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INTERNAL REVENUE BILL OF 1928

MAY 1, 1928.—Ordered to be printed

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

REPORT

[To accompany H. R. 1]

The Committee on Finance, to whom was referred the bill (H. R. 1) 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.

I. MAIN FEATURES OF THE BILL AS REPORTED

(1) The total revenue reduction is but slightly in excess of $200,000,000, an amount within the margin of safety, as compared with a reduction proposed by the House bill of $289,735,000, an amount considerably in excess of that warranted by the condition of our Treasury.

(2) The graduated tax on corporations proposed by the House bill, a form of taxation which is unsound and without justification, from either a theoretical or practical point of view, is eliminated.

(3) The intermediate surtax brackets are readjusted so as to remove the outstanding inequalities of the present law, under which certain classes of individual taxpayers are paying taxes disproportionately high in comparison with other taxpayers.

(4) The privilege granted affiliated corporations of filing consolidated returns, which the House bill denied after 1928, is restored, with certain necessary amendments to eliminate the administrative problems of the present law.

(5) The provisions of the present law relative to dividends out of surplus accumulated prior to March 1, 1913, eliminated by the House bill, are restored.

(6) The section of the House bill (sec. 104) attempting to strengthen the provisions of the existing law relative to attempted evasions of surtaxes by incorporation by an arbitrary and artificial definition of "personal holding company" is stricken out.

(7) Most of the administrative provisions of the House bill which were given retroactive effect are either eliminated or made effective only as to the future.

II. SURPLUS AVAILABLE FOR TAX REDUCTION

The administration again finds itself in a financial position sufficiently favorable to permit a further reduction in the tax burden. It is estimated that there will be a surplus for the present fiscal year (ending June 30, 1928) of approximately $401,000,000, and for the fiscal year 1929 of $212,000,000.

We are now budgeting for 1929. The fiscal year 1928 is almost over. The 1929 figures, consequently, are controlling and we must be governed by them. A detailed statement of the actual receipts for 1927 and the estimated receipts for 1929 will be found in Appendix A to this report. The following table shows the estimated receipts (under the present law) and the estimated expenditures (excluding extraordinary appropriations not as yet authorized) for 1929:

Customs	$585, 000, 000
Tonnage tax	2, 000, 000
Total	587, 000, 000
Internal revenue:	
Current income tax	1, 890, 000, 000
Back income tax	220, 000, 000
Miscellaneous	630, 000, 000
Total	2, 740, 000, 000
Miscellaneous receipts	527, 721, 000
Total receipts	3, 854, 721, 000
Total expenditures	3, 642, 021, 000
Surplus	212, 700, 000

Detailed tables of receipts and expenditures and an analytical discussion of the estimates will be found hereinafter. For the present it is sufficient to state that the majority members of the committee are in unanimous accord that the above figure represents the maximum of sound revenue reduction and that even this amount makes no allowance for additional expenditures called for during 1929 by new legislation.

After a most careful consideration of the existing situation, a thorough and painstaking analysis of the estimates, a study of the actual collections (made possible by awaiting the March 15 returns), a review of our debt retirement program, and an impartial examination of the estimates and arguments submitted by those demanding reductions in excess of the plan adopted by your committee, your committee recommends a reduction of approximately $200,000,000.

The majority of the committee confidently assert that the bill as reported is sound, not only in the amount of the reduction but in the methods by which the proposed reduction is to be accomplished, and are hopeful that the bill as reported may become law this session of Congress. The majority is unwilling to depart from sound principles of public finance and are insistent that the possibility of a deficit be avoided.

III. STATISTICAL COMPARISON OF HOUSE BILL AND COMMITTEE BILL

The table following gives a brief statistical comparison of the bill as passed by the House and as reported to the Senate:

Comparison of House bill and Finance Committee bill

Item	House bill	Amount of reduction	Bill as reported to Senate	Amount of reduction
REDUCTIONS				
Corporation rate	Reduced to 11½ per cent	$164, 600, 000	Reduced to 12½ per cent	$82, 000, 000
Corporation exemption	Increased to $3,000	12, 000, 000	Same as House bill	12, 000, 000
Graduated tax on corporations	Graduated to 9 per cent if taxable income is not more than $15,000.	24, 000, 000	House provision eliminated	
Readjustment of surtax brackets.	No provision		Reduced, principally in case of individual incomes ranging from $20,000 to $80,000.	25, 000, 000
Automobile tax	Repealed	66, 000, 000	Repealed	66, 000, 000
Admissions tax	Exemption increased to $1	8, 000, 000	Exemption increased to $3	17, 000, 000
Dues tax	Reduced from 10 per cent to 5 per cent.	5, 000, 000	Restored to 10 per cent	
Capital stock transfer tax	Reduced from 2 per cent to 1 per cent.	8, 800, 000	Restored to 2 per cent	
"Future" sales of produce	Repealed	3, 000, 000	Present law restored	
Cereal beverage tax	Repealed	185, 000	Repealed	185, 000
Wine taxes	Certain rates reduced to pre-war level.	930, 000	Substantially the same as House bill.	930, 000
Foreign-built yachts	Tax increased five times		House provision eliminated and present law repealed.	10, 000
Total		292, 515, 000		203, 125, 000

INCREASES				
Withholding at source, nonresidents.	Actual tax withheld in case of 2 per cent tax-free covenant bond.	2,000,000	Same as House bill	2,000,000
Prize fights	Tax of 25 per cent on tickets costing $5 or more.	750,000	do	750,000
Foreign-built yachts	Tax increased five times	30,000	House provision eliminated and present law repealed.	
Narcotic tax	No provision		Physicians' license fee increased from $1 to $3 a year.	290,000
Total		2,780,000		3,040,000
Total net reductions		289,735,000		200,085,000

IV. TREASURY ESTIMATES

Much has been said about the accuracy of the estimates submitted from time to time by the Treasury. It was because of the criticism of these estimates this year that your committee decided to postpone its consideration of the pending bill until the actual collections resulting from the returns filed on March 15 were known. As a result we now have available actual statistics upon which to base an accurate conclusion as to the receipts for 1928 and the receipts for the first half of 1929. The actual collections confirm, to a remarkable degree, the estimates submitted by the Treasury.

Current income tax collections to April 1 aggregate approximately $1,425,000,000, as compared with $1,422,000,000 on April 1 of last year. This means that the current collections for the fiscal years 1927 and 1928 will be almost identical, as was estimated. Collections for the fiscal years 1927 and 1928 are derived from the income of the calendar years 1925, 1926, and 1927. Consequently, they furnish a very definite and reliable standard of the revenue to be derived under existing law. There will be found in Appendix B to this report the actual income tax collections by quarters for the fiscal year 1927 and the first nine months of the fiscal year 1928. No one has questioned the accuracy of the Treasury's estimates of receipts from the other three sources, namely, customs duties, miscellaneous internal revenue taxes, and miscellaneous receipts.

The actual surplus for the fiscal year 1927 was approximately $635,000,000. This amount was about $252,000,000 in excess of the Treasury estimate. This fact seems to furnish some encouragement to those who insist that the estimates of the Treasury are unreliable and should not be used as a basis for revenue reduction. An examination reveals, however, that this amount is accounted for by an increase of $102,000,000 in total receipts and a decrease of $150,000,000 in expenditures. The increase in receipts is accounted for principally by two items: An increase over estimates of $51,000,000 in back-tax collections and an increase of $57,000,000 in receipts from railroads in repayment of loans. The decrease in expenditures is accounted for by the failure of the second deficiency appropriation act and other legislation.

Back-tax collections are admittedly difficult to estimate. There is no test which will determine accurately the yield from this source, and there are many variable items and unforeseeable circumstances which cause unexpected fluctuations. Back-tax collections had never theretofore exceeded $300,000,000, and the Treasury had estimated collections from this source for 1927 at $280,000,000. The actual collections were approximately $331,000,000.

It is also of utmost importance in preparing estimates for proposed revenue revision that items of a disappearing or nonrecurring type be excluded. A realization of capital assets can occur but once. In 1927 these items aggregated $192,000,000. In 1928 the estimates include $189,000,000 from this source, falling in 1929 to $38,000,000. In this connection your committee believes that the proceeds realized in liquidation of extraordinary capital assets acquired during the war and the receipts from the repayment of loans should, as a matter of sound policy, be applied toward debt reduction. Receipts of this nature should not be used as a basis for revenue reduction.

The following table is of interest in this connection:

Receipts from railroad and other securities and from capital assets, fiscal year 1927, and estimates for 1928 and 1929

	1927	1928	1929
Railroad securities	$89,000,000	$162,000,000	$30,000,000
Farm-loan bonds and other securities, etc	63,000,000	5,500,000	4,000,000
War Finance Corporation	27,000,000	3,500,000	
Sale of surplus war supplies	8,000,000	5,000,000	4,000,000
Navy oil judgment	[1] 5,000,000	13,000,000	
Total	192,000,000	189,000,000	38,000,000
Surplus	635,000,000	401,000,000	212,700,000

[1] Exclusive of amount paid in Liberty bonds aggregating $5,500,000 principal amount.

V. DISCUSSION OF ESSENTIAL DIFFERENCES BETWEEN HOUSE BILL AND FINANCE COMMITTEE BILL

Reduction of Corporation Rate

The House reduced the corporation tax from 13½ to 11½ per cent and, in the case of insurance companies, from 12½ to 11½ per cent. The bill as reported to the Senate reduces the rate to 12½ per cent, with no change in the present rate applicable to insurance companies.

Your committee recognizes that the corporation tax is considerably out of line in comparison with the individual rate, and believes that it should be reduced as rapidly as the revenue requirements permit. Many of the inequities, difficulties, and complicated policies of the present law are attributable directly to the existing method of taxing corporate profits. Nevertheless, we are limited rigidly by the amount available for revenue reduction.

Graduated Tax on Corporations

The House bill (sec. 13(b)), in an effort to relieve the tax burdens of small corporations, imposes a graduated tax of 5 per cent, 7 per cent, and 9 per cent upon the taxable net incomes of $7,000, $12,000, and $15,000, respectively. Your committee has stricken this provision from the bill, upon the ground that it can not be supported upon any sound principle of taxation.

The justification for a graduated tax in any case is that it is based upon ability to pay. This is true, generally speaking, in the case of individuals. In the case of corporations, however, the size of the income does not reflect ability to pay. The capital invested in the business must also be taken into consideration. Our experience during the war with the excess-profits and war-profits taxes was such as to counsel us against reintroducing this principle into our tax system. With invested capital eliminated, however, the only possible justification for a graduated tax disappears. A corporation with a $1,000,000 income, which represents an actual earning of only 5 per cent, is certainly in no better position to pay taxes than a corporation with a $15,000 income which represents an earning of 20 per cent. If Mr. Jones invests $1,000 in the $1,000,000 corporation, there is no justification for reducing the fruits of his investment by

12½ per cent, while if he invests the same $1,000 in a $50,000 corporation his income would be reduced by only 5 per cent, 7 per cent, or 9 per cent. Furthermore, the provisions of the House bill open new avenues for tax avoidance by the simple expedient of forming several corporations and distributing their earnings so as to keep them within the low brackets.

Adjustment of Intermediate Surtax Brackets

Certain of our taxpayers are still paying more taxes than they were during 1917, or are paying disproportionately greater taxes than taxpayers in other classes. An unprejudiced examination of our present surtax brackets indicates clearly that in all fairness the intermediate brackets, that is, those ranging from $21,000 to $80,000, should be reduced. This is particularly true of the taxpayers falling within the $50,000 to $80,000 brackets. A taxpayer falling within one of these brackets is a very substantial citizen, contributing materially to the wealth and welfare of the country. He is not organized and has no Washington representative. He is carrying on no propaganda. Nevertheless, it is generally admitted that his present tax burden is unduly large and that he is entitled to a reduction to the extent that the revenue demands permit. Your committee has adjusted the intermediate brackets, so as to give the relief to those entitled to it, to work out a more equitable and scientific surtax table, and so as to keep the resulting reduction within $25,000,000.

