excess of the amount estimated under (1) over the amount estimated under (2). Under subsection (b) the "estimated tax for the taxable year" is the excess of the amount estimated by the taxpayer as the tax imposed by chapter 1 (without regard to the credit for taxes withheld at source) over the amount which the taxpayer estimates as the amount allowable as a credit for the taxable year for taxes withheld at the source. The subsection further provides that every declaration of estimated tax for the taxable year shall contain or be verified by a written statement that it is made under the penalties of perjury.

*Joint declaration by husband and wife.*

Under the provisions of subsection (c) of section 58 in the Senate bill, a husband and wife living together at the time prescribed for making a declaration may elect to make a joint declaration in which case the liability with respect to the estimated tax shall be joint and several. A joint declaration by husband and wife shall be signed and verified by both spouses. If the declaration is signed by one spouse as agent for the other, authorization for such action must accompany the declaration. No joint declaration is permitted if either husband or wife is a nonresident alien. If the husband and wife make a joint declaration but do not make a joint return for the taxable year the amounts paid on account of the estimated tax for such year may be treated as payments on account of the tax liability of either the husband or wife for the taxable year or may be divided between them in any manner they see fit.

*Time and place for filing declarations.*

The time and place for filing declarations of estimated tax required under section 58 under the Senate bill are prescribed in subsection (d) of such section. Such declarations must be filed on or before the 15th day of the third month of the taxable year by every person whose then anticipated income for the current taxable year or whose actual income for the preceding taxable year meets the requirements of subsection (a). In the more usual case of taxpayers on the calendar year basis, such declarations are to be filed on or before the 15th day of March. In the case of taxpayers on a fiscal year basis, such date will be the 15th day of the third month of the particular fiscal year. If, under the provisions of subsection (a), a declaration is not required on or before the 15th day of the third month of the taxable year but subsequent thereto the facts and circumstances are such that the gross income for the taxable year can reasonably be expected to meet the requirements of such subsection, a declaration of the estimated tax liability is required to be filed. In such event, the declaration must be filed on or before the 15th day of the last month of the quarter of the taxable year in which the requirements of subsection (a) are first met. For instance, a single person was hired on January 2, 1944, at a salary of \$2,400 per annum. He had no other source of income, could not reasonably expect to receive any other income, and did not receive any income during the preceding taxable year. In the absence of any change of circumstances before

March 15, 1944, such person is not required to make a declaration as of that date. On July 1 such person was advised that he was promoted to a higher position and that thereafter his salary would be increased to \$3,200 per year. Hence, on that date the gross income of such person for the taxable year could reasonably be expected to exceed \$2,700. Therefore, assuming that such taxpayer makes his income-tax return on a calendar year basis, a declaration of his estimated tax liability for the taxable year should be filed on or before the 15th day of September of such year.

Under the provisions of subsection (d), an amended or revised declaration is permitted, subject to such regulations as may be prescribed by the Commissioner with the approval of the Secretary. Such amended or revised declaration may be filed in any quarter of the taxable year subsequent to the quarter in which the declaration or the last amended declaration was filed. The revised estimate shown in such amended declaration shall not take effect with respect to any quarter unless filed on or before the 15th day of the third month of such quarter. Declarations of estimated tax liability and all amended or revised declarations shall be filed with the collector of internal revenue for the district in which is located the legal residence or principal place of business of the person making such declaration or if the declarant has no legal residence or principal place of business in the United States, such declarations and amendments and revisions shall be filed with the collector of internal revenue at Baltimore, Md. Any such amended declaration shall be filed with the collector for the district in which the original declaration was filed.

Subsection (e) of section 58 authorizes the Commissioner to grant a reasonable extension of time for filing the declaration of the estimated tax under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no extension shall be granted for a period of more than 6 months. This provision is the same in substance as the comparable provision of the House bill, except that the Senate bill applies the same rules relative to extension to payment of the estimated tax.

*Rules applicable to declarations.*

Subsection (f) relating to persons under disability, provides that if the taxpayer is unable to make his own declaration a declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer. In such case, the taxpayer and his agent shall be responsible for the declaration as made and incur liability for any penalties provided for erroneous, false, or fraudulent declaration.

Under subsection (g), it is provided that the fact that an individual's name is signed to a filed declaration shall be prima facie evidence for all purposes that the declaration was actually signed by him.

Subsection (h) makes applicable to declarations of estimated tax the provisions of section 55, relating to publicity of returns.

With the exception of the foregoing section 58 (h) and the differences due to the basic difference in the systems of current payment of tax in the House bill and in the Senate bill, section 58 of the Senate bill is substantially the same as the corresponding section 58 of the House bill.

*Payment of estimated tax.*

Section 59 of the Senate bill is substantially the same as section 59 of the House bill except for technical amendments necessitated by the requirement for current payment of the entire tax instead of only the basic tax as under the House bill, and a clarifying amendment relating to installment payments of the estimated tax.

Under the provisions of new section 59, if the declaration of the estimated tax is made on or before the fifteenth day of the third month of the taxable year, such tax shall be paid in four equal installments. In such case the first installment shall be paid at the time of filing the declaration, the second installment on the fifteenth day of the sixth month, the third installment on the fifteenth day of the ninth month, and the fourth installment on the fifteenth day of the twelfth month of the taxable year.

If the declaration of estimated tax is filed after the fifteenth day of the third month of the taxable year, the estimated tax shall be paid in equal installments the number of which is equal to the number of quarters remaining in the taxable year. For example, if the declaration is filed on the fifteenth day of the sixth month of the taxable year, the estimated tax shall be paid in three equal installments.

If, pursuant to section 58 (e), the Commissioner grants an extension of time within which to make a declaration of estimated tax, installments of such tax shall be paid at such time and under such conditions as the Commissioner may prescribe.

If a taxpayer files an amended or revised declaration of estimated tax, the remaining installments of estimated tax shall be ratably increased or decreased, as the case may be, to reflect any change made in the previously estimated tax by such amendment or revision. For example, on March 15, 1944, the taxpayer filed a declaration of estimated tax for the calendar year 1944 in the amount of \$600. An installment of \$150 was paid at the time of making such declaration. However, on June 15, 1944, the taxpayer filed an amended declaration, disclosing an estimated tax for the taxable year of \$300 instead of the \$600 originally estimated. As a result of such amended declaration, the installments of estimated tax required to be paid on June 15, September 15, and December 15 will each be \$50.

At the election of the taxpayer, any installment of estimated tax may be paid prior to the date prescribed for its payment.

As stated above, section 58 (e) authorizes the Commissioner, under certain conditions, to grant an extension of time for payment of the estimated tax.

The section further provides that payment of the estimated tax shall be considered payment on account of the income (including Victory) tax imposed by chapter 1 for the taxable year. The taxpayer will, of course, have to file his regular income tax return as usual, and on such return the estimated tax paid will be taken into account. All such payments of estimated tax are for the purpose of the provisions of law relating to refund or credit of the tax imposed by chapter 1, including the provisions relating to interest on overpayments of such tax, deemed to have been paid on the fifteenth day of the third month following the close of the taxable year.

Subsection (b) of section 59 provides that the estimated tax shall be assessed only to the extent paid. Thus, the collector may not distraint for any unpaid installment of estimated tax. Such provision,

however, shall not be construed to prevent the application of section 146 relating to the closing by the Commissioner of the taxable year.

*Special rules for the application of sections 58 and 59.*

New section 60 under the Senate bill provides special rules for the application of sections 58 and 59 relating to the declaration and payment of the estimated tax. Subsection (a) allows the individual whose estimated gross income from farming for the taxable year is at least 80 percent of his total estimated gross income from all sources for the taxable year the option of filing his declaration on or before the fifteenth day of the last month of the taxable year, in lieu of the time prescribed for other individuals under section 58 (d). This provision recognizes the difficulty of estimating in the early part of the taxable year the amount of income which will be derived from ordinary farm operations. Weather conditions, plant and animal diseases, ravages of insects and other pests, are among the factors which contribute to the uncertainty of such income. The estimated gross income from farming is the estimated income of the farm entrepreneur from the cultivation of the soil and the raising or harvesting of any agricultural or horticultural commodities, and the raising of livestock, bees, or poultry. In other words, the requisite gross income must be derived from the operations of a stock, dairy, poultry, fruit, or truck farm, or plantation, ranch, nursery, range, or orchard.

Subsection (b) of new section 60 authorizes the Commissioner, with the approval of the Secretary, to prescribe suitable regulations for the application with respect to short taxable years of section 58, 59, and 294 (a) (3), (4), and (5), added to the Internal Revenue Code by the bill. Thus, the rules applicable to short taxable years with respect to the declaration and payment of the estimated tax, and additions to the tax for failure to make a timely declaration of estimated tax, timely payment of installments of estimated tax, or for substantial underestimates of tax, are to be established by regulations.

Subsection (c) prescribes the special rule governing the transition to the system of current payment of the income tax on income not subject to withholding at source. The subsection provides the rule applicable with respect to the filing of the first declaration required under the bill. In the case of a taxable year which is the calendar year 1943, the declaration is to be filed on or before September 15, 1943. In the case of a taxable year which is a fiscal year beginning after January 1, 1943, the declaration shall be filed on such date as the Commissioner, with the approval of the Secretary, may by regulations prescribe. Apart from the date for filing the first declaration, all of the other rules prescribed in the bill with respect to declarations generally shall be applicable to such first declaration. The subsection makes it clear that the payments which taxpayers are required to make with respect to their 1942 tax shall be applied to decrease ratably the installments of estimated tax for taxable years beginning in 1943.

*Additions to tax.*

Section (5) (b) of the Senate bill adds to section 294 (a) of the code three new paragraphs numbered (3), (4), and (5). These paragraphs contain sanctions relating to the filing of declarations and payment of installments of estimated tax and to the proper estimate of tax.

Paragraph (3) provides for an addition to the tax in the case of failure to make and file a declaration of estimated tax within the time specifically prescribed by this bill or within the time prescribed by the Commissioner under the authority granted by the bill. Such addition to the tax shall be in an amount equal to 10 percent of the tax. The term "the tax" for the purpose of this provision means the tax imposed by chapter 1 of ~~the code~~. The Senate bill eliminates from the comparable provision of the House bill the minimum penalty of \$10.

Paragraph (4) provides for an addition to the tax imposed by chapter 1 of the code in the case of the failure to pay an installment of the estimated tax within the time specifically prescribed in the bill or within the time prescribed by the Commissioner pursuant to authority granted by the bill. Such addition to the tax shall be in the amount of 2½ percent of the tax imposed by chapter 1, but in no event shall such addition be less than \$2.50. In the case of husband and wife who file a joint declaration of estimated tax for the taxable year, and subsequently file separate returns for such year, the addition to the tax in the case of a failure to pay an installment of the estimated tax within the time prescribed shall be 2½ percent of the tax imposed on each spouse under chapter 1, but not less than \$2.50 in the case of each spouse.

Paragraph (5) provides for an addition to the tax in the case of a substantial underestimate of tax. In view of the fact that the taxpayer may revise his estimate of tax quarterly throughout the taxable year, and as late as the 15th day of the last month of the taxable year, the provision for an addition to the tax is a reasonable sanction to insure the payment during the taxable year of a total amount of estimated tax closely approximating the actual liability for the year. In the case of individuals other than farmers exercising the election under section 60 (a), an addition to the tax imposed by chapter 1 is provided in the event that the amount of the estimated tax (increased by the amounts of the credits for taxes withheld at source) is less than 80 percent of the amount of the tax imposed by that chapter (determined without regard to the credits for taxes withheld at source). The parenthetical expressions represent a change from the comparable provision of the House bill, designed to obviate hardship in certain cases. In the event of a failure to file any declaration where one is due, the amount of the estimated tax for the purposes of this provision will be zero. In the case of farmers exercising the election under section 60 (a), the addition to the tax is applicable if the amount of the estimated tax, increased as stated above, is less than 66⅔ percent of the amount of the tax imposed by chapter 1, determined as stated above. The addition to the tax shall be an amount equal to 6 percent of the difference between the amount of the estimated tax so increased, and the tax imposed by chapter 1 so determined; or the difference in dollars, whichever is the lesser. To illustrate: (1) Taxpayer A files a declaration showing an estimated tax of \$200, based upon the excess of an amount estimated as the amount of tax without regard to withholding credit, \$800, over the amount which he estimates as the withholding credit for tax withheld at source on wages, \$600. His tax for the year, determined without regard to the withholding credits, is \$1,200. The actual amount of tax withheld on his wages is \$700. Eighty percent of his tax for the year determined without regard to



the withholding credits, is \$960. The amount of the estimated tax, which is \$200 (\$800 minus \$600), increased by the amount of the credit for tax withheld at source (\$700) is \$900. Accordingly, taxpayer A is subject to the penalty. Applying the 6-percent rate, the amount of the penalty is \$18 (6 percent of \$1,200 minus \$900). The penalty of the dollar amount of the excess is not applicable because that excess is \$300 (\$1,200 minus \$900). The 6-percent penalty is the lesser, and therefore applicable.

(2) Taxpayer B files a declaration showing an estimated tax of \$200, based upon the excess of an amount estimated as the amount of tax without regard to withholding credit, \$800, over the amount which he estimates as the withholding credit for tax withheld at source on wages, \$600. His tax for the year, determined without regard to the withholding credits, is \$950. The actual amount of tax withheld on his wages is \$550. The amount of the estimated tax, which is \$200 (\$800 minus \$600), increased by the amount of the credit for tax withheld at source (\$550) is \$750. Accordingly, since 80 percent of \$950 is \$760, taxpayer B is subject to the penalty. Applying the 6-percent rate, the amount of the penalty is \$12 (6 percent of \$950 minus \$750). The penalty of the dollar amount of the excess is \$10 (\$760 minus \$750). Since the dollar amount penalty is less than the penalty at the 6-percent rate, the former is applicable.

#### *Penalties.*

Subsection (c) of section (5) of the Senate bill amends section 145 (a) of the code. Section 145 (a) prescribes criminal penalties for the willful failure to make and file returns, keep records, supply information, or pay tax. By the amendment contained in section 5 (c) the same penalties are made applicable to the failure to make and file declarations and pay the estimated tax.

#### *Installments.*

Section (5) (d) of the Senate bill terminates the privilege of installment payments of tax in the case of all individuals subject to the system of current collection of income taxes provided in the bill. The bill contemplates that since the payments made during the taxable year will be based upon the reasonably anticipated tax liability for that year (which should closely approximate the actual tax liability in view of the privilege granted to the taxpayer to revise his estimate), there is no occasion for retaining the installment privilege. The requirement, pursuant to section 56 (a), for payment on the 15th day of the third month following the close of the taxable year of any excess of the actual liability over the amount of estimated tax paid during the taxable year should not create a hardship in any case where a reasonable and proper estimate is made during the taxable year. Despite the amendment made by subsection (d), any payment of tax or any payment of an installment of tax due and payable before September 1, 1943, shall be made in accordance with the requirements of the present law. In other words, a taxpayer on the calendar year basis, who pays his 1942 tax liability in installments, must pay his March 15, and June 15, 1943, installments of 1942 tax.

#### *Effective date.*

Subsection (e) of section 5 of the Senate bill provides that the amendments made by section 5 of the bill shall be effective with respect to taxable years beginning after December 31, 1942. Thus,

the system for current payment of individual income tax not withheld at source applies only to taxable years beginning on or after January 1, 1943.

#### CONFERENCE AMENDMENT.

The conference amendment extended the system of current payment of tax not withheld at source to those nonresident aliens with respect to whose wages withholding at source is made applicable. Thus, generally speaking, the current tax payment system will apply to certain nonresident alien individuals who are residents of a contiguous country and who enter and leave the United States at frequent intervals. Such aliens, with respect to wages received for services performed in this country, are subject to tax in the same manner and to the same extent as citizens of the United States. Since they will be subject to withholding on such wages, failure to include them within the current tax payment system would cause a considerable doubling up in the payment of their taxes. The necessary change to effect the inclusion of these aliens is contained in the opening sentence of section 58 (a). For the purposes of the contents of the declaration, such aliens shall estimate the amounts of all of the credits allowable with respect to taxes withheld under section 143 and withheld on wages.

Paragraph (3) of section 58 (a) under the conference amendment is a new provision which extends the scope of the declaration requirement in order to cover a situation arising from the operation of section 6 (b). Under this provision a declaration of estimated tax for the taxable year beginning in 1943 is required from an individual who was required to make a return for the taxable year beginning in 1942, and whose gross income from wages for such 1942 taxable year exceeds the gross income which can reasonably be expected to be received from wages for the 1943 taxable year. This provision is designed to require an individual to file a declaration and pay as a part of estimated tax the amount of the excess of his 1942 tax liability over his 1943 tax liability (by reason of section 6 (b) (1)), in the case where such individual would otherwise not be required to file a declaration for the taxable year 1943.

Section 58 (b) (1) has been changed by striking the reference in the Senate bill to "the amount of tax under sections 11 and 12, or 400, as the case may be, and section 450", and inserting in lieu thereof: "the amount of tax under this chapter". This is a clarifying amendment.

Section 5 (d), which amends section 56 (b) of the code, has been changed to remove the installment privilege in the case of the nonresident alien individuals to whom withholding under subchapter D of chapter 9 is made applicable. This provision is required by reason of the inclusion of such individuals in the current tax payment system.

A new subsection (e) has been added to section 5 of the bill. This subsection amends sections 217 (a) and 218 (a) of the code to provide, in effect, that nonresident alien individuals to whom withholding under subchapter D of chapter 9 is made applicable shall file returns and pay tax at the time provided in the case of citizens and residents of the United States. The purpose of this provision is to coordinate the return and payment date of such individuals with the date applicable to others to whom the current tax payment system applies.

Subsection (f) of the conference amendment (corresponding to subsection (e) of the Senate bill) contains a change which precludes the application of section 294 (a) (5) in the case of taxpayers who are not required to make a declaration of estimated tax for a taxable year beginning in 1943.

#### RELIEF FROM DOUBLE PAYMENTS IN 1943

##### DESCRIPTION OF HOUSE AND SENATE BILLS.

Section 6 of the Senate bill contains provisions relating to the problem of transition to the system of current collection of tax liabilities. This section differs materially from the corresponding section of the House bill. This difference is occasioned by the fact that under the House bill the system of current collection of tax liabilities is applied only to normal tax, surtax at the first bracket rate and the net Victory tax, the balance of tax liability for any taxable year being collected in the year following the receipt of the income as under existing law. Under the House bill, the transition problem was met by the discharge of the liability for tax for the taxable year beginning in 1942 only to the extent of the normal tax plus a percentage of the surtax net income at the first bracket rate. Thus, the amount discharged corresponded approximately to the amount to be collected currently in cases in which the income for the 2 years is approximately the same.

The Senate bill calls for the collection currently of the entire tax liability. Section 6 of the Senate bill meets the problem of transition by discharging the entire liability for the taxable year commencing in 1942. Under subsection (a) of section 6 this discharge is made applicable as of September 1, 1943, to all persons to whom the system of current collection of tax liabilities applies, with the exception of any case in which the taxpayer is convicted of any criminal offense with respect to the tax for the taxable year 1942 or in which additions to the tax for such taxable year are applicable by reasons of fraud. It is also provided that interest and additions to the tax for the taxable year 1942 shall be collected as a part of the tax for the taxable year 1943.

In order, however, to prevent certain windfalls as a result of the discharge, subsections (b) and (c) of section 6 of the Senate bill provide for an increase of the 1943 tax liability in certain situations. The net effect of these increases, which is more fully explained below, is to reduce the amount of the relief from 1942 tax liability, but for administrative reasons the entire 1942 tax liability is discharged and the reduction is couched in terms of an increase in the 1943 liability which would otherwise be due. There are no comparable provisions in the House bill.

Subsection (b) of section 6 of the Senate bill provides a special rule applicable in cases in which the 1942 tax would have been greater than the 1943 tax. In such a case an amount equal to the excess of the 1942 tax over the 1943 tax (in both instances determined without regard to interest, additions to the tax, and credits for amounts withheld at source) is added to the 1943 tax liability. For example, a taxpayer who is married but has no dependents and who had a net income for the taxable year 1942 of \$10,000 and would, therefore, be liable for a tax in the amount of \$2,152 for the year 1942 but for the

provisions of subsection (a) of section 6, is nevertheless liable for that minimum amount of tax for the year 1943, even though his net income for 1943 were to drop to a figure which would produce a tax liability less than \$2,152. If, for example, his net income for the year 1943 were only \$2,000, producing a tax liability of approximately \$180, he would have added to his liability for 1943 the difference between \$2,152 and \$180, or \$1,972. A special exception to this rule makes such an increase of the 1943 tax liability inapplicable with respect to persons entering upon active service with the armed forces in 1942 or 1943, to the extent that the excess of the 1942 tax over the 1943 tax is attributable to earned net income as defined in section 25 (a) (4) of the Internal Revenue Code. The determination of the portion of the excess of 1942 tax over 1943 tax which is attributable to earned net income is to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

The increase in the tax liability for 1943 which is effected by subsection (b) of section 6 of the Senate bill is considered to be a part of the 1943 tax which is to be paid currently during the taxable year. Therefore, on the occasion of the taxpayer's filing his declaration of estimated tax for 1943 on September 15, in the case of a taxpayer on a calendar year, the tax liability for the taxable year 1943 as estimated by the taxpayer will include any increase resulting from the operation of subsection (b) of this section. Thus, in the case of a calendar year taxpayer (other than a taxpayer who entered the armed forces in 1942 or 1943) who elected to pay his 1942 tax in installments, the September and December installments of estimated tax can never be less than one-fourth of the 1942 tax less whatever amount is estimated to be withheld at source.

Subsection (c) of section 6 of the Senate bill contains two additional situations in which the 1943 tax liability is increased as a result of, in effect, reducing the amount of the 1942 tax liability discharged. In both of the situations covered under subsection (c), however, the resulting increase in the 1943 tax is considered not to be a part of the 1943 estimated tax which is to be paid currently during the taxable year. Such increase, therefore, is required to be paid at the time prescribed for the payment of the tax for the 1943 year. Subsection (d) of this section, which will be subsequently discussed, provides for a manner in which this increase may be paid over a period of 4 years. In effect, in each of the situations covered under subsection (c) the principle involved is the same, namely the reduction in the amount of relief from tax liability for 1942 or 1943, whichever year is the measure of relief, from a full year's relief to a lower amount in cases where the taxpayer's income has risen substantially when compared with the income of a previous period. This lower amount of tax relief is obtained by computing a tentative tax for the year otherwise serving as the measure for relief, based on the amount of the surtax net income of the base year plus \$10,000. As in subsection (b) the tax for the year 1942 is technically discharged and the excess of tax liability over the relief so computed is added as an increase of 1943 tax. The subsection provides that the increase in tax will be determined under regulations of the Commissioner. It is contemplated that such regulations will prescribe the details relating to the comparisons of the years involved, the computations of the tentative tax on which such increase is based, the method of determining the

composition of the income on which the tentative tax is computed, and other matters involved.

The first situation covered by the Senate bill in subsection (c) of section 6 is one in which the tax for the taxable year 1942 (determined without regard to interest and additions to the tax and credits for amounts withheld at source); is less than that for the taxable year 1943 (similarly determined) and where the surtax net income of the taxpayer for any one of the taxable years 1938, 1939, or 1940, whichever may be selected by him (hereafter referred to as the base year), plus \$10,000 is less than the surtax net income of the taxpayer for the taxable year 1942. In such a case relief from the liability for the taxable year 1942 is limited to an amount equal to a tentative tax computed as if the portion of the surtax net income for the taxable year which is not greater than the sum of the surtax net income for the base year plus \$10,000 constituted both the surtax net income for the taxable year 1942 and the net income for such taxable year after allowance of all credits against net income. The effect of this provision is to limit the discharge of the 1942 liability to an amount of tax computed on an amount of surtax net income and net income equivalent to that of the base year plus \$10,000 computed at the 1942 rate rather than on the income for 1942. The amount of income on which the tentative tax is computed is composed of the same type of income as the income of the 1942 taxable year. Thus if the 1942 income consisted entirely of capital gains the tentative tax would be computed as a tax on capital gains. The excess of the 1942 tax over the tentative tax computed in this manner is discharged and the amount of such excess is added as part of the 1943 tax liability.

An example will illustrate the application of this provision. Taxpayer A had a surtax net income of \$5,000 for his base year. In 1942 he had a tax liability of \$13,002. For 1943 his tax without regard to this section amounted to \$14,000. His surtax net income for 1942 was \$30,000 and was composed entirely of dividends and interest. By taking the amount of his surtax net income for his base year of \$5,000 and adding to it the sum of \$10,000, a tentative tax for 1942 for income thus constituted would be \$4,680. Thus, the amount by which the tax for 1943 is increased is the difference between \$13,002 and \$4,680 or \$8,322.

The second situation covered in subsection (c) is one in which the tax for the taxable year 1942 (determined without regard to interest, additions to the tax and credits for amounts withheld at source), is equal to or greater than the tax for 1943 (similarly determined) and the surtax net income of the taxpayer for the base year plus \$10,000 is less than the surtax net income for the taxable year 1943. Where the tax for 1942 exceeds the tax for 1943, subsection (b) initially operates to increase the 1943 tax by the amount of the excess. In such a case the relief from liability for the taxable year 1942 is further limited by subsection (c) to an amount equal to a tentative tax computed as if the portion of the surtax net income for the 1943 taxable year which is not greater than the sum of the surtax net income for the base year plus \$10,000, constituted both the surtax net income for the taxable year 1943 and the net income for such taxable year after allowance of all credits against net income. An additional factor is present when reference is had to 1943 as the year for measuring the relief owing to the fact that Victory tax is applicable to this year. It is necessary,

therefore, in arriving at the tentative tax to compute a tentative Victory tax based on an amount determined by a ratio based upon relationships with respect to the types of 1943 incomes. Thus, the computation in this situation is similar to the computation made in the first situation covered, but the comparison between the surtax net income of the taxable years and the excess amount of tax over the tentative tax is based on the surtax net income of the 1943 year and the computation takes its particular form from the manner in which the income for 1943 is constituted. In this subsection it is also provided that in the event that there is included in the taxable year used as the measure of relief, income which, under section 107 of the Internal Revenue Code, is attributed to the base year selected by the taxpayer, such income shall be excluded in computing the surtax net income of the relief year and shall be included in computing the surtax net income for the base year.

Subsection (d) of section 6 of the Senate bill provides that at the election of the taxpayer made under regulations prescribed by the Commissioner with the approval of the Secretary, the time for the payment of the portion of the tax for 1943 equal to the increase occasioned by the application of subsection (c) shall be extended. If so extended such portion of the tax shall be paid in four equal installments, the first of which shall be paid on the fifteenth day of the fifteenth month following the close of the taxable year and one of the remaining three installments shall be paid on the last day of each succeeding 12-month period. It is provided that the Commissioner may condition this extension upon the furnishing of a bond not exceeding the amount of such increase with such surety or sureties as he may deem necessary. If the time is extended for payment of this portion of the tax, it is provided further in this subsection that there shall be collected as a part of the tax, interest in the amount of 4 percent per annum on each such installment from the date prescribed for the payment of the tax for the taxable year until the date on which such installment is paid or payable whichever is the earlier. If any installment is not paid on or before the date on which it is payable, it and the remaining installments shall be paid upon notice and demand from the collector and interest at the rate of 6 percent per annum is to be collected from the payable date until the date of payment.

Subsection (e) of the Senate bill provides special rules for the application of subsections (b) and (c) and requires that in computing the tax for the taxable year 1943, the credit for foreign tax shall be determined without regard to any increase in the 1943 tax by reason of subsections (b) and (c). It further provides that in applying sections 105, 106, and 107 of the Internal Revenue Code (relating to limitations on tax) any increase in the tax occasioned by subsections (b) and (c) shall likewise be disregarded. This subsection also contains a provision for the computation of the increase in tax under either subsection (b) or (c) where a joint return is made by a taxpayer to whom either one of the subsections apply. The rule is stated that the taxes of the spouses of the taxable year for which a joint return is not made shall be aggregated for the purposes of subsections (b) and (c), and, in addition, provides that if the taxable year for which a joint return is not made is the taxable year 1943, the liability for the increase in the tax under subsections (b) and (c) shall be joint and several.

In the Senate bill subsection (f) of section 6 provides that subsection (a) shall not apply to an individual who died during the taxable year 1942. Thus, no amount of the tax liability of such a person is discharged.

Subsection (g) of section 6 of the Senate bill provides for the treatment of payments made on account of the 1942 tax. Any payment (other than interest and additions to the tax) made on account of the tax imposed by chapter I of the Internal Revenue Code for the taxable year 1942 upon a taxpayer whose liability is discharged under subsection (a) is considered as payment on account of the estimated tax for 1943. Where any payment of such tax is made pursuant to an extension of time granted by the Commissioner prior to September 1, 1943, such payment is likewise treated as a payment of estimated tax for 1943 and is required to be paid despite the fact that the provisions discharging the tax liability are effective as of September 1, 1943. If the taxpayer should become delinquent prior to September 1 in the payment of his tax or any installment, the fact that the liability for 1942 tax is discharged as of that date is specifically provided as not relieving the taxpayer of his liability for the tax. Such payment, however, is to be treated as a timely payment would be, namely, as a payment on account of estimated tax liability for 1943. The effect of this subsection is to require taxpayers who have elected to pay in installments to continue undiminished their payments on account of 1942 tax liability for all installments which would be due before September 1, 1943. In the event of an extension of time or of delinquency occurring before September, the legal consequences resulting are no different from what they would be under existing law and only after the payments for which time has been extended or which have become delinquent have been paid, do such payments take the character of payments on account of estimated tax for 1943. This subsection further contains the rule that if any payment on account of the tax for 1942 is made pursuant to a joint return, the payment may be treated as a payment on account of the estimated tax of either the husband or the wife or may be divided between them.

Subsection (h) of section 6 of the Senate bill contains the definition of the term "taxable year" when used in reference to the years 1938, 1939, 1940, 1942, or 1943 in the section. It provides that the term means the taxable year beginning in such enumerated year. When used in conjunction with 1942 or 1943 it does not mean any taxable year of less than 12 months, unless such short year is occasioned by the death of the taxpayer or unless there is no taxable year of 12 months beginning in the calendar year. Thus there will be no relief from tax liability with respect to the short taxable year 1942 where a taxpayer effects a change from a calendar- to a fiscal-year basis but the 12-month fiscal year beginning in 1942 will be the year for which tax is discharged.

#### CONFERENCE AMENDMENT.

The conference amendment retains with the following changes the provisions of the Senate bill with respect to relief from double payments in 1943:

In place of the 100 percent discharge of tax liability for most taxpayers, the committee of conference adopted the policy of 75 percent discharge of such liabilities where the total liability is in excess of \$50.

As in the Senate bill, even though the effect be to discharge only 75 percent of the tax liability of the lower of 1942 or 1943, for administrative reasons the entire 1942 tax liability is discharged and the 1943 tax liability is increased by the 25 percent of tax with respect to which no relief is granted. Thus, in the case of taxpayers whose tax for 1942 is not greater than that for 1943, section 6 (a) of the bill, as agreed to in conference, provides that the 1942 tax shall be completely discharged but that the 1943 tax shall be increased by an amount equal to 25 percent of such tax for 1942. Where, however, the tax liability of the individual for 1942 is \$50 or less, the entire amount of the tax is discharged and the 1943 liability is not increased. In order to prevent inequity to persons whose tax liability only slightly exceeds \$50, it is further provided that the tax for 1943 shall be increased by 25 percent of the amount of the tax or the excess of the tax liability over \$50, whichever is the lesser.

The conference amendment brings into the system of current collection of income tax, by imposing the requirement for filing declarations, etc., those nonresident aliens who are residents of contiguous countries and who enter and leave this country at frequent intervals by reason of being employed in this country. Such individuals are subject to withholding provisions applicable to citizens on their wages earned in this country (except where the withholding is specifically made inapplicable by regulations), and such individuals file returns under existing law in the same manner as citizens. In order, therefore, that these individuals should not be required to double up in their payments of tax to this country, they are included in the provisions of section 6 of the bill, discharging tax liability for the taxable year 1942. Since the fixed income from investments of such persons is withheld on at the source currently under existing law, the discharge of tax liability applicable to such persons as in the case of all other persons is measured in the terms of tax imposed under chapter 1, which means, as it does throughout the law (unless specifically stated otherwise), the net tax liability after credits against the tax.

As in the Senate bill, subsection (b) of section 6 provides that the amount of tax liability in effect discharged shall be measured by the 1943 tax liability in cases in which that liability is less than the 1942 tax liability. As in the Senate bill, in this case the 1942 tax liability is technically discharged and any excess of the 1942 over the 1943 tax liability is added to the 1943 tax liability. In such a case the additional 25 percent of tax, or excess of tax liability over \$50, whichever is the lesser, which is added to the 1943 tax, is computed on the lesser amount of tax liability, namely that for 1943. For example, under the conference amendment a person whose tax for 1942 was \$1,000, and for 1943 was \$800, would be liable for a 1943 tax in the amount of \$1,200 (\$800 plus \$200 plus 25 percent of \$800), and his 1942 tax would be discharged.

The comparison to determine whether the 1942 or the 1943 tax liability is the greater is made on the basis of tax liability before the application of credits against the tax for amounts withheld at source. Where the 1942 tax liability is not greater than that for 1943, the 25-percent increase is determined on the basis of the tax imposed (i. e., net tax liability after credits) for 1942. For the purposes of determining the amount of the increase in the 1943 tax liability where the 1942 tax liability is greater, the tax imposed (i. e., net tax liability after



credits) for 1942 is used with respect to the year 1942 and the tax imposed plus the credits for tax withheld at source under sections 466 (e) and 35 of the code is used with respect to the year 1943. The difference in the two taxes so determined is the increase to be added. For the purpose of determining the amount of the 25-percent increase in the 1943 tax in such a case, the tax imposed for 1943 plus the credits for tax withheld at source under sections 466 (e) and 35 are used.

The conference amendment recognizes that, in the case of a non-resident alien or a person holding substantial amounts of tax-free covenant bonds, there might be a situation where an individual's tax before credits for tax withheld at source for 1942 would exceed his tax for 1943 similarly determined, but the tax imposed for 1942 would be less than his tax imposed for 1943 plus credits for withheld tax on wages under sections 35 and 466 (e), so that there would be no excess of 1942 tax liability over 1943 tax liability. In such a case the conference amendment limits the 25-percent increase in the 1943 tax to 25 percent of the net tax for 1942, or the excess of such tax over \$50, whichever is the lesser. This limitation is necessary to achieve the result that the measure of discharge of tax liability shall be the tax liability of the year in which the lesser tax is imposed.

The conference amendment makes some changes in the treatment of cases of increased incomes found in subsection (c) of section 6 of both the Senate bill and the bill as agreed to in conference. The taxable year 1937 is added to the years from which the taxpayer may select his base year. In addition, it is provided that \$20,000, instead of \$10,000, is to be added to the surtax net income of the base year in computing the tentative tax which is the limit of discharge of tax liability. If the tentative tax so computed is less than 75 percent of the tax liability for the year which is the measure of relief, the excess of such 75 percent of tax liability over the amount of tentative tax is made an additional increase in the 1943 tax.

By reason of a technical rearrangement, special rules for the application of the provisions relating to discharge of tax liability are to be found in subsection (d) of section 6 of the bill as agreed to in conference rather than in subsection (e) of that section as in the Senate bill. These rules, in addition to the points discussed hereafter, relate to (1) the application to the taxable year 1943 of the foreign tax credit (par. (3)); (2) the application to the taxable year 1943 of the limitations on tax rate effected by sections 105, 106, and 107 of the code (par. (3)); and (3) the rule to be followed in the case where joint and separate returns are made by a husband and wife for the taxable years 1942 and 1943 respectively, or vice versa (par. (2)).

In addition, as a further technical rearrangement, there is included in paragraph (1) of subsection (d) the rule found in subsection (b) of section 6 of the Senate bill excepting from the increase in the 1943 tax the excess of the 1942 tax over the 1943 tax to the extent attributable to earned net income in the case of persons who were members of the armed forces during 1942 or 1943. In the Senate bill this exception was applicable to a member of the military or naval forces of the United States. The conference amendment makes this exception applicable also to a member of the armed forces of any of the United Nations. Instead of the use of the phrase "attributable to earned

net income" in the Senate bill, the conference amendment excepts from the increase—

an amount equal to the amount by which the tax for taxable year is increased by reason of the inclusion in the net income for the taxable year 1942 of the amount of the earned net income.

This change is designed to make certain that the earned net income in this respect is to be taken out of the upper tax brackets.

The conference amendment likewise incorporates, as paragraph (7) of subsection (d) of section 6, subsection (f) of section (6) of the Senate bill providing no discharge of tax liability in case of persons who died in 1942. There is also incorporated, as paragraph (4), the provision in subsection (e) of section (6) of the Senate bill relating to the treatment of section 107 income in cases to which subsection (c) is applicable.

The conference amendment adds to subsection (d) of section (6), as paragraph (5), an additional rule for the application of subsection (c). This rule provides that, if during the base year of an individual, such individual was a shareholder in a corporation and if substantially all of the assets of the corporation were acquired by such individual or a partnership of which he is a member pursuant to complete liquidation of the corporation at any time prior to May 1, 1943, and if at all times after the liquidation up to and including whichever of the two taxable years, 1942 or 1943, is the measure of discharge of the taxpayer's liability, the trade or business of the corporation was carried on by the individual or partnership, the individual may compute his surtax net income of the base year as if the earnings and profits of the corporation for taxable year ending with or within the base year had all been distributed as dividends at the end of such taxable year. The individual's distributive share of these hypothetical dividends is limited to his proportionate share in the partnership during the taxable year used as the measure of his discharge of tax liability if such interest is proportionately less than his interest in the corporation.

Subsection (d) of section 6, in paragraph (6), provides that the 25 percent increase in 1943 tax required under subsections (a) or (b) (2), or the additional increase under subsection (c), shall not be considered to be a part of the tax for the taxable year 1943 for the purposes of the estimated tax provisions. Thus these increases would for the first time be reflected in the annual returns filed in 1944. A similar provision was incorporated in subsection (c) of section 6 of the Senate bill with respect to the subsection (c) increase.

The conference amendment incorporates in paragraph (2) of subsection (e) of section 6 the rule with respect to granting extension of time for the payment of any increase in 1943 tax resulting from the application of subsection (c). The substance of this provision is the same as that found in the Senate bill in subsection (d) of this section. Paragraph (1) of subsection (e) under the conference amendment contains provisions for the extension of time for payment of the 25-percent increase resulting from the application of subsections (a) and (b) (2). This paragraph provides that, at the election of the taxpayer, the Commissioner shall extend the time for payment of the portion of the tax for the taxable year 1943 equal to one-half of the amount of the 25-percent increase under subsection (a) or (b) (2). The time for payment of this one-half is extended to the 15th day of the fifteenth month

following the close of the taxable year. As in the case of the increase under subsection (c), the Commissioner may condition the extension upon the furnishing by the taxpayer of a bond not exceeding the amount with respect to which the extension applies, with such surety or sureties as he may deem necessary, conditioned upon the payment of the amount in accordance with the terms of the extension. If the amount is not paid on or before the date on which it is payable as a result of the extension, it is to be paid on notice and demand from the collector; and if not paid on the payable date, interest at the rate of 6 percent per annum is to be collected as a part of the tax on the amount for which the extension was granted for the period beginning with the date on which this amount is payable and ending on the date on which it is paid.

By reason of the technical rearrangement, the conference amendment includes, with minor technical changes, in subsection (f) of section 6 the substance of the provisions found in subsection (g) of section 6 of the Senate bill. This subsection relates to the treatment of payments on account of the 1942 tax.

Under the conference amendment subsection (g) incorporates the provisions of subsection (h) of section 6 of the Senate bill.

The conference amendment adds a new subsection (h) providing that the entire section 6 shall be applied in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

#### ADDITIONAL ALLOWANCE FOR MILITARY AND NAVAL PERSONNEL

##### DESCRIPTION OF THE HOUSE AND SENATE BILLS.

Section 22 (b) (13) of the code makes provision for an exclusion from gross income in the case of personnel below the grade of commissioned officer in the military and naval forces of the United States. The amount to be excluded under this provision is not to exceed \$250 in the case of a single person and \$300 in the case of a married person or head of a family and applies only to salary or compensation received for active service in the armed forces during the present war.

The House bill would amend section 22 (b) (13) of the code to effect an exclusion from gross income in the case of military and naval personnel, without distinction as to rank, with respect to the compensation received during any taxable year and before the termination of the present war as proclaimed by the President for active service during such war. The amount to be so excluded would not exceed the excess of \$3,500 over the personal exemption claimed under section 25 (b) of the code.

The Senate bill amends section 22 (b) (13) to provide for a flat exclusion of \$1,500 from gross income in the case of all military and naval personnel, without distinction as to rank, with respect to such compensation. The amount of such exclusion is not to be reduced by the personal exemption claimed under section 25 (b) of the code.

The amendment would apply only with respect to taxable years beginning after December 31, 1942, and not, as under the House bill, with respect to all compensation received after December 31, 1941, by a member of the military or naval forces of the United States for active service in such forces.

## CONFERENCE AMENDMENT.

The conference amendment adopts the provisions of the Senate bill, but extends the application of those provisions to a member of the military or naval forces of any of the other United Nations. The provision will therefore cover such individuals as well as members of the military or naval forces of the United States.

ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH  
DESCRIPTION OF THE HOUSE AND SENATE BILLS.

Under the House bill supplement U is added to chapter 1 of the code to relieve a member of the military or naval forces of the United States who dies on or after December 7, 1941, in active service from the liability for the tax imposed by chapter 1 for the taxable year in which falls the date of his death. In addition thereto, the supplement provides that any tax imposed under chapter 1 or under the corresponding title of any prior revenue act (including interest and additions to the tax) which is unpaid as of the date of death shall not be assessed. If any such tax, interest, or additions to the tax have been assessed and are unpaid at the date of death, such assessment or assessments shall be abated. If the amount of any such liability which was unpaid as of the date of death is collected subsequent to such date, the amount so collected shall be credited or refunded as an overpayment.

The Senate bill revised the House version of this new supplement to limit the relief granted therein to that portion of the income taxes which is attributable to earned net income as defined in section 25 (a) (4) of the code. In addition, the taxes in respect to which such relief is granted are limited, in general, to those which would have become due and payable after the date when such individual entered upon active service in such forces or the effective date of the Selective Service Act (September 16, 1940) whichever date is the later, assuming that such member paid, or would have paid, his taxes in quarterly installments to the extent provided for in the code. If the liability for the portion of such taxes which is attributable to earned net income is outstanding at the date of death, the liability shall be abated. If such portion of the taxes has been paid at any time, the amount paid shall be credited or refunded as an overpayment.

To effectuate this policy, the Senate bill classifies such deceased members of the armed forces into three groups according to the year in which they entered upon active duty in such forces, and states with respect to each group those taxes (or the portions thereof) of which the members of the group are to be relieved. This classification was made necessary by reason of the transition in the year 1943 to a current tax basis.

The first category applies to those who entered upon such service before the commencement of the taxable year beginning in 1943. The taxes to be abated, credited, or refunded to members in this group are: (1) the tax attributable to earned net income for the taxable year in which falls the date on which he entered upon such service or September 16, 1940, whichever date is the later; (2) the tax attributable to earned net income for all subsequent taxable years while he was in such service; and (3) for the taxable year last preceding the date on which he entered upon such service or September 16,

1940, whichever date is the later, that portion of the tax for such preceding year attributable to earned net income which bears the same ratio to the entire tax so attributable as the number of quarters in the taxable year referred to in (1) subsequent to the date on which he entered upon such service or September 16, 1940, whichever date is the later, bears to four. Thus, for example, if the individual (on a calendar-year basis) enters the service on July 1, 1942, he would be exempt from the tax attributable to his earned net income for the year 1942, for all subsequent years in the service, and for one-half of the tax so attributable for the calendar year 1941. If he entered the service on July 1, 1940, he would be exempt from such tax for 1940 and subsequent years in service and for one-fourth of such tax for 1939.

The second category consists of those members of the armed forces who entered upon such service in the taxable year beginning in 1943. The taxes to be abated, credited, or refunded in respect of this class are: (1) that portion of the tax for the taxable year beginning in 1943 (not including the increase in such tax prescribed by the windfall provision contained in section 6 (c) of the Senate bill), which bears the same ratio to the total tax (not including such increase) as the number of quarters in such taxable year subsequent to the date on which he entered upon such service bears to four, to the extent such portion is attributable to earned net income; and (2) the tax attributable to earned net income for all subsequent taxable years during which he was in such service.

The third category is made up of those members who entered upon such service after the end of the taxable year beginning in 1943. The taxes to be abated, credited, or refunded in respect of this group are all the taxes which are attributable to earned net income for the taxable years during which they were in such service but not including the taxable year during which they entered upon such service.

In computing the tax to be abated, credited, or refunded under (3) of the first category and (1) of the second category, a fractional part of a quarter subsequent to the date on which he entered upon such service or September 16, 1940, whichever date is the later, shall be disregarded unless it exceeds 15 days, in which case it shall be considered a quarter.

#### CONFERENCE AMENDMENT.

The conference amendment adopts the provisions of the House bill, but extends the application of those provisions to a member of the military or naval forces of any of the other United Nations. The provisions will therefore cover such individuals as well as members of the military or naval forces of the United States.

#### ASSISTANT COMMISSIONERS

Section 9 of the Senate bill amends the Internal Revenue Code to authorize the appointment of two assistant commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The amendment provides that the assistant commissioners shall perform such duties as may be prescribed by the Commissioner or required by law. There was no comparable provision in the House bill. The conference amendment retains this provision.

## POWERS OF APPOINTMENT

Section 10 of the Senate bill extends the time in connection with the release of powers of appointment for estate and gift tax purposes from July 1, 1943, to March 1, 1944. There was no comparable provision in the House bill. The conference amendment retains this provision.

R. L. DOUGHTON,  
HAROLD KNUITSON,  
DANIEL A. REED,  
THOMAS A. JENKINS,  
*Managers on the part of the House.*

○