

# Calendar No. 388

68TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 398

## INTERNAL REVENUE BILL OF 1924

APRIL 10 (calendar day, APRIL 12), 1924.—Ordered to be printed

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

### REPORT

[To accompany H. R. 6715]

The Committee on Finance, to whom was referred the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes, having had the same under consideration, report favorably thereon with certain amendments, and as amended recommend that the bill do pass.

#### TREASURY SURPLUS

Under date of November 10, 1923, in a letter to the chairman of the Ways and Means Committee, the Secretary of the Treasury wrote as follows:

After taking into account all these considerations, and making the most conservative estimates about the yield of existing taxes and the possibilities of further reductions in expenditure, it appears that for this year, and for the next four or five years, there should be a surplus of something over \$300,000,000 a year, over and above all expenditures chargeable to the ordinary budget, including the fixed debt charges payable out of current revenues. This gives a reasonable margin, not merely for tax revision, but for tax reduction.

According to the estimate submitted in the annual report of the Secretary of the Treasury for the fiscal year 1923, the excess of ordinary receipts over total expenditures chargeable against ordinary receipts were, for the fiscal year 1923, \$309,657,460.30. For the fiscal year 1924 the surplus is estimated to be \$329,639,924, and for the fiscal year 1925, \$395,681,634.

These figures show that present taxes are yielding more revenue than the needs of the Government demand and make necessary a revision of the internal revenue laws to lessen the present burden of taxation.

#### TAX REDUCTIONS

The bill provides for two forms of tax reduction:

(1) Temporary and immediate relief to taxpayers by a 25 per cent reduction of the income tax payable in the year 1924 on 1923 taxable income. The estimated reduction resulting from this provision is as follows:

Fiscal year 1924.....	\$128, 010, 000
Fiscal year 1925.....	104, 740, 000
Total reduction.....	232, 750, 000

(2) Permanent relief by the revision of the revenue act of 1921 through the reduction of certain taxes and the repeal of others. The estimated reduction after the bill is in full operation, as compared with estimated receipts, is shown below in tabular form:

*Comparison of estimated receipts and expenditures for the fiscal year 1925 under the bill as reported by the Finance Committee on the assumption that the changes in the miscellaneous internal revenue taxes will be effective on or before July 1, 1924*

<b>Receipts:</b>	
Customs.....	\$495, 000, 000
Internal revenue taxes—	
Individual income tax—	
Normal tax.....	\$280, 000, 000
Surtax.....	315, 000, 000
Total.....	595, 000, 000
Corporation tax.....	927, 000, 000
Total income tax.....	1, 522, 000, 000
Miscellaneous internal revenue taxes.....	756, 914, 000
Miscellaneous ordinary receipts.....	473, 177, 000
Total estimated ordinary receipts.....	3, 247, 091, 000
<b>Expenditures:</b>	
Estimated expenditures chargeable against ordinary receipts (Budget estimate of Dec. 3, 1923, and not including additional expenditures authorized or to be authorized since that date).....	3, 298, 080, 444
Estimated deficit.....	50, 989, 444

It is the opinion of the committee that this apparent deficit will be wiped out by the increase in the revenue yield of the income taxes because of the improvement of business conditions which will result from placing these taxes upon an economically sound basis.

The following tables show in detail the estimated effect upon the revenue for the calendar year 1924 resulting from the principal changes recommended by the committee:

*Estimated revenue under the provisions of the bill as reported by the Finance Committee, calendar year 1924*

Source	House bill	Finance Committee	Present law	Loss (committee bill from present law)
<b>Income tax:</b>				
Individual—				
Normal.....	\$261,000,000	\$296,000,000	\$391,000,000	\$95,000,000
Surtax.....	381,000,000	341,000,000	541,000,000	200,000,000
Earned income.....	190,000,000	160,000,000	.....	80,000,000
Capital gain provision.....	110,000,000	110,000,000	.....	10,000,000
Capital loss provision.....	25,000,000	.....	.....	.....
Limit on certain deductions.....	35,000,000	.....	.....	.....
Corporation tax.....	875,000,000	979,000,000	875,000,000	104,000,000
<b>Total income tax.....</b>	<b>1,487,000,000</b>	<b>1,546,000,000</b>	<b>1,807,000,000</b>	<b>261,000,000</b>
<b>Miscellaneous internal revenue:</b>				
Corporation stock tax.....	85,000,000	.....	85,000,000	85,000,000
Estate tax.....	122,000,000	110,000,000	110,000,000	.....
Gift tax.....	2,000,000	.....	.....	.....
Telegraph and telephone.....	.....	34,000,000	34,000,000	.....
Beverages, etc.....	.....	.....	10,000,000	10,000,000
Admissions and dues.....	52,000,000	52,000,000	85,000,000	33,000,000
Automobiles, etc.—				
Trucks.....	6,300,000	6,000,000	11,000,000	5,000,000
Other autos.....	105,000,000	105,000,000	105,000,000	.....
Accessories, parts, etc.....	21,000,000	21,000,000	42,000,000	21,000,000
Smokers' articles.....	399,000	399,000	400,000	1,000
Candy.....	.....	.....	13,000,000	13,000,000
Knives, dirks, daggers, etc.....	.....	.....	30,000	30,000
Liveries, etc.....	.....	.....	140,000	140,000
Hunting, shooting, and riding garments.....	.....	.....	180,000	180,000
Yachts and motorboats (sale).....	.....	.....	319,000	319,000
Carpets, rugs, etc.....	.....	.....	1,800,000	1,800,000
Jewelry, etc.....	8,000,000	12,000,000	22,000,000	10,000,000
Stamp taxes—				
Sale of produce on exchanges.....	4,000,000	4,000,000	8,000,000	4,000,000
Drafts, promissory notes, etc.....	.....	2,150,000	2,150,000	.....
Playing cards.....	4,200,000	4,200,000	3,600,000	700,000
Bonds, transfers, stock issues, etc.....	52,350,000	52,350,000	52,350,000	.....
Theaters, circuses, shows, etc.....	.....	.....	1,600,000	1,600,000
Yachts (use).....	215,000	215,000	215,000	.....
Billiard and pool tables, bowling alleys, etc.....	.....	1,050,000	1,050,000	.....
Automatic slot vending machines.....	150,000	200,000	160,000	50,000
Brokers, stock, produce, and merchandise.....	1,400,000	1,000,000	1,400,000	400,000
Radio receiving sets, parts, etc.....	.....	10,000,000	.....	10,000,000
Mah jong sets.....	.....	1,000,000	.....	1,000,000
Miscellaneous taxes, not above enumerated.....	342,500,000	342,500,000	342,500,000	.....
<b>Total miscellaneous internal revenue.....</b>	<b>806,514,000</b>	<b>759,064,000</b>	<b>932,784,000</b>	<b>173,720,000</b>
<b>Total internal revenue taxes.....</b>	<b>2,293,514,000</b>	<b>2,305,064,000</b>	<b>2,739,784,000</b>	<b>434,720,000</b>

<sup>1</sup> Loss

<sup>1</sup> Gain.

The following table shows the effect of the reduction in the income tax rates upon the different classes of income:

*Estimated effect upon the revenue of the proposed changes in the individual income tax law, upon the base of returns for the second year after the law is in full effect*

Income-tax brackets	Number paying tax in each bracket	Loss in tax as compared with estimated tax for 1923			
		Normal tax (Loss)	Surtax (Loss)	Earned income (Loss)	Net reduction in tax collected
Under \$5,000.....	3, 844, 200	\$50, 000, 000	-----	\$20, 000, 000	\$70, 000, 000
\$5,000 to \$10,000.....	708, 200	30, 600, 000	\$17, 600, 000	18, 000, 000	63, 100, 000
\$10,000 to \$20,000.....	228, 200	2, 000, 000	4, 400, 000	10, 000, 000	16, 400, 000
\$20,000 to \$50,000.....	80, 200	1, 300, 000	10, 100, 000	8, 000, 000	16, 400, 000
\$50,000 to \$100,000.....	16, 500	4, 500, 000	21, 100, 000	3, 000, 000	28, 600, 000
\$100,000 to \$150,000.....	3, 620	1, 300, 000	11, 100, 000	2, 000, 000	14, 400, 000
\$150,000 to \$200,000.....	1, 430	550, 000	6, 600, 000	1, 000, 000	8, 150, 000
\$200,000 to \$300,000.....	840	480, 000	7, 400, 000	1, 000, 000	8, 850, 000
\$300,000 to \$500,000.....	380	400, 000	8, 100, 000	1, 000, 000	9, 500, 000
\$500,000 to \$1,000,000.....	160	300, 000	7, 200, 000	1, 000, 000	8, 500, 000
Over \$1,000,000.....	30	200, 000	8, 300, 000	1, 000, 000	9, 500, 000
Loss.....	-----	91, 600, 000	101, 800, 000	60, 000, 000	253, 400, 000

#### NORMAL AND SURTAX RATES

The normal tax on the first \$4,000 of taxable income is placed at 3 per cent, and upon the remainder of the taxable income at 6 per cent.

The surtax rates apply at \$10,000. The initial rate is 1 per cent on the first \$2,000. It is increased by 1 per cent for each \$2,000 of net income up to \$36,000; then by 1 per cent additional for the next \$4,000 of net income up to \$40,000; and finally by 1 per cent additional for each \$6,000 of net income up to a total of 25 per cent at \$100,000 and over. The results are shown below in tabular form:

*Income tax payable upon certain net incomes under the provisions of the bill as reported by the Finance Committee*

Net income	Income earned not in excess of \$5,000				Maximum earned income allowable			
	Single man		Head of family		Single man		Head of family	
	Present law	Proposed	Present law	Proposed	Present law	Proposed	Present law	Proposed
\$1,000.....								
\$2,000.....	\$40.00	\$22.50			\$40.00	\$22.50		
\$3,000.....	80.00	45.00	\$20.00	\$11.25	80.00	45.00	\$20.00	\$11.25
\$4,000.....	120.00	67.50	60.00	33.75	120.00	67.50	60.00	33.75
\$5,000.....	160.00	90.00	100.00	56.25	160.00	90.00	100.00	56.25
\$6,000.....	240.00	150.00	160.00	97.50	240.00	135.00	160.00	90.00
\$7,000.....	330.00	210.00	250.00	157.50	330.00	180.00	250.00	135.00
\$8,000.....	420.00	270.00	340.00	217.50	420.00	225.00	340.00	180.00
\$9,000.....	510.00	330.00	430.00	277.50	510.00	270.00	430.00	225.00
\$10,000.....	600.00	390.00	520.00	337.50	600.00	315.00	520.00	270.00
\$11,000.....	700.00	460.00	620.00	407.50	700.00	378.64	620.00	332.27
\$12,000.....	800.00	530.00	720.00	477.50	800.00	443.33	720.00	395.83
\$13,000.....	910.00	610.00	830.00	557.50	910.00	516.92	830.00	468.46
\$14,000.....	1,020.00	690.00	940.00	637.50	1,020.00	591.43	940.00	542.14
\$15,000.....	1,140.00	780.00	1,060.00	727.50	1,140.00	675.00	1,060.00	625.00
\$16,000.....	1,260.00	870.00	1,180.00	817.50	1,260.00	769.38	1,180.00	708.75
\$17,000.....	1,390.00	970.00	1,310.00	917.50	1,390.00	852.91	1,310.00	801.77
\$18,000.....	1,520.00	1,070.00	1,440.00	1,017.50	1,520.00	947.23	1,440.00	895.56
\$19,000.....	1,660.00	1,180.00	1,580.00	1,127.50	1,660.00	1,050.79	1,580.00	998.69
\$20,000.....	1,800.00	1,290.00	1,720.00	1,237.50	1,800.00	1,155.00	1,720.00	1,102.50

## Exemptions from normal tax:

- \$1,000 for single persons.
- \$2,500 for heads of families with net income of less than \$5,000.
- \$2,000 for heads of families with income in excess of \$5,000.
- \$400 for each dependent child under 18 years of age and for other dependents physically or mentally deficient.

## Normal tax:

- 3 per cent on first \$4,000 taxable.
- 6 per cent on balance.

Surtax: 1 per cent on amount in excess of \$10,000 and not in excess of \$12,000, increasing 1 per cent for each \$2,000 until \$36,000 net income is reached, with a maximum rate of 25 per cent on amount in excess of \$100,000 net income.

Earned income: A credit of 25 per cent of the total tax on account of earned income. All net income less than \$5,000 is deemed to be earned and all in excess of \$10,000 to be unearned.

This revision of the schedule of rates will give material relief to all income taxpayers and, because of the reduction in the normal tax rates, more particularly to the great majority of taxpayers whose incomes fall in the lower brackets. The reduction and revision of the surtax rates are designed to fix the rates at a point where they can be effectively applied, that is, at the point of maximum productivity, and at the same time to remove or lessen pressure which exists under the present surtax rates against the investment of capital in productive enterprise. Such a revision and reduction of the surtax rates have been recommended by the last three Secretaries of the Treasury.

In 1919, in his annual report, Secretary Glass in his tax recommendations made the following statement:

The upmost brackets of the surtax have already passed the point of productivity, and the only consequence of any further increase would be to drive possessors of these great incomes more and more to place their wealth in the billions of dollars of wholly exempt securities heretofore issued and still being issued by States and municipalities, as well as those heretofore issued by the United States. This process not only destroys a source of revenue to the Federal Government, but tends to withdraw the capital of very rich men from the development of new enterprises and place it at the disposal of State and municipal governments upon terms so easy to them (the cost of exemptions from taxation falling more heavily upon the Federal Government) as to stimulate wasteful and nonproductive expenditure by State and municipal governments.

Again, at the end of 1920, Secretary Houston called attention to the adverse effects of the higher income surtaxes. His annual report contained the following:

Since the adoption of the heavy war surtaxes in the revenue act of 1917 the Treasury has repeatedly called attention to the fact that these surtaxes are excessive; that they have passed the point of maximum productivity and are rapidly driving the wealthier taxpayers to transfer their investments into the thousands of millions of tax-free securities which compete so disastrously with the industrial and railroad securities upon the ready purchase of which the development of industry and the expansion of foreign trade intimately depend.

It seems idle to speculate in the abstract as to whether or not a progressive income-tax schedule rising to rates in excess of 70 per cent is justifiable. We are confronted with a condition, not a theory. The fact is that such rates can not be successfully collected.

In his letter to Mr. Green of November 10, 1923, Secretary Mellon said:

The present system is a failure. It was an emergency measure, adopted under the pressure of war necessity and not to be counted upon as a permanent part of our revenue structure. For a short period the surtaxes yielded much revenue, but their productivity has been constantly shrinking and the Treasury's experience shows that the high rates now in effect are progressively becoming less productive of revenue. The high rates put pressure on taxpayers to reduce their taxable income, tend to destroy individual initiative and enterprise, and seriously impede the development of productive business.

Taxpayers subject to the higher rates can not afford, for example, to invest in American railroads or industries or embark upon new enterprises in the face of taxes that will take 50 per cent or more of any return that may be realized. These taxpayers are withdrawing their capital from productive business and investing it instead in tax-exempt securities and adopting other lawful methods of avoiding the realization of taxable income. The result is to stop business transactions that would normally go through and to discourage men of wealth from taking the risks which are incidental to the development of new business. Ways will always be found to avoid taxes so destructive in their nature, and the only way to save the situation is to put the taxes on a reasonable basis that will permit business to go on and industry to develop. This, I believe, the readjustment herein recommended will accomplish, and it will not only produce larger revenues, but at the same time establish industry and trade on a healthier basis throughout the country. The alternative is a gradual breakdown in the system and a perversion of industry that stifles our progress as a nation.

#### ESTATE TAX

The House bill increases the estate tax rates from a maximum of 25 per cent contained in the present law to a maximum of 40 per cent. The committee recommends that the rates contained in the House bill be changed to accord with the rates contained in the existing law. On March 12 the Secretary of the Treasury made the following statement to the Finance Committee with reference to the proposed increase in the estate tax rates:

Inheritance taxes are properly sources of revenue for the States. They are a material element in a State budget; they are a comparatively small element in the Federal Budget. To deprive the States of this source of revenue—properly their own—is to compel the States to increase taxes and to resort to their principal source of income, which is levies on land. The far-reaching economic effect of high inheritance taxes is not properly understood. These taxes are a levy upon capital. There is no requirement in our law, as there is in the English law, that the proceeds from estate taxes shall go into capital improvements of the Government. In other words, capital is being destroyed for current operating expenses and the cumulative effect of such destruction can not help but be harmful to the country. Again, estates have to be liquidated to the extent necessary to provide for taxes, and the forced sale of property and securities

tends to bring down not only the value of such property and securities but values everywhere. The ultimate effect of this is to bring down the very values upon which the tax is levied and ultimately to destroy the productivity of the tax, both to the State and to the Federal Government.

In accord with the recommendation as to the reduction of the estate tax rates, the committee recommends the elimination of the provision of the House bill which allows the crediting against the Federal estate tax, up to 25 per cent of the amount thereof, of State inheritance taxes.

In addition the committee recommends the omission of the gift tax contained in the House bill, since this tax would be a further levy upon capital, would be entirely ineffective, and would be impossible of effective administration.

#### CORPORATION TAX

The committee recommends that the income tax on corporations be increased from the 12½ per cent rate contained in the House bill to 14 per cent and that the capital-stock tax be repealed. This will add only slightly, if at all, to the tax burden on corporations, will apportion that burden more equitably among the different corporations, will relieve corporations from the necessity of preparing two returns upon entirely different bases, and will greatly simplify the work of the Treasury Department in auditing returns.

#### CHANGES DESIGNED TO PREVENT THE AVOIDANCE OF THE INCOME TAX

The committee approves certain amendments to the income tax law contained in the House bill to stop the methods of avoidance which are now being commonly availed of by taxpayers.

(1) The provisions of the reorganization section of the present law have been rewritten to prevent the use of the section to escape proper taxation by increasing the basis for depreciation or depletion or by increasing the basis for determining gain or loss from the sale of assets transferred in connection with a reorganization or by distributing as capital gains what are in effect dividends out of earnings.

(2) Where the grantor of a trust retains the power of revocation the income of the trust is to be taxed to him.

(3) The penalty imposed by section 220 upon corporations availed of to avoid the imposition of surtaxes on the stockholders is now based upon all the income of the corporation which would be taxed in the hands of an individual, and the presumption is created that any investment company is availed of for the purpose of avoiding the imposition of surtaxes on stockholders. In addition the penalty is increased from 25 per cent to 50 per cent.

These and the many other changes intended to strengthen the law are described in detail below.

#### EARNED INCOME

The House bill proposes a reduction of 25 per cent in the tax on earned income not in excess of \$20,000. The committee recommends that the amount of earned income entitled to relief be reduced from \$20,000 to \$10,000. The fairness of taxing more lightly moder-

ate income received as compensation for personal services rendered than income from investments has long been recognized, and seems to be generally admitted without regard to political divisions. Such a distinction has been made for many years in the income tax laws of Great Britain. The soundness of such a distinction is shown by testing it under the principle of ability to pay, which is the principle underlying the entire system of progressive income taxation in effect in this country. The taxpayer who receives salaries, wages, and other earned income must each year save and set aside a portion of his income in order to protect him in case of sickness and in his old age, and in order to provide for his family upon his death. On the other hand, the person whose income is derived from investments already has his capital and is relieved of the necessity of saving to establish it. He may spend each year his entire income, and at the same time have sufficient capital to protect him in his old age and to provide for his family upon his death. In the usual case the person whose income is derived from investments is able to pay a greater tax than the one whose income is the result of personal effort.

#### BOARD OF TAX APPEALS

The bill provides for the establishment of a Board of Tax Appeals to which a taxpayer may appeal prior to the payment of an additional assessment of income, excess-profits, war-profits, or estate taxes. Although under the existing law a taxpayer may, after payment of his tax, bring suit for the recovery thereof and thus secure a judicial determination on the questions involved, he can not, in view of section 3224 of the Revised Statutes, which prohibits suits to enjoin the collection of taxes, secure such a determination prior to the payment of the tax. The right of appeal after payment of the tax is an incomplete remedy, and does little to remove the hardship occasioned by an incorrect assessment. The payment of a large additional tax on income received several years previous and which may have, since its receipt, been either wiped out by subsequent losses, invested in non-liquid assets, or spent, sometimes forces taxpayers into bankruptcy, and often causes great financial hardship and sacrifice. These results are not remedied by permitting the taxpayer to sue for the recovery of the tax after this payment. He is entitled to an appeal and to a determination of his liability for the tax prior to its payment.

Under the existing law a taxpayer prior to the payment of his tax may appeal to the commissioner, who has established the Committee on Appeals and Review, to determine these appeals for him. The objections that have been raised to this procedure are four: (1) The appeal is from the action of the Bureau of Internal Revenue but is taken to a committee in and a part of the bureau. It is urged that such an appeal does not involve a review by an impartial outside body, such as the taxpayer is entitled to prior to payment of the tax. (2) In the hearing on the appeal the person who is to decide the appeal acts both as advocate and judge, since he must both protect the interests of the Government and decide the questions involved. Such conditions do not insure an impartial determination of the case. (3) If the decision on the appeal is in favor of the Government, the taxpayer has the right to test the correctness of the



decision in the courts, but if the decision is in favor of the taxpayer, the action of the bureau is final and the correctness of the decision can never be tested in the courts. It is contended that this condition results in the decision of most doubtful points in favor of the Government. (4) The taxpayer is usually forced to come to Washington for the hearing on his appeal, an expensive and burdensome procedure.

Under the provisions of the proposed bill creating a Board of Tax Appeals the taxpayer may, prior to the payment of the additional assessment of income, war-profits, excess-profits, or estate taxes, appeal to the Board of Tax Appeals and secure an impartial and disinterested determination of the issues involved. In the consideration of the appeal both the Government and the taxpayer will appear before the board to present their cases, with the result that each member of the board will sit solely as judge and not as both judge and advocate. The provision allowing the commissioner to sue in court for the recovery of any taxes thought by him to be due in excess of that decided by the board to be due relieves the board from the responsibility of finally passing upon questions involving large amounts and removes the necessity for a decision in favor of the Government in order to force the issues into court. The divisions of the board will sit locally throughout the United States to enable taxpayers to argue their cases with as little inconvenience and expense as is practicable. This proposal meets all the objections that have been raised as to the existing system and at the same time provides for a flexible and informal procedure which will permit the board to determine expeditiously the cases brought before it on appeal.

#### MISCELLANEOUS TAX CHANGES

The House bill makes the following changes in the existing law with reference to the miscellaneous internal revenue taxes.

(1) It repeals the tax imposed by Title V of the revenue act of 1921 upon telegraph and telephone messages.

(2) It repeals the tax levied by sections 602 and 603 of the revenue act of 1921 upon cereal beverages and other soft drinks and carbonic acid gas;

(3) It changes the admission tax imposed by Title VIII of the revenue act of 1921 so as to apply only to admissions in excess of 50 cents.

(4) It changes the tax upon automobile trucks so as not to apply to trucks the chassis of which is sold for \$1,000 or less.

(5) It reduces from 5 per cent to 2½ per cent the tax upon automobile accessories and parts.

(6) It repeals the tax levied by section 900 of the revenue act of 1921 upon the sale of candy, hunting garments and liveries, hunting knives and similar articles, and yachts.

(7) It repeals the tax imposed by section 904 of the revenue act of 1921 upon the sale of certain carpets and rugs, trunks, valises, purses, portable lighting fixtures, fans, and similar articles.

(8) It excludes from the tax upon the sale of jewelry any articles sold for an amount not in excess of \$40 and watches sold for an amount not in excess of \$60.

(9) It repeals the occupational taxes imposed by paragraphs (5), (6), and (7) of section 1001 of the revenue act of 1921 upon the proprietors of theaters, circuses, and other public exhibitions.

(10) It reduces the tax upon the sales of produce from 2 cents for each \$100 to 1 cent.

(11) It repeals the stamp tax upon drafts or checks payable otherwise than at sight or on demand and upon promissory notes.

(12) It increases from 8 cents a pack to 10 cents a pack the tax upon playing cards.

(13) It reduces from \$10 to \$5 the tax upon proprietors of bowling alleys and billiard rooms.

The committee recommends the following changes in the provisions of the House bill with reference to miscellaneous taxes:

(1) It is recommended that the tax imposed by the present law upon telegraph and telephone messages be restored.

(2) It is recommended that the tax upon automobile trucks be further changed so as not to apply to truck bodies sold for an amount not in excess of \$200.

(3) It is recommended that the jewelry tax apply to all articles sold for an amount in excess of \$25 rather than only to articles sold for an amount in excess of \$40.

(4) It is recommended that the tax imposed by the present law on drafts or checks payable otherwise than at sight or on demand and upon promissory notes be restored.

(5) It is recommended that there be excluded from the brokers' tax persons whose business it is to negotiate purchases or sales of produce or merchandise.

(6) It is recommended that the tax of \$10 imposed by the present law upon proprietors of bowling alleys and billiard rooms be restored.

(7) It is also recommended that a tax of 10 per cent be imposed upon radio sets and parts thereof and mah jong sets.

#### INCOME TAX AMENDMENTS

Section 2: The definitions contained in this section have been revised to show clearly in which cases the definitions are all-inclusive.

Section 200: (1) In subdivision (a) of this section the term "taxable year" is defined to include a period of less than a year when a return is made for such period. Under the existing law the use of the term "taxable year" in the "net loss" section and other sections has been construed not to cover the case of a return made by a taxpayer for a fractional part of a year, with the result that the benefits of such sections are denied to taxpayers who are required by law to make a return for a fractional part of a year.

(2) In subdivision (d) of this section authority is granted to the commissioner to allow or require deductions and credits to be taken as of a year other than that in which "paid" or "accrued" when it is necessary in order to clearly reflect the income. The revenue act of 1921, in sections 214 (a) (6) and 234 (a) (4), authorizes the commissioner to allow the deduction of losses in a year other than that in which sustained when, in his opinion, it is necessary to clearly reflect the income. The bill extends that theory to all deductions and credits. The necessity for such a provision arises in cases in which a taxpayer pays in one year interest or rental pay-

ments or other items for a period of years. If he is forced to deduct the amount in the year in which paid, it may result in a distortion of his income which will cause him to pay either more or less taxes than he properly should.

Section 201: Subdivision (a) of the bill is substantially the same as section 201 (a) of the existing law. The portion of the existing law dealing with personal service corporations is provided for in the bill in subdivision (e) of this section.

Section 201 (b): (1) The first sentence of section 201 (b) of the existing law provides that any distribution made by a corporation shall be deemed to be made out of earnings and profits to the extent of the earnings and profits accumulated after February 28, 1913. It contains no similar presumption as to the source of a distribution made after all such earnings and profits have been distributed. Since distributions out of earnings and profits accumulated prior to March 1, 1913, and distributions out of capital are in some instances treated differently, it is material to know the source of a given distribution, even though all earnings and profits accumulated since February 28, 1913, have been distributed. Consequently, in section 201 (b) of the bill the presumption that every distribution is out of earnings and profits applies to all earnings and profits, whether accumulated prior or subsequent to March 1, 1913.

(2) In subdivision (b) of the existing law, it is provided that tax-free distributions out of earnings and profits accumulated prior to March 1, 1913, shall be applied against and reduce the basis of the stock only for the purpose of determining a loss from the subsequent sale of the stock; such a distribution is not applied against the basis of the stock for determining the gain from its sale. The bill in section 201 (b) provides that a distribution out of earnings and profits accumulated prior to March 1, 1913, shall be applied against the basis of the stock for the purposes of determining both gain and loss from its subsequent sale.

The theory which causes the allowance of the receipt of the dividend free of tax is that this distribution, being out of earnings accumulated prior to March 1, 1913, constitutes a return of capital to the stockholder. If it is treated as a return of capital for purposes of taxation, it should manifestly be considered a return of capital for purposes of determining his capital investment in the stock, and the resulting gain or loss from its subsequent sale. If he has had part of his capital returned to him, obviously he can not have that part so returned still invested in the stock. Unless the tax-free distribution is applied in reduction of the basis, the result is that the taxpayer is allowed a return of capital twice because of the same item of capital.

Section 201 (c): (1) The existing law has no provision similar to subdivision (c) of the bill, but the Treasury has construed the existing law as taxing liquidating dividends, not as capital gains, but as dividends subject to the surtax rates. The bill treats a liquidating dividend as a sale of the stock, with the result that the gain to the taxpayer is treated not as a dividend subject only to the surtax but as a gain from the sale of property which may be treated as a capital gain. The treatment of liquidating dividends under the bill is substantially the same as provided for in the revenue act of 1918. A

liquidating dividend is, in effect, a sale by the stockholder of his stock to the corporation; he surrenders his interest in the corporation and receives money in place thereof. Treating such a transaction as a sale and within the capital gain provisions is consistent with the entire theory of the act and, furthermore, is the only method of treating such distributions which can be easily administered.

The theory of liquidating dividends is extended to distributions in partial liquidation. If a corporation retires a portion of its capital stock, the transaction is treated, from the point of view of the stockholder, as a sale of his stock. If the corporation distributes an amount in partial retirement of its capital stock, the amount thereof is to be considered as a return of capital, and taxable only if, as, and to the extent that it exceeds the basis of the stock.

The House bill also treated such dividends as a sale of the stock, for the purpose of determining the amount of the gain, but provided that the amount of such gain should be taxed (1) as a dividend to the extent that it does not exceed the taxpayer's ratable share of the undistributed earnings of the corporation accumulated since February 28, 1913; (2) as a gain from the exchange of property to the extent that it exceeds such ratable share. It is recommended that this provision of the House bill be stricken out.

(2) It is provided in the last sentence of section 201 (c) of the bill that amounts distributed in partial liquidation of a corporation shall not, to the extent that they are properly chargeable to capital account, be treated as distributions of earnings and profits for the purpose of determining the taxability of subsequent distributions by the corporation. No similar provision is contained in the existing law, although the provisions of the bill represent what is probably the correct construction of the existing law and unquestionably what is in accord with business practice.

Section 201 (d): Subdivision (d) of the bill corresponds to subdivision (c) of section 201 of the existing law. This subdivision provides that amounts distributed by a corporation which do not constitute distributions of earnings or profits or increase in value of property accrued prior to March 1, 1913 (such as distributions out of unrealized appreciation in value of property or out of depreciation or depletion reserves), constitute a return of capital to the stockholder and are taxable to him only if, as, and to the extent that they exceed the basis of his stock. It is specifically provided that the amount by which such distribution exceeds that basis of the stock constitutes taxable income, which provision accords with the Treasury Department's interpretation of the present law.

A provision has been added to this subdivision as contained in the House bill providing that there shall be included within the provisions of the subdivision amounts distributed by corporations out of depletion reserves based upon the discovery value of mines. As contained in the House bill the provision included distributions made out of depletion and depreciation reserves based upon the cost of the property depreciated or depleted, and it is thought desirable to extend this provision to distributions out of the depletion reserve based upon the discovery value of mines.

Section 201 (e): Subdivision (e) of the bill provides, as does the present law in section 201 (a), for the exemption of dividends

paid by a personal service corporation out of its earnings and profits which under the provisions of the revenue act of 1918 and the revenue act of 1921 have already been taxed to the stockholders even though not distributed.

Section 201 (f): The bill changes the existing law by providing for the case in which a corporation first redeems a portion of its stock and then declares a stock dividend as well as the case in which the corporation first declares the stock dividend and then redeems a portion of its stock.

Section 201 (g): The definition contained in the House bill of amounts distributed in partial liquidation has been rewritten for purposes of clarity.

Subdivision (e) of the present law is omitted in the bill, but is covered by a general provision in section 213 (a).

Subdivision (f) of section 201 of the present law applied only to the computation of invested capital for purposes of the excess-profits tax and was omitted because obsolete.

Section 202: There is no provision of the existing law which corresponds to this section of the bill. The purpose in embodying in the law this section is to show clearly the method of determining the amount of gain or loss from the sale or other disposition of property.

(1) Subdivision (a) of this section sets forth the general rule that the amount of the gain or loss from the sale or other disposition of property is the difference between the cost or other basis of the property sold and the amount received for the property upon the sale. This merely embodies in the law the present construction by the department and the courts of the existing law.

(2) There is no provision in the existing law which corresponds to subdivision (b). It provides that in computing gain or loss from the sale or other disposition of property the cost or other basis of the property shall be increased by the cost of capital improvements and betterments made to the property since acquisition and decreased by the depreciation and similar deductions previously allowed with respect to this property. To remove a possible ambiguity in the House bill, the deductions are limited to those "previously allowed," rather than those "properly chargeable."

(3) Subdivision (c) does not correspond to any provision of the existing law but embodies in the law what is and has always been the construction of the law adopted by the department and by the courts; that is, that where income is realized in the form of property the measure of the income is the fair market value of the property at the date of its receipt.

(4) Subdivision (d) is merely informative, stating that the amount of the gain determined under its provisions shall be recognized as provided in section 203, which states those cases in which no gain or loss from a sale or exchange is recognized and those cases in which a limitation is placed upon the gain or loss to be recognized from the sale or exchange.

(5) Subdivision (e) of the bill is the same as section 202 (f) of the existing law.

Section 203: The existing law provides, in section 202 (c), that no gain or loss is recognized from an exchange of property unless the property received in exchange has a readily realizable market

value. Great difficulty has been experienced in administering this provision. The question whether, in a given case, the property received in exchange has a readily realizable market value is a most difficult one, and the rulings on this question in given cases have been far from satisfactory. Furthermore, the construction placed upon the term by the department has restricted it to such an extent that the limitation contained therein has been applied in comparatively few cases. The provision can not be applied with accuracy or with consistency. It appears best to provide generally that gain or loss is recognized from all exchanges and then except specifically and in definite terms those cases of exchanges in which it is not desired to tax the gain or allow the loss. This results in definiteness and accuracy and enables a taxpayer to determine prior to the consummation of a given transaction the tax liability that will result therefrom.

Section 203 (b) : (1) Paragraph (1) of subdivision (b) of the bill corresponds to section 202 (c) (1) of the existing law as amended by the act of March 4, 1923. The existing law provides that no gain or loss is recognized if property held for investment or for productive use in trade or business is exchanged for property of a "like kind or use." The contention was made that this provision divided all property into two classes: Property held for investment and property held for productive use in trade or business; and, consequently, that if any property held for investment was exchanged for other investment property, or if any property held for productive use was exchanged for other property to be held for productive use, the exchange was for property of a "like kind or use," and the gain was exempt from tax. In the bill the language is changed to provide that the property held for investment or for productive use must be exchanged for a like kind of property. If the property received is of a like kind, it is immaterial whether it is to be held for investment or for productive use. The intention of the party at the time of the exchange is difficult to determine, is subject to change by him, and does not represent a fair basis of determining tax liability. Consequently it is provided in the bill that no gain or loss is realized if the property received is of a like kind, to be held either for investment or for productive use. In the bill as reported, a provision, not contained in the House bill, has been added whereby if common stock is exchanged solely for common stock or preferred stock for preferred stock in the same corporation, no gain or loss shall be recognized.

(2) Paragraph (2), together with section 203 (h) (1), with the exception of minor changes in phraseology, is the same as section 202 (c) (2) of the existing law.

(3) Paragraph (3) provides that no gain or loss is recognized if a corporation a party to a reorganization exchanges property for stock or securities in another corporation a party to the reorganization. There is no corresponding provision of the existing law, although this paragraph embodies the construction placed by the Treasury Department upon the existing law. The present ruling of the Treasury Department on this question is of doubtful legality and a statutory provision is most necessary.

Congress has heretofore adopted the policy of exempting from tax the gain from exchanges made in connection with a reorganiza-

tion, in order that ordinary business transactions will not be prevented on account of the provisions of the tax law. If it is necessary for this reason to exempt from tax the gain realized by the stockholders, it is even more necessary to exempt from tax the gain realized by the corporation.

(4) Paragraph (4), together with the definition contained in subdivision (i), corresponds to section 202 (c) (3) of the existing law with certain minor changes.

(5) Paragraph (5) corresponds to sections 214 (a) (12) and 234 (a) (14) of the existing law. The existing law exempts from tax the proceeds from an involuntary conversion of property, but fails to grant an exemption if the property is replaced in kind by an insurance company or similar person. The bill exempts the gain from an involuntary conversion, whether the replacement is made by the taxpayer or by the insurance company.

Under the existing law if only a portion of the proceeds from an involuntary conversion is used in the replacement, then only a corresponding part of the gain or loss is not recognized. In the bill the gain from the transaction is recognized, but in an amount not to exceed the unexpended portion of the proceeds. This rule is the same as the one set forth in subdivision (d) (1) of this section in the case of exchanges of property in connection with which there is "boot" transferred.

Section 203 (c): There is no provision of the existing law which corresponds to subdivision (c). Under the existing law, if corporation A organizes a subsidiary, corporation B, to which it transfers part of its assets in exchange for all the stock of corporation B, and then distributes the stock of corporation B as a dividend to its stockholders without the surrender by the stockholders of any of their stock, such a dividend is a taxable one. If, however, corporation A organizes two new corporations, corporations B and C, and transfers part of its assets to corporation B and part to corporation C, and the stockholders of corporation A surrender their stock and receive in exchange therefor stock of corporations B and C, no gain from the transaction is recognized. Thus, under the existing law, the same result, except as to tax liability, may be obtained by either of two methods; but if the first method set out above is adopted the gain is taxable, while if the second method set out above is adopted there is no taxable gain.

Subdivision (c) of the bill permits the reorganization to be accomplished in the first manner set out above without the recognition of gain. The first method set out above represents a common type of reorganization and clearly should be included within the reorganization provisions of the statute.

Section 203 (d): (1) Paragraph (1) of subdivision (d) corresponds to section 202 (e) of the existing law as amended by the act of March 4, 1923, and provides that where "boot" is given in connection with an exchange which would otherwise be tax free the gain from the exchange shall be recognized, but in an amount not in excess of the amount of the money or other "boot."

(2) There is no provision of the existing law which corresponds to paragraph (2) of subdivision (d). This paragraph provides that any amount distributed by a corporation in connection with a reorgan-

ization which has the effect of a taxable dividend shall be taxed as a dividend.

The necessity for this provision may best be shown by an example: Corporation A has capital stock of \$100,000, and earnings and profits accumulated since March 1, 1913, of \$50,000. If it distributes the \$50,000 as a dividend to its stockholders, the amount distributed will be taxed at the full surtax rates.

On the other hand, corporation A may organize corporation B, to which it transfers all its assets, the consideration for the transfer being the issuance by B of all its stock and \$50,000 in cash to the stockholders of corporation A in exchange for their stock in corporation A. Under the existing law, the \$50,000 distributed with the stock of corporation B would be taxed, not as a dividend, but as a capital gain, subject only to the 12½ per cent rate. The effect of such a distribution is obviously the same as if the corporation had declared out as a dividend its \$50,000 earnings and profits. If dividends are to be subject to the full surtax rates, then an amount so distributed should also be subject to the surtax rates and not to the 12½ per cent rate on capital gain.

Section 203 (e): There is no provision of the existing law which corresponds to subdivision (e) of the bill, nor has the Treasury Department ever ruled officially on the type of case covered by that subdivision. The subdivision provides that if a corporation in connection with a reorganization transfers its assets to another corporation, a party to the reorganization, for stock and securities of the same corporation and cash, then no gain or loss to the transferor is recognized, if it distributes the cash to its stockholders. But if the selling corporation fails to distribute the cash to its stockholders then the gain or loss is to be recognized. In other words, if the corporation which sells its assets in connection with the reorganization acts merely as a conduit in passing the proceeds of the sale on to its stockholders, no gain to the corporation is to be recognized, but if it retains the entire amount of proceeds with the result that the transaction is in substance a real sale, then the gain shall be recognized.

Section 203 (f): There is no provision in the existing law which corresponds to subdivision (f), and there is no ruling by the Treasury Department on a case such as is covered by this subdivision. This subdivision provides that in the case in which "boot" is received in connection with a transaction from which there would otherwise be no deductible loss, no loss is to be recognized. In case the exchange results in a gain, the situation is covered in subdivision (d) (1) by a provision that the gain shall be recognized in an amount not in excess of the "boot." This limitation, however, is not a logical one, if applied to the case of an exchange resulting in a loss. Subdivision (b) of this section provides that no loss shall be recognized if the entire consideration for the exchange is a certain type of property. Unless some provision is made for cases in which part of the consideration is money, the provisions of subdivision (b) could be avoided and the entire amount of the loss recognized if a small amount of money were received in addition to the specified property. The only practicable way to cover such a case and prevent the taxpayer from taking the entire loss by adding a small amount of money to the property received is to provide that no loss shall be recognized.



Section 203 (g): There is no provision of the existing law which corresponds to subdivision (g). This subdivision provides that a distribution by or on behalf of a corporation, in connection with a reorganization, of stock or securities in another corporation a party to the reorganization shall not be considered a distribution of earnings and profits for the purpose of determining the taxability of subsequent distributions by the corporation.

It should be noted that this subdivision covers the case in which A distributes the stock of B as a dividend, the case in which A distributes the stock of B in retirement of a portion of its (A's) stock, and the case in which B issues its stock direct to A's stockholders.

Section 203 (h): (1) Subdivision (h) (1) contains a definition of reorganization which corresponds to the definition contained in section 202 (c) (2) of the existing law. The only change in the definition is to include within its terms the case of a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders, or both, are in control of the corporation to which the assets are transferred. This is a common type of reorganization, and clearly should be included within the reorganization provisions of the statute.

(2) There is no provision of the existing law which corresponds to subdivision (h) (2) of the bill. This definition is inserted to remove any doubt as to whether a corporation, all of the stock of which is acquired in connection with the reorganization, is a party to the reorganization.

Section 204: (1) Paragraphs (1), (2), (4), and (5) of subdivision (a) are the same, with the exception of a few changes in phraseology, as paragraphs (1), (2), and (3) of subdivision (a) of section 202 of the existing law.

There is no provision in the existing law which corresponds to paragraph (3) of subdivision (a). According to this paragraph, the basis for determining gain or loss from the sale or other disposition of property acquired after December 31, 1920, by a voluntary transfer in trust, is the same as it would be in the hands of the grantor, following the principle laid down in paragraph (2) as to gifts. If the transfer in trust resulted in the recognition of a taxable gain or a deductible loss to the grantor, then this basis will be increased or decreased accordingly.

(2) Paragraph (6) corresponds to section 202 (d) (1) of the existing law. The general theory of this paragraph is that where no gain or loss is recognized as resulting from an exchange, the new property received shall for purposes of determining gain or loss from a subsequent sale, and for depreciation and depletion, be considered as taking the place of the old property given up in connection with the exchange. The provisions of section 203 of the bill that no gain or loss is recognized from certain exchanges do not grant an exemption and are not so intended. These provisions are based upon the theory that the types of exchanges specified in section 203 are merely changes in form and not in substance, and consequently should not be considered as effecting a realization of income at the time of the exchange. In other words, these provisions result not in an exemption

from tax but in a postponement of tax until the gain is realized by a pure sale or by such an exchange as amounts to a pure sale. It follows, therefore, that in the case of such an exchange, the property received should be considered as taking the place of the property exchanged. If in connection with the exchange money is received which is not taxed, obviously the basis of the old property should be reduced to that extent since the taxpayer has in part received a return of capital. But if money is received in connection with the exchange and the money is taxed, it is equally obvious that the basis of the old property should not be affected.

The changes in the verbiage of this and the two succeeding paragraphs are designed to clarify the provisions of the House bill and to show clearly that the types of transactions described in paragraphs (7) and (8), even though the particular transaction because of the date of its occurrence or for some other reason may not be within the provisions of such paragraph, are not within the provisions of paragraph (6) and are not subject to rules laid down therein.

(3) There is no provision of the existing law which corresponds to paragraph (7) of the bill. This paragraph provides that where in connection with a reorganization assets are transferred from one corporation to another the assets so transferred shall retain the same basis in the hands of the new corporation as they had in the hands of the old corporation. The application of this paragraph is limited to the cases in which an interest or control in the assets so transferred of 80 per cent or more remains in the same persons. The purpose of this and the succeeding paragraph is to check evasions.

(4) There is no provision of the existing law which corresponds to paragraph (8) of the bill. The theory underlying this paragraph is the same as that underlying the preceding paragraph and it provides that where a taxpayer transfers assets to a corporation in exchange for stock of the corporation in such a manner that no gain or loss is recognized to the taxpayer, the basis of the assets in the hands of the corporation shall be the same as it would have been in the hands of the transferor.

Under the existing law, if A owns an asset which cost him \$10,000 and is now worth \$50,000, he may transfer it to the X corporation in exchange for all the stock of the X corporation (no gain or loss from the exchange being recognized either under the existing law or under the bill) and the new corporation may take up the asset on its books for the purpose of determining gain or loss from subsequent sale and depreciation and depletion at \$50,000, its fair market value at the date of transfer. Paragraph (8) of the bill provides that the basis of the asset so transferred shall be \$10,000.

It should be observed that property may be acquired in connection with a reorganization without the provisions of paragraph (7) being applicable because of the fact that the interest or control in the property of 80 per cent or more does not remain in the same persons. If, however, such a transaction is covered by the provisions of paragraph (8) the limitations imposed by paragraph (8) upon the basis of such property are applicable.

(5) There is no provision of the existing law which corresponds to paragraph (9) of the bill. The effect of this paragraph is best shown by examples.

Example 1: A purchased a share of stock in corporation X for \$100. Corporation X organizes a subsidiary, corporation Y, to which it transfers a part of its property in exchange for all of the stock of corporation Y. It then distributes the stock of corporation Y, share for share, to its stockholders as a dividend. Under the provisions of subdivision (c) of section 203 of the bill, A realizes no income from the receipt of this stock.

The basis of the share of stock in corporation X, \$100, shall, under this paragraph, be apportioned between the share of stock in corporation X and the share of stock in corporation Y. If at the time of the distribution of the share of stock in corporation Y, the stock of the two corporations is of the same market value, then one-half of the basis of the old stock, \$50, shall be apportioned to each share. Gain or loss from the subsequent sale of either share of stock shall be determined by comparing the sale price with \$50, the basis of the share sold.

Example 2: Paragraph (9) also covers the case of a distribution by a corporation of a stock dividend and provides that the basis of the old stock shall be apportioned between that stock and the stock received as a dividend. This rule is in accordance with the construction of the existing law adopted by the department and by the courts.

(6) Paragraph (10) of the bill corresponds to section 202 (d) (2) of the existing law, and lays down the rule as to the basis of property acquired with the proceeds of an involuntary conversion. The rule set forth is the same as is provided in paragraph (6) in cases of tax-free exchanges of property. The existing law provides that the property acquired shall be treated as taking the place of a like proportion of the property converted. Since in section 203 (b) (5) of the bill the amount of the proceeds which is not reinvested is treated as "boot," and taxed to the extent of the gain, a corresponding change is made in this paragraph to give effect to the change in 203 (b) (5). It provides, therefore, that the money which is not so expended, to the extent that it was taxed as gain, shall not reduce the basis of the property converted.

(7) Paragraph (11) of the bill corresponds to section 202 (d) (3) of the existing law. The rule laid down in the existing law is the correct one only if the stock or securities sold are repurchased for the same amount as that for which sold. In all other cases the rule prescribed in the existing law is wrong. In the bill provision is made for the case in which the repurchase price differs from the price for which the securities were sold.

(8) Subdivision (b) provides that the basis for determining the gain or loss from the sale or other disposition of property acquired before March 1, 1913, shall be the cost of the property or its fair market value as of March 1, 1913, whichever is higher. This change, which operates in favor of the taxpayer, simplifies exceedingly the rule in effect under the present law.

A provision is inserted providing that in determining the fair market value of stock in a corporation, as of March 1, 1913, due re-

gard shall be given to the fair market value of the assets of the corporation as of that date. It is alleged that the Treasury Department in valuing the stock of close corporations, as of March 1, 1913, has given insufficient weight to the value of the assets as of that date and too great weight to forced or isolated sales of comparatively small blocks of the stock. This provision is to prevent such practice by the department in the future by providing specifically that in determining the value of the stock due regard shall be given to the value of the corporate assets.

(9) The first part of subdivision (c) of the bill, that is, the part preceding the exception, does not correspond to any provision of the existing law, but is the same as the interpretation placed upon the existing law by the department. It provides that the basis of computing depreciation and depletion shall be the same as the basis of computing gain or loss from the sale of property, and represents what is obviously the correct rule, since the theory in setting a basis for depreciation and depletion is the same as in setting one for determining gain or loss from sale; that is, to insure a taxpayer a return of his capital free from tax.

(10) The exception contained in subdivision (c) supersedes the second and third provisos of section 214 (a) (10) and 234 (a) (9) of the existing law. The existing law limits discovery depletion to the operating profit from the property upon which the discovery is made. The bill limits discovery depletion to 50 per cent of the operating profit from the property upon which the discovery has been made.

Section 206 (a): This subdivision, defining a "net loss," corresponds to section 204 (a) of the existing law. The bill sets forth clearly and accurately those deductions which are not allowable in computing the net loss and also those additions which must be made to gross income before computing a net loss.

(1) Paragraph (1) of this subdivision corresponds to clause (3) of section 204 (a) of the existing law. Since net losses are to be limited to those sustained in the trade or business, it is provided in the bill that not only losses but all other expenses not connected with a trade or business are allowable as deductions in computing the net loss only to the extent of the gross income not derived from the trade or business. The existing law places this limitation only upon non-business losses; the bill extends the limitation to all nonbusiness deductions.

(2) There is no limitation upon the deduction of capital losses in the existing law, such as is contained in paragraph (2) of the bill. For the reason that net losses are considered as the losses resulting from the operation of a trade or business, it is provided in the bill that in computing the net loss capital losses shall be deductible only to the extent of the capital gains.

Section 206 (b): This subdivision corresponds to section 204 (b) of the existing law. It should be noticed that in the bill it is provided that the amount of the net loss shall be used as a deduction in computing net income for the succeeding taxable years; it is not allowable, however, as a deduction in computing the net loss of the succeeding taxable year, since to do this would allow the benefits of the net loss to be taken not only in the two succeeding taxable years but for an indefinite time until it was absolutely wiped out.

Section 206 (c) and (d) : There is no provision in the existing law which corresponds to these subdivisions. If a taxpayer has a capital net gain in the second or third taxable years, it is necessary to state whether the amount of the net loss is to be applied against the ordinary net income of the taxpayer or is to be applied in computing the capital net gain of the taxpayer. Since a net loss does not include capital losses, it obviously should first be applied in the computation of the ordinary net income for the subsequent year, and subdivisions (c) and (d) of the bill so provide. Paragraph (c) (1) of the House bill has been rendered unnecessary by the action of the committee in striking out subdivision (c) of section 208 with reference to capital net losses.

Section 206 (e) and (f) : Subdivisions (e) and (f) cover the case in which a taxpayer sustained a net loss for years prior to the effective date of this act, and provides that the amount thereof, computed under the revenue act of 1921, shall be allowed as a deduction under this act.

Section 206 (g) : This subdivision provides the method for the application of the net-loss section to the case of a taxpayer making a return for a period beginning in one calendar year and ending in the following calendar year, where the laws applicable to the respective years differ. The method is similar to that contained in subdivision (d) of section 204 of the existing law, which was limited to fiscal years beginning in 1920 and ending in 1921.

Section 206 (h) : This subdivision corresponds to section 204 (c) of the existing law. The existing law, however, grants the benefits of the net-loss section to the beneficiary of an estate or trust. The bill confines the benefits to an estate or trust because the beneficiary's capital is not affected by a net loss of the estate or trust, and consequently he should not be entitled to a net loss in computing income for the subsequent year. If the benefit of the section is extended to the estate or trust itself, proper relief is given.

Section 207: (1) This section dealing with fiscal years is the same, with certain minor changes, as section 205 of the existing law.

The second sentence of subdivision (b) of this section is similar to section 206 of the revenue act of 1918, which was inadvertently omitted from the revenue act of 1921. The provision is necessary for the computations in fiscal-year cases and is therefore restored in the bill.

Section 208: (1) Subdivision (a) of this section corresponds to subdivision (a) of section 206 of the existing law.

Under the existing law the tax under the capital gain section is the tax on the ordinary net income plus  $12\frac{1}{2}$  per cent of the capital gain. If the taxpayer has no ordinary net income but has a deficit, the tax under the existing law is still  $12\frac{1}{2}$  per cent of the capital gain, although the capital gain may thus be in excess of the net income of the taxpayer. In the bill, paragraph (4) is inserted, and the two succeeding paragraphs are changed in order to revise the definition of capital net gain so that the tax in cases where there is a deficit in ordinary income will be  $12\frac{1}{2}$  per cent of an amount determined by subtracting from the capital net gain the amount of the deficit in ordinary net income.

(2) In the existing law, property held for the personal use or consumption of the taxpayer or his family is excluded in the definition of capital assets. In the proposed bill, this restriction has been removed, with the purpose of permitting a taxpayer selling residential property at a profit to elect to be taxed under the capital gain section if he so desires. The last part of the definition of capital assets is changed to remove any doubt as to whether property which is held primarily for resale constitutes a capital asset whether or not it is the type of property which under good accounting practice would be included in the inventory. The amendment to the existing law in the House bill, excepting stock received as a stock dividend from the definition of capital assets, has been stricken out. There is no logical reason why such stock does not constitute a capital asset, as well as other stock.

Section 208 (b): The provision of section 206 (b) of the existing law that in no case shall the tax under the capital gain section be less than  $12\frac{1}{2}$  per cent of the net income is omitted from the bill. There appears to be no reason why the tax on the ordinary income of a taxpayer whose ordinary income is small should, under the capital gain section, be increased to  $12\frac{1}{2}$  per cent. He should at his option pay a tax on his ordinary income computed in the regular manner, plus  $12\frac{1}{2}$  per cent of his capital gain. The omission in the bill of this provision of the existing law accomplishes that result.

Subdivision (c) of section 208 of the House bill provided that the amount by which the tax is reduced on account of a capital net loss should not exceed  $12\frac{1}{2}$  per cent of the capital net loss. There was no corresponding provision in the existing law. Such a provision would have resulted in an individual being liable to pay an income tax, although the total of his losses during the taxable year exceeded the amount of his income. Since this result is deemed to be undesirable, the subdivision has been stricken out of the bill as reported.

Section 209: This section makes a reduction of 25 per cent in the tax on earned income.

Section 209 (a): (1) Earned income is defined to mean wages, salaries, professional fees, and other amounts received as compensation for services actually rendered, including a reasonable compensation for personal services where income is derived from combined personal services and capital in the prosecution of farming or other business. In order to obviate the considerable administrative difficulty of dividing that income which is in part earned, and in part unearned, into these two classes, it is provided that at least \$5,000 of the taxpayer's income shall in all cases be considered to be earned, and in no case shall the earned income of the taxpayer be more than \$10,000. The last sentence of the definition of earned income contained in the House bill, which provided that if the income is derived in part from personal services and in part from capital, in the prosecution of a business, a reasonable salary allowance not exceeding 20 per cent of the net profits of the taxpayer from the business shall be considered to be earned income, has been rewritten without substantial change for purposes of clarity. The maximum amount which may be considered to be earned income

has been changed from \$20,000 in the House bill to \$10,000, since this section is intended to afford relief mainly to the smaller taxpayers.

Provision is made in the definition of earned income for the case in which a corporation distributes its earnings and profits to its stockholders in the guise of salary, and it is provided that such amounts which represent in fact a distribution of earnings and profits rather than a reasonable compensation for services rendered shall not be considered as earned income.

(2) Subdivision (b) provides for a determination of the amount of tax attributable to the earned income and a reduction in the tax of 25 per cent of that amount. The amount of the credits is consequently 25 per cent of an amount which bears the same relation to the total tax as the earned net income bears to the total net income. Since the earned net income may exceed the total net income (in cases where the taxpayer has a loss without considering his earned net income) it is provided that the credit shall not exceed 25 per cent of the tax.

Section 209 (c): Since the result sought to be attained by this section is to give the taxpayer a credit of 25 per cent of the amount of the tax attributable to his earned income, it is manifest that if the taxpayer has a capital net gain (and hence is taxed under section 208) the application of the general rule stated in subdivision (b) of this section will not produce the correct result. Under section 208 the tax is computed by finding the tax on ordinary net income (which includes earned income, but excludes all items of capital gain or loss), and adding thereto  $12\frac{1}{2}$  per cent of all of the capital net gain. It is apparent, therefore, that in such case the only part of a tax in the computation of which earned income is a factor is the tax on the ordinary net income. Subdivision (c) therefore provides that if the taxpayer is taxed under section 208 (i. e., has a capital net gain), the earned income credit shall be 25 per cent of an amount which bears the same proportion to the tax as the earned net income bears to the ordinary income.

Section 210: The rates of normal tax herein provided are 3 per cent upon the first \$4,000 of the taxpayer's net income in excess of the credits provided in section 216, and 6 per cent of the amount of net income in excess of \$4,000.

Section 211: The surtax rates range from 1 per cent of the amount by which the net income exceeds \$10,000 and does not exceed \$12,000, to 25 per cent of the amount by which the net income exceeds \$100,000.

Section 213 (a): A new sentence has been added to the definition of gross income, providing that items of gross income shall be considered to be received in the taxable year in which they are unqualifiedly made subject to the taxpayer's demands. This is a statutory enactment of the rule followed by the department, as well as a more general application of a similar provision in section 201 (e) of the existing law.

Section 213 (b): (1) A new provision has been inserted in paragraph (4) to require persons owning obligations, the income from which is exempt under this paragraph, to submit statements showing the number and amount of and the income received from such obligations.

(2) The existing law provides in section 213 (b) (7) that whenever a State, Territory, or political subdivision thereof, or the District of Columbia, prior to September 8, 1916, has entered into a contract with any person to acquire, construct, operate, or maintain a public utility, the portion of the income to which such person is entitled shall be taxed, but no tax shall be imposed upon the income derived by the State, Territory, or political subdivision thereof, in such a manner as to impose a loss or burden upon the State, Territory, or political subdivision. In order that this exemption may more readily be administered, the paragraph has been reworded to provide that the tax upon the income from the operation of the utility shall be levied as provided in this title, but there shall be refunded to the State, Territory, or political subdivision thereof, or the District of Columbia, a part of the tax equal to the amount by which the share of income accruing to the State, Territory, or political subdivision thereof, or the District of Columbia, was reduced in the imposition of the tax.

(3) The language of paragraph (10) has been changed to accord with that of section 231, which exempts from tax building and loan associations.

Section 214 (a): (1) A sentence has been added to paragraph (6) to provide that the basis for determining the amounts of the deductions under paragraphs (4), (5), or (6) shall be the same as that provided in section 204 for determining gain or loss from the sale or other disposition of property. This is obviously the rule which should be followed even in the absence of an express provision.

(2) Paragraph (10) of section 214 (a) of the existing law now permits the deduction of contributions to posts of the American Legion or women's auxiliaries thereof. Under the proposed bill this deduction is extended in general terms to contributions to posts of war veterans or auxiliary units thereof if such posts or units are organized in the United States or its possessions. There have been added as allowable deductions contributions or gifts to a fraternal society operating under the lodge system, where such gifts are to be used for the benevolent purposes specified in this paragraph. The paragraph has been further amended to provide that the limitation upon the amount of deductions allowable under this paragraph to 15 per cent of the taxpayer's net income shall not be applied, if the taxpayer has for each of the 10 preceding years, as well as the year in question, contributed an amount equal to or exceeding 90 per cent of his income to the organizations and for the purposes specified in this paragraph. This provision is designed substantially to free from income taxation one who is habitually contributing to benevolent organizations amounts equalling virtually his entire income.

Section 214 (c) of the House bill, which permitted the deduction by a taxpayer from his gross income in determining his taxable income of interest paid on indebtedness not incurred in carrying on a trade or business, and of losses of a nonbusiness character only to the extent that the sum of these two items exceeds his wholly tax-exempt interest, has been stricken out of the bill as reported.



Section 216 (f): This subdivision of the existing law and the House bill provided that the credits allowed by subdivisions (c), (d), and (e) of this section should be determined by the status of the taxpayer on the last day of the taxable period. The subdivision has been amended to provide that if the status of the taxpayer changes during the taxable year, the credits provided in subdivision (c) shall be prorated according to the months during which the taxpayer occupied each status. This is obviously a more equitable rule than that provided in the existing law whereby the amount of these credits is determined by the status of the taxpayer on a single day rather than during the entire taxable period.

Section 217: Paragraphs (1) and (2) of subdivision (a) have been altered, in order to exempt from taxation to a nonresident alien individual interest on bonds or dividends from stock of domestic corporations, if more than 80 per cent of the income of such domestic corporations is derived from sources outside the United States.

Subdivision (g) has been changed in order to allow a nonresident alien who is a resident of a contiguous country to claim the benefit or credits for dependents and of the 2 per cent rate of tax on his earned income from sources within the United States by filing a claim therefor with the withholding agent.

Section 219: This section has been rewritten in order to secure clarity and to prevent the evasion of taxes by means of estates and trusts.

(1) It is provided in the section that in the case of a trust where the trustee has the discretion to distribute or not, the income is taxed to the beneficiary if distributed and to the trustee if not distributed. The wording of subdivision (b) has been changed (1) to except from its provisions specifically subdivisions (g) and (h), which lay down special rules in lieu of the general provisions of subdivision (b); (2) to permit as an additional deduction that part of the gross income which, pursuant to the terms of the will or deed, is to be used exclusively for the prevention of cruelty to children or animals, since contributions by individuals to organizations for these purposes are deductible under section 214 (a) (10).

(2) Paragraph (g) of this section provides that where the grantor of a trust reserves the right to change the trust in favor of himself the income is taxed to the grantor. The subdivision of the House bill has been rewritten in order that there shall not be taxed to the grantor the income of a trust as to which the grantor has a power of revocation subject, however, to a condition which has not happened.

The creation of a revocable trust constitutes nothing but an assignment of the right to receive future income. Since such an assignment does not operate to increase the taxable income of the assignor, the creation of a revocable trust should not so operate, but the income of such a trust should be included in the income of the grantor. The bill so provides.

(3) Subdivision (h) of this section provides that the income of a trust which may be distributed to the grantor or which may be used for the payment of premiums upon policies of insurance on his life shall be included in the gross income of the grantor. Trusts have been used to evade taxes by means of provisions allowing the distribution of the income to the grantor or its use for his benefit. The purpose of this subdivision of the bill is to stop this evasion.

The provisions of the House bill have been altered to exclude from taxation to the grantor of a trust income thereof used to pay premiums on insurance policies which are irrevocably payable to the benevolent organizations described in section 214(a) (10). A trust of this kind is a proper method of providing for a gift to such organizations, and since the income is being used for these benevolent purposes rather than for the grantor's personal benefit it should not be taxed to him.

Section 220: This section of the revenue act of 1921 imposes upon a corporation formed or availed of for the purpose of preventing the imposition of the surtax upon its stockholders by failing to distribute its gains and profits a tax of 25 per cent of its net income. This section is ineffective in the case of the holding company which fails to distribute its gains and profits, since its net income consists entirely of dividends from the corporation, the stock of which it owns, which under the law do not form a part of the net income of the holding company. Subdivision (d) of the present bill corrects this error and also provides that in computing the net income of such corporation for the purpose of this section the amount of interest on Liberty bonds must be included if the interest on such bonds would be subject to tax in the hands of an individual owner. Under the present law such interest is not included in computing the net income of the corporation, since Liberty bonds are not taxed to a corporation, although subject (except the 3½ per cent issue) to surtax in the hands of an individual owner. The rate of tax upon the net income of such corporations has been increased from 25 per cent in the House bill to 50 per cent, in order to place a more effective check upon this method of evasion of surtaxes. For the same reason the provision giving the commissioner the discretion, if the stockholders agree, to tax them upon their distributive shares as partners has been stricken out.

Section 220 of the existing law also provides that the fact that any corporation is a mere holding company shall be prima facie evidence of purpose to escape a surtax. The department has been unable to apply the section to the case of pure investment companies which reinvest their entire net income. The present bill therefore makes the fact that any corporation is a mere "holding or investment company" prima facie evidence of the purpose to escape the surtax.

Section 221: Subdivision (a) of this section of the present law provides for the withholding of a tax equal to the normal tax on fixed or determinable income paid to a nonresident alien individual or a partnership composed in whole or in part of nonresident aliens. The department has construed this as requiring the tax to be withheld in the case of a partnership composed in whole or in part of nonresident aliens only if such partnership has no office or place of business within the United States. A different construction would result in requiring the withholding of tax from payments to a purely domestic partnership which happens to have one partner who is a nonresident alien. The bill amends the law so as to conform to this ruling of the department.

Section 221 (c): Subdivision (c) of section 221 of the present law required withholding agents to make return of the tax withheld on

or before March 1. The bill proposes to make this date March 15, in order that the withholding agent may make his return of the tax withheld at the same time he makes his own income tax return.

Section 222: This section of the existing law allows a credit against the tax of the amount of income, war-profits, and excess-profits taxes paid to foreign countries during the taxable year of the taxpayer. Inasmuch as the tax laws of most of these countries, like our own, provide for the payment of income taxes during the year following the year for which the tax is imposed, it results that in many cases the credit is taken against the United States tax for the year following the year in which was earned the income on which the foreign tax was imposed. This defect is remedied by subdivision (c) of the bill, which provides that the credit may be taken at the option of the taxpayer in the year in which the taxes of the foreign country accrued.

Section 223: Under the existing law and the House bill, a married individual living with husband or wife having a net income of \$2,000 or over is required to make a return, although, if the aggregate net income does not exceed \$2,500, no income tax will be due. In order to free such individuals from the necessity of making returns in the absence of income tax liability, the minimum amount has been changed to \$2,500. A similar change has been made in section 225 (a) (2), dealing with fiduciary returns.

Section 225: Paragraph (b), providing that the fiduciary shall make a return for every estate or trust the gross income of which for the taxable year is \$5,000 or over, has been inserted in conformity with the similar requirement for individuals.

Section 226: Subdivision (b) of this section of the present law provides that in all cases where a separate return is made for a fractional part of a year the net income shall be computed on the basis of such fractional period and the tax shall be paid thereon at the rates for the calendar year in which this period is included. Since a fractional return may be made for a period beginning in one calendar year and ending in another, great difficulty is experienced in applying this provision. It is therefore proposed to require only that in all cases of a separate return for a fractional part of a year the income shall be computed on the basis of the period for which the return is made. No specification as to what rate of tax shall be applied is needed, for if the period falls entirely within the calendar year there can be no question as to what rates apply, and if the period begins in one calendar year and ends in another for which the rates are different, section 207 of the bill provides for the computation of the tax.

Subdivision (c) of this section of existing law provides that in the case of return for a fractional part of the year the net income shall be placed on an annual basis by multiplying by 12 and dividing by the number of months included in the fractional period, and that the tax shall be such part of the tax computed on such annual basis as the number of months in the period is of 12 months. The provision was inserted for the reason that under the 1918 act taxpayers were changing their accounting period from calendar year to fiscal year, and vice versa, for the purpose of making a return for a short period and consequently getting two starts on the surtax rates. The pro-

vision as found in the existing law covers not only such cases but other cases to which it was not intended to apply, such as the return for a decedent who dies in the early part of the year and has received substantial income during that period, which may be the entire income which he would have received had he continued to live. The bill therefore provides that the rule as to placing the income on an annual basis shall apply only to cases where a separate return for a fractional part of the year is made because of the change of the accounting period from fiscal year to calendar year or vice versa, and that in all other cases, if the return is made for the fractional part of the year, the personal exemption and credit for dependents shall be reduced proportionately to the length of the period for which return is made.

Section 227: This section of existing law authorizes the commissioner to grant a reasonable extension of time for the filing of returns. The department has adopted the practice of refusing such extensions unless application therefor is made before the date prescribed by law for filing the return. The bill writes this requirement into the law.

Subdivision (b) of this section of existing law provides for the making of all returns to the collector for the district in which is located the legal residence or principal place of business of the person making the return. This provision applies not only to returns by individual taxpayers but also to returns by partnerships and fiduciaries even though the members of the partnerships or the beneficiaries of the estate or trust are located in an entirely different internal revenue district. To prevent confusion arising from this practice the bill provides that all returns made by partnerships and fiduciaries on which no tax is shown to be due shall be made to the commissioner regardless of the legal residence or place of business of the person making the return.

Section 229: This section of the existing law is repealed by the bill inasmuch as it expired by its own terms.

Section 230: The rate of tax upon the net incomes of corporations has been raised from 12½ per cent to 14 per cent, in view of the elimination of the capital stock tax contained in section 700 of the House bill and section 1000 of the existing law. The administration of the capital stock tax involved difficult questions of fact and of law, since, as a condition precedent to the imposition of the tax, it must be determined (1) whether the corporation was carrying on or doing business during the preceding year, and (2) what the fair average value of its capital stock was during that period. The elimination of the tax, coincident with an increase in the tax upon corporate net income, will result in the collection of \$20,000,000 more revenue than under the existing law, with a decrease in the cost of collection, and with a more equitable distribution of the burden of taxation.

Section 231: (1) Paragraph (8) was extended to apply to local associations of employees the membership of which is limited to employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, and recreational purposes, whether or not for the benefit of the members and their families. In the bill as re-

ported the phrase "whether or not for the benefit of the members and their families" has been stricken out.

(2) The House bill omitted the words "of a purely local character" in paragraph (10), since all of these mutual organizations should be exempt if substantially all their income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Benevolent life insurance associations of a local character and mutual casualty companies were added to the list of exempt organizations. The indefinite requirement in the House bill that "substantially all the income" shall consist of amounts collected from members for the sole purpose of meeting losses and expenses" has been made a specific requirement that "85 per centum or more of the income" shall consist of such amounts. Mutual life insurance companies have been granted exemption on the same terms as the other companies named in the paragraph, whether or not they are of a purely local character.

(3) Paragraph (14) of this section of the existing law is repealed by the bill as by its own terms it has expired.

Section 234: Changes made in paragraphs (1) to (9) of subdivision (a) of this section of the existing law correspond exactly to changes made in subdivision (a) of section 214 which have been explained in this report in connection with that section.

Paragraph (11) of subdivision (a) of this section of the existing law is repealed by the bill, since it has expired by its own terms.

Paragraph (14) of subdivision (a) of this section is replaced by section 203 (b) (5) of the bill for the reasons explained in this memorandum in connection with that paragraph.

Section 238: The same changes have been made in this section as in section 222 for the reasons contained in this report under section 222.

Section 240: Subdivision (c) is amended to provide that two or more corporations shall be deemed to be affiliated if one corporation owns at least 95 per cent of the voting stock of the others, or if at least 95 per cent of the voting stock of two or more corporations is owned by the same interests; in the House bill the percentage was 85. This language is substituted for the indefinite language of the existing law. The requirements that the stock held must be "voting stock" merely embodies in the law the present rule of the Treasury Department.

In the House bill it was provided in subdivision (d) that the commissioner shall consolidate the accounts of related trades and businesses in certain cases. In order to give greater flexibility in administration this subdivision has been rewritten to provide that the commissioner may, and at the request of the taxpayer shall, consolidate the accounts in the specified cases.

Section 243: The rate of tax upon insurance companies taxed under this section and section 246 has been retained at 12½ per cent, as in the existing law. Since these companies are not subject to the capital stock tax under the existing law, the repeal of that tax does not affect them, and consequently does not justify an increase in the rate of income tax upon them.

Section 257: This section has been partially rewritten and its provisions separated into subdivisions and paragraphs, in order to secure greater clarity. In the House bill a provision was added to this section of the existing law, making it the duty of the Secretary of the Treasury to furnish any data shown by any returns to the Committee on Ways and Means of the House of Representatives, to the Committee on Finance of the Senate, or to a special committee of the Senate or House. In lieu of this last phrase, there has been substituted "a standing or select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution." These committees were also given the right to inspect any of the returns and to report any relevant or useful information so obtained to the Senate or House, or both.

In addition, a provision has been added whereby there shall be available for public inspection in the collectors' offices in addition to the names and addresses of income-tax payers, the amounts of income taxes paid and refunds made to such taxpayers.

Section 270 (c): The existing law in section 227 (a) empowers the commissioner to grant a reasonable extension of time for filing returns; and provides in section 250 (a) that such an extension shall correspondingly postpone the time for payment of the first installment. Since it is sometimes desirable to grant an extension of time for filing a complete return, without extending the time for paying the first installment, or vice versa, the provisions for these two kinds of extensions have been made independent. In addition, to avoid question as to the computation of interest on any deficiencies, the provisions for an extension of the time of payment, contained in section 250 (a) of the existing law, has been reworded to make it clear that the extension applies only to the amount of the tax shown on the face of the return and not to any deficiency subsequently discovered. The rate of interest or amounts payment of which is extended has been changed from 5 per cent, as in the House bill, to 6 per cent, the rate provided in the present law. A similar change has also been made in all other provisions wherein interest is specifically provided for.

Section 273: The term "deficiency" is here defined. Under the existing law (sec. 250 (b), second paragraph), the term "deficiency" is not defined with exactness. Under the proposed provisions, credits and refunds for each year will be considered in the determination of a deficiency for that particular year. The proposed definition of "deficiency" also includes amounts of tax found by the commissioner to be due on returns prepared or approved by him under section 3176, Revised Statutes, in cases in which a person, association, or corporation has failed to make a return or has made a false or fraudulent return. Such amounts are not included in the definition in the existing law, although it is clear that they are properly termed a "deficiency." The inclusion of these amounts within the term "deficiency" will permit the taxpayer to appeal from the determination of the commissioner in such cases to the Board of Tax Appeals, and will enable the collection of interest upon amounts found to be due.

Section 274 (a): This subdivision provides for notice and an opportunity for an appeal to the Board of Tax Appeals (a body independent of the Bureau of Internal Revenue, provided for in sec-

tion 1000 of the proposed act), in cases in which the commissioner determines that there is a deficiency.

Section 274 (b) : The first sentence is similar to that of the third sentence of the second paragraph of section 250 (d) of the existing law, preceding the proviso. The subdivision further empowers the commissioner to proceed in court to collect amounts determined by him to be a deficiency, but disallowed by the board. In other words, the section authorizes the commissioner to resort to the courts in the event of an adverse decision by the board. A specific provision has been added for interest at the rate of 6 per cent per annum from the time the tax fell due, on the amount of any deficiency in tax recovered in court. The subdivision has been partially rewritten to secure greater clarity.

Section 274 (c) and (d) : The substance of these provisions is similar, with changes made necessary by the provision for a Board of Tax Appeals, to those now contained in the second paragraph of subdivision (d) of section 250.

Section 274 (e) : This subdivision clarifies the provisions contained in the first sentence of the second paragraph of subdivision (b) of section 250 of the existing law.

Section 274 (f) : The period during which interest on a deficiency shall be assessed is fixed as that between the date for the payment of the tax and the date the deficiency is assessed. Under the existing law, no date is specified upon which the period shall end.

Section 274 (g) : The commissioner is given the power with the approval of the Secretary to extend the time for payment of a deficiency for not more than 18 months. If an extension is granted, the commissioner may require a bond not in excess of twice the amount of the deficiency. Interest runs at the rate of 6 per cent during the time of such extension, on the amount so extended, and thereafter at the rate of 1 per cent a month on any amounts remaining unpaid. There are similar provisions for extension in section 250 (f) of the existing law, but these expired by the terms of that subdivision 18 months after the passage of the act. It is desirable to provide for an extension of time for payment by the commissioner with the approval of the Secretary in cases of unusual hardship. The immediate collection of additional taxes for prior years may cause great hardship to the taxpayer and in extreme cases may force him into bankruptcy.

Section 275 (a) : This section supersedes the second sentence of the second paragraph of section 250 (b) of the existing law.

Experience has shown that the act or omission by the taxpayer which gives rise to these additions is usually not so serious as to require both an increase in the tax of 5 per cent and 1 per cent a month interest on this amount from the time the tax was due. Accordingly, the provision of 5 per cent addition to the tax has been retained, but the provision for interest at 1 per cent a month has been omitted.

Section 276 (a) and (b) : These subdivisions are a rewording of that part of subdivision (e) of section 250 preceding the proviso. For reasons similar to those given in connection with section 275 (a) supra, the addition of 5 per cent to the amount of the tax found to be due has been omitted, but the provision for interest of 1 per

cent per month on amounts due and unpaid has been retained. A specific provision has been added for interest at the rate of 1 per cent a month upon deficiencies prorated to unpaid installments of the tax, which are not paid when due. A corresponding, but general, provision is contained in the House bill.

Section 276 (c): Although estates of "insane, deceased, or insolvent persons" are excepted from the additions to the tax provided in section 250 (e) of the existing law, no interest upon the amounts due and unpaid by such estates is there provided. This subdivision provides for interest at the rate of 6 per cent. A specific provision has been added for interest at the rate of 1 per cent a month upon deficiencies prorated to unpaid installments of the tax, which are not paid when due. A corresponding, but general, provision is contained in the House bill.

Section 277 (a): The substance of the provisions of this subdivision occurs in that part of subdivision (d) of section 250 which precedes the second proviso. It has been ruled by the department that the present prohibition of a "suit or proceeding" for the collection of taxes after five years from the date of filing the return does not apply to a distraint to collect such taxes, which requires no action by a court. To remove any doubt of the soundness of the position of the department the words "any proceeding in court" have been substituted for "suit or proceeding." A provision has been added in paragraph (3) requiring suit for the collection of income taxes upon the income of a decedent received during his lifetime to be brought within one year after written request therefor, filed after the return is made, by the representative of the estate.

Section 277 (b): The purpose of this subdivision is to remove the necessity for the present practice of the department in assessing without opportunity for hearing the amount of a deficiency discovered just before the expiration of the statutory period for assessment. The making of such an assessment without a hearing is frequently a considerable hardship upon a taxpayer. By extending the period within which an assessment may be made, as is here provided, the taxpayer may be given the opportunity of a hearing, without jeopardizing the assessment and collection of the tax by the department.

Section 278 (c): A substantially similar provision is included in section 250 (d) of the existing law.

Section 278 (d): This subdivision in the House bill authorized the collection at any time thereafter, by distraint or by a proceeding in court, of a tax assessed within the period prescribed in section 277. In order to protect the taxpayer further, a limitation of six years after the assessment of the tax has been placed upon proceedings in court and distraint for its collection. At the end of such period, the taxpayer is assured that his tax liability is finally determined.

Section 278 (e): This subdivision has been rewritten to make it clear that the section does not extend to assessments or distraint proceedings already barred by the existing law, or to assessments or distraint proceedings already begun under the existing law.

Section 279 (a): If the commissioner has assessed a deficiency immediately, because of his belief that the assessment or collection



of the deficiency would be jeopardized by delay, the taxpayer may within 10 days file with the collector a claim for abatement, accompanied by a bond in such an amount not to exceed double the claim as the collector deems necessary. The filing of the claim and bond stays the collection of the amounts covered thereby until the disposition of the claim.

Under the existing law, the only limitation upon the filing of claims in abatement is that no such claim may be filed where the taxpayer has had an opportunity to appeal and be heard prior to the date of the assessment. The bill reaches a substantially similar result, since in all other cases than that provided for here either the taxpayer will have had the opportunity of presenting his contentions to the Board of Tax Appeals or the assessment is based upon a return as submitted by him. In either of these cases there is no persuasive reason for an additional delay in the collection of the tax.

The proposed subdivision affords the taxpayer the safeguard, not provided in the existing law, of a stay of proceedings by the collector to collect the tax, until a decision is reached on the claim. The interests of the Government are adequately protected during this stay by the requirement of a bond to secure the payment of amounts not abated.

Section 279 (b): This subdivision provides for action upon the claim in abatement by the commissioner, for appeal from his decision to the Board of Tax Appeals, and for collection of such amounts as are found to be due.

Section 279 (c): The provisions herein are similar to those of subdivision (e) of section 250. The provision for a 5 per cent addition to the tax in the event that it was not paid within 10 days after notice and demand has been omitted, since the addition of interest at 1 per cent per month on such unpaid amounts appears to be an adequate preventive of default. (See explanation under sections 274 (g) and 275 (a) supra.)

Section 280: This section provides for the assessment and collection of taxes found to be due under prior revenue acts in the manner provided in the bill.

Section 281 (b): The limitation on credits and refunds contained in the first proviso of section 252 of the existing law was changed in the House bill in two principal respects. The date from which the period of limitation runs was changed from the due date of the return to the date of the payment of the tax. Logically the period of limitation should run from the date of payment, since it is at that time that the right accrues. Again the complicated provisions of the present section with reference to the length of the periods of limitation, which vary from two years from the time the tax was paid to six years from the time the return was due, were simplified by fixing the period at four years. In order that a late payment of a small portion of the tax due may not extend the time for filing a claim for refund of the entire tax, a limitation has been inserted by the committee restricting the amount of a credit or refund to the portion of the tax paid during the four years immediately preceding the filing of the claim.

Section 281 (e): This subdivision has been inserted by the committee, to provide that if the taxpayer has (1) within five years from the time his return for 1917 was due, filed a waiver of his right to have the taxes due for that year determined and assessed within five years after his return was filed, or if he has (2) filed such a waiver on or before June 15, 1924, in respect of the taxes due for 1918, a credit or refund may be allowed if claim therefor is filed on or before April 1, 1925, or within four years after the tax was paid. Corresponding provisions are contained in an act approved March 13, 1924.

Subdivision (d) of section 281 of the House bill provided that in the event that any provision of any of the acts levying an income, war-profits, or excess-profits tax has been held by the Supreme Court to be invalid, any tax collected thereunder might be refunded if claim therefor should be filed within four years after decision by the Supreme Court. Since this provision would result in a further extension of time for filing claims for refund in cases in which four or five years have already been granted for that purpose, it was stricken out by the committee.

Section 1117 (b) imposes a penalty similar to that imposed by the second sentence of section 253 of the existing law. The penalty of \$1,000 provided in the first sentence of section 253 for various types of delinquency appears in a modified form in section 1117 (a).

#### ESTATE TAX

Section 300: The definition of the term "executor" has been changed so that, in cases in which there is a foreign executor or administrator but no executor or administrator appointed, qualified, and acting within the United States, the person in actual or constructive possession of the decedent's property in this country will be deemed an executor for the purposes of this title.

Section 301: The rates of the existing law have been retained. In the House bill, the rates of the estate tax were changed so that they ranged from 1 to 40 per cent in the various brackets as distinguished from 1 to 25 per cent in the existing law. The second paragraph of section 401 of the existing law, exempting from the tax the estates of decedents dying from injuries incurred in the World War, was stricken out in the House bill. A new subdivision lettered (b) was inserted, giving a credit, not in excess of 25 per cent of the tax imposed by this section, of the amount of estate, inheritance, legacy, or succession taxes paid to any State, Territory, or the District of Columbia with respect to any property included in the gross estate. This subdivision, which was inserted in the House bill because of the increase in the rates of the estate tax, has been stricken out, in view of the retention of the rates of the existing law in the bill as reported.

Section 302 (c): The subject matter of the clause stricken out is provided for by subdivision (h) of this section of the bill.

Section 302 (d): By this subdivision if the decedent had the power at the time of his death to change the enjoyment of a property interest, which he had transferred, or with respect to which he had created a trust, such interest is to be included for estate-tax pur-

poses in his gross estate. Likewise, if the decedent had relinquished such a power in contemplation of death, except by a sale for a fair consideration, the property interest over which he had such a power is to be included in his gross estate.

Even though the decedent has made the transfers specified in this subdivision, he has retained substantial control over the disposition of the property through the power to change the enjoyment thereof. Such property interests should therefore fairly be taxed as part of the decedent's estate, particularly since, by virtue of his death, the substantial interest which he had has been wiped out, and to the same extent the property interest of the legal title holder, his transferee, has been increased. This provision is in accord with the principle of section 219 (g) of the bill, which taxes to the grantor the income of a revocable trust.

Section 302 (e): The provisions of the House bill and the existing law have been reworded to secure greater clarity.

Section 302 (h): This subdivision provides that the property interests which are included in the gross estate for purposes of the estate tax are those enumerated in this section, whether such interests were created or arose or were relinquished before or after the enactment of this act.

A similar provision is included in subdivision (c) of section 402 of the existing act. It has seemed desirable to extend this provision expressly to the other property interests set forth in this section.

Section 303: In paragraph (1) a clause has been inserted authorizing the deduction of claims, mortgages, and indebtedness of the estate only to the extent that such claims, mortgages, and indebtedness have been incurred or contracted for a fair consideration.

Section 402 (c) of the existing law contains a limitation similar in character in the case of transfers and trusts whereby property interests transferred by the decedent in contemplation of or intended to take effect at or after his death are included in his gross estate, unless such interests were transferred by a bona fide sale for a fair consideration. On principle the same limitation should be applied here, and the proposed amendment is designed to effect this result.

Bequests, legacies, and devises to fraternal beneficiary societies operating under the lodge system for use for specified benevolent purposes have been added to the amounts deductible under paragraph (3) of subdivision (a) and the same paragraph of subdivision (b). A sentence has been inserted in paragraph (3) and in paragraph (3) of subdivision (b) to make it clear that the amount deductible under these paragraphs on account of bequests, legacies, or devises for the specified benevolent purposes shall be the net amount distributable for such purposes, after estate, legacy, or inheritance taxes imposed in respect thereof have been deducted therefrom. It is evident that if a testator leaves a residuary estate of \$1,000,000 to a charity, but the estate taxes payable out of the residue reduce the amount actually distributed to the charity to \$950,000, only the latter amount should be deductible, in computing the amount of the net estate, as a bequest to charity. This sentence so provides.

The subject matter of the sentences stricken out in paragraphs (2) and (3) of subdivisions (a) and (b) of section 403 of the existing law is provided for in section 1200 (c) of the bill.

Section 304: The last sentence of section 404 of the existing law, which section otherwise is reproduced in section 304 of the bill with only clerical changes, has been omitted as surplusage.

Section 405 of the existing law, which provides for the filing of a return by the collector, and an assessment of tax thereon by the commissioner, in specified cases, has likewise been omitted from the bill, since authority for making such returns and assessments is granted in section 3176, Revised Statutes, which is reenacted with an amendment by section 1103 of the bill.

Section 305: This section provides, as does section 406 of the existing law, that the estate tax shall be due one year after the decedent's death, and that in cases of undue hardship the commissioner may extend the time for payment of any part of the tax as determined by the executor for a period not exceeding five years from the due date. A similar provision for extensions of time in the case of estate taxes due under existing law has been inserted in the bill by the committee in subdivision (d).

Section 305 (c): The existing law provides for the same rate of interest, 6 per cent per annum, upon delinquent estate taxes as upon estate taxes time for payment of which has been extended. Accordingly, there has been no particular incentive to the taxpayer to pay the tax on time, or in lieu of payment, to secure an extension. This has been altered in the bill by providing that the interest upon amounts, time for payment of which has been extended, shall be 6 per cent per annum from six months after the due date of the tax to the expiration of the period of the extension. By section 309 the interest rate thereafter is fixed at 1 per cent a month, the rate likewise specified upon the amounts of estate taxes not paid when due. These provisions will obviously encourage the payment of estate taxes when due, or in proper cases, the securing of an extension, to avoid the heavier interest charges on delinquent taxes.

Section 306: An early examination of the return and determination of the tax by the commissioner which is inferentially necessitated by section 407 of the existing law is specifically required.

Section 307: The term "deficiency" is here defined in the same language (except for changes necessitated by the differing subject matter) as in section 273 with reference to the income tax. There is no specific definition in the existing law. It is essential to a fair administration of the succeeding provisions that the scope of the term should be exactly outlined.

Section 308: The provisions with reference to the assessment and collection of the estate tax in the bill are similar to those for assessment and collection of the income tax as contained in sections 274-276, 279, and 280 and corresponding changes have been made therein by the committee. The existing law does not expressly require the examination and audit of the return (see sec. 306 of the bill) and provides no procedure for the assessment and collection of a deficiency. It will remove much administrative difficulty to set out the procedure in detail; and it is obviously desirable that this procedure as to estate taxes should, so far as possible, conform to that as to income taxes.

Section 308 (a), (b), (c), and (d) : Under the provisions of the bill the taxpayer will be notified upon the discovery of a deficiency by the commissioner and given 60 days in which to appeal to the Board of Tax Appeals, provided for in section 1000. If no appeal is filed, the deficiency as determined by the commissioner will be assessed and collected on notice and demand from the collector; if an appeal is filed, the amount of the deficiency as determined by the board will be assessed and collected in the same manner. If the deficiency or any part thereof is disallowed by the board, it may only be collected by the commissioner by proceeding in court within one year after the final decision of the board.

If the commissioner believes the assessment and collection of the deficiency will be jeopardized by delay, the deficiency shall be assessed immediately. In this event, the taxpayer may, under the provisions of section 312 of the bill, file a claim for abatement with a bond for payment of the amount assessed, and if such claim is denied by the commissioner, may appeal to the Board of Tax Appeals.

Section 308 (e) : No similar provisions for interest upon amounts determined as a deficiency from the due date of the tax until the assessment of the deficiency are contained in the present law. Since the estate has had the use of the amount of the deficiency during this period, it may fairly be required to pay a reasonable rate of interest upon it.

Section 308 (f) : The commissioner is empowered to grant, with the approval of the Secretary, an extension of not over two years for the payment of the deficiency or any part of it. Interest at 6 per cent per year runs during the period of the extension. The commissioner may require a bond for the payment of the tax at his discretion. There is no provision in the existing law for an extension of time for the payment of the deficiency.

Section 308 (g) : There is no similar provision in the present law for the assessment and collection of the 50 per cent addition to the tax provided by section 3176, Revised Statutes, in case a false or fraudulent estate tax return is willfully made. The provision, in addition to clarifying the procedure for the department, will give the taxpayer the opportunity of an appeal and hearing before the Board of Tax Appeals.

Section 309 (a) : In the event that the tax is not paid when due, or in case of an extension, is not paid before the expiration of the extended period, interest shall be collected at the rate of 1 per cent per month until the unpaid amounts are paid. As noted under section 305 (c) supra, the existing law merely provides for interest at 6 per cent per annum, whether an extension is granted or not, commencing at the due date of the tax. The obvious effect of the increased rate of interest will be to encourage taxpayers to pay their taxes on time, or to obtain an extension.

Section 309 (b) and (c) : If a deficiency or interest thereon, or any addition to the tax under section 3176, Revised Statutes, for failure to make a return or for a false or fraudulent return, is not paid within 30 days after notice and demand from the collector, interest at the rate of 1 per cent per month shall be collected from the date of notice and demand until it is paid. Amounts covered by claims in abatement are excepted.

In section 407 of the existing law, provision is made for interest at 10 per cent per year, beginning one month after notice and demand, upon amounts of tax found after 18 months after the decedent's death to be due. The proposed provision broadens this provision to all cases of deficiency, and strengthens it by increasing the rate of interest to that provided in similar cases in other parts of the act.

Section 310 (a): Estate taxes shall be assessed within four years after the filing of the return, and no proceeding in court for the collection of such taxes shall be begun more than five years after the return was filed.

The only limitations upon the assessment and collection of estate taxes at present are the general limitations in sections 1320 and 1322 of the existing law. These are four years from the time the tax became due in the case of assessments and five years from the time the tax became due in case of suits or proceedings for collection. These provisions as now worded have been found particularly undesirable in the case of estate taxes, in view of the fact that if no returns are filed by estates the department oftentimes has no knowledge of the tax liability until the periods of limitation, which run from the date the tax became due, have expired. For these reasons, it is proposed to start the running of the statute in estate tax cases from the date the return is filed. In other words, the period of limitation will not begin to run until the department has information upon which it can proceed to determine and assess the amount of tax, and, if necessary, institute suit for its collection.

Section 310 (b): This subdivision extends the time within which an assessment is required in two cases. The purpose of the provision is to insure the taxpayer a hearing, if he wishes it, in cases in which a deficiency is discovered just before the period of assessment has expired, and at the same time protect the department in the assessment and collection of the tax.

Section 311 (a): A similar provision is contained in the last clause of section 1322 of the existing law.

Section 311 (b): If a tax has been assessed within the statutory period, it may be collected by distraint or by a proceeding in court begun within six years after the assessment.

The reasons for this subdivision are the same as those given under section 278 (d), supra.

Section 312: These provisions for a claim in abatement by the taxpayer, in the event of the immediate assessment of a tax whose collection the commissioner believes will be jeopardized by delay, have been discussed under section 308, supra. Similar provisions as to the income tax are contained in section 279 of the bill.

Section 312 (d): Since in cases other than those provided for in section 312, either the assessment of the tax will be based on the taxpayer's own return, or the taxpayer will have had the opportunity of being heard, there is no reason for permitting a further delay in the collection of the tax by the filing of a claim in abatement.

Section 313: These subdivisions are a revision, without substantial change in effect, of the last two paragraphs of section 407 of the existing law. They provide, in brief, for duplicate receipts to the person paying the tax; for a determination of the amount of the tax within one year thereafter upon application of the executor;

and for the preservation of the lien for estate taxes upon the assets of the estate except as to such part as has passed into the hands of bona fide purchasers for value. Subdivision (c) of the House bill has been rewritten to provide that, if part of the gross estate passes to a bona fide purchaser for value, the lien shall attach to the consideration received from such purchaser by the beneficiaries of the estate.

Section 316: The section provides for computation of estate taxes due under preceding revenue acts according to the terms of such acts, and for their collection in the manner provided in the bill, except that the period of limitation shall be, in the case of assessment, 4 years, and in the case of proceedings in court for collection, 5 years after such taxes became due.

In the House bill, provisions were inserted for a tax upon the transfer of property by gift. Any annual tax on gifts, such as that proposed, may be readily evaded by spreading the gifts over a period of years. For this reason, as well as that such a tax would be extremely difficult to enforce, since gifts are ordinarily made between persons occupying confidential relationships, the tax would mean little by way of revenue to the Government. Accordingly, the provisions for this tax have been stricken out of the bill as reported.

#### TAX ON TELEGRAPH AND TELEPHONE MESSAGES

The tax imposed by Title V of the existing law which was repealed by the House bill is restored in the bill as reported.

#### TAX ON BEVERAGES

The tax levied by Title VI of the revenue act of 1921 upon cereal beverages and other soft drinks, and carbonic-acid gas is repealed.

#### TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF

Section 500 (e): This subdivision, which amends the existing law to provide that cigars may be put up in packages containing 3 and 7 cigars, has been added to the provisions of the House bill.

Section 3360 of the Revised Statutes as amended, was amended by Section 403 of the House bill to provide that a tobacco growers' cooperative association should not be regarded as a dealer in leaf tobacco for the purpose of this section. Under the existing law dealers in leaf tobacco are required to keep certain records and make certain reports for the purpose of enabling the Treasury Department to check the tax imposed upon the sale of tobacco products by the manufacturers. If tobacco growers' associations, which handle the major portion of the leaf tobacco produced in this country, are not required to make these reports, it will result in the loss of a large amount of revenue to the Government, since there would be no method by which the output of the manufacturers could be accurately checked. Accordingly, the provision inserted in the House bill has been stricken out.

## TAX ON ADMISSIONS AND DUES

Section 600: The tax on admissions imposed in section 800 of the existing law is changed to apply only to admissions in excess of 50 cents. An exemption from the tax levied by this title is extended to admissions the proceeds of which inure exclusively to the benefit of National Guard organizations, reserve officers' associations, or members of municipal police or fire departments, or their dependents or heirs.

Section 601: An exemption from the tax on dues is granted to local fraternal organizations among the students of a college or university.

Section 602 (a), (b), and (c): The changes herein do not substantially affect the subject matter of the section. Subdivisions (b) and (c) are the same as subdivisions (b) and (c) of section 502 of the existing law.

Section 602 (d): This subdivision corresponds to subdivision (d) of section 502 of the existing law except that the penalty of 5 per cent on delinquent taxes has been omitted, since experience has shown that the provision for interest at 1 per cent a month is an adequate preventive of default.

## EXCISE TAXES

(1) In section 600 (1) of the House bill the tax upon the sale of automobile trucks or wagons was limited to trucks and wagons the selling price of the chassis of which is in excess of \$1,000. A provision has been added exempting from the tax truck and wagon bodies sold for an amount not in excess of \$200. The purpose of the exemption granted in the House bill was to free from tax the truck used by the small farmer and dealer; for the same reason a light body for such a truck should be exempt from tax.

Paragraphs (1), (2), and (3) have been rewritten for the purpose of clarity.

(2) The tax upon the sale of tires, inner tubes, parts, and accessories, for the articles enumerated in paragraphs (1) and (2) of section 700 is reduced from 5 per cent to 2½ per cent.

(3) The tax imposed by paragraph (6) of section 900 of the existing law upon the sale of candy by the manufacturer is repealed.

(4) The taxes upon hunting knives, dirks, and similar articles imposed by paragraphs (8) and (9) of section 900 of the existing law are difficult to collect and the cost of collection is disproportionate to the revenue yielded and are therefore repealed.

(5) Smoking stands are eliminated from the list of taxable articles enumerated in paragraph (7).

(6) The taxes imposed by paragraphs (12) and (13) of section 900 of the existing law upon hunting garments and liveries are repealed.

(7) The tax imposed on the sale of yachts by paragraph (14) of section 900 of the existing law is repealed.

(8) Section 904 of the present law is repealed.

(9) X-ray films or plates are excepted from the tax imposed on photographic films and plates. The use of the X-ray is necessary



in medical and scientific fields and should not be burdened by such a tax.

(10) The tax upon slot-device vending machines has been made 10 per cent in all cases, except that if the machine is operated by the manufacturer, producer, or importer for profit, the tax is 10 per cent of the fair market value.

(11) A tax of 10 per cent has been imposed upon mah jong sets, radio receiving sets, and parts and accessories for radio receiving sets.

Section 701: The reference to licenses of positive motion-picture films has been omitted, since there is no tax on such films either in the existing law or the bill.

Section 703: The penalty of 5 per cent for delinquent taxes has been omitted for the reasons given under section 602, supra.

Section 704 (a): Since dealers frequently dispose of goods under a form of contract termed a "lease," which in reality is a contract for a sale with payment by installments, it has been expressly provided that the tax herein levied applies to such transactions.

Section 704 (b): The exemption from the tax on jewelry has been extended to articles used for religious purposes. The exemption from this tax specifically granted by the House bill to eyeglasses and spectacles has been stricken out and the exemption of articles sold or leased for an amount not in excess of \$40 has been reduced to an exemption of \$25.

Section 704 (d): The 5 per cent penalty on delinquent taxes has been omitted, as in sections 602 (d) and 703 of the bill, for reasons there given.

#### SPECIAL TAXES

The capital stock tax imposed by section 700 of the House bill and section 1000 of the existing law, has been repealed for reasons set forth in detail in the first part of this report.

Section 800 (1): The occupational tax imposed upon brokers has been amended in two respects. Brokers exclusively engaged in negotiating purchases and sales of produce and merchandise have been exempted from the \$50 tax imposed upon other brokers. The tax in respect of membership in a stock or produce exchange, or board of trade has been amended to provide that if the seat or membership in such exchange or organization has an average value of from \$2,000 to \$5,000, the tax shall be \$100; if the average value is \$5,000 to \$10,000, the tax shall be \$150; if the value is in excess of \$10,000, the tax shall be \$250. In the House bill a sentence was added providing that if a person first became subject to the tax upon brokers after December 31 in any fiscal year, he should pay only one-half the tax specified for that fiscal year. Since a general provision for the prorating of these taxes is contained in section 3237 of the Revised Statutes, the provision inserted in the House has been stricken out.

Section 800 (5): The tax on proprietors of bowling alleys and billiard rooms, which was reduced from \$10 to \$5 for each alley and table in the House bill, has been restored to \$10.

Section 800 (8): This paragraph imposes a tax similar to that imposed by section 1001 (11) of the existing law with the exception that the bill proposes to exempt from the tax automobiles used exclusively for conveying school children to and from schools.

The bill proposes to repeal the occupational taxes imposed by paragraphs (5), (6), and (7) of section 1001 of the existing law upon the proprietors of theaters, circuses, and other public exhibitions.

#### STAMP TAXES

Section 901: The change herein, with reference to the exemption of building and loan associations, is to make the language conform to the exemption provisions of section 231 (4) of the existing law and bill.

Schedule A: (1) Paragraph 4 of schedule A of Title XI of the existing law imposes a stamp tax of 2 cents for each \$100 in value on each sale, agreement of sale, or agreement to sell produce on exchange. The bill proposes to reduce this tax from 2 cents to 1 cent for each \$100 in value.

(2) In the House bill the stamp tax imposed in the existing law upon drafts, checks, and promissory notes was repealed. This tax has been restored in the bill as reported.

(3) The tax upon playing cards imposed by paragraph 12 has been increased from 8 cents to 10 cents per pack.

#### TAX ON EMPLOYMENT OF CHILD LABOR

This tax imposed by Title XII of the existing law has been repealed, since the corresponding provisions of the revenue act of 1918, reenacted in the revenue act of 1921 without change, were held invalid by the Supreme Court of the United States in *Bailey v. Drexel Furniture Co.* (1922) (259 U. S. 20).

#### BOARD OF TAX APPEALS

The House bill provides for the establishment of a Board of Tax Appeals, members to be appointed by the President, with the advice and consent of the Senate. The board is to act independently not only of the Bureau of Internal Revenue, but of the Treasury Department. The taxpayer has the opportunity of appealing to this board before paying the amount of any additional assessment if he has not had the opportunity of being heard before the assessment was made. The contentions of both the taxpayer and the Bureau of Internal Revenue will be heard and considered and the decision of the board will be conclusive on both parties on the question of assessment.

In the event the decision is against the taxpayer, he will be required to pay the tax according to the assessment and have recourse to the courts for the recovery thereof. If the decision is against the Government it will likewise have recourse to the courts.

Provision is made in section 1000 (h) for the board and its divisions to sit locally at any place in the United States which the chairman may designate, so that the taxpayers may appear with as little trouble and inconvenience as possible.

In the bill as reported, subdivisions (a), (b), (f), and (h) of section 900 of the House bill have been rewritten. Instead of a board varying in number from 7 to 28 in the discretion of the President, provision is made for a board of 7 members, so appointed as to secure rotation in office, and an additional number of members not exceeding 21, to serve only for the first two years after the enactment of the act. The salary of the members has been restored to \$10,000. In

lieu of the provision of the House bill that no member of the board shall be permitted for two years after ceasing to be a member to practice before the board or the Treasury Department, or be connected with any firm so practicing, it is provided that no member of the board shall be permitted to practice before the board or any official of the Bureau of Internal Revenue for two years after leaving office.

The provisions for securing the attendance and testimony of witnesses, the taking of depositions, and the production of books have been made more explicit. The allowance for subsistence while traveling on duty and away from their designated stations, which was not to exceed \$7 in the House bill, has been changed to not exceeding \$7 in the case of members and not exceeding \$4 in the case of employees. Finally, the board is given authority to appoint employees, and to make necessary expenditures for materials and services, in the event that such expenditures are not suitably provided for by the Secretary of the Treasury.

#### GENERAL ADMINISTRATIVE PROVISIONS

Section 1102 (a): With slight changes in verbiage, this subdivision comprises the latter part of section 1300 of the existing law.

Section 1102 (b): This subdivision, which empowers the commissioner to require returns or statements under oath, as well as the keeping of records, supersedes section 1307 of the existing law. The two substantial changes are a grant of authority to the commissioner to require such statements to be under oath and to require the keeping of records. Under the existing law, many taxpayers evade the payment of any tax by keeping no records, in cases where there is not sufficient evidence to ground a conviction for fraud. The proposed changes will assist in discouraging such tax evasion.

Section 1102 (c): The last paragraph of section 1303 of the existing law has been here amended, as is required by the changes in numbering of the titles.

Section 1102 (d): A specific provision has been inserted providing that oaths required by the provisions of this act may be administered by any officer authorized to administer oaths for general purposes under the laws of the jurisdiction wherein such oath is administered.

Section 1103: In the bill, returns under Title II (income tax) are excepted from the cases in which the collector may grant additional time for filing a return. Since other extensions relative to the filing of income-tax returns are granted by the commissioner, the confusion caused at present by the granting from two different sources of extensions for filing the same kind of returns will be obviated by the change.

Section 1106: This section reenacts the provisions of section 1312 of the existing law, with the omission of the requirement that such final determination and assessment, in cases in which the tax or penalty was paid in whole, shall only be made if it was paid without protest. Since the payment of the tax with or without protest does not necessarily affect the desirability of making such a final agreement, it is desirable to eliminate the words "without protest" from the section.

Section 1109 (a) and (b): These provisions place a limitation upon assessments of four years and upon court proceedings for collection of five years from the time the taxes became due, except

for the special cases provided for in sections 277 and 278 as to the income tax and 310 and 311 as to the estate tax. In case of a failure to file a return or a false or fraudulent return, or a willful attempt to defeat or evade the tax, the tax may be assessed at any time.

Substantially similar provisions occur in sections 1320 and 1322 of the existing law.

Section 1109 (c): In the House bill this subdivision authorized the collection at any time thereafter, by distraint or by a proceeding in court, of a tax assessed within the period prescribed in subdivisions (a) and (b). In order to protect the taxpayer further a period of limitation of six years after the assessment of the tax has been placed upon proceedings in court and distraint for its collection, as in the similar sections relating to the income and estate taxes, sections 278 (d) and 311 (b).

Section 1109 (d): This subdivision has been rewritten to make it clear that the section does not authorize assessments or distraint proceedings already barred by the existing law, or apply to assessments or distraint proceedings already begun under the existing law.

Section 1110: This section, which was embodied in section 1321 of the existing law, has been amended to provide that the period of limitations in the case of prosecutions for offenses involving the defrauding or attempts to defraud the United States shall be six years. With this amendment, the section will correspond to the general statute of limitations upon prosecutions for offenses not capital.

Section 1112: Subdivision (a) has been changed only by specifically excepting the cases provided for in section 281 of the bill, in lieu of the present exception of those provided for in section 252 of the existing law. Section 281 of the bill, with reference to refunds of income taxes, corresponds in subject matter to section 252 of the existing law; the changes in its provisions are noted under section 281 supra. The exception has also been reworded to remove the doubt which now exists as to whether or not the provisions of section 3228, Revised Statutes, apply in any event to income taxes.

Subdivision (b) of the House bill, which has been rewritten, excepts from the operation of the section claims for credit or refund filed prior to the enactment of this act, and allowable under the existing law.

Section 1113: The act of May 12, 1900, here referred to, fixes the period for redemption of stamps at two years. In order to remove any doubt whether the general provisions of section 3228, Revised Statutes, providing that claims for refund of any internal-revenue tax shall be presented within four years, applies to the redemption of such stamps, and to make the period of this limitation correspond to others in the bill, this specific provision has been inserted.

Section 1114: The provisions of section 1318 of the existing law have been amended to provide that after the enactment of the bill it shall not be a condition precedent to the maintenance of a suit to recover taxes, sums, or penalties paid, that such amounts shall have been paid under protest or duress. The fact protest was made has little bearing on the question whether the tax was properly or erroneously assessed. The making of such a protest becomes a formality so far as well-advised taxpayers are concerned, and the re-

quirement of it may operate to deny the just claim of a taxpayer who was not well informed.

Section 1115: Section 3225 of the Revised Statutes as amended was repealed in the House bill. The bill as reported makes it clear that this repeal shall be retroactive to all revenue acts since 1916. This section provides that if a collector or deputy collector believes a return was false or fraudulent or contained an understatement or undervaluation, a second assessment shall not be refunded or recovered by suit unless it is established that the return was not willfully false or fraudulent or that the understatement or undervaluation was not willful.

If the taxpayer is legally entitled to a refund, the opinion of the collector as to his animus at the time he made the original return is hardly pertinent. Moreover, adequate penalties for fraud are provided in section 3176, Revised Statutes, and section 275 of the proposed draft. (See sec. 1103 of the bill; sec. 1311 of the existing law.)

Section 1116: Section 3187 of the Revised Statutes now provides for the collection of taxes by distraint of the "goods, chattels, or effects, including stocks, securities, and evidence of debt, of the person delinquent as aforesaid," with specific exemptions. The proposed amendment is to insert "bank accounts" after "securities."

The purpose of the amendment is to facilitate the collection of taxes by making it clear that bank accounts are included in the classes of property which are subject to distraint.

Section 1117: The provisions of subdivisions (a), (b), (c), and (d) provide a more adequate system of penalties than was contained in the House bill. By subdivision (a) a person failing to keep records or supply information as required by the law or regulations thereunder is made liable to a penalty of not more than \$1,000. A somewhat similar provision which was not reenacted in the House bill was contained in section 1302 (a) of the existing law, except that the penalty therein applied also to failure to pay, collect, account for, and pay over the tax. Experience has shown that the addition of this penalty to the other penalties provided by law for such failure is usually disproportionate to the offense; but it is deemed desirable to retain some penalty for failure to supply requisite information, in order to assure the keeping of records and the prompt filing of information returns.

Section 1117 (b) and (c): These subdivisions correspond to section 1017 (a) of the House bill, with the following changes. The penalty provided in subdivision (b) of the bill as reported applies to a willful failure to comply with the requirements of the law therein set forth; in the House bill, the penalty applied to a willful refusal. Willful failure to collect, account for, and pay over any tax imposed by the act, or a willful attempt to evade such tax, has been made a felony, with a fine of not over \$10,000 and imprisonment for not over five years, or both, instead of a misdemeanor, as in the House bill, subject to a fine of not more than \$10,000 and imprisonment for not over one year, or both. A willful attempt to defeat the tax or the payment thereof has been added to the list of offenses specified in subdivision (c).

Section 1117(d): This subdivision, which was not contained in the House bill, provides a penalty for the offense of aiding in the preparation, presentation, procurement, counseling, or advising of a

false or fraudulent return, affidavit, claim, or document authorized or required by the internal revenue laws. It is designed to discourage specifically the presentation of false returns and claims to the department.

Section 1117(e): This subdivision corresponds to section 1017(b) of the House bill, except that, as in subdivision (b), the penalty attaches to a willful failure to perform the required acts, rather than to a willful refusal, and a willful attempt to evade or defeat the tax or its payment has been specifically added to the list of offenses.

Section 1119: Interest on the amounts of refunds is allowed at the rate of 6 per cent per annum from the date of payment to the date of allowance of the refund; or in case of a credit either to the due date of the amount against which the credit is taken, or if the credit is taken against an additional assessment, to the date of the assessment of that amount.

Under the existing law, there are similar provisions in subdivision (a) of section 1324. There is one principal change: The elimination of the requirement of a protest, or of the filing of a claim for refund or credit as a condition precedent to the allowance of interest. If the amounts in question were not legally owing to the Government, it is equitable that the Government should pay a reasonable rate of interest during the period of their retention; and the fact of protest or a claim does not affect the merits of such an interest payment.

Section 1121 (b) and (d): The provision which was here made for the issuance of a receipt by a collector for all taxes other than stamp taxes in the House bill has been amended to apply to the income tax, as in section 251 of the existing law. Section 37 of the act of August 27, 1894, which is repealed by subdivision (d), contains like provisions as to taxes other than stamp taxes.

Section 1123: The changes in numbering are to relate the provisions of the section to the titles of the bill corresponding to those of the existing law.

Section 1125: In subdivision (a) the provisions of section 3207, Revised Statutes, are reenacted, with a single amendment made necessary by the abolition of the circuit courts of the United States.

Subdivision (b) is a new provision, designed to afford to a holder of a lien prior in time to that of the United States for taxes a method of procedure for clearing the title to the property. The interests of the United States are protected by provisions for notice to the commissioner, which will give him an opportunity to enforce the lien for taxes as provided in subdivision (a), if he desires. At the present time, in cases in which the lien prior in time to that of the United States equals or exceeds in amount the value of the property, there is no method whereby the lien for taxes may be discharged without payment. Although the lien may thus be valueless to the United States, it remains a cloud on the title which the prior lienor is powerless to remove. The subdivision gives the lienor a remedy in this case.

#### LEGISLATIVE DRAFTING SERVICE

Section 1201: This section amends the organic law establishing the legislative drafting service contained in section 1303 of the revenue act of 1918. The amendment provides for compensation of the two

draftsmen upon the same basis as other Government law officers. This is accomplished by superseding the existing statutory salary by a provision that the positions of draftsmen shall be allocated to the appropriate grade under the classification act of 1923 by joint action of the President of the Senate and the Speaker of the House and that the salary of the Senate draftsman and the House draftsman shall be fixed within that grade by the President of the Senate and the Speaker of the House, respectively. The amendment will result in an increase in the salary of the two draftsmen, inasmuch as the solicitors of the departments and independent agencies in the executive branch of the Government have been placed in grades 6 and 7 of the professional and scientific service. The compensation in the case of grade 6 is fixed between \$6,000 and \$7,500, and in the case of grade 7 is fixed at \$7,500 or more if specifically authorized by law. The legislative drafting service is a nonpolitical, non-patronage law office and the committee believes that it should not be dealt with on a compensation basis corresponding to that of political appointees of the Congress but rather on one which corresponds to that of the nonpolitical law offices in the executive branch of the Government. The amendment in reaching this result removes the discrimination against the legislative drafting service existing in favor of the other Government law offices and places both on a parity.

The amendment also changes the name of the legislative drafting service to that of office of legislative counsel. It is believed that the latter name describes with greater accuracy the entirely legal nature of the work required of the service and avoids an ambiguity that now prevails in the terms "drafting" and "draftsman." By the terms of the amendment the legislative counsel are given the use of the penalty envelope for the official mail matter. This privilege is not now available to the service because the wording of the existing law relating to such privilege is capable of an interpretation which extends the privilege solely to officers of the Government appointed by the President, and does not include those few officers who by law are not a part of the Congress but yet are within the legislative branch of the Government and are appointed by heads of that branch of the Government.

#### GOVERNMENT ACTUARY

Section 1202: This section provides for an increase in the salary of the present Government actuary to \$7,500 a year. Recommendations for a substantial increase in salary for the present incumbent were made by the two preceding Secretaries of the Treasury and a similar recommendation has been made by Secretary Mellon. The salary at the increased rate is limited to the present incumbent and provision has been made for him because of the exceptional character and merit of the services rendered by him.

#### USE OF TERM "ENACTMENT" IN LIEU OF "PASSAGE"

Throughout the bill the House, when referring to the time the bill becomes a law, uses the phrase "the enactment of this act" instead of the phrase usually found in acts of Congress, "the passage

of this act." The committee concurs in this change as a more accurate expression. Section 7 of Article 1 of the Constitution provides as follows:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within 10 days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Under this section a bill may become a law in one of three ways: (1) Passage by both Houses and approval by the President; (2) passage by both Houses, disapproval by the President, and repassage by both Houses by a two-thirds vote; or (3) passage by both Houses and failure of the President to approve or disapprove it within 10 days. The term "passage of this act," therefore, is not correct in the case of the first or third method, and even in the case of the second method might be taken to refer to the time of the original passage by both Houses and not to the time of repassage over the President's veto. The term "approval of this act," while appropriately describing the time the bill becomes a law under the first method, is not accurate in case of the second or third method. It seems to your committee that the phrase "enactment of this act" is an accurate phrase covering the time the bill becomes a law under any one of the three methods.

An even more accurate phrase than "at the time of the enactment of this act," and one that is derived from the constitutional provision above quoted, would be "at the time the act becomes a law." This, however, has not been adopted by the committee for the reason that the time an act becomes a law is commonly confused with the time the act takes effect. The time of taking effect may be either subsequent to the enactment, at the time of the enactment, or, if a retroactive provision, prior to the enactment. The difference between the two phrases, while clear, is not readily appreciated by those unfamiliar with statutes, and for that reason the committee has retained the phrase "enactment of this act" in lieu of the even more accurate phrase derived from the Constitution.

#### SUBSISTENCE EXPENSES

Section 1101 of the House bill, fixing the allowance of expenses for subsistence while traveling of officers and employees of the Bureau of Internal Revenue at not to exceed \$7 per day, has been stricken out.

#### REDUCTION OF INCOME TAXES PAYABLE IN 1924

In accordance with the general scheme of tax reduction, Title XIII provides immediate relief for the taxpayers by allowing a 25 per cent reduction of the income tax payable in 1924 on 1923 taxable income.



# Calendar No. 388

{ 68TH CONGRESS }  
    *1st Session* }

SENATE

{ REPT. 398 }  
    Part 2 }

---

## INTERNAL REVENUE BILL OF 1924

---

APRIL 21 (calendar day, APRIL 22, 1924).—Ordered to be printed

---

Mr. JONES of New Mexico, from the Committee on Finance, submitted the following

### MINORITY VIEWS

[To accompany H. R. 6715]

The minority members of the Finance Committee, deeply conscious of the necessity for the relief of the people from the excessive burdens of taxation, have endeavored to cooperate with the majority of the committee in every reasonable way in the consideration and formulation of this belated attempt to reduce taxation. Through necessities incident to the World War revenue was contributed to the support of the Government in sums never reached at any previous time by any nation. Immediately after the signing of the armistice the party now represented by the minority was then in control of the Congress and formulated and caused to be enacted the revenue law of 1918. Anticipating a decrease in the necessary expenditures of the Government a provision was inserted in that law reducing the normal tax upon individual income from 12 per cent to 8 per cent and very materially reduced the excess-profits tax upon corporations. This action was strenuously opposed by the then leaders of the Republican Party. The Democratic Party does not believe in taxation beyond the actual necessities of the Government wisely and economically administered. We believe also that the burdens of taxation should be so imposed that they shall be borne in accordance with the fundamental principle of ability to pay. The Republican Party in its legislation for the reduction of taxation since the World War has ignored in great measure that basic principle. The revenue act of 1921, passed by a Republican Congress, which was devised for the purpose of reducing taxation, in the main materially reduced the taxes upon those best able to pay and gave but little relief to those who were less able to pay. The differential or excess-profits tax upon those corporations, many of which had profited during the

war and were continuing to do so, was repealed in its entirety. The financial advisor of the Republican administration, Secretary Mellon, insisted and recommended that the higher surtaxes upon individual incomes should be reduced from the maximum of 65 per cent to 25 per cent. The Republican majority of the House of Representatives passed a bill fixing the maximum surtax at 32 per cent on incomes of \$66,000 and above, and this maximum rate was recommended to the Senate by the Republican majority of the Finance Committee.

On the floor of the Senate, however, this maximum rate was increased to 50 per cent on incomes above \$200,000. Through the repeal of the excess-profits tax the revenue derived from the profiteering corporations was cut in half while the taxes upon the less prosperous corporations was increased by not less than 25 per cent. The majority of the committee, urgently importuned by the President and his Secretary of the Treasury, now again proposes by the present bill to reduce the maximum surtax from 50 per cent to 25 per cent without any corresponding reduction in the rate of taxation upon those who are less able to pay. The differences between the views of the minority and the majority upon this most important subject of taxation are fundamental, and the minority registers its earnest protest against the passage of the bill in the form as presented to the Senate.

The Democratic Party declines to accept responsibility for the unnecessary and protractious delay in reducing war-tax burdens of the American people. In May (20), 1919, President Wilson in a special message to Congress pleaded for the revision downward of the war taxes. His message was ignored, through partisan feeling on the part of the Republican Party then in absolute control of the Congress. Not until November 23, 1921, was any action taken by the Republican majority when the revenue act of 1921 was passed. At that time the Democratic minority urged greater reductions downward, particularly in the normal tax.

The reports of the Congressional Record show repeated efforts on the part of the minority to still further reduce the taxes at that time. Had the suggestions of the minority been accepted the discontent so prevalent for the last few years over the excessive tax burdens would have been greatly minimized and extravagant appropriations would have been vastly curtailed.

#### BURDENS OF TAXATION

It is the belief of the Democratic Party that in the raising of revenue for the support of the Federal Government due consideration should be given to the burdens of taxation, including the taxes imposed by the various States, counties, cities, and other local subdivisions. In a general survey we are impressed with the important fact that since the beginning of the World War the taxes imposed by these various legal entities have necessarily increased to an enormous extent, and this fact should not and can not be ignored in framing a law raising revenue for the support of the Federal Government and that the incidence or actual burden of all taxation should be profoundly taken into account. For the calendar year 1922 the taxes collected by the various States and the District of

Columbia, and all other civil divisions of the States having the power to levy and collect taxes, aggregated \$4,224,616,000. Of this total \$3,327,166,000, or 78.8 per cent, came from the general property tax. Special taxes, including inheritance, income, etc., contributed \$256,647,000; poll taxes, \$29,140,000; licenses and permits, \$408,271,000; and special assessments, \$203,392,000. For the fiscal year ending June 30, 1923, the revenues of the National Government amounted to \$3,204,133,000, consisting of customs, \$562,189,000; income and profit tax, \$1,691,090,000; miscellaneous taxes, \$935,699,000; tax on circulation of national banks, \$4,304,000; and Federal reserve franchise tax, \$10,851,000. The grand total of all these revenues from taxation was \$7,428,749,000. The rate of property taxation in the various States and local divisions increased from \$1.94 per \$100 of assessed valuation in 1912 to \$2.81 in 1922, which represents an average per capita increase from \$13.91 in 1912 to \$32.22 in 1922. Of the total taxes imposed by State, county, and other local divisions only the \$256,647,000 derived from inheritance and income taxes is collected from those with evident ability to pay. This amount constitutes only seven-tenths of 1 per cent of the total taxes collected by these legal entities.

It will further be observed that 78.8 per cent of these total taxes is derived from general property taxes. A general property tax is supposed to be imposed upon all property, real and personal, but as is well known, revenue derived from such taxes in actual result is derived from the taxes upon real estate. It may be observed that for practical purposes the theory of the general property tax has broken down. This may be illustrated by the history of such tax in the State of New York. In that State the ratio of the value of personal property to total property actually taxed under the general property tax has steadily declined from 25.5 per cent in 1866 to 11.7 per cent in 1900, 4.8 per cent in 1910, 3.9 per cent in 1915, 1.7 per cent in 1920, and 1.6 per cent in 1921. The actual burden of a tax upon real estate in the cities and towns is borne by the occupier, and the taxes upon the farm lands is borne by the farmer. Largely due to Republican policies and Republican legislation, the farmers of the country are in a deplorable state of financial depression. The prices of farm products are not fixed by the farmers, but are controlled by the law of supply and demand in the world markets, and the taxes upon farmers can not be shifted. In their present financial condition taxes imposed upon them are in the main taxes upon capital, and money must be borrowed with which to pay.

On an examination of the sources of the Federal revenue we find that substantially all the taxes other than income and profits taxes are imposed upon the necessities of the people, regardless of income and even regardless of the ownership of property, and that in the case of some corporations the income tax is really shifted and is a tax upon consumption. The income of all the railroads and nearly all the public utilities is regulated by law. This regulation is based upon the net amount which may be derived for the use of the stockholders. The income tax imposed upon these corporations becomes, therefore, a fixed charge and in this and similar cases enters into the cost of the service and is ultimately borne by those who avail themselves of such services, and in result may be termed a consumption tax.

In the above no reference has been made to the actual effect of the tariff or customs duties. In addition to the amount of the tax received by the Federal Government, and which is ultimately borne by the consumer, we can not lose sight of the fact that by reason of the tariff wall the domestic producers of manufactured articles are enabled to increase their prices to an extent, to which the statisticians generally agree, of about \$3,500,000,000. This enormous sum is indirectly imposed as a burden upon the necessities of the people and wholly regardless of ability to pay. Invisible property and wealth almost entirely escapes taxation except for the very meager portion which is derived through the tax upon net incomes and net profits. It may be generally said that all the burdens of taxation, except those derived from net incomes and net profits and inheritances, are shifted to the consumers as consumption taxes and the only taxes imposed upon the vast invisible wealth of the Nation is derived from these sources. The Democratic minority, therefore, in insisting upon higher surtaxes than proposed by the majority is not imbued with any desire or purpose to "soak the rich," but profoundly believes that invisible wealth, the prosperous and those with real ability to pay should bear a greater share of the burdens of Government.

It must be borne in mind that the Democratic proposal on the high surtaxes reduces greatly the rates carried in the present law, and the rates carried in the Democratic proposal on incomes not greater than \$67,000 is much less than the proposal of the Mellon plan, and above that amount they are carried on a scientific and equitable basis on the theory that the very large incomes are better able to bear the burden and that the individual having an income of over \$500,000 should pay a greater percentage of tax than the man with \$100,000.

#### PROVISIONS OF MAJORITY BILL

We deem it unnecessary in our report upon the bill to do more than refer briefly to a few of the most important provisions. Some changes have been made in the excise taxes which we deem it unnecessary to discuss here. It is proposed by the majority to repeal the taxes imposed by the present law upon cereal beverages and other soft drinks, candy, hunting knives, dirks, smoking stands, hunting garments, and liveries. Some new excise taxes are to be imposed and a few other excise taxes have been reduced. The imposition of the excise tax was controlled by the majority and the minority does not deem it necessary to take any other position in this brief report than one of general policy of disapproval of all special excise taxes originally imposed for raising war revenue.

#### INDIVIDUAL INCOME TAXES

In the consideration of this subject there are three important provisions to be examined. These are the exemptions, the normal tax, and the surtaxes. The general exemptions to unmarried persons, married persons, and married persons with dependents is not proposed to be changed from existing law. A very important change, however, is now introduced by proposing a special exemption on account of earned incomes. We of the minority agree to the general principle that earned income within reasonable limitations

should bear a less portion of the tax than incomes derived from investments. We believe, however, that provisions for this recognition should not permit an individual with a large income to receive a greater advantage than an individual with a lesser income. The bill in this respect really carries what might be termed "a joker." An individual with a large income is permitted a reduction from his total tax of an amount much greater than the individual with a small income even where the earned income of each is the same. We present herewith a table showing the result of the earned income provisions of the Senate bill as applied to various brackets of income:

*Earned income provision—Senate bill*

Income	Tax, single person			Tax, married person		
	Not earned	\$10,000 earned	Saving	Not earned	\$10,000 earned	Saving
\$5,000.....	1 \$120	\$90. 50	\$29. 50	\$75	1 \$56. 25	\$19. 75
\$10,000.....	420	315. 00	105. 00	360	270. 00	90. 00
\$15,000.....	810	675. 00	135. 00	750	625. 00	125. 00
\$20,000.....	1,320	1,155. 00	165. 00	1,260	1,102. 50	157. 50
\$50,000.....	6,740	6,403. 00	337. 00	6,680	6,346. 00	334. 00
\$100,000.....	19,900	19,402. 50	497. 00	19,840	19,344. 00	496. 00
\$200,000.....	50,900	50,263. 75	636. 25	50,840	50,204. 50	635. 50
\$500,000.....	143,900	143,180. 50	719. 50	143,840	143,120. 80	719. 20
\$1,000,000.....	298,900	298,152. 75	747. 25	298,840	298,092. 90	747. 10

<sup>1</sup> All earned

That is, the \$10,000 earned-income provision helps the \$10,000 single man \$105, and the \$1,000,000 man \$747.25, or over seven times as much to the \$1,000,000 man, although each have the same \$10,000 of earned income.

As to a married person, if head of a family the \$10,000 man saves \$90 in tax and the \$1,000,000 man \$747.10 or over eight times the saving to the \$10,000 man.

The larger the income of the taxpayer, under this provision, the larger the reduction in tax on the same amount of earned income.

The means employed for granting this favor to the larger income is found in the provision that the \$10,000 of earned income is assumed to have paid not the tax of the lower brackets, nor of the higher, but of the mean, depending upon the income of the taxpayer.

The minority will present an amendment to the bill eliminating this unjust inequality. The so-called Mellon plan, indorsed by the President, provided that there should be a reduction of 25 per cent in case of earned income regardless of the amount of such earned income. Recognizing the fact that through large salaries and large directors' fees many individuals would be able to receive an excessive reduction on account of so-called earned income, the House of Representatives provided that the reduction should not apply to earned income in excess of \$20,000 and the Finance Committee proposes that the limitation shall be reduced to \$10,000.

The bill as reported by the majority proposes to reduce the present normal tax upon the first \$4,000 of net income from 4 per cent to 3 per cent and upon the remainder of the income from 8 per cent to 6 per cent. The minority members of the committee will propose

an amendment fixing the normal tax at 2 per cent on the first \$4,000 of net income, 4 per cent on the next \$4,000, and 6 per cent on the remainder of the net income.

The House of Representatives and all the members of the Finance Committee concurred in the view that no surtaxes should be levied except upon incomes in excess of \$10,000. The majority of the Finance Committee with respect to both normal and surtaxes adopted and now proposes to enact into law without change what is known as the Mellon plan. In the opinion of the minority this plan provides for an excessive reduction of the taxes of those having larger incomes and does not afford sufficient relief to those having lesser incomes and less ability to pay. The difference in the effect of the proposal of the majority of the committee and the minority will appear by an examination of the table which follows. This table shows the reduction in taxes from the present law of a married man with no dependents and with the first \$5,000 of all income to be deemed to be earned and the remainder unearned.

*Comparative table showing amount of tax reduction from the present law under the Mellon and Simmons plans—married man, no dependents, and first \$5,000 considered as earned, the balance as unearned*

Net income	Mellon plan	Simmons plan	Net income	Mellon plan	Simmons plan
\$3,000.....	\$8. 75	\$12. 50	\$34,000.....	1, 062. 50	1, 442. 50
\$4,000.....	26. 25	37. 50	\$36,000.....	1, 142. 50	1, 562. 50
\$5,000.....	43. 75	62. 50	\$38,000.....	1, 222. 50	1, 682. 50
\$6,000.....	62. 50	102. 50	\$40,000.....	1, 322. 50	1, 802. 50
\$7,000.....	92. 50	162. 50	\$42,000.....	1, 422. 50	1, 942. 50
\$8,000.....	152. 50	262. 50	\$46,000.....	1, 682. 50	2, 222. 50
\$10,000.....	182. 50	312. 50	\$50,000.....	1, 982. 50	2, 502. 50
\$12,000.....	242. 50	382. 50	\$60,000.....	2, 982. 50	3, 262. 50
\$14,000.....	302. 50	462. 50	\$70,000.....	4, 322. 50	4, 162. 50
\$16,000.....	362. 50	542. 50	\$80,000.....	5, 982. 50	5, 162. 50
\$18,000.....	422. 50	622. 50	\$90,000.....	7, 982. 50	6, 302. 50
\$20,000.....	482. 50	702. 50	\$100,000.....	10, 322. 50	7, 522. 50
\$22,000.....	562. 50	802. 50	\$150,000.....	22, 822. 50	14, 022. 50
\$24,000.....	642. 50	902. 50	\$200,000.....	35, 822. 50	21, 022. 50
\$26,000.....	722. 50	1, 002. 50	\$300,000.....	62, 822. 50	35, 022. 50
\$28,000.....	802. 50	1, 102. 50	\$500,000.....	116, 822. 50	61, 022. 50
\$30,000.....	882. 50	1, 202. 50	\$1,000,000.....	251, 822. 50	121, 022. 50
\$32,000.....	962. 50	1, 302. 50			

It has been generally recognized that the law should provide for a more simple method for calculating the amount of the surtax upon any given income. The minority in an amendment which is appended hereto proposes to fix the actual amount of the surtax to be paid upon the income specified at each of the brackets and a percentage which shall be imposed upon the amount of the income in excess of such bracket and the percentage at which the excess shall be taxed.

The minority also appends hereto several tables, showing by comparison the different results to taxpayers under the present law, the Finance Committee bill, and the minority amendment. (See tables in appendix.)

Under the plan proposed by the minority there will be a loss of revenue from the Mellon plan amendment of the majority on account of the normal tax amendment an estimated amount of \$38,000,000 and a gain over the majority amendment in surtaxes of \$41,000,000, making a net gain in revenue under the minority proposal of \$3,000,000.

The Secretary of the Treasury, supported by perhaps the most extensive propaganda ever known for general tax reduction, has exhibited as his chief concern a reduction of from 50 per cent to 25 per cent the maximum surtaxes.

It is insisted that the high surtaxes are being evaded by transferences of investments into tax-exempt securities. That this is being done to any material extent is not considered by the minority to be in accordance with the facts. The only official data upon this question can be found in the report giving the statistics of income of decedents' estates which were filed during the year 1922. In the year 1922, 12,203 returns of resident decedents were filed in the Internal Revenue Bureau. The total gross estates amounted to \$2,879,372,168. The value of all tax-exempt securities held by these decedents was not sufficient to pay the funeral and administrative expenses, as shown by that document. We attach hereto a table which gives the facts regarding all of these decedents' estates amounting to \$1,000,000 and more.

Amount of estate	Number of returns	Total gross estate	Per cent of estate tax free	Investments, tax free Government bonds	Investments, tax free municipal and State bonds	Total tax-free investments
\$1,000,000 to \$1,500,000.....	111	\$170, 125, 879	4. 16	\$1, 510, 051	\$5, 564, 692	\$7, 074, 743
\$1,500,000 to \$2,000,000.....	45	90, 695, 896	5. 5	1, 807, 662	3, 214, 510	5, 022, 081
\$2,000,000 to \$3,000,000.....	41	132, 547, 852	3. 78	2, 818, 012	10, 067, 271	12, 885, 283
\$3,000,000 to \$4,000,000.....	17	65, 713, 996	8. 77	1, 661, 795	4, 102, 855	5, 764, 650
\$4,000,000 to \$5,000,000.....	10	53, 685, 921	6. 45	2, 473, 443	991, 424	3, 464, 867
\$5,000,000 to \$6,000,000.....	7	45, 489, 540	5. 07	2, 274, 631	37, 423	2, 311, 954
\$6,000,000 to \$7,000,000.....	2	17, 624, 030	3. 3	99, 800	494, 599	594, 399
\$7,000,000 to \$8,000,000.....	2	17, 346, 806	11. 2	903, 760	1, 071, 178	1, 974, 928
\$8,000,000 to \$9,000,000.....	6	97, 672, 152	10. 06	1, 978, 813	7, 855, 610	9, 834, 423
\$10,000,000 and over.....	10	291, 937, 390	6. 2	8, 433, 189	9, 681, 658	18, 114, 847
Total.....	251	982, 839, 504	6. 8	23, 960, 946	43, 081, 229	67, 042, 175

The next argument urged by the Secretary of the Treasury in favor of reducing the maximum surtax rate from 50 per cent to 25 per cent is based upon the alleged fact that such high surtaxes withdraw capital from productive enterprise and tend to destroy the prosperity of the country. It is clear to even the superficial observer that the contention of the Secretary is not convincing. Assuming that the Federal Government must receive a given amount of revenue, it is difficult to realize the difference in effect upon productive enterprise generally whether such tax comes from a few large taxpayers or from a large number of smaller taxpayers. Moreover, the Government does not retain this revenue in the Treasury. It is soon paid out and once more enters into the channels of industry. Upon an analysis of the actual situation it will also appear that the Secretary of the Treasury is unduly alarmed in his prognostications and that in his testimony and numerous discussions of this subject has indulged in much hyperbole. In the latest statistics upon this subject it appears that of the 6,662,172 taxpayers only 2,352 paid a tax upon income in excess of \$100,000. Only 535 paid a tax upon income in excess of \$200,000. The total net income of all taxpayers was \$19,577,212,529, and of this amount those having incomes above \$100,000 reported only \$463,003,351, which constitutes only 2.36 per cent of the total net income. For the same

year the total tax paid by taxpayers returning a net income in excess of \$100,000 was only \$202,217,490. This last amount is the thing about which the Secretary so vehemently complains. If this amount were reduced by half the saving to these large taxpayers would only be \$101,108,745. The minority of the committee, therefore, believe that some other reason must be found for the determined and uncompromising insistence upon so large reduction in the high surtaxes, because to them it is inconceivable that this difference between the saving of a little more than \$100,000,000 to 2,352 taxpayers and the payment of that amount into the Public Treasury should menace the prosperity and progress of this great Nation.

Secretary Mellon advances the further opinion that the high surtax interferes with large, hazardous, and speculative ventures. It should be recalled that under the present law a special tax of 12½ per cent only is imposed upon gains from investments. In our opinion experience has not shown that even the present maximum surtax has had the deterring effect which the Secretary imagines. So-called big business has been exceedingly prosperous during the past year. Loans of hundreds of millions of dollars have been made to foreign governments and building operations during the last year have been carried on to an extent never previously known. The minority proposes to reduce the present maximum surtax of 50 per cent to 38 per cent on incomes above \$200,000 and to a maximum of 40 per cent on incomes above \$500,000, not because of any supposed deterring effect upon large business but because we earnestly believe that all taxpayers are entitled to a substantial reduction whenever the financial condition of the Government will permit.

The next proposition of the Secretary is that there will be evasions if the maximum surtaxes are not reduced by 50 per cent. He undertakes to suggest that a maximum surtax of 25 per cent is the point at which evasion will cease. A number of provisions against tax evasion have been inserted in the bill as it came from the House and some additions thereto have been put in by the Finance Committee notwithstanding the fact that the proposed bill reduces the maximum surtax to 25 per cent. This proposed method of the Secretary of the Treasury for saving revenue may be likened to that of one who finds the full barrel leaking between the staves, opens the bunghole, lets out one-half the water, and then undertakes to stop the leaks in the other half. Why not stop the leaks at both ends of the barrel? Our admonition is, Don't open the bunghole.

Moreover, the Secretary of the Treasury and the majority members of the Finance Committee have made no attempt to change the provisions of the present law which afford the greatest avenues of escape from the high surtaxes. Under existing law the tax upon corporations is a flat or normal tax of 12½ per cent. This has been increased by the majority of the committee to 14 per cent. Under this arrangement there is nothing to prevent an individual with an income taxed upon the average above 14 per cent thereof from organizing a corporation and transferring to it all his income-producing assets. The corporation would only pay a flat normal tax and the owner of the corporation would need to draw therefrom in dividends an amount only sufficient to pay his actual living expenses. It follows, therefore, that in the bill as presented there is a direct inducement for everyone having a net income which would be taxed to him as an individual in



an amount in excess of 14 per cent to organize a corporation and evade the payment of more than that percentage of taxes. It is true a penalty against the organization of a corporation for the sole purpose of evading taxation is included in the present law and increased in the proposed bill. In actual result, however, such penalty provision has been and will be for all practical purposes a nullity. The penalty of the present law has only been applied in one or two cases. The Secretary testified before the committee that corporations were not being availed of so as to result in a decrease in taxation. Before another committee of the Senate a prominent attorney from the city of New York testified that such was generally being done. We believe that so long as the inducements exist in the law they will be availed of by interested taxpayers.

In this connection we desire to refer to information from the Treasury Department which has just been made available in response to Senate Resolution No. 110, which was passed in January of this year. On examination of the summary of this information we find that out of a total of 78,923 corporations making complete returns for the year 1922, 30,048 of them with a net taxable income of \$896,254,485 paid no cash dividends during the year, notwithstanding the fact that they had an accumulated surplus of \$3,954,966,686. One thousand eight hundred and sixty-seven other such corporations with net taxable income of \$247,802,166 paid out in cash dividends less than 10 per cent of their net earnings, or only \$14,350,718. There were 29,688 corporations making only fragmentary returns which showed net taxable income of \$1,197,500,436 which paid out in cash dividends only \$249,459,248. The total number of all these corporations reporting net taxable income was 109,313. The amount of the total net taxable income was \$6,586,744,764 and the total cash dividends was \$3,031,324,385, showing that the total amount of cash dividends paid out by all these corporations only averaged 46.02 per cent.

Grand summary of all industries

	Number of returns	Net taxable income (gross income less deductions as defined in revenue act)	Net book profit for year before any adjustments are made therein	Cash dividends paid during the year	Stock dividends distributed during the year	Surplus and undivided profits at close of the year	Capital impairment, deficit at close of the year
<b>A. Returns showing schedules completely filled out:</b>							
1. Corporations reporting both net taxable income and net book profit for the year and paying cash dividends—							
Per cent of cash dividends to net book profit—							
Less than 10 per cent.....	1,867	\$247,802,166	\$252,261,831	\$14,350,718	\$117,829,996	\$623,557,038	\$1,044,424
10 per cent and less than 20 per cent.....	3,257	415,339,961	426,169,448	65,364,962	193,552,877	1,111,162,645	1,863,804
20 per cent and less than 30 per cent.....	4,257	563,451,428	597,332,303	147,488,338	386,957,259	1,563,232,468	6,417,969
30 per cent and less than 40 per cent.....	4,732	580,131,737	585,629,799	202,788,375	417,958,803	1,447,099,403	1,828,459
40 per cent and less than 50 per cent.....	4,746	508,780,286	505,359,410	228,579,485	210,750,835	1,619,375,020	1,689,139
50 per cent and less than 60 per cent.....	4,640	406,017,131	453,564,364	250,665,041	149,517,425	1,513,580,560	1,890,808
60 per cent and less than 70 per cent.....	3,937	519,291,242	516,963,866	270,340,415	118,371,127	1,783,223,114	1,095,537
70 per cent and less than 80 per cent.....	3,491	250,173,896	253,880,588	189,242,603	72,574,596	1,076,737,441	6,584,675
80 per cent and less than 90 per cent.....	3,211	256,708,902	331,107,832	275,202,979	51,817,968	1,123,743,314	2,619,709
90 per cent or more.....	14,537	708,963,683	802,717,216	1,121,045,301	823,296,370	3,218,729,146	48,562,277
Total.....	48,875	4,468,660,432	4,724,986,657	2,763,068,217	2,547,627,306	15,110,440,149	74,147,816
2. Corporations reporting both net taxable income and net book profit but not paying cash dividends.....							
Total (1 and 2).....	30,048	896,254,486	894,599,138	-----	-----	3,954,966,686	59,328,946
3. Corporations reporting net taxable income, although book loss, but paying cash dividends.....							
Total (1 and 2).....	78,923	5,364,914,917	5,619,585,793	2,763,068,217	2,547,627,306	19,065,406,835	133,476,762
4. Corporations reporting net taxable income, although book loss, and not paying cash dividends.....							
Total (3 and 4).....	332	16,396,411	<sup>1</sup> 11,835,051	18,796,920	8,301,815	98,082,196	13,086,709
Total (3 and 4).....	370	7,963,000	<sup>1</sup> 9,662,740	-----	15,009	123,257,016	5,356,046
Total (3 and 4).....	702	24,359,411	<sup>1</sup> 21,497,791	18,796,920	8,316,815	221,339,212	18,441,755
Total returns showing schedules completely filled out.....							
<b>B. Returns showing schedules incompletely filled out—Data fragmentary, excepting the item of net income.....</b>							
Total returns showing schedules completely filled out.....	79,625	5,389,274,328	<sup>2</sup> 5,558,008,002	2,781,865,137	2,555,944,121	19,286,746,047	151,918,517
-----	29,688	1,197,500,436	( <sup>3</sup> )	<sup>4</sup> 249,459,248	<sup>4</sup> 382,758,794	( <sup>3</sup> )	( <sup>3</sup> )
Grand total.....	109,313	6,586,774,764	-----	3,031,324,385	2,938,702,915	-----	-----

<sup>1</sup> Net book loss for year.

<sup>2</sup> Book profit less book loss.

<sup>3</sup> Not ascertained due to inadequacy of data.

<sup>4</sup> Total reported on returns incompletely filled out.

## TAXES ON INCOME OF CORPORATIONS

Under the revenue act of 1921 all the excess-profit taxes upon corporations were repealed and the normal tax increased from 10 per cent to 12 per cent. In lieu of the corporation tax of \$1 per thousand on the value of the stock in corporations the majority of the committee proposes to increase this normal tax to 14 per cent. In the view of the minority such a tax upon corporate net incomes is unjust and inequitable. It wholly ignores the principle of a graduated tax in proportion to real ability to pay. The property of a corporation belongs to the shareholders and any tax upon corporate net income is a tax upon the shareholders in proportion to the number of shares owned by each individual. A corporation earning a small income under the proposed bill is required to pay the same rate of tax as a corporation with larger income without any regard to the magnitude of the income. Moreover, there are many corporations, including railroads, where the amount of the net income is regulated by law. There are other large industrial corporations with large capital and a large number of shareholders which are earning only a modest return upon the invested capital. All the shareholders of such corporations as to their interest in the corporate income are taxed at the same rate as the wealthiest taxpayer in the entire country. Also, it may be observed that the Federal Government has outstanding about \$18,000,000,000 of bonds the income from which is only exempt from the normal tax.

Inasmuch as the entire tax on corporations is designated as a normal tax, the result is that all the outstanding securities of the Federal Government are wholly exempt from taxation if owned by corporations. This gives to the corporation an undue advantage over the individual taxpayer in the ownership of Federal securities of this vast amount. The result has been most disastrous to the revenues of the Government. During 1923 the Federal Government received taxes on less than \$40,000,000 of interest out a total of nearly \$1,000,000,000 actually paid by it. Upon this \$40,000,000 the Government collected not in excess of \$5,000,000 tax. Neither the Secretary of the Treasury nor the majority of the Finance Committee has been willing to make any change in this law. It would seem, therefore, that before anyone connected with the administration should denounce the issuance of tax-exempt securities by the States he should first suggest such change in the law as would permit the Federal Government to tax Federal securities in accordance with the intent of the law which authorized their issuance.

The majority of the committee upon a roll call decided against any kind of a system of graduated taxes upon the income of corporations.

## ESTATE TAX

The House of Representatives made no change in the plan of the present tax upon estates, but increased the rates to a maximum of 40 per cent. The majority of the Finance Committee proposes to repeal the rates made in the House of Representatives and retain the present law. The minority is of the opinion that the present law is inequitable and based upon a wrong principle. The descent of estates of decedents is regulated by the laws of the various States and many of the States have imposed taxes upon the body of the estate regardless of its descent. We believe that the tax upon the descent of property for the purposes of Federal taxation should be imposed on the

basis of the income to the beneficiary. Much has been said against any taxation by the Federal Government of such estates and it is contended that this source of revenue should be left entirely to the several States. In our opinion the Federal Government should impose its tax upon the net income of the individual beneficiary after deducting all estate and inheritance taxes imposed by the various States. This plan would carry into this field of taxation the principle of a graduated tax in accordance with ability to pay. Under the present law the rate of taxation is the same whether there be one or many beneficiaries. This is unjust.

#### PUBLICITY OF TAX ADJUDICATIONS

Controversies between the Government and the taxpayers extending into many thousands and involving revenue of many hundreds of millions of dollars are required to be annually adjudicated. So extensive is this work that the Treasury Department has asked the Congress to provide for several boards of appeals to finally determine thousands of accumulated undisposed of cases and establish a lesser number of permanent boards to finally review the current controversies. Under the present practice all of these adjudications are made in secret. An opportunity is afforded for favoritism, arbitrary action, fraud, and collusion. That such opportunity has been used is evidenced by the fact that more than 500 employees have been discharged from the Internal Revenue Service because of their having been guilty of one or more of these offenses. The majority proposes that all records and proceedings of the Internal Revenue Bureau shall remain secret as in the past. To the minority it seems inconceivable that any controversy existing between the Government and a taxpayer should be adjudicated and finally determined in a star chamber proceeding. The minority will, therefore, propose an amendment to the bill which will provide that all such proceedings, records, and evidence in connection therewith shall be public.

#### CONCLUSION

The minority believes that the bill proposed by the majority is fundamentally defective, unscientific, and if enacted into law will vitally affect the basic principle of progressive income taxation. Viewing it in the perspective one must conclude that it was designed to relieve the few at the expense of the many. Those who bear the chief burdens of Government through indirect taxation and also contribute of their meager incomes are afforded but slight relief, while those of the greatest wealth and who contribute relatively inconsequential sums by way of consumption taxes and the support of the States and other subdivisions of the Government are to have their contributions to the Federal Government reduced by one-half, and through the use of corporate entities get a further reduction of a much greater amount.

FURNIFOLD McL. SIMMONS.  
ANDRIEUS A. JONES.  
PETER G. GERRY.  
JAMES A. REED.  
DAVID I. WALSH.  
PAT HARRISON.  
WILLIAM H. KING.

## APPENDIX

AMENDMENT Intended to be proposed by Mr. Simmons to the bill (H. R. 6715) to reduce and equalize taxation, to provide revenue, and for other purposes, viz: On page 31, beginning with line 14, strike out all of subdivision (a), section 211, and in place thereof insert the following:

SEC. 211. (a) In lieu of the tax imposed by section 211 of the revenue act of 1921, but in addition to the normal tax imposed by section 210 of this act, there shall be levied, collected, and paid for each taxable year upon the net income of every individual a surtax as follows:

Upon a net income of \$10,000 there shall be no surtax; upon net incomes in excess of \$10,000 and not in excess of \$14,000, 1 per centum of such excess.

\$40 upon net incomes of \$14,000; and upon net incomes in excess of \$14,000 and not in excess of \$16,000, 2 per centum in addition of such excess.

\$80 upon net incomes of \$16,000; and upon net incomes in excess of \$16,000 and not in excess of \$18,000, 3 per centum in addition of such excess.

\$140 upon net incomes of \$18,000; and upon net incomes in excess of \$18,000 and not in excess of \$20,000, 4 per centum in addition of such excess.

\$220 upon net incomes of \$20,000; and upon net incomes in excess of \$20,000 and not in excess of \$22,000, 5 per centum in addition of such excess.

\$320 upon net incomes of \$22,000; and upon net incomes in excess of \$22,000 and not in excess of \$24,000, 6 per centum in addition of such excess.

\$440 upon net incomes of \$24,000; and upon net incomes in excess of \$24,000 and not in excess of \$26,000, 7 per centum in addition of such excess.

\$580 upon net incomes of \$26,000; and upon net incomes in excess of \$26,000 and not in excess of \$28,000, 8 per centum in addition of such excess.

\$740 upon net incomes of \$28,000; and upon net incomes in excess of \$28,000 and not in excess of \$30,000, 9 per centum in addition of such excess.

\$920 upon net incomes of \$30,000; and upon net incomes in excess of \$30,000 and not in excess of \$34,000, 10 per centum in addition of such excess.

\$1,320 upon net incomes of \$34,000; and upon net incomes in excess of \$34,000 and not in excess of \$36,000, 11 per centum in addition of such excess.

\$1,540 upon net incomes of \$36,000; and upon net incomes in excess of \$36,000 and not in excess of \$38,000, 12 per centum in addition of such excess.

\$1,780 upon net incomes of \$38,000; and upon net incomes in excess of \$38,000 and not in excess of \$42,000, 13 per centum in addition of such excess.

\$2,300 upon net incomes of \$42,000; and upon net incomes in excess of \$42,000 and not in excess of \$44,000, 14 per centum in addition of such excess.

\$2,580 upon net incomes of \$44,000; and upon net incomes in excess of \$44,000 and not in excess of \$46,000, 15 per centum in addition of such excess.

\$2,880 upon net incomes of \$46,000; and upon net incomes in excess of \$46,000 and not in excess of \$48,000, 16 per centum in addition of such excess.

\$3,200 upon net incomes of \$48,000; and upon net incomes in excess of \$48,000 and not in excess of \$50,000, 17 per centum in addition of such excess.

\$3,540 upon net incomes of \$50,000; and upon net incomes in excess of \$50,000 and not in excess of \$52,000, 18 per centum in addition of such excess.

\$3,900 upon net incomes of \$52,000; and upon net incomes in excess of \$52,000 and not in excess of \$56,000, 19 per centum in addition of such excess.

\$4,660 upon net incomes of \$56,000; and upon net incomes in excess of \$56,000 and not in excess of \$58,000, 20 per centum in addition of such excess.

\$5,060 upon net incomes of \$58,000; and upon net incomes in excess of \$58,000 and not in excess of \$62,000, 21 per centum in addition of such excess.

\$5,900 upon net incomes of \$62,000; and upon net incomes in excess of \$62,000 and not in excess of \$64,000, 22 per centum in addition of such excess.

\$6,340 upon net incomes of \$64,000; and upon net incomes in excess of \$64,000 and not in excess of \$66,000, 23 per centum in addition of such excess.

\$6,800 upon net incomes of \$66,000; and upon net incomes in excess of \$66,000 and not in excess of \$68,000, 24 per centum in addition of such excess.

\$7,280 upon net incomes of \$68,000; and upon net incomes in excess of \$68,000 and not in excess of \$70,000, 25 per centum in addition of such excess.

\$7,780 upon net incomes of \$70,000; and upon net incomes in excess of \$70,000 and not in excess of \$74,000, 26 per centum in addition of such excess.

\$8,320 upon net incomes of \$74,000; and upon net incomes in excess of \$74,000 and not in excess of \$76,000, 27 per centum in addition of such excess.

\$9,360 upon net incomes of \$76,000; and upon net incomes in excess of \$76,000 and not in excess of \$80,000, 28 per centum in addition of such excess.

\$10,480 upon net incomes of \$80,000; and upon net incomes in excess of \$80,000 and not in excess of \$82,000, 29 per centum in addition of such excess.

\$11,060 upon net incomes of \$82,000; and upon net incomes in excess of \$82,000 and not in excess of \$84,000, 30 per centum in addition of such excess.

\$11,660 upon net incomes of \$84,000; and upon net incomes in excess of \$84,000 and not in excess of \$88,000, 31 per centum in addition of such excess.

\$12,900 upon net incomes of \$88,000; and upon net incomes in excess of \$88,000 and not in excess of \$90,000, 32 per centum in addition of such excess.

\$13,540 upon net incomes of \$90,000; and upon net incomes in excess of \$90,000 and not in excess of \$92,000, 33 per centum in addition of such excess.

\$14,200 upon net incomes of \$92,000; and upon net incomes in excess of \$92,000 and not in excess of \$94,000, 34 per centum in addition of such excess.

\$14,880 upon net incomes of \$94,000; and upon net incomes in excess of \$94,000 and not in excess of \$96,000, 35 per centum in addition of such excess.

\$15,580 upon net incomes of \$96,000; and upon net incomes in excess of \$96,000 and not in excess of \$100,000, 36 per centum in addition of such excess.

\$17,020 upon net incomes of \$100,000; and upon net incomes in excess of \$100,000 and not in excess of \$200,000, 37 per centum in addition of such excess.

\$54,020 upon net incomes of \$200,000; and upon net incomes in excess of \$200,000 and not in excess of \$300,000, 38 per centum in addition of such excess.

\$92,020 upon net incomes of \$300,000; and upon net incomes in excess of \$300,000 and not in excess of \$500,000, 39 per centum in addition of such excess.

\$170,020 upon net incomes of \$500,000; and upon net incomes in excess of \$500,000, in addition 40 per centum of such excess.

*Comparative table showing amount of tax reduction from the present law under the Mellon and Simmons plans—Married man, no dependents, and first \$5,000 considered as earned, the balance as unearned.*

Net income	Mellon plan	Simmons plan	Net income	Mellon plan	Simmons plan
\$1,000			\$56,000	\$2,542.50	\$2,942.50
2,000			57,000	2,652.50	3,022.50
3,000	\$3.75	\$12.50	58,000	2,762.50	3,102.50
4,000	26.25	37.50	59,000	2,872.50	3,182.50
5,000	43.75	62.50	60,000	2,982.50	3,262.50
6,000	62.50	102.50	61,000	3,102.50	3,352.50
7,000	92.50	162.50	62,000	3,222.50	3,442.50
8,000	122.50	212.50	63,000	3,352.50	3,532.50
9,000	152.50	262.50	64,000	3,482.50	3,622.50
10,000	182.50	312.50	65,000	3,612.50	3,712.50
11,000	212.50	352.50	66,000	3,742.50	3,802.50
12,000	242.50	392.50	67,000	3,882.50	3,892.50
13,000	272.50	422.50	68,000	4,022.50	3,982.50
14,000	302.50	462.50	69,000	4,172.50	4,072.50
15,000	332.50	502.50	70,000	4,322.50	4,162.50
16,000	362.50	542.50	71,000	4,472.50	4,252.50
17,000	392.50	582.50	72,000	4,622.50	4,342.50
18,000	422.50	622.50	73,000	4,782.50	4,432.50
19,000	452.50	662.50	74,000	4,942.50	4,522.50
20,000	482.50	702.50	75,000	5,112.50	4,612.50
21,000	522.50	752.50	76,000	5,282.50	4,702.50
22,000	562.50	802.50	77,000	5,452.50	4,792.50
23,000	602.50	852.50	78,000	5,622.50	4,882.50
24,000	642.50	902.50	79,000	5,802.50	4,972.50
25,000	682.50	952.50	80,000	5,982.50	5,062.50
26,000	722.50	1,002.50	81,000	6,172.50	5,152.50
27,000	762.50	1,052.50	82,000	6,362.50	5,242.50
28,000	802.50	1,102.50	83,000	6,552.50	5,332.50
29,000	842.50	1,152.50	84,000	6,742.50	5,422.50
30,000	882.50	1,202.50	85,000	6,942.50	5,512.50
31,000	922.50	1,252.50	86,000	7,142.50	5,602.50
32,000	962.50	1,302.50	87,000	7,352.50	5,692.50
33,000	1,012.50	1,372.50	88,000	7,562.50	5,782.50
34,000	1,062.50	1,442.50	89,000	7,772.50	5,872.50
35,000	1,102.50	1,502.50	90,000	7,982.50	5,962.50
36,000	1,142.50	1,562.50	91,000	8,202.50	6,052.50
37,000	1,182.50	1,622.50	92,000	8,422.50	6,142.50
38,000	1,222.50	1,682.50	93,000	8,652.50	6,232.50
39,000	1,272.50	1,742.50	94,000	8,882.50	6,322.50
40,000	1,322.50	1,802.50	95,000	9,112.50	6,412.50
41,000	1,372.50	1,872.50	96,000	9,342.50	6,502.50
42,000	1,422.50	1,942.50	97,000	9,582.50	6,592.50
43,000	1,482.50	2,012.50	98,000	9,822.50	6,682.50
44,000	1,542.50	2,082.50	99,000	10,072.50	6,772.50
45,000	1,612.50	2,152.50	100,000	10,322.50	6,862.50
46,000	1,682.50	2,222.50	150,000	22,822.50	14,022.50
47,000	1,752.50	2,292.50	200,000	35,822.50	21,022.50
48,000	1,822.50	2,362.50	250,000	49,322.50	28,022.50
49,000	1,902.50	2,432.50	300,000	62,822.50	35,022.50
50,000	1,982.50	2,502.50	500,000	116,822.50	61,022.50
51,000	2,072.50	2,572.50	1,000,000	251,822.50	121,022.50
52,000	2,162.50	2,642.50	2,000,000	521,822.50	241,022.50
53,000	2,252.50	2,712.50	3,000,000	791,822.50	361,022.50
54,000	2,342.50	2,782.50	4,000,000	1,061,822.50	481,022.50
55,000	2,442.50	2,862.50	5,000,000	1,331,822.50	601,022.50

Comparison of the tax on specified incomes to be paid under the provisions of the present law, Mellon plan, Democratic (Simmons) plan—  
 married man, no dependents—the first \$5,000 of all income to be deemed to be earned, balance unearned

Net income	Present law					Mellon plan					Democratic (Simmons) plan				
	Normal tax	Surtax	Total tax	Surtax in per cent of total net income	Total tax in per cent of total net income	Normal tax	Surtax	Total tax	Surtax in per cent of total net income	Total tax in per cent of total net income	Normal tax	Surtax	Total tax	Surtax in per cent of total net income	Total tax in per cent of total net income
\$3,000	\$20		\$20		0.67	\$11.25		\$11.25		0.38	\$7.50		\$7.50		0.25
4,000	60		60		1.50	33.75		33.75		.84	22.50		22.50		.56
5,000	100		100		2.00	56.25		56.25		1.13	37.50		37.50		.76
6,000	160		160		2.67	97.50		97.50		1.63	57.50		57.50		.94
7,000	240	\$10	250	0.14	3.56	157.50		157.50		2.25	87.50		87.50		1.25
8,000	400	30	430	.33	4.78	277.50		277.50		3.08	167.50		167.50		1.86
9,000	480	40	520	.40	5.20	337.50		337.50		3.38	207.50		207.50		2.06
10,000	480	40	520	.40	5.20	337.50		337.50		3.38	207.50		207.50		2.06
12,000	640	80	720	.67	6.00	457.50	\$20	477.50	0.17	3.98	317.50	\$20	337.50	0.17	2.81
14,000	800	140	940	1.00	6.71	577.50	60	637.50	.43	4.55	437.50	40	477.50	.29	3.41
16,000	960	220	1,180	1.38	7.38	697.50	120	817.50	.71	5.11	557.50	80	637.50	.50	3.98
18,000	1,120	320	1,440	1.78	8.00	817.50	200	1,017.50	1.11	5.65	677.50	140	817.50	.78	4.54
20,000	1,280	440	1,720	2.20	8.60	937.50	300	1,237.50	1.50	6.19	797.50	220	1,017.50	1.10	5.09
22,000	1,440	600	2,040	2.73	9.27	1,057.50	420	1,477.50	1.90	6.72	917.50	320	1,237.50	1.45	5.62
24,000	1,600	780	2,380	3.25	9.92	1,177.50	560	1,737.50	2.33	7.24	1,037.50	440	1,477.50	1.83	6.16
26,000	1,760	980	2,740	3.77	10.54	1,297.50	720	2,017.50	2.77	7.76	1,157.50	580	1,737.50	2.23	6.95
28,000	1,920	1,200	3,120	4.29	11.14	1,417.50	900	2,317.50	3.21	8.28	1,277.50	740	2,017.50	2.64	7.21
30,000	2,080	1,440	3,520	4.80	11.73	1,537.50	1,100	2,637.50	3.67	8.79	1,397.50	920	2,317.50	3.07	7.73
32,000	2,240	1,700	3,940	5.31	12.31	1,657.50	1,320	2,977.50	4.13	9.30	1,517.50	1,120	2,637.50	3.50	8.24
34,000	2,400	2,000	4,400	5.88	12.94	1,777.50	1,560	3,337.50	4.59	9.82	1,637.50	1,320	2,957.50	3.88	8.70
36,000	2,560	2,300	4,860	6.39	13.50	1,897.50	1,820	3,717.50	5.06	10.33	1,757.50	1,540	3,297.50	4.28	9.16
38,000	2,720	2,620	5,340	6.89	14.05	2,017.50	2,100	4,117.50	5.53	10.84	1,877.50	1,780	3,657.50	4.56	9.63
40,000	2,880	2,960	5,840	7.40	14.60	2,137.50	2,380	4,517.50	5.95	11.29	1,997.50	2,040	4,037.50	5.10	10.09
42,000	3,040	3,320	6,360	7.90	15.14	2,257.50	2,680	4,937.50	6.38	11.76	2,117.50	2,300	4,417.50	5.48	10.52
44,000	3,360	3,100	7,460	8.91	16.22	2,497.50	3,280	5,777.50	7.13	12.56	2,357.50	2,880	5,237.50	6.26	11.39
46,000	3,680	4,960	8,640	9.92	17.28	2,737.50	3,920	6,657.50	7.84	13.32	2,597.50	3,540	6,137.50	7.08	12.28
48,000	4,480	7,460	11,940	12.43	19.90	3,337.50	5,620	8,957.50	9.37	14.93	3,197.50	5,480	8,677.50	9.13	14.46
50,000	5,280	10,460	15,740	14.94	22.49	3,937.50	7,480	11,417.50	10.69	16.31	3,797.50	7,780	11,577.50	11.11	16.63
60,000	6,080	13,960	20,040	17.45	25.05	4,537.50	9,520	14,057.50	11.90	17.57	4,397.50	10,480	14,877.50	13.10	18.60
80,000	6,880	17,960	24,840	19.96	27.60	5,137.50	11,720	16,857.50	13.02	18.73	4,997.50	13,540	18,537.50	15.04	20.60
100,000	7,680	22,460	30,140	22.46	30.14	5,737.50	14,080	19,817.50	14.08	19.82	5,597.50	17,020	22,617.50	17.02	22.62
150,000	11,680	46,460	58,140	30.97	38.76	8,737.50	26,580	35,317.50	17.72	23.55	8,597.50	35,520	44,117.50	23.68	29.41
200,000	15,680	70,960	86,640	35.48	43.32	11,737.50	39,080	50,817.50	19.54	25.41	11,597.50	54,020	65,617.50	27.01	32.82
300,000	23,680	120,960	144,640	49.32	48.21	17,737.50	64,080	81,817.50	21.36	27.27	17,597.50	92,020	109,617.50	30.67	36.54
500,000	39,680	220,960	260,640	44.19	52.13	29,737.50	114,080	143,817.50	22.82	29.76	29,597.50	170,020	199,617.50	34.00	39.92
1,000,000	79,680	470,960	550,640	47.10	55.06	59,737.50	239,080	298,817.50	23.91	29.88	59,597.50	370,020	429,617.50	37.00	42.96

The following table of the number of persons making income-tax returns in 1921 is compiled from the official figures of the Treasury Department, contained in Statistics of Income for 1921.

It shows the total number of persons making income-tax returns in each State, and the number benefited more by the Democratic (Simmons) plan than by the Mellon plan, and the number benefited more by the Mellon plan than by the Democratic (Simmons) plan.

*Comparative table showing beneficiaries of the Democratic (Simmons) tax reduction plan and of the Mellon plan by States*

State	Total number making income-tax returns, 1921	Number benefited more by Mellon plan	Number benefited more by Democratic (Simmons) plan
Alabama.....	43,009	25	42,984
Arizona.....	18,477	1	18,476
Arkansas.....	33,830	8	33,822
California.....	386,082	237	385,845
Colorado.....	69,676	25	69,651
Connecticut.....	123,269	96	123,173
Delaware.....	15,889	12	15,877
District of Columbia.....	89,966	68	89,898
Florida.....	42,249	14	42,235
Georgia.....	67,719	24	67,695
Hawaii.....	11,481	22	11,459
Idaho.....	22,976	1	22,975
Illinois.....	611,558	537	611,021
Indiana.....	150,300	52	150,248
Iowa.....	111,483	24	111,459
Kansas.....	88,785	9	88,776
Kentucky.....	69,496	25	69,471
Louisiana.....	67,960	34	67,926
Maine.....	44,397	25	44,372
Maryland.....	112,963	109	112,854
Massachusetts.....	388,442	505	387,937
Michigan.....	250,147	174	249,973
Minnesota.....	124,601	81	124,420
Mississippi.....	25,614	5	25,609
Missouri.....	172,519	106	172,413
Montana.....	36,907	4	36,903
Nebraska.....	71,853	14	71,839
Nevada.....	9,719	1	9,718
New Hampshire.....	32,410	17	32,393
New Jersey.....	269,096	274	268,822
New Mexico.....	11,780	1	11,779
New York.....	1,066,637	2,050	1,064,587
North Carolina.....	44,161	38	44,123
North Dakota.....	18,440	1	18,439
Ohio.....	367,096	270	366,826
Oklahoma.....	69,381	15	69,366
Oregon.....	62,804	18	62,786
Pennsylvania.....	621,103	833	620,270
Rhode Island.....	48,057	103	47,954
South Carolina.....	25,160	6	25,154
South Dakota.....	21,681	0	21,681
Tennessee.....	60,949	19	60,930
Texas.....	200,188	66	200,122
Utah.....	26,128	1	26,127
Vermont.....	17,746	8	17,738
Virginia.....	76,257	21	76,236
Washington, including Alaska.....	115,688	21	115,667
West Virginia.....	75,277	38	75,239
Wisconsin.....	148,457	67	148,390
Wyoming.....	22,413	4	22,409
Total.....	6,662,176	6,109	6,656,067



Comparison of the Mellon and Democratic (Simmons) tax plans with the present law (married person without dependents), the first \$5,000 of all income to be deemed to be earned; balance unearned

Number of persons making returns in each class for 1921	Income	Amount of normal tax under—			Amount of surtax under—			Amount of surtax reduction under—		Amount of greater reduction of surtax under—		Amount of total tax under—			Amount of reduction of total tax under—		Amount of greater reduction of total tax under—		Percentage of reduction of total tax under—	
		Present	Mellon	Simmons	Present	Mellon	Simmons	Mellon	Simmons	Mellon	Simmons	Present	Mellon	Simmons	Mellon	Simmons	Mellon	Simmons	Mellon	Simmons
401,849 under	\$1,000.00																			
	2,000.00	\$20.00	\$11.25	\$7.50								\$20.00	\$11.25	\$7.50	\$3.75	\$12.50	\$3.75	\$3.75	43.75	62.50
	3,000.00	60.00	33.75	22.50								60.00	33.75	22.50	26.25	37.50	26.25	37.50	43.75	62.50
	4,000.00	100.00	56.25	37.50								100.00	56.25	37.50	43.75	62.50	43.75	62.50	43.75	62.50
6,087,968	5,000.00	160.00	97.50	57.50								160.00	97.50	57.50	62.50	102.50	62.50	102.50	39.06	64.06
	6,000.00	240.00	157.50	87.50	\$10.00			\$10.00				240.00	157.50	87.50	92.50	162.50	92.50	162.50	37.00	65.00
	7,000.00	320.00	217.50	127.50	20.00			20.00				320.00	217.50	127.50	122.50	212.50	122.50	212.50	36.03	62.50
	8,000.00	400.00	277.50	167.50	30.00			30.00				400.00	277.50	167.50	152.50	262.50	152.50	262.50	35.47	61.05
	9,000.00	480.00	337.50	207.50	40.00			40.00				480.00	337.50	207.50	182.50	312.50	182.50	312.50	35.10	60.10
	10,000.00	560.00	397.50	247.50	50.00	\$10.00		50.00				560.00	397.50	247.50	212.50	352.50	212.50	352.50	34.27	58.85
	11,000.00	640.00	457.50	287.50	60.00	20.00		60.00				640.00	457.50	287.50	242.50	382.50	242.50	382.50	33.68	53.13
	12,000.00	720.00	517.50	327.50	70.00	30.00		70.00				720.00	517.50	327.50	272.50	422.50	272.50	422.50	32.83	50.90
	13,000.00	800.00	577.50	367.50	80.00	40.00		80.00				800.00	577.50	367.50	302.50	462.50	302.50	462.50	32.18	49.20
114,244	14,000.00	880.00	637.50	407.50	90.00	50.00		90.00				880.00	637.50	407.50	332.50	502.50	332.50	502.50	31.35	47.41
	15,000.00	960.00	697.50	447.50	100.00	60.00		100.00				960.00	697.50	447.50	362.50	542.50	362.50	542.50	30.72	45.07
	16,000.00	1,040.00	757.50	487.50	110.00	70.00		110.00				1,040.00	757.50	487.50	392.50	582.50	392.50	582.50	29.96	44.47
	17,000.00	1,120.00	817.50	527.50	120.00	80.00		120.00				1,120.00	817.50	527.50	422.50	622.50	422.50	622.50	29.34	43.22
	18,000.00	1,200.00	877.50	567.50	130.00	90.00		130.00				1,200.00	877.50	567.50	452.50	662.50	452.50	662.50	28.64	41.93
	19,000.00	1,280.00	937.50	607.50	140.00	100.00		140.00				1,280.00	937.50	607.50	482.50	702.50	482.50	702.50	27.99	40.84
	20,000.00	1,360.00	997.50	647.50	150.00	110.00		150.00				1,360.00	997.50	647.50	512.50	742.50	512.50	742.50	27.37	39.54
	21,000.00	1,440.00	1,057.50	687.50	160.00	120.00		160.00				1,440.00	1,057.50	687.50	542.50	782.50	542.50	782.50	26.77	38.24
	22,000.00	1,520.00	1,117.50	727.50	170.00	130.00		170.00				1,520.00	1,117.50	727.50	572.50	822.50	572.50	822.50	26.19	37.00
	23,000.00	1,600.00	1,177.50	767.50	180.00	140.00		180.00				1,600.00	1,177.50	767.50	602.50	862.50	602.50	862.50	25.64	35.74
28,948	24,000.00	1,680.00	1,237.50	807.50	190.00	150.00		190.00				1,680.00	1,237.50	807.50	632.50	902.50	632.50	902.50	25.11	34.51
	25,000.00	1,760.00	1,297.50	847.50	200.00	160.00		200.00				1,760.00	1,297.50	847.50	662.50	942.50	662.50	942.50	24.60	33.29
	26,000.00	1,840.00	1,357.50	887.50	210.00	170.00		210.00				1,840.00	1,357.50	887.50	692.50	982.50	692.50	982.50	24.11	32.11
	27,000.00	1,920.00	1,417.50	927.50	220.00	180.00		220.00				1,920.00	1,417.50	927.50	722.50	1,022.50	722.50	1,022.50	23.65	30.97
	28,000.00	2,000.00	1,477.50	967.50	230.00	190.00		230.00				2,000.00	1,477.50	967.50	752.50	1,062.50	752.50	1,062.50	23.22	29.82
	29,000.00	2,080.00	1,537.50	1,007.50	240.00	200.00		240.00				2,080.00	1,537.50	1,007.50	782.50	1,102.50	782.50	1,102.50	22.81	28.69
	30,000.00	2,160.00	1,597.50	1,047.50	250.00	210.00		250.00				2,160.00	1,597.50	1,047.50	812.50	1,142.50	812.50	1,142.50	22.42	27.57
	31,000.00	2,240.00	1,657.50	1,087.50	260.00	220.00		260.00				2,240.00	1,657.50	1,087.50	842.50	1,182.50	842.50	1,182.50	22.04	26.44
	32,000.00	2,320.00	1,717.50	1,127.50	270.00	230.00		270.00				2,320.00	1,717.50	1,127.50	872.50	1,222.50	872.50	1,222.50	21.68	25.31
	33,000.00	2,400.00	1,777.50	1,167.50	280.00	240.00		280.00				2,400.00	1,777.50	1,167.50	902.50	1,262.50	902.50	1,262.50	21.34	24.20
12,947	34,000.00	2,480.00	1,837.50	1,207.50	290.00	250.00		290.00				2,480.00	1,837.50	1,207.50	932.50	1,302.50	932.50	1,302.50	21.02	23.10
	35,000.00	2,560.00	1,897.50	1,247.50	300.00	260.00		300.00				2,560.00	1,897.50	1,247.50	962.50	1,342.50	962.50	1,342.50	20.72	22.03
	36,000.00	2,640.00	1,957.50	1,287.50	310.00	270.00		310.00				2,640.00	1,957.50	1,287.50	992.50	1,382.50	992.50	1,382.50	20.44	21.00
	37,000.00	2,720.00	2,017.50	1,327.50	320.00	280.00		320.00				2,720.00	2,017.50	1,327.50	1,022.50	1,422.50	1,022.50	1,422.50	20.18	20.00
	38,000.00	2,800.00	2,077.50	1,367.50	330.00	290.00		330.00				2,800.00	2,077.50	1,367.50	1,052.50	1,462.50	1,052.50	1,462.50	19.94	19.05
	39,000.00	2,880.00	2,137.50	1,407.50	340.00	300.00		340.00				2,880.00	2,137.50	1,407.50	1,082.50	1,502.50	1,082.50	1,502.50	19.72	18.11
	40,000.00	2,960.00	2,197.50	1,447.50	350.00	310.00		350.00				2,960.00	2,197.50	1,447.50	1,112.50	1,542.50	1,112.50	1,542.50	19.51	17.26
	41,000.00	3,040.00	2,257.50	1,487.50	360.00	320.00		360.00				3,040.00	2,257.50	1,487.50	1,142.50	1,582.50	1,142.50	1,582.50	19.31	16.43
	42,000.00	3,120.00	2,317.50	1,527.50	370.00	330.00		370.00				3,120.00	2,317.50	1,527.50	1,172.50	1,622.50	1,172.50	1,622.50	19.12	15.66
	43,000.00	3,200.00	2,377.50	1,567.50	380.00	340.00		380.00				3,200.00	2,377.50	1,567.50	1,202.50	1,662.50	1,202.50	1,662.50	18.94	14.93
	44,000.00	3,280.00	2,437.50	1,607.50	390.00	350.00		390.00				3,280.00	2,437.50	1,607.50	1,232.50	1,702.50	1,232.50	1,702.50	18.77	14.23
6,051	45,000.00	3,360.00	2,497.50	1,647.50	400.00	360.00		400.00				3,360.00	2,497.50	1,647.50	1,262.50	1,742.50	1,262.50	1,742.50	18.61	13.57
	46,000.00	3,440.00	2,557.50	1,687.50	410.00	370.00		410.00				3,440.00	2,557.50	1,687.50	1,292.50	1,782.50	1,292.50	1,782.50	18.46	12.94
	47,000.00	3,520.00	2,617.50	1,727.50	420.00	380.00		420.00				3,520.00	2,617.50	1,727.50	1,322.50	1,822.50	1,322.50	1,822.50	18.32	12.33
	48,000.00	3,600.00	2,677.50	1,767.50	430.00	390.00		430.00				3,600.00	2,677.50	1,767.50	1,352.50	1,862.50	1,352.50	1,862.50	18.18	11.74
	49,000.00	3,680.00	2,737.50	1,807.50	440.00	400.00		440.00				3,680.00	2,737.50	1,807.50	1,382.50	1,902.50	1,382.50	1,902.50	18.05	11.17
	50,000.00	3,760.00	2,797.50	1,847.50	450.00	410.00		450.00				3,760.00	2,797.50	1,847.50	1,412.50	1,942.50	1,412.50	1,942.50	17.93	10.62
	51,000.00	3,840.00	2,857.50	1,887.50	460.00	420.00		460.00				3,840.00	2,857.50	1,887.50	1,442.50	1,982.50	1,442.50	1,982.50	17.82	10.09
	52,000.00	3,920.00	2,917.50	1,927.50	470.00	430.00		470.00				3,920.00	2,917.50	1,927.50	1,472.50	2,02				