The committee's action is illustrated by the tables set out below. Surtax Table No. 1 shows the new rates. A comparison of the reductions in the total surtax under the new rates and under the rates of the revenue act of 1926 is made in Table No. 2. The reduction in revenue by these changes is estimated at $25,000,000, the details and spread of this reduction being shown in Table No. 3.

Surtax Table No. 1.—*Rates*

Net income class:	Proposed rate (per cent)
$10,000 to $14,000	1
$14,000 to $16,000	2
$16,000 to $18,000	3
$18,000 to $21,000	4
$21,000 to $24,000	5
$24,000 to $28,000	6
$28,000 to $32,000	7
$32,000 to $36,000	8
$36,000 to $40,000	9
$40,000 to $46,000	10
$46,000 to $52,000	11
$52,000 to $58,000	12
$58,000 to $64,000	14
$64,000 to $70,000	16
$70,000 to $80,000	18
$80,000 to $100,000	20
Over $100,000	20

TABLE No. 2.—*Comparison of proposed surtaxes with 1926 surtaxes*

Net income	Total surtax		Decrease in surtax	Per cent decrease in surtax
	1926	Proposed		
$10,000	0	0	0	0
$14,000	$40	$40	0	0
$16,000	80	80	0	0
$18,000	140	140	0	0
$21,000	270	260	$10	3.7
$24,000	440	410	30	6.8
$28,000	720	650	70	9.7
$32,000	1,040	930	110	10.6
$36,000	1,400	1,250	150	10.7
$40,000	1,800	1,610	190	10.6
$46,000	2,480	2,210	270	10.9
$52,000	3,240	2,870	370	11.4
$58,000	4,100	3,590	510	12.4
$64,000	5,040	4,430	610	12.1
$70,000	6,060	5,390	670	11.1
$80,000	7,860	7,190	670	8.5
$90,000	9,760	9,190	570	5.8
$100,000	11,660	11,190	470	4.0
$150,000	21,660	21,190	470	2.8
$200,000	31,660	31,190	470	1.2
$500,000	91,660	91,190	470	0.5
$1,000,000	191,660	191,190	470	0.2+

TABLE No. 3.—*Probable reduction in revenue by rates shown in Table No. 1*

Net income class	Number of returns (1925)	Average tax reduction	Total tax reduction
$20,000-$25,000	34,932	$18	$628,776
$25,000-$30,000	21,922	65	1,424,930
$30,000-$40,000	24,732	140	3,462,480
$40,000-$50,000	13,067	270	3,528,090
$50,000-$60,000	7,868	450	3,540,600
$60,000-$70,000	5,108	600	3,064,800
$70,000-$80,000	3,586	670	2,402,620
$80,000-$90,000	2,507	620	1,554,340
$90,000-$100,000	1,889	520	982,280
$100,000-$150,000	4,759	470	2,236,730
$150,000-$200,000	1,758	470	826,260
$200,000-$500,000	2,357	470	1,107,790
$500,000-$1,000,000	479	470	225,130
$1,000,000 and over	207	470	97,290
Total			25,082,116

The above tables show that the proposed rates reduce somewhat the surtaxes of individuals with net incomes over $20,000. It will be observed that the principal reduction occurs in the case of net incomes of from $28,000 to $80,000. The reduction to this class averages about 10 per cent and is distributed fairly uniformly, the maximum reduction being 12.4 per cent, and the minimum 8.5 per cent.

The reductions made are to that class of taxpayers who have had the least tax reduction since the war years, and therefore the changes seem obviously fair. The fact of real interest to the taxpayer is the total amount of tax paid, not the way in which this tax is arrived at by normal tax or surtax. It is proper, therefore, to show certain facts in relation to the increase in taxes since the pre-war period and to the decrease in tax since the war period and also the way in which these increases or decreases are modified by the proposed change in surtaxes. These facts will be stated in tabular form, the tax being computed for the case of a married man with no dependents and with maximum earned income.

It is obvious from the following table that the decreases made in the 1928 bill are equitable, as those persons who have had the greatest increase in tax since 1913 are the ones principally benefited.

Table showing increase in tax on individuals, 1913 act compared with 1926 act and 1928 bill

Net income	Per cent increase in tax 1926 act over 1913 act	Per cent increase in tax 1928 bill over 1913 act
$5,000	70	70
$10,000	68	68
$30,000	394	369
$50,000	542	499
$80,000	557	519
$100,000	540	521
$1,000,000	301	301

The following table shows that under the 1926 act the man with $80,000 net income actually pays more tax than he did in 1917. The 1928 bill makes changes obviously proper.

Table showing decrease in tax on individuals—1917 act compared with 1926 act and 1928 bill

Net income	Per cent decrease in tax 1926 act under 1917 act	Per cent decrease in tax 1928 bill under 1917 act
$5,000	78	78
$10,000	72	72
$30,000	25	29
$50,000	6	12
$80,000	[1] 2	4
$100,000	1	4
$1,000,000	49	49

[1] Increase.

The following table shows again that the man with a net income of $80,000 has had less reduction in tax since 1918, our year of maximum taxes, than any other class. The 1928 bill is in the right direction to correct this inequity. Revenue requirements are the only argument against a still further reduction in this direction.

Table showing decrease in tax on individuals—1918 act compared with 1926 act and 1928 bill

Net income	Per cent decrease in tax, 1926 act under 1918 act	Per cent decrease in tax, 1928 bill under 1918 act
$5,000	91	91
$10,000	88	88
$30,000	64	66
$50,000	56	59
$80,000	53	56
$100,000	54	55
$1,000,000	66	66

The adjustment of the intermediate surtax brackets proposed by the committee is for the benefit of those taxpayers whose taxes, although greatly increased during the war, have not been reduced to the same extent as in the case of other taxpayers. It would be proper to give even greater reductions to the $30,000 to $80,000 class, except for the necessity of limiting the present reduction to $25,000,000. It should be noted that the normal taxes have been substantially reduced and the exemptions increased in the past on incomes up to $10,000. It should also be noted that the earned income credit of 25 per cent on net incomes up to $20,000 gives very substantial relief up to the $20,000 class. Finally, reasonable decreases in tax are made on net incomes from $20,000 to $30,000. The tax reduction upon incomes in excess of $150,000 is insignificant.

Increase in Exemption on Admissions Tax

The House bill increased the exemption in the case of the admissions tax to $1. Your committee has increased this exemption so that no tax will be imposed where the amount paid for the admission is $3 or less, particularly in order to relieve the legitimate theater from the disproportionate burden now imposed upon it. The motion-picture theaters seldom charge more than $1 and as a result, as a practical matter, would be exempt from the tax. The legitimate theaters, however, usually charge more than $1, and a discrimination against them is apparent.

It should be pointed out, however, that the tax imposed by the House bill upon admissions to prize fights is retained in the bill as reported by the committee. This provision imposes a tax of 25 per cent where the amount paid is $5 or more.

The Dues Tax

The present law imposes a tax of 10 per cent a year upon dues paid to social, athletic, or sporting clubs, if the dues are more than $10 a year. The House bill reduces this tax to 5 per cent. Your committee recommends that the rate imposed by the present law be restored.

The amounts paid as dues to clubs of this character are a very proper basis for the imposition of a tax. A 10 per cent rate imposes no substantial hardship. A 5 per cent rate would result in the same inconvenience and would entail the same cost of administration. It is believed that it would be much better to repeal the tax entirely. Restoring the 10 per cent rate will amount to a saving of $5,000,000 over the reduction proposed by the House bill.

Capital Stock Transfer Tax

The present law imposes upon the sale or transfer of a share of capital stock a tax of 2 cents for each $100 of face value or fraction thereof. The House bill proposes to reduce this tax to 1 cent. Your committee recommends that the rate of the present law be restored. This recommendation would result in a saving in revenue over the House bill of $8,800,000 a year.

Stamp Tax on Future Sales of Produce

The present law imposes upon the sale of produce for future delivery on produce exchanges a tax of 1 cent for each $100 in value. The House bill proposes to repeal this tax, and your committee recommends that the present law be retained. This will result in a saving over the House bill of $3,000,000.

SURPLUS ACCUMULATED PRIOR TO MARCH 1, 1923

Under the present law, if a corporation pays a dividend out of earnings or profits accumulated before March 1, 1913, or out of increase in value of property accrued before March 1, 1913, the dividend in either case is not taxable to the shareholder, but the amount of the dividend reduces the basis of the stock in his hands. Under the House bill the dividend would be subject to the surtax as in the case of any other dividend, and the basis of the stock is not reduced. The provisions of the present law have been in force, except for certain amendments, since the 1916 act, and your committee believes that they should continue in force. Consequently, they have been restored without change.

PERSONAL HOLDING COMPANIES

The House bill (sec. 104), through an artificial definition of personal holding companies, attempted to strengthen the provisions of the existing law (sec. 220) relating to the evasion of surtaxes through the formation of corporations and the accumulation of income. As in the case of all arbitrary definitions, the effect was to penalize corporations which were properly building up a surplus and to fail to recognize business necessities and sound practices. The necessity for the provision is rapidly disappearing, as the disparity between the individual and corporation rates decreases. Furthermore, although it is recognized that the present law is difficult of administration, its preventive effect is very real, and the number of cases to which it is being applied is increasing appreciably, primarily because the 1924 and 1926 acts have made the provision more possible of application. Accordingly, your committee recommends that the provision of the House bill be eliminated and the provisions of the existing law be restored.

RETROACTIVE PROVISIONS

The House bill contained many administrative provisions which were given retroactive effect. The various sections will be discussed in detail hereinafter. Generally, the provisions have been made effective as of January 1, 1928, and the provisions of retroactive application only have been eliminated.

EFFECTIVE DATE OF REVENUE REDUCTIONS

~~Under the House bill the reduction in the corporation rate was~~ made effective for the taxable year 1927. Inasmuch as the bill will not become law until at least five months of the taxable year

1928 have expired, the committee recommends that the reduction be made effective only for 1928 and future years. The committee believes, however, that the individuals who have paid greater taxes than the needs of the Treasury demanded and at rates disproportionately high, should be given the benefits to which they are justly entitled. Accordingly, the reduction in the intermediate surtax brackets is made effective for the taxable year 1927. Inasmuch as most of the taxpayers take advantage of the privilege of paying their taxes in installments, the reduction can be taken care of administratively by credits against the installments remaining unpaid after the bill becomes law.

CONSOLIDATED RETURNS

Inasmuch as there is apparently some misunderstanding as to the effect of the House bill and as to what consolidated returns really are, it seems advisable at this time to discuss the subject somewhat at length.

After the enactment of the profits tax of 1917, a committee consisting of members of the Committee on Ways and Means of the House, of the Committee on Finance of the Senate, and of leading experts, was engaged in the preparation of regulations to carry out the act. As a result of a very careful and nonpartisan consideration of the subject by this committee, the Treasury authorized the filing of consolidated returns by corporations which, by reason of common ownership, were affiliated—that is, although composed of several corporate entities, were as a practical matter but one corporation. The Congress adopted these regulations and wrote them into the 1918 revenue act. With certain amendments not of importance in this discussion, this provision has been retained in every revenue act since that time.

The Advisory Committee of the Joint Committee on Internal Revenue Taxation, the members of which worked most of the summer in preparing suggestions for the simplification of the revenue laws and their administration, reached the conclusion that, because of the difficulties encountered in administration, there should be a substitute for the consolidated returns provision. It should be emphasized that this conclusion was reached, not upon the ground that consolidated returns were unsound, that additional revenues would be received by the elimination of the consolidated returns provision, but solely upon the ground that the administration of the law would be simplified. Accordingly, they proposed a provision which was designed to retain the advantages of consolidated returns and eliminate the administrative disadvantages. This provision was to become effective for the taxable year 1929, and the present law was to be retained for 1927 and 1928.

The proposed substitute for the consolidated returns section was stricken out by the House during its consideration of the bill. The effect of this action is to deny the privilege of filing consolidated returns after the taxable year 1928 and to eliminate the proposed substitute therefor. As a result, under the House bill, all corporations would be compelled to file separate returns. From the discussion it appears that the action by the House was based upon the fact that additional revenues would be derived. Your committee has considered the matter very carefully and is convinced that the elimination of the consolidated returns provision will not produce any increase in revenue, will not impose any greater taxes on corporations, and will in all probability permit of tax avoidance to such an extent as to decrease revenues.

The permission to file consolidated returns by affiliated corporations merely recognizes the business entity as distinguished from the legal corporate entity of the business enterprise. Unless the affiliated group as a whole in the conduct of its business enterprise shows net profits, the individuals conducting the business have realized no gain. The failure to recognize the entire business enterprise means drawing technical legal distinctions, as contrasted with the recognition of actual facts. The mere fact that by legal fiction several corporations owned by the same stockholders are separate entities should not obscure the fact that they are in reality one and the same business owned by the same individuals and operated as a unit. To refuse to recognize this situation and to require for tax purposes the breaking up of a single business into its constituent parts is just as unreasonable as to require a single corporation to report separately for tax purposes the gains from its sales department, from its manufacturing activities, from its investments, and from each and every one of its agencies. It would be just as unreasonable to demand that an individual engaged in two or more businesses treat each business separately for tax purposes.

Much of the misapprehension about consolidated returns will be removed when it is realized that it is only when the corporations are really but one corporation that the permission to file consolidated returns is given, and that no ultimate advantage under the tax laws really results. The present law permits the filing of consolidated returns only where one corporation owns at least 95 per cent of the stock of the other corporation or if at least 95 per cent of the stock of both corporations is owned by the same interest. The provision embodies the business man's conception of a practical state of facts. Your committee believes that rather than departing from business practices and standards our revenue laws should be brought nearer to a recognition of them.

The situation was described accurately and succinctly by Senator Simmons, at that time the chairman of the Finance Committee and now its ranking minority member, in his report upon the 1918 revenue bill as follows:

Provision has been made in section 240 for a consolidated return, in the case of affiliated corporations, for purposes both of income and profits taxes. A year's trial of the consolidated return under the existing law demonstrated the advisability of conferring upon the commissioner explicit authority to require such returns.

So far as its immediate effect is concerned, consolidation increases the tax in some cases and reduces it in other cases, but its general and permanent effect is to prevent evasion, which can not be successfully blocked in any other way. * * *

Moreover, a law which contains no requirement for consolidation puts an almost irresistible premium on a segregation or a separate incorporation of activities which would normally be carried as branches of one concern. Increasing evidence has come to light demonstrating that the possibilities of evading taxation in these and allied ways are becoming familiar to the taxpayers of the country. While the committee is convinced that the consolidated return tends to conserve, not to reduce, the revenue, the committee recommends its adoption not primarily because it operates to prevent evasion of taxes or because of its effect upon the revenue, but because the principle of taxing as a business unit what in reality is a business unit is sound and equitable and convenient both to the taxpayer and to the Government.

Many difficult and complicated problems, however, have arisen in the administration of the provisions permitting the filing of consolidated returns. It is, obviously, of utmost importance that these questions be answered with certainty and a definite rule be prescribed. Frequently, the particular policy is comparatively immaterial, so long as the rule to be applied is known. The committee believes it to be impracticable to attempt by legislation to prescribe the various detailed and complicated rules necessary to meet the many differing and complicated situations. Accordingly, it has found it necessary to delegate power to the commissioner to prescribe regulations legislative in character covering them. The standard prescribed by the section keeps the delegation from being a delegation of pure legislative power, and is well within the rules established by the Supreme Court. (See Hampton, jr., & Co. *v.* United States, decided by the Supreme Court on April 9, 1928, and cases there cited.) Furthermore, the section requires that all the corporations joining in the filing of a consolidated return must consent to the regulations prescribed prior to the date on which the return is filed.

Among the regulations which it is expected that the commissioner will prescribe are: (1) The extent to which gain or loss shall be recognized upon the sale by a member of the affiliated group of stock issued by any other member of the affiliated group or upon the dissolution (whether partial or complete) of a member of the group; (2) the basis of property (including property included in an inventory) acquired, during the period of affiliation, by a member of the affiliated group, including the basis of such property after such period of affiliation; (3) the extent to which and the manner in which net losses sustained by a corporation before it became a member of the group shall be deducted in the consolidated return; and the extent to which and the manner in which net losses sustained during the period for which the consolidated return is filed shall be deducted in any taxable year after the affiliation is terminated in whole or in part; (4) the extent to which and the manner in which gain or loss is to be recognized, upon the withdrawal of one or more corporations from the group, by reason of transactions occurring during the period of affiliation; and (5) that the corporations filing the consolidated return must designate one of their members as the agent for the group, in order that all notices may be mailed to the agent, deficiencies collected, refunds made, interest computed, and proceedings before the Board of Tax Appeals conducted as though the agent were the taxpayer.

Your committee believes firmly that the privilege of filing consolidated returns is sound in principle and, safeguarded by the regulations to be prescribed, should be granted.

VI. THE DEBT RETIREMENT PROGRAM

Although it is impossible at this time to enter into a detailed review and analysis of the debt retirement program, it seems advisable to discuss the existing situation briefly, in view of the fact that it has been involved in some of the suggestions relating to the proposed revenue reduction.

During the war we borrowed under the various Liberty loan acts considerable sums of money, to be devoted to two purposes: First, for domestic use; and second, in order to make loans to the governments associated with us in the war. The distinction between the domestic part of the debt and the foreign part of the debt must be kept in mind.

In order to provide for the retirement of the domestic part of the debt, the Victory Liberty loan act provided for a sinking fund, under which a permanent appropriation was made for the fiscal year 1921 and for each fiscal year thereafter until the debt is discharged, of the sum of $253,404,864.87, plus the interest which would have been payable on any bonds or notes paid, redeemed, or purchased during the year on account of the fund or in previous fiscal years. When the sinking fund was first established, it was estimated that the domestic part of the debt ($10,136,194,594.82) would be liquidated by July, 1945. The total paid into the sinking fund up to July 1, 1927, is $2,074,180,950. The aggregate of the amounts paid into this fund up to July 1 of each year may be estimated for the future as follows:

1930	$3, 142, 090, 966	1942	$8, 885, 346, 787
1935	5, 222, 005, 609	1945	10, 779, 479, 042
1940	7, 737, 429, 238	1950	14, 458, 408, 870

The foreign part of the debt is being retired by the application of the amounts repaid by the foreign governments on account of principal, together with the interest payments made in our securities. The application of the interest payments in this manner, particularly in view of the various debt-settlement agreements, results in a substantial saving to our taxpayers and is sound.

The total interest-bearing debt is approximately $18,000,000,000, and the Treasury program for debt retirement calls for a reduction of $535,000,000 this year, and $541,000,000 next year. Under this program the total debt will be retired, it is estimated, by about 1950.

A statement showing the debt retirements and the source from which made for each fiscal year from 1920 to 1927 will be found as Appendix C to this report.

VII. TREASURY PERSONNEL

We are just completing our first era of experience in the administration of a comprehensive income-tax system, under which we are collecting more than $2,100,000,000 annually. Heretofore we have been proceeding on the theory that income was a matter determinable with mathematical accuracy upon the application of fixed and rigid rules and formulas. As a matter of fact, it should be recognized that the only items of definite determination are the number of dollars received in any year and the number of dollars expended. Every other determination necessary to reach the taxable net income of the taxpayer must be based upon more or less accurate estimates and the application of sound judgment.

One of the outstanding consequences of the application of this policy to the settlement of tax cases is a threatened breakdown of an important part of the administrative machinery. The Bureau of Internal Revenue is practically current in its work. But the burden of closing back cases has been transferred from the bureau to the

Board of Tax Appeals and the office of the General Counsel. As of March 1, 1928, there were pending before the Board of Tax Appeals 21,381 cases, involving asserted deficiencies aggregating more than $685,000,000. Working with the utmost expedition, the board can only dispose of about 3,000 cases a year otherwise than by stipulation. From July 1, 1927, to February 29 of this year the board had decided cases involving $81,000,000 in deficiencies asserted and had rendered decisions sustaining only 41 per cent of this aggregate amount.

It is obvious that more cases must be settled finally in the bureau and that, as a purely financial proposition, the Government can well afford to settle cases administratively rather than to insist upon litigating every disputed point of fact or law. The entire situation has been analyzed in detail in a survey prepared by the Treasury and printed as Part III of the Report of the Joint Committee on Internal Revenue Taxation, and was discussed in detail by the Secretary of the Treasury in his statement before the Finance Committee.

In order to provide the personnel necessary for effectively and satisfactorily closing tax cases and for carrying the tremendous burden now imposed, the House bill contained a provision authorizing the Secretary of the Treasury to fix the salary of 23 assistants to the General Counsel and 26 technical experts at not to exceed $7,500, and 50 experts in the Bureau of Internal Revenue at not to exceed $6,000. With the understanding that the necessary salaries will be taken care of upon the enactment of the proposed amendments to the classification act, this section is eliminated from the bill.

VIII. STRUCTURE OF NEW BILL AS COMPARED WITH PRIOR REVENUE ACTS

The bill in one respect differs materially from the revenue acts of 1918, 1921, 1924, and 1926. Each of those acts reenacted all the provisions of the preceding act, with such changes and omissions as the policy of Congress dictated, and then repealed the preceding act, with certain exceptions.

This method has resulted in great complication, particularly in the income and estate tax, and especially in the procedural provisions. The effort in each new act to put in the same place all the law relating to the assessment and collection of taxes for earlier years, as well as the law relating to the method of assessment and collection of the taxes imposed by such new act, has resulted in many complications. Striking examples of the difficulties encountered may be found in sections 277 and 278 of the 1924 and 1926 acts, dealing with the statute of limitations, section 284 of the 1926 act, dealing with refunds and credits, and section 283 of the 1926 act, dealing with appeals to the Board of Tax Appeals in cases arising under the 1924 and preceding acts. If this process is continued, it will produce more and more complexities. The committee is impressed with the importance of making a fresh start. Under the plan of the bill the taxpayer for 1928 and succeeding years will not be obliged to wade through many complexities of interest only to taxpayers under prior acts, which only serve to confuse and irritate him.

Therefore, the provisions of the income tax title of the present bill apply only to the taxable year 1928 and succeeding years. They have no effect whatsoever on taxes imposed for prior taxable years, nor do the provisions of the 1926 income tax title have any effect on the computation of tax for 1928 or later years. For this reason the income tax title of the 1926 act is not repealed by the bill and remains in force for the collection of taxes for 1925, 1926, and 1927, as well as taxes under prior acts, except as modified by Title III of the present bill, containing express amendments to such title, and by Title IV, containing various administrative provisions, and by Title V, containing a few retroactive provisions intended to relieve certain cases of hardship under prior acts. It is to be noted in particular that provisions such as those in Titles X, XI, and XII of the 1926 act as well as other titles thereof remain in full force and effect (except as amended by the new act) for the taxable year 1928 and subsequent taxable years. For instance, section 1107 applies to income taxes for 1928 and future years. Its application is not restricted to "internal revenue laws" in force at the time of its enactment.

It is planned ultimately to combine provisions of this general nature into a compilation or code apart from the revenue acts.

The estate tax title of the 1926 act is neither repeated nor repealed in the present bill, which, in Title II (secs. 401–403) contains three amendments to that title. Similarly, the reductions recommended by the bill in the automobile and admission taxes are accomplished by express amendments to the 1926 act instead of the old method of repetition and repeal.

IX. REARRANGEMENT OF INCOME TAX TITLE

The bill embodies a proposed new arrangement for the income tax title. The basis for the arrangement is the distribution of the provisions by two classifications—general provisions and supplemental provisions. There are a few introductory provisions.

The general provisions are those which apply to the ordinary transactions of the ordinary classes of taxpayers. It is believed that approximately 80 per cent of the taxpayers who file returns under the new act will find in the general provisions practically all the income tax statute law of interest to them. The general provisions are divided into parts.

The supplemental provisions comprise all provisions of the income tax title other than the general provisions and the introductory provisions. In the main, the supplemental provisions are those which apply only to extraordinary classes of taxpayers or which apply only to the extraordinary transactions of ordinary classes of taxpayers. The supplemental provisions are divided into supplements.

An improved form of cross reference, illustrated in section 12 (b), (c), and (d), is employed in the bill. Section 2 provides that cross references of this kind (i. e. where the word "see" is used) shall be given no legal effect.

The normal tax, surtax, and ordinary corporation tax are imposed respectively by sections 11, 12, and 13, which correspond with sections 210, 211, and 230 of the 1926 act. No changes are made with respect to the individuals and corporations subject to tax, except as hereinafter noted, or with respect to the manner of imposing the tax. The "in lieu" provisions are collected in section 63 of the bill.

X. TECHNICAL AND ADMINISTRATIVE PROVISIONS

Sec. 22. Gross Income

Section 213 of the revenue act of 1926 and corresponding sections of prior acts provide that the President of the United States, the judges of the supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, shall be subject to income tax on their salaries. Section 22 (a) of the House bill omits the provision above referred to, on the ground that in so far as such compensation is legally subject to tax it is included in the more general definition of gross income applicable to all taxpayers. The committee believes that it should be made clear that it is intended to reduce the salary of any President taking office after the enactment of the act by the amount of the income tax thereon, and accordingly by a committee amendment his compensation is specifically made taxable.

The exclusions from gross income in the bill are nearly identical with the provisions of the House bill and with the 1926 act. The new exemption accorded by section 116(b) of the House bill to teachers in Alaska and Hawaii has been extended to all officers and employees of Alaska and Hawaii and political subdivisions thereof. The exemption is restricted, as it was in the House bill, so as not to exempt any compensation paid directly or indirectly by the United States Government.

A change is also made in the existing law and in the House bill with respect to the taxability of such of the income from a public utility as may accrue directly to the benefit of any State, Territory, or the District of Columbia or political subdivisions. Under existing law that part of the income which belongs to the State or the municipality is free from the tax, if the contract under which the utility was acquired, constructed, operated, or maintained was entered into prior to September 8, 1916. The committee could see no valid reason for thus limiting the exemption and accordingly the reference in section 116 (d) to the date of the contract under which the utility is acquired, constructed, operated, or maintained has been eliminated. The section does not relieve the utility from tax. It merely refunds to the State or municipality the amount by which its income was reduced directly because of the tax.

Sec. 23. Deductions from Gross Income

The deductions provided for in sections 214 and 234 of the revenue act of 1926 relating respectively to individuals and corporations have been consolidated, to avoid repetition, in section 23 so far as they relate to the ordinary groups of individuals and corporate taxpayers.

Sec. 23 (c). Deduction for Taxes

Section 23 (c) of the House bill provides that estate, inheritance, legacy, and succession taxes shall be allowed as deductions only to the decedent's estate and not to the beneficiary. This is a change in existing law and is a substantial simplification. Furthermore, there is no sound policy which requires the deduction to be allowed to the beneficiary. The distributions of corpus which he receives are not treated as income and the tax which he is required to pay in effect is merely a decrease in the corpus transmitted to him.

An amendment to the House bill is made by providing that the specific provisions denying any deduction for taxes assessed for local benefits of a kind which tend to increase the value of the property shall not operate to prevent the deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

Sec. 23(k) and (l). Depreciation and Depletion—Life Estates and Trusts

The House bill makes no change in existing law with respect to these deductions. The committee proposes to amend and clarify the law governing the manner in which the deductions shall be apportioned as between life tenant and remainderman or trustee and beneficiary. There is uncertainty and considerable hardship in these two classes of cases under the existing law.

In the case of life tenant and remainderman the bill provides that the deduction for depreciation shall be computed as if the life tenant were the absolute owner of the property—that is, in accordance with the estimated useful life of the property—and shall be allowed to the life tenant each year that he holds the property. In the case of property held in trust, the allowable deduction is to be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the will, deed, or other instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income which is allocable to the trustee and the beneficiaries, respectively. For example, if the trust instrument provides that the income of the trust computed without regard to depreciation shall be distributed to a named beneficiary, such beneficiary will be entitled to the depreciation allowance to the exclusion of the trustee, while if the instrument provides that the trustee in determining the distributable income shall first make due allowance for keeping the trust corpus intact by retaining a reasonable amount of the current income for that purpose, the allowable deduction will be granted in full to the trustee. The bill contains similar provisions as to the deduction for depletion.

A clerical change is made in section 24(b) of the bill to obviate any conflict between that section and the provisions of sections 23(k) and 23(l).

Cooperative Apartments

The House bill provided a new deduction allowable to the owner or long-term lessee of a cooperative apartment. (See secs. 22(b)(9), 23(q), and 24(d) of the House bill.) The deduction covered amounts representing the apartment owner's share of the interest and taxes payable by the corporation operating the apartment. It appears certain that this deduction would be practically impossible to administer and would afford an easy means of tax evasion in many cases. Moreover, it is not given to the great number of individuals who lease apartments by the year. In view of these objections and of the fact that under existing law the purchaser of a cooperative apartment is already permitted to deduct the interest on the unpaid portion of the purchase price of the apartment, the committee has eliminated this provision from the bill.

SEC. 23(q)—PENSION TRUSTS

Section 165 of the House bill, like section 219 (f) of the 1926 act, exempts from taxation a trust created by an employer as part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by the employer, or employees, or both, the ultimate purpose being to distribute the earnings and principal of the fund often in the form of stock or securities, purchased under the plan, to the employees. The House bill and the existing law provide that the employee shall be taxed when he receives distributions from the fund, though the House bill makes a change in the method of computing the amount of taxable income realized by the employee on distributions from the trust. Under section 219 of the 1926 act the employee is taxed not only upon the amount contributed to the trust by the employer and the dividends or interest distributed to the employee, but also upon all unrealized appreciation in the value of the stock, when he receives it from the trust. The House amendment, adopted by the committee without change, corrects the situation by providing that upon such distribution, there shall be taxed to the taxpayer as compensation, the amount contributed by the employer toward the purchase of the stock, all cash dividends on the stock, any interest paid to the employee, and any other income received by him, but that any appreciation in the value of the stock purchased under the plan over the cost to the trustee shall not be taxed unless and until the gain is actually realized, which ordinarily occurs when the employee sells the stock.

A considerable number of business concerns, however, established pension plans for the benefit of their employees a good many years ago, under arrangements by which the company set aside a pension reserve fund, to which annual additions were made, the reserve fund not being turned over to a trustee. (The yearly additions to such reserve funds were not deductible for income-tax purposes.) These employers now desire to adopt the more satisfactory plan of turning over the pension reserve funds to trustees to hold for the benefit of their employees. Under existing law, no deduction would be allowed for such a transfer representing past acccumulations, though distributions from the fund are taxable to the employee as additional compensation. The committee proposes an amendment in section 23 (q) which permits such reserve funds to be turned over to a trustee and allows the amount thereof to be prorated as a deduction over a period of years equivalent to the time during which the reserve fund was accumulated. This prevents the employer from taking the entire deduction in the year of transfer and operates equitably to the employer and to the Government.

SEC. 23 (R). EXPENSES OF TAX ADJUSTMENT

This is an entirely new deduction. It embraces all expenses paid or incurred in contesting liability for any tax, whether Federal, State, municipal, or otherwise, which are not deductible under section 23 (a) as a business expense. The purpose of the new deduction is to place individuals on a parity with corporations so far as this item of expense is concerned. Though payment of taxes is not, strictly speaking, a business expense to individuals in all cases, the committee believes it is more like a business expense than a living or personal expense and that it should be so treated.

SEC. 24 (B). DEDUCTION FOR EXHAUSTION OF LIFE OR TERMINABLE INTEREST

A minor clarifying amendment is made to this section in connection with the deduction for depreciation and depletion discussed above under sections 23(k) and 23(l).

SEC. 31. EARNED INCOME CREDIT

The earned income credit provided in section 31 corresponds without change to the earned income credit in sections 209(a) and 209(b) of the 1926 act.

ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

Certain provisions in the 1926 act relating to accounting methods and periods of accounting are assembled in sections 41–47, inclusive.

SEC. 44. INSTALLMENT SALES

In 1925 the installment basis as a method for accounting for income was held invalid by the Board of Tax Appeals on the ground that it did not clearly reflect income. The case was one in which, during the years following a change from the accrual to the installment basis, amounts actually received during such transition period from sales made during the prior years when the taxpayer was on the accrual basis were excluded in the return of income. In order to permit the use of the installment method of reporting income, the 1926 act authorized and validated such method both for future and past taxable years.

Future taxable years.—As to future taxable years the committee retains the provisions of the 1926 act and approves a liberalizing amendment in the House bill which increases from 25 to 40 per cent the amount of the initial payment permissible in the case of casual sales of personalty or of sales of realty. It is believed that the 25 per cent limitation in the 1926 act forced the reporting on the accrual basis of sales in which the initial payment, though larger than 25 per cent, was insufficient to create a substantial assurance of the actual payment of the full amount of the deferred purchase price.

The bill at the same time definitely provides that in order clearly to reflect income during the transition period upon the change by the taxpayer from the accrual to the installment basis, amounts actually received during such period from sales made prior to such period shall be included in the return of income. This principle is specifically made inapplicable to casual sales of personalty and to sales of real property. If the amounts so received were excluded, the law would permit the taxpayer to exercise the advantageous option of going on to the installment basis in such fashion as to allow the return during the transition period of a seriously subnormal amount of income. The extent of the subnormality is well illustrated by the following table which represents an actual and typical case of the effect upon income during the transition period, of a change from accrual to installment basis by a dealer in personal property.

Considerable benefit is secured by this change, even if the cash received in the current year on account of sales made in prior years is included in the computation of income. This basis was the method used in this case, the figures for which are shown below:

Year	Net income		Decrease in taxable income by change
	Accrual basis	Installment basis	
1918	$263, 340. 11	$253, 471. 90	$9, 868. 21
1919	497, 854. 20	135, 336. 70	362, 517. 50
1920	272, 706. 67	151, 211. 10	121, 495. 57

NOTE.—The above adjustments in net income were by far the principal changes made in these returns and are therefore the controlling factor in the allowance of a refund of $96,497.47 plus interest of $34,606.65. This large refund is allowable even under the "double taxation" method; if the method of excluding in the computation of income current cash receipts on account of sales made in prior years, as outlined in the Treasury Decision of October 20, 1920, had been used, the refund would have been still larger.

The committee regards as properly interpretative of existing law the departmental ruling that the sale of an item of the taxpayer's inventory should under no circumstance be regarded as a casual sale.

Under the 1926 act the term "purchase price" was used to designate the amount to which the 25 per cent limitation is applied. Since the taxpayer is the seller it seems less confusing to use the term "selling price."

Past taxable years.—As to past taxable years the Board of Tax Appeals has recently construed the 1926 act and the regulations issued thereunder as requiring the application of the rule that there shall be included in the computation of income during the transition period, in the case of a change from the accrual to the installment basis, amounts actually received during such period from sales made prior to such period. The committee does not deem it desirable retroactively to validate or invalidate such construction, but leaves the matter to judicial determination.

Fair market value.—It has been suggested, particularly in connection with such installment sales transactions, that in lieu of the increase of the 25 per cent limitation, gain or loss should not be recognized on receipt of installment obligations or other property if no fair market value is determinable therefor with reasonable certainty by the application of standards customarily accepted in business practice. This suggestion involves altering the consistent practice of the Treasury Department of finding a fair market value of property in all cases where there is an ascertainable value. The committee has recommended no change in the existing law as to these matters, believing that the change suggested would be administratively impracticable and would result in great loss of revenue to the Government, and that the permitting of the installment basis to apply to transactions with an initial payment up to 40 per cent cares for the greater part of any difficulty in connection with the existing law.

Gain or loss upon disposition of installment obligations.—Subsection (d) contains new provisions of law to prevent evasion of taxes in connection with the transmission of installment obligations upon death, their distribution by way of liquidating or other dividends, or their disposition by way of gift, or in connection with similar transactions. The situations above specified ordinarily do not give rise to gain and yet at the same time it is urged that they permit the recipient to obtain a greatly increased basis in his hands for the property received, except in the case of gifts. It therefore seems desirable to clarify the matter. The installment basis accords the taxpayer the privilege of deferring the reporting at the time of sale of the gain realized, until such time as the deferred cash payments are made. To prevent the evasion the subsection terminates the privilege of longer deferring the profit if the seller at any time transmits, distributes, or disposes of the installment obligations and compels the seller at that time to report the deferred profits. The subsection also modifies the general rule provided in subsection (a) for the ascertainment of the percentage of profit in the deferred payments, in those cases in which the obligations are satisfied at other than their face value or are sold or exchanged. The modification permits a compensating reduction in the percentage of profit in case the obligations are satisfied at less than their face value, or are sold or exchanged at less than face value.

Whether or not the gain or loss realized under the section is recognized for tax purposes, depends upon general principles of law embodied in the income tax provisions, the exchange of installment obligations in connection with tax-free exchanges, for instance, being cared for by section 112.

Sec. 45. Allocation of Income and Deductions

Section 45 is based upon section 240(f) of the 1926 act, broadened considerably in order to afford adequate protection to the Government. The section of the new bill provides that the commissioner may, in the case of two or more trades or businesses owned or controlled by the same interests, apportion, allocate, or distribute the income or deductions between or among them, in such manner as may be necessary in order to prevent evasion (by the shifting of profits, the making of fictitious sales, and other methods frequently adopted for the purpose of "milking"), and in order to arrive at their true tax liability.

It has been contended that section 240(f) of the 1926 act permits what is in effect the filing of a consolidated return by two or more trades or businesses, even though they are not affiliated within the meaning of the section. Section 45 of the bill prevents this erroneous interpretation by eliminating the phrase "consolidate the accounts."

SEC. 103. EXEMPTIONS FROM TAX ON CORPORATIONS

It is provided in section 103(7) of the bill that real-estate boards not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual, shall be exempt.

Cooperative marketing associations are exempted from tax under existing law and under section 103(12) of the bill. Such a corporation, or its stockholders, sometimes organizes an additional corporation for the sole purpose of financing crop operations. It is provided in section 103(13) that the financing corporation shall likewise be exempt if it conforms to the definite restrictions in the bill.

Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to members and their dependents are common to-day, and it appears desirable to provide specifically for their exemption from the ordinary corporation tax. Consequently, the House bill provides in section 103(15) that such associations shall be exempt if they provide for the payment of life, ~~sick, accident, or other benefits to members of the association or their~~ dependents, and if no part of their net earnings inures to the benefit of any private shareholder or individual and if 85 per cent or more of the net income is collected from the members for the purpose of paying expenses and meeting losses. A clarifying amendment is made in this paragraph relating to voluntary employees' beneficiary associations, which does not, however, change the purpose of the House bill.

An additional exemption is provided by a committee amendment inserting section 103 (17) under the terms of which teachers' retirement fund associations which comply with the restrictions specified are not subject to the income tax.

SEC. 104. ACCUMULATION OF SURPLUS TO AVOID SURTAXES

The House bill provided for the continuation, in substance, of section 220 of the revenue act of 1926 for the taxable year 1927 except section 220(c) which was covered by section 148(c) of the House bill.

For the taxable year 1928 and succeeding taxable years, a distinction was made in section 104 of the House bill between personal holding companies, as defined in that section, and other corporations. A personal holding company was defined to mean any corporation (except a banking or insurance corporation) if 80 per cent or more of its gross income is derived from rents, royalties, dividends, interest, annuities, and gains from the sale of securities, and if either 80 per cent or more of its voting stock, as defined, is owned or controlled, directly or indirectly, by not more than 10 individuals, or the right to receive 80 per cent of its dividends is vested in such individuals, directly or indirectly. This subject has been discussed in Part V of this report.

SEC. 112.—RECOGNITION OF GAIN OR LOSS

Section 112(c)(2) is amended so as to restore to its original form a provision of existing law modified by the House bill relative to corporate distributions in respect of earnings and profits accumulated after February 28, 1913. See discussion in Part V of this report.

SEC. 113.—BASIS FOR DETERMINING GAIN OR LOSS—EXECUTORS' SALE

The decision by the Court of Claims in McKinney *v.* United States has caused confusion in the existing law as to the basis on which an executor must determine gain or loss on the sale by him of property of the estate. The House bill in section 113(a)(5) provides that in such cases the basis shall be the fair market value of the property at the time of the death of the decedent. In the same section the House bill provides the same basis shall be used where the property is sold by the beneficiary.

It appears that the House bill is inadequate to take care of a number of situations which frequently arise. For example, the executor, pursuant to the terms of the will, may purchase property and distribute it to the beneficiaries, in which case it is impossible to use the value at the decedent's death as the basis for determining subsequent gain or loss, for the decedent never owned the property. Moreover, the fair market value of the property at the decedent's death can not properly be used as the basis, in the case of property transferred in contemplation of death where the donee sells the property while the donor is living.

Accordingly, the committee has revised section 113(a)(5) and certain related sections, so as to provide that in the case of a specific bequest of personalty or a general or specific devise of realty, or the transmission of realty by intestacy, the basis shall be the fair market value at the time of the death of the decedent. In these cases it may be said, as a matter of substance, that the property for all practical purposes vests in the beneficiary immediately upon the decedent's death, and therefore the value at the date of death is a proper basis for the determination of gain or loss to the beneficiary. The same rule is applied to real and personal property transmitted by the decedent, where the sale is made by the executor. In all other cases the basis is the fair market value of the property at the time of the distribution to the taxpayer. The latter rule would obtain, for example, in the case of personal property not transmitted to the beneficiary by specific bequest, but by general bequest or by intestacy. It would also apply in cases where the executor purchases property and distributes it to the beneficiary.

Section 113 (a)(4) is amended so as to provide that the basis in the case of property passing under power of appointment, regardless of the time of acquisition, shall be the fair market value on the date of acquisition, which is the rule of the present law and of the House bill.

Section 113 (a) (3) is amended by striking out the last sentence of the House bill, with the effect of including within the paragraph all classes of transfers in trust made after December 31, 1920 (even if made in contemplation of death or to take effect in possession or enjoyment at or after death). The basis thus provided is the basis the property would have in the hands of the grantor, adjusted for gain or loss recognized to the grantor when the transfer was made.

The effect of striking out the last sentence of section 113(a) (3) is also to make the basis in the case of gifts in contemplation of death or to take effect in possession or enjoyment at or after death, if made after December 31, 1920, the same as the basis which the property would have in the hands of the donor or the last preceding owner by whom it was not acquired by gift.

Sec. 113(a) (7) and 113(a) (8)—Basis for Determining Gain or Loss—Property Acquired by a Corporation

The 1926 act in section 203(b) (4) (corresponding to section 112(b) (5) of the bill) provides that no gain or loss shall be recognized if property is transferred to a corporation solely in exchange for its stock and immediately after the transferors are in control of the corporation. Section 204(a) (8) of the 1926 act provides that in such cases the basis of the property in the hands of the corporation, for the purpose of determining gain or loss on sale, shall be the same as it was in the hands of the transferor. The paragraph, however, does not apply by its terms to a case where the property acquired by the corporation consists of stock or securities in a corporation a party to the reorganization. There appears to be no reason for such an exception. Suppose that individuals buy all the stock (1,000 shares) of corporation A at $100 a share at a time when the assets of A are worth $100,000. Suppose the assets of A appreciate in value and become worth $1,000,000. Suppose further that the shareholders of corporation A organize a new corporation B and exchange their stock in corporation A for the stock of corporation B. This transaction under the 1926 act and under the proposed bill is a tax-free transaction. Corporation B then sells the stock owned by it in corporation A for $1,000,000, which is the fair market value of the assets of A. Obviously the gain of corporation A should be $900,000, the amount by which the $1,000,000 realized from the sale exceeds $100,000, the cost to A's stockholders of their stock, since the transfer of their stock to B in exchange for the stock of B was tax free. It is claimed that section 204(a) (8) of the 1926 act does not apply to such a case because it excludes from the rule therein laid down, stock or securities in a corporation a party to the reorganization.

While it is quite possible that the courts, in view of the general purposes of section 204 of the 1924 and 1926 acts, would not adopt such a construction, nevertheless, to remove any doubt, the new bill in the corresponding paragraph (section 113 (a) (8)) omits these words of limitation, thus making it clear beyond doubt that in the example above, corporation B would have a basis of only $100,000 for the purpose of computing the gain derived from the sale of its stock in corporation A.

A similar change is made in the bill in section 113 (a) (7) (corresponding to section 204 (a) (7) of the 1926 act). The existing law provides that if property is acquired by a corporation in connection with a reorganization and immediately after the transfer an interest or control in the property of 80 per cent or more remains in the same persons, then the basis shall be the same as it would be in the hands of the transferor. Here again it is claimed that the rule does not apply in case the property acquired consists of stock or securities of a corporation a party to the reorganization. Here again, also, it is quite possible that the courts would not sustain such a claim, but it seems to the committee that it should be made clear that this exception does not apply in the case where the stock or securities so acquired were acquired by the corporate taxpayer by the issuance of its own stock or securities. The bill therefore makes this clarifying change.

SEC. 113 (a) (12). BASIS OF PROPERTY ACQUIRED DURING AFFILIATION

There is no provision in existing law prescribing rules for the determination of the basis after the period of affiliation of property acquired by a corporation from another corporation with which it is affiliated, during the period of affiliation. As a general rule, gain or loss has not been recognized on such intercompany transactions. It is highly important that in such cases the basis in the hands of the corporation after the affiliation should be the same as it would be if still in the hands of the corporation by which the property was brought into the affiliated group, in accordance with the present interpretation of the Treasury, except in those cases where a proper adjustment of the basis should be made. The transactions, however, are so varied and complex that it is impossible by statute to prescribe a definite rule of general application and consequently it is necessary to delegate to the commissioner power to prescribe regulations legislative in character under which the basis will be determined for the computation of gain or loss, and depletion and depreciation, laying down in the section the general standard to guide the commissioner that intercompany transactions should be disregarded if gain or loss was not recognized. The basis thus determined will be applicable in determining the basis in the case of inventories. The term "period of affiliation" is defined to include the period during which the filing of consolidated returns was mandatory, as well as the period during which under the 1921 and subsequent acts the corporations were affiliated and filed consolidated returns. It is provided by a committee amendment that in the case of property acquired during 1929 or subsequent taxable years during a period of affiliation for which a consolidated return is made, the basis shall be determined under the legislative regulations prescribed by the commissioner under section 141 (b).

SEC. 115 DISTRIBUTIONS BY CORPORATIONS

This subject is discussed in Part V above.

SEC. 116 (b). OFFICERS AND EMPLOYEES OF ALASKA AND HAWAII

The House bill provides a new exemption from taxation by relieving from tax the compensation received by teachers in Alaska and Hawaii. The committee has enlarged the scope of the exemption to include all officers and employees of Alaska, Hawaii, or any political subdivision thereof, except as to compensation paid directly or indirectly by the United States Government. All such employees are required to pay income tax on their compensation under the laws of Alaska and Hawaii.

SEC. 116(D). INCOME OF STATES, MUNICIPALITIES, ETC.

This change, which relates to the exemption of income of a State or municipality from the operation of a public utility, has been explained above in connection with section 22.

SEC. 119. INCOME FROM SOURCES WITHIN THE UNITED STATES

Section 119 of the House bill is the same as section 217 of the Revenue Act of 1926, except for the provision (sec. 119(a)(1)(C)) treating the income derived by a foreign central bank of issue from bankers' acceptance as income from sources without the United States. Inasmuch as a foreign central bank of issue is a foreign corporation, the effect of the provision is (under sec. 231(a) of the bill—which is taken from sec. 233(b) of the 1926 act) to exempt such income from taxation. Generally speaking, the chief ways in which a foreign bank of issue employs its surplus funds in the United States are (1) on deposit with banks; (2) invested in short-time Government securities; and (3) in bankers' acceptances. At the present time the law exempts from taxation income derived from the first two sources (secs. 233, 217, and 236 of the 1926 act), but taxes income derived from bankers' acceptances. Foreign banks of issue with surplus funds to invest must seek the most liquid short-time investments available. The present law tends to keep foreign funds out of our market and to force American merchants to finance their transactions abroad rather than through the dollar acceptance. This handicap on the free development of our dollar acceptance market should be removed. It should be pointed out, however, that the provision is applicable only to a central bank of issue and is not applicable to investments by other foreign corporations or nonresident individuals.

SEC. 141. CONSOLIDATED RETURNS OF CORPORATIONS

The House bill abolished the right to file consolidated returns for years after 1928. The committee has restored the right to file such returns in the case of class A affiliations but not in class B affiliations. In Part V of the report the new provisions with respect to consolidated returns are discussed.

SEC. 144. TAX-FREE COVENANT BONDS

The present law provides for the withholding at the source, in the case of bonds, of a tax of 5 per cent of the interest when paid to nonresident aliens or individuals or partnerships, and a tax equal to the income tax rate in the case of interest paid to foreign corporations. This rule is subject to the exception that if the bond contains the so-called tax-free covenant clause by which the obligor agrees to pay the interest without deduction for any tax which he may be required or permitted to retain therefrom, then the rate of withholding shall be at the rate of 2 per cent. This provision of the present law is based upon the conviction that it would be unfair to domestic corporations to make them pay the entire tax at rates substantially higher than were contemplated when the bonds were issued. It appears that a large number of the tax-free covenant bonds issued since the beginning of the war contain a clause by which the liability of the obligor is limited to 2 per cent of the interest. The House therefore inserted a provision in the bill in section 144(a)(1) under which, in cases where the liability assumed by the obligor does not exceed 2 per cent of the interest, the withholding shall be at the rate of 5 per cent in the case of nonresident aliens and partnerships and 12½ per cent in the case of foreign corporations, while remaining at 2 per cent, as under the present law, in the case of citizens, residents, and domestic partnerships. This provision places no additional hardship upon domestic corporations, for, their ability under their contract being limited to 2 per cent, they can not be called upon to pay any greater amount to the bondholder. On the other hand, under the proposed scheme the Government will get the full tax to which it is entitled.

Sec. 272 (j). Extensions of Time for Payment of Deficiencies

Under existing law and under this section of the bill the commissioner is authorized to extend the time for payment of a deficiency for a period not to exceed 18 months where undue hardship would result if immediate payment were enforced. This period is not adequate to take care of cases of exceptional hardship, for example, in areas suffering from business depression where property can not be liquidated quickly. Accordingly, it is provided that in exceptional cases the commissioner may grant a further extension not in excess of 12 months and may if necessary require a bond to secure the payment of the deficiency.

Sec. 272 (k). Address for Notice of Deficiency

It is obviously impossible for the commissioner to keep an up-to-date record of taxpayers' addresses. Where a taxpayer has changed his address without notifying the commissioner, it is not possible to be sure that the deficiency letter is being sent to his last address. It is provided in the above section that in the absence of notice to the commissioner under section 312 (a), of the existence of a fiduciary relationship, the deficiency letter may be mailed to the taxpayer at his last known address, and if so mailed will be sufficient for the purposes of the title.

There is a similar provision with respect to transferees in section 311(e). These two provisions are combined in the existing law and appear as section 281(d).

Sec. 275. Period of Limitation upon Assessment and Collection

Section 277(a)(4) of the 1926 act provides that in the case of income received during the lifetime of a decedent, the executor may file a request for prompt determination of the tax, and in such case the assessment shall be made or proceedings in court without assessment shall be begun within a year after the filing of such request, but in no case after the expiration of the period which would otherwise be applicable. There seems to be no reason for denying this privilege in the case of income received by the estate during the process of administration, and accordingly it is provided in section 275(b) that a similar request may be filed in such cases.

In the case of a corporation about to dissolve, the prompt determination of tax liability becomes particularly desirable. Moreover, the collection of such taxes, if delayed, may become uncertain. Accordingly a provision is incorporated in the bill under which a corporation about to dissolve may notify the commissioner that it contemplates dissolution within a year and the assessment or proceeding in court for collection without assessment of any deficiency shall be begun within the year, provided that dissolution is in good faith begun before such time and that the dissolution is completed whether or not within the year.

Sec. 276. Period of Limitation upon Assessment and Collection—Waivers

Section 276(b) of the House bill corresponds to section 278(c) of the revenue act of 1926 in so far as it provides that the commissioner and the taxpayer may extend the period for assessment of the tax for 1928 and subsequent years by an agreement in writing and that in such case the tax may be assessed at any time prior to the expiration of the period agreed upon. Section 276(b) of the House bill, however, goes somewhat further, in that it specifically provides that such a consent, usually called a "waiver," shall be valid, even thought it is executed after the commissioner's right to make the assessment has expired. In the interest of keeping cases closed after the running of the statute of limitations, the committee has stricken out the provisions in the House bill which make waivers in the case of taxes for 1928 and future years valid when they have been executed after the limitation period has expired.

Sec. 277. Suspension of Running of Statute

Under existing law and under the provisions of the bill, the running of the statute of limitations on assessments is suspended while an appeal is pending before the board. Subsequently the board may dismiss the appeal on the ground that the petition was not filed within the 60-day period or because the paper filed within the period was not sufficient to constitute a petition. The decision dismissing the appeal may not be made until months after the proceeding was begun and there is some question whether in such cases the running of the statute of limitations on assessment is actually suspended during the pendency of the proceeding. It is specifically provided in section 277 that the running of the statute shall be suspended, if any proceeding is placed on the docket of the board, until the decision of the board in respect thereof becomes final and for 60 days thereafter.

This provision also takes care of any uncertainty as to the suspension of the running of the statute where, after the decision of the board, a petition for review is filed without the required bond. It also provides for the situation where a taxpayer files a waiver of the restrictions on the commissioner as to assessment or collection where the legal sufficiency of the waiver may not be determined for a considerable period of time after is it filed.

It seems obvious that the enforcement of a decision of the board which has become final should not be thwarted, and that the decision of the above matters should not be forced into injunction proceedings. Accordingly, in all the foregoing cases the running of the statute on assessment is definitely suspended by section 277 until the decision of the board has become final and for 60 days thereafter.

There is a similar provision in section 311(d) with respect to the period of limitation upon assessment of the liability of a transferee or fiduciary.

It was suggested that language be inserted to show that the running of the statute should be suspended not only when the commissioner is under the prohibitions of section 272(a) but also when he is restricted by order of court from making assessment or collection. The committee feels the language of the present statute is perfectly definite on this point and no clarification is necessary. The statement of the conferees in connection with Senate amendment No. 83 to the revenue act of 1926 was specific on the point and clearly indicated that the intention was to suspend the running of the statute for the period during which, for any reason at all, the commissioner's hands were tied.

Sec. 311 (b). Transferees and Fiduciaries—Period of Limitations

Section 280 of the revenue act of 1926 does not specifically provide any limitation period in the case of a transferee of a transferee of the property of the taxpayer. Section 311(b)(2) of the House bill provides, with specific exceptions, that the period for assessment in such case shall be one year after the expiration of the period of limitation for assessment against the preceding transferee. It seemed to the committee that this would unduly prolong litigation and that there should be a time when the transferee may know that he is no longer liable to be proceeded against. A committee amendment therefore provides that in all cases the tax must be assessed within three years after the expiration of the period of limitation for assessment against the taxpayer.

Under existing law the liability of a fiduciary may not arise until after the period for assessment against such fiduciary has expired. It is provided in section 311(b)(3) of the bill that the liability of the fiduciary may be assessed not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability rises, whichever is the later.

Under existing law the Government has six years in which to collect income taxes assessed against the estate of a decedent and accruing during the lifetime of the decedent or during the administration of his estate. If during the latter part of the six-year period the executor disposes of the assets of the estate in such manner as to create a personal liability in him under section 3467 Revised Statutes, proceedings against the executor would be barred under statute of limitations provided by section 280 of the 1926 act. The House bill has met this difficulty in section 311(b)(3) by providing that the personal liability of the fiduciary may be assessed not later than one year after such liability arises or not later than the expiration of the period for the collection of the tax upon the decedent's estate, whichever is the later.

Sec. 322 (d). Overpayment Found by Board

Subsection (d) is identical with section 284 (e) of the present law except the last sentence. Under the present law, the Board of Tax Appeals has jurisdiction to determine an overpayment in a case properly before it, but a refund or credit of an overpayment found by the board may not be made unless claim was filed within the proper period of limitation, or the petition was filed within four years after the tax was paid, or in case of a tax imposed by the 1926 act, within three years after the tax was paid, but it does not provide for the case of a waiver under section 284(g). Inasmuch as the section of the new bill applies only in case of overpayments of taxes imposed by the new bill, the language can be considerably simplified. The committee recommends that no regard be paid to the time of filing claim or petition as determinative of the right to have the amount of the overpayment determined by the board. It does, however, believe that the principle of the limitation in section 284 (b) (2) of the present law should be retained. Under that provision the amount of the overpayment found by the board which may be refunded or credited can not exceed the portion of the tax paid during the three years preceding the filing of the claim, or if no claim is filed, then during the three years immediately preceding the allowance of the credit or refund. Some doubt has arisen as to whether the date of the "allowance of the credit or refund" is the date of the decision of the board or the date the commissioner acts in the matter. Subsection (d), as proposed by the House bill, remedies this ambiguity, and provides that no credit or refund shall be made of any portion of the tax paid more than three years before the filing of the claim or the filing of the petition, whichever is the earlier. It will be noted that there is no limitation imposed in the case of amounts paid after the petition is filed.

Sec. 401. Deductions from Gross Estate in the Case of Nonresident Decedents

Section 303 (b) (1) of the 1926 act provides, for the purposes of the estate tax, that the value of the net estate of a nonresident shall be determined by deducting from the value of his gross estate situated in the United States, among other times, that proportion of the allowable deductions for expenses, debts, etc., which the value of his gross estate in the United States bears to the value of his entire estate, wherever situated, with the limitation that the amount so deducted shall not exceed 10 per cent of the value of his gross estate in the United States. This limitation imposes substantial hardship. For example, in the case of a nonresident whose gross estate situated in the United States was valued at $600,000, his outstanding debts amounted to $400,000. Because of this limitation he was permitted a deduction of only $60,000, whereas in fact the deduction, in all fairness, should have been $400,000. The House bill removes this limitation.

SEC. 402–403. SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS

These sections extend the principles of section 277 to cases where an appeal is taken to the board by an estate or by a fiduciary or transferee of property of the estate.

SEC. 404. CREDIT OF GIFT TAXES

Section 322 of the revenue act of 1924, which is one of the gift-tax provisions of that act, deals with the case where by reason of a gift in contemplation of death or otherwise, the subject matter of the gift is taxable both under the gift tax and under the estate tax and provides that in such cases the amount paid as a gift tax shall be credited against the estate tax. The gift-tax provisions of the 1924 act were repealed by the revenue act of 1926 and as a consequence the authority for the above credit was likewise repealed. It is clear that justice requires the credit to be given and for that purpose only section 404 revives section 322 of the revenue act of 1924 and makes it applicable to estate taxes imposed by the 1924 and 1926 acts.

SEC. 412. CLUB DUES TAX

The House bill amends the existing law to take care of a situation which has arisen from the prevalent use of the device of lowering the amount of club dues and collecting the required money by assessments instead as a means of evading the club-dues tax. There is a similar situation with respect to the tax on initiations which is being avoided by requiring the purchase of a share of stock or a bond instead of the direct payment of an initiation fee. The House bill provides in section 412 that the term "dues" includes any assessment irrespective of the purpose for which it is made. For similar reasons it is provided that the term "initiation fees" includes any payment, contribution, or loan required as a condition precedent to membership, whether or not evidenced by a certificate or share and regardless of the person or organization to which it is paid, contributed, or loaned. The House bill does not change the amount of tax payable by a life member based on the dues tax of an active member.

SEC. 413. RETURNS OF ADMISSIONS AND DUES TAX

The department has difficulty in collecting the admissions tax from irresponsible promoters. Under existing law, returns are required to be made monthly. A prize fight may be held and if a return can not be required immediately, the collection of the tax may be impossible. Section 502(a) and 502(b) of the revenue act of 1926 are amended so that the commissioner may require returns at such times as he may prescribe. Except in order to prevent evasion, however, it is expected that the commissioner continue the system of monthly returns.

SEC. 425. CIGAR PACKAGES

Section 425 of the bill, added by a committee amendment, amends the law relating to cigar packages so as to permit packing of cigars in boxes of 20.

AMENDMENTS TO 1926 INCOME TAX

SEC. 501. AFFILIATED CORPORATIONS—STATUTE OF LIMITATIONS

In determining the tax liability of affiliated corporations under existing law, it is sometimes discovered that, on the basis of the facts available, a deficiency is owing from one of the corporations. Accordingly, a deficiency letter is mailed to that corporation, and the running of the statute of limitations is suspended as to that corporation. However, it happens not infrequently that in subsequent proceedings before the Board of Tax Appeals or the courts additional facts are ascertained, showing that the deficiency is actually due from one of the other corporations of the affiliated group and not from the corporation to which the deficiency letter was mailed. Under recent decisions under the existing law, the deficiency properly owing from the group can not be collected if the statute has run—and in practically all cases the final decision is not made until the statute has run.

Under section 142(f) of the new bill, it is provided that the running of the statute of limitations will be suspended as to all corporations of the affiliated group if a deficiency letter for the taxable year 1928 is mailed any one of them. Section 501 amends the revenue act of 1926 so that this same policy will be applicable for taxable years prior to 1928. Accordingly, the running of the statute of limitations will be suspended, if a deficiency letter is mailed to one corporation, as to all other corporations for which a consolidated return has been made under the optional provisions of section 240 of the revenue act of 1921, 1924, or 1926, or for which a consolidated return should have been made under section 240 of the revenue act of 1918, or section 240(e) of the 1921 act, under which affiliated corporations were compelled to file a consolidated return.

These provisions, of course, do not apply where the statute of limitations on any such corporation had run prior to the enactment of this act.

SEC. 502. EXTENSION OF TIME FOR PAYMENT OF DEFICIENCY

This provision amends the revenue act of 1926 and is similar to a provision in section 272(j) of the bill above discussed. The purpose is to authorize the granting of a further extension of time for payment of any deficiency for any year preceding the taxable year 1928.

SEC. 503. REQUEST FOR PROMPT ASSESSMENT

This section which amends section 277(a)(4) of the revenue act of 1926 is similar to the provision in section 275(b) of the new bill heretofore discussed. It applies the policy, there explained, to taxes under the 1926 and prior acts.

SECS. 504–505. SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS

These sections amend sections 277(b) and 280(d) of the 1926 act. They are similar to section 277 of this bill, and are applicable to taxes imposed by the 1926 and preceding acts. Sections 504 and 505 do not apply where the applicable statute of limitations had run prior to the enactment of this act.

SEC. 506. WAIVERS AFTER EXPIRATION OF STATUTE OF LIMITATIONS

Section 506 of the House bill amends section 278 (c) and (d) of the revenue act of 1926 so as to provide that the commissioner and the taxpayer may consent, after the statute of limitations has run, to a later assessment or collection of the income, war-profits, and excess-profits taxes imposed by the 1926 and prior acts. The committee believes that this policy is unsound as to the future, and accordingly amended the House bill so as merely to provide that such waivers filed between the date of the enactment of the new act and January 1, 1929, shall be valid even if filed after the expiration of the limitation period in question. As to waivers filed before the enactment of this act but after the expiration of the period of limitation, the committee feels that the matter should be left where it now stands, to be determined under the law in existence at the time the waiver is filed, and by an amendment to the House bill carries that policy into effect.

SEC. 507. OVERPAYMENTS FOUND BY BOARD OF TAX APPEALS

Under the provisions of section 284 (e) of the revenue act of 1926, if the Board of Tax Appeals finds there is no deficiency and further finds that the taxpayer overpaid his tax for the year in question, the amount of the overpayment is credited or refunded to the taxpayer; but a limitation is imposed that the refund shall not be made unless claim was filed within the applicable period of limitation or the petition was filed within four years after the tax was paid or, in the case of a tax imposed by the 1926 act, within three years after the tax was paid. Inasmuch as in certain cases under section 284 (g) of the 1926 act a longer time than four years from the payment of the tax was allowed for the filing of claims in cases where waivers of the statute of limitations on assessments had been filed by the taxpayer, it results that under the 1926 act it may be that the petition before the board was filed before the time for filing of claims had expired; but, unless the claim had been filed, the overpayment found by the board can not be recovered. It is, therefore, recommended that this section be amended so as to remedy this defect.

Under section 284 (b) and (e) of the present law the amount of overpayment found by the board which may be refunded or credited can not exceed the portion of the tax paid during the three or four years, respectively, immediately preceding the filing of the claim, or, if no claim is filed, then during the three or four years, respectively, immediately preceding the allowance of the credit or refund. Some doubt has arisen as to whether the date of the "allowance of the credit or refund" is the date of the decision of the board or the date the commissioner acts in the matter. It seems to the committee that the proper policy to be applied in the case of all credits or refunds (made after the passage of the new act as a result of an overpayment found by the board whether before or after the passage of the new act) is that the credit or refund should be made without regard to the time of filing of the claim or the filing of the petition, but that no credit or refund should be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by the 1926 act, more than three years) before the filing of the claim or the filing of the petition, whichever is the earlier. However, in order to give the taxpayer the full benefits of section 284 (g) and (i), it is provided that this limitation on the amount of the credit or refund shall not be applicable where either the claim or the petition was filed within the time prescribed in section 284 (g) or (i) for filing claim. It will be noted that there is no limitation applicable to amounts paid after the petition was filed.

SEC. 508. CLAIMS FOR REFUND 1917–1921

Section 284 (g) of the revenue act of 1926 grants an extension of time for the filing of claims for refund or credit for the taxable years 1917 to 1921 if on or before certain dates specified in that subdivision the taxpayer has filed a waiver extending the time for assessment of additional taxes. The principle is that the time for filing claims should be extended for these years if the time for assessment has been extended.

The House bill contains no provision like section 284 (g) of the 1926 act. The principle above stated seems to the committee to be sound and accordingly section 508 provides with reference to the same taxable years specified in section 284 (g) that if a waiver has been filed prior to January 1, 1928, a claim for refund may be filed at any time prior to 90 days before the expiration of the waiver or within one year after the waiver was filed, whichever date is earlier. This provision, it should be noted, has no application unless the waiver would have permitted the assessment and collection of the tax had a deficiency rather than an overpayment been determined.

SEC. 508. SURTAX RATES FOR 1927

This section provides that the surtax rates specified in section 12 of the bill shall be applicable to the calendar year 1927.

SECS. 601–603. BOARD OF TAX APPEALS

Reports of divisions.—Section 906 (a) of the revenue act of 1924, as amended by the revenue act of 1926, requires a division of the board to "hear and decide" a proceeding assigned to it by the chairman. The House bill, in an effort to clear up some supposed confusion as to the distinction between a decision by the board and a preliminary decision by a division, changes this language so as to require the division to "hear and make a report to the board" upon proceedings assigned to the division. This change made by the House bill, together with certain statements in the report of the Ways and Means Committee, is thought by some to be susceptible of the interpretation that it relieves a division of the duty of deciding the case in the first instance, and to make the practice within the board more cumbersome and to retard its operations. Accordingly, the committee, in an amendment contained in section 601 provides that it is the duty of the division to "hear, and make a determination upon" a proceeding assigned to the division and to "make a report of any such determination which constitutes its final disposition of the proceeding." This change places the duty in the first instance upon the division to determine the proceeding, leaving it open for review by the full board if the chairman so directs. If so reviewed, the board will make its own report; if not so reviewed, the report of the division will become the report of the board after 30 days.

Section 906 (b) of the revenue act of 1924, as amended by section 601 of the House bill, is changed slightly by a committee amendment so as to remove superfluous language. The matter stricken out by the amendment is fully covered by section 907 (b) of the revenue act of 1924, as amended by section 601 of the House bill.

Rules of practice and procedure.—The House bill provides that the rules of practice and procedure of the Board of Tax Appeals shall have the same force and effect as Federal equity rules. Section 907 (a) of the revenue act of 1924, as amended in section 601 of the bill, specifically provides that, except with respect to evidence, the proceedings of the board and its divisions shall be conducted in accordance with such rules of practice and procedure as the board shall prescribe. In view of this specific provision the legal effect of the board's rules is not open to doubt and the provision in the House bill is unnecessary.

Burden of proof in fraud cases.—In all proceedings before the Board of Tax Appeals under the present law it is provided that the burden of proof shall be borne by petitioners. This is true even though the commissioner in his deficiency letter raises the issue that the petitioner has been guilty of fraud. Proceedings before the board involving that issue in some respects resemble penal suits. The committee feels that the commissioner should be placed in the position of party plaintiff and compelled to carry the burden of proving fraud whenever it is an issue in the case. As to all other issues, however, the burden of proof remains on the petitioners, except to the extent provided in section 602. This change will affect proceedings in which hearings held after the date of the enactment of the new act, even though the petition was filed prior thereto.

Modification or reversal of board decision.—In view of certain expressions in a recent court opinion, the House bill in section 601 provides that no decision of the board shall be modified or reversed because the board has failed to consider evidence not adduced before it. While an appellate court has the right and duty, if an error of law has been made, to remand a case to the board for subsequent proceedings in accordance with law, the existing provisions of law clearly contemplate judicial, not administrative, procedure on the part of the board and the committee can see no need of further legislation on this subject. It is not the duty of the board to make investigations of tax cases but to decide the case on the basis of evidence properly placed before it by the commissioner and the taxpayer.

Transferee proceedings—Burden of proof.—In transferee cases before the Board of Tax Appeals under the present law the burden of proof of showing that the petitioner is not a transferee and is not liable at law or in equity for the taxes of the taxpayer is upon the petitioner.

Section 602 of the bill provides that the commissioner must assume the burden of proving that the petitioner is a transferee, shall be upon the Government, but not of proving that the transferor was liable for the tax.

Transferee proceedings—Access to books of transferor.—In many cases the transferee can not prepare his case unless he has access to the books of the transferor. Section 602 gives him this right, to be exercised by subpœna issued by the board or any of its divisions, whenever in the opinion of the board or division such right of access is necessary to the transferee and will not result in undue hardship to the taxpayer. A corresponding privilege is afforded subsequent transferees in respect of the books of a prior transferee.

SEC. 604. SUITS TO RESTRAIN ENFORCEMENT OF LIABILITY OF TRANSFEREE OR FIDUCIARY

Under section 280 of the 1926 act and section 311 of the new bill, the liability, at law or in equity, of a transferee of property of a taxpayer, or the liability of a fiduciary under section 3467 of the Revised Statutes, may be enforced in the same manner as the liability of a taxpayer. Section 280 of the 1926 act has proved a very effective and necessary method of stopping tax evasion through the various favorite methods recognized by everyone prior to the 1926 act. The enforcement of the liability through court process had been ineffective, and the amount of revenue lost through mala fide transfers or through corporate distributions of assets was admittedly large. In fact, but slightly more than $120,000 was collected through court procedure during the entire period prior to the 1926 act. Since the procedure under section 280 has been in effect, more than $1,000,000 has been collected in uncontested cases, and many times this amount is involved in cases not yet disposed of. There is no doubt that to the effectiveness of section 280 can properly be attributed the increasing demands for prompt assessment received from corporations contemplating dissolution. And many other evidences of its effect are available.

Because of a recent decision of a Federal district court holding section 3224 of the Revised Statutes inapplicable to proceedings under section 280, the House bill provided specifically that the administrative proceeding should not be interfered with by collateral court proceedings. It should be pointed out that the administrative determination of the liability is not final. In fact, the transferee or fiduciary is not required to make any payment, on account of the determination by the commissioner, if he desires to avail himself of the opportunity given him by the statute, until his liability is finally determined by the Board of Tax Appeals and a circuit court of appeals, and if certiorari is granted, by the Supreme Court of the United States. If the taxpayer does not prefer to file a petition with the Board of Tax Appeals, he may pay the amount determined by the commissioner and obtain a full and unrestricted judicial review in a suit for refund.

ALTERNATIVE REMEDIES IN ENFORCING LIABILITY OR TRANSFEREES OR FIDUCIARIES

As heretofore explained, section 280 of the revenue act of 1926 prescribed a new procedure for the enforcement of the liability of the transferee of property of a taxpayer. This new procedure under the present law is exclusive. The House bill (sec. 605) provided that the commissioner may at his option proceed under section 280 or by a proceeding in court. Inasmuch as section 280 has proved of greater effectiveness in preventing the evasion of taxes than the former method of court procedure, there would seem to be no occasion for the commissioner to resort to the courts. Consequently, the committee recommends that the provision be eliminated. The committee believes that whatever doubts there may be as to the constitutionality of section 280 they are not of sufficient importance to require the restoration of the old procedure.

SEC. 605. RETROACTIVE REGULATIONS

Section 1108 (a) of the revenue act of 1926 provides that where a regulation or Treasury decision is reversed by a subsequent regulation or Treasury decision, the subsequent decision may be applied without retroactive effect if the reversal is not immediately occasioned or required by a court decision. The policy of this provision is highly desirable, and in view of the fact that the Bureau of Internal Revenue is now comparatively free from the congestion of cases from the war years, it is believed that this policy may now be extended to cases where the new regulation or Treasury decision is occasioned or required by a court decision. Fundamentally there is no difference in the two cases which can justify the restrictions in section 1108(a) of the 1926 act. Accordingly, these restrictions have been removed in section 605 of the bill. It is believed that this amendment will prove a substantial step forward in the simplification of the administration of the internal revenue laws, especially the income tax.

SEC. 606. CLOSING AGREEMENTS

The closing of tax cases for the earlier years is a difficult problem. Statistics recently gathered show that an abnormally large percentage of closed cases are reopened by the taxpayer or the Government. Among the causes contributing thereto are claims by taxpayers, the effect of subsequent court decisions and changes in the regulations and the law. The constant reopening of closed cases must be discouraged and one of the most effective means of preventing the reopening of cases is the execution of closing agreements. Such agreements are authorized by section 1106(b) of the revenue act of 1926. There are, however, a number of restrictions in that section, the practical effect of which is to delay and often to render it impossible to secure the agreement. These restrictions have been removed in section 606 of the bill. It is believed that under this section it will be possible to execute many more closing agreements than in the past.

One change in the House provisions in this section may be noted. The House bill provides that if the closing agreement is approved by the Secretary it shall be final and conclusive except in cases of fraud, malfeasance, or misrepresentation of a material fact. Experience indicates that these agreements will be so numerous as to make it impossible for the Secretary to approve each of them. Accordingly, the committee proposes to amend the House bill by permitting such agreements to be approved by the Secretary, the Undersecretary, or an Assistant Secretary.

SEC. 607. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST UNITED STATES

Section 1106(a) of the 1926 act failed to resolve many doubtful questions as to the legal effect which follows the expiration of the period of limitation prescribed for the assessment or collection of a tax or for the making of a refund or credit or the bringing of a suit for refund. Section 1106(a) of the 1926 act is repealed as of its effective date and is replaced by sections 607, 608, 609, and 610 of this bill.

Section 607 of the bill prescribes the effect to be given to the expiration of a period of limitation against the United States and section 608 relates to the effect of the expiration of a period of limitation against the taxpayer.

Section 607 provides that regardless of the correct tax liability any payment shall be an overpayment if made pursuant to an assessment after the expiration of the period of limitation on assessment (no assessment having been made within such period) or after the expiration of the period of limitation on collection by distraint or court proceedings (no distraint or court proceeding having been begun within such period). It is immaterial whether the payment was voluntary or involuntary, and duress is also of no significance in determining the right to recover an amount paid after the statute has run. An overpayment under section 607 is to be credited or refunded the same as any other overpayment.

Section 607 is applicable to payments made before or after the enactment of this act. Any such overpayment shall be credited or refunded, however, only if claim therefor is filed within the proper period of limitation.

The section has been rewritten by a committee amendment in somewhat simpler language.

Neither section 607 nor section 608 applies to payments pursuant to a final decision of the Board of Tax Appeals or of a court, whether or not the question as to the statute of limitations was raised in the proceeding. The decision is final and under no circumstances could a payment pursuant to it be considered erroneous. Obviously, also, neither section applies to cases which have been closed by a final agreement under section 1106(b) of the 1926 act or section 606 of the new bill.

SEC. 608. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST THE TAXPAYER

If a refund is made after the expiration of the period for filing claim (claim not having been filed within the period) or after the rejection, after the date of the enactment of this act, of a claim filed within the proper period, and if the period for filing suit has expired (no suit having been filed within the period), the refund thus made shall be considered as erroneous and is recoverable by the United States as provided in section 610.

It seems desirable to provide some means whereby, in connection with questions of broad application to a great number of cases, one test suit may be brought and all the other cases involving the same point may be held in abeyance until the test suit is decided. Accordingly, the committee proposes to amend the House bill by inserting in section 608 a provision to the effect that in cases of the kind described the commissioner and the taxpayer may execute an agreement suspending the running of the statute of limitations for filing suit until final decision in the test case or cases named in the agreement. This amendment will prevent a multiplicity of suits without disturbing in any way the desirable policy embodied in the provisions of the House bill. It will be noted that the agreement is not that the parties thereto shall be bound by the test case in the settlement of the tax liability.

SEC. 609. ERRONEOUS CREDITS

Section 609 provides that a credit of an overpayment against a barred deficiency or a credit of a barred overpayment against a deficiency which is not barred shall be void if payment of the deficiency in the first case or the making of a refund in the second would constitute an overpayment or an erroneous refund under section 607 or 608.

Section 609 applies to any credit made before or after the enactment of this act.

SEC. 610. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED

This section relates to the recovery of erroneous refunds as defined in section 608 and also to refunds which are erroneous independently of section 608. The section provides that any erroneous refund, of either class, may be recovered by suit brought in the name of the United States if such suit is begun within two years after the making of the refund. Obviously, if the limitation period on the making of assessments has not expired, the erroneous refund may be recovered by assessment in the ordinary manner.

COLLECTIONS IN CASES IN WHICH CLAIMS IN ABATEMENT WERE FILED

Section 611 of the House bill proposes to extend the statute of limitations, particularly in cases for 1917 and prior years, if an assessment had been made but the collection delayed by the filing of a claim in abatement, and also prohibits the refund of amounts paid after the running of the statute of limitations in such cases. Your committee believes that the bar of the statute should be made effective as to both the Government and the taxpayer and recommends that this section be eliminated

Sec. 612. Lien for Taxes

Section 3186 of the Revised Statutes creates a lien upon the taxpayer's property if he neglects or refuses to pay his tax liability after demand. The lien is valid as against mortgagees, purchasers, and judgment creditors if notice thereof is filed in accordance with existing State law or future modifications thereof. If the State has made no provision by law for such filing, then the notice is required to be filed in the office of the clerk of the United States district court. The lien continues until the liability for the amount thereof is satisfied or becomes unenforceable by reason of lapse of time.

Section 612 amends section 3186 of the Revised Statutes in several respects. It provides that under departmental regulations the appropriate collector of internal revenue may issue a certificate of release of the lien if the liability for the amount assessed has been satisfied or has become unenforceable.

The collector may also issue a certificate on the giving of a bond conditioned to pay the amount assessed with interest, thereby releasing the property from the lien of the tax.

Provision also is made for a certificate of partial discharge if the collector finds that the fair market value of the property remaining subject to the lien is at least double the amount of all prior liens upon the property.

The certificate of release authorized by this section shall be conclusive as to the extinguishment of the lien upon the property covered by the certificate. The regulations issued under this section may provide that a single bond may be given to comply with section 272(j) and with subsection (c) of this section. The second sentence of section 315(a) of the revenue act of 1926 is repealed, since the above section is applicable to estate tax as well as to income-tax cases.

Sec. 613. Interest on Overpayments

Under existing law in the case of a refund the interest period terminates with the allowance of the refund, a date which often precedes the actual making of the refund by a considerable period of time, thus depriving the taxpayer of interest during that period. Under section 613 of this bill, interest runs to a date not more than 30 days preceding the date of the refund check, such date to be determined by the commissioner. This provision is administratively practicable and it will result in giving the taxpayer interest to within approximately 30 days of the date of the refund.

Sec. 614. Interest on Judgments

A change similar to that described in the preceding paragraph is made in connection with interest on judgments, the interest period in such case to terminate at a date preceding the date of the refund check by not more than 30 days, such date to be determined by the commissioner.

SEC. 615. COMPROMISES—CONCEALMENT OF ASSETS

There is no corresponding provision in the 1926 act. This section is intended to provide a penalty if in connection with a compromise, or with a closing agreement under section 606, any person wilfully conceals any property belonging to the estate of a taxpayer or other person liable in respect of a tax, or receives, destroys, mutilates, or falsifies any book, document, or record, or under oath makes a false statement as to financial condition. The penalty provided is $10,000 or one year imprisonment, or both.

GENERAL PROVISIONS

LEGISLATIVE COUNSEL—SPECIAL ASSISTANT TO THE SECRETARY OF THE TREASURY

The House bill provided for increases in salary for Mr. Beaman and Mr. Lee, the legislative counsel of the House and the Senate, respectively, and for Mr. Alvord, the special assistant to the Secretary of the Treasury. After the passage of the revenue bill by the House and pending the consideration of the bill by the committee, the committee reported out the settlement of war claims bill. The above increases were provided for in that bill by a committee amendment and have become law. Consequently, the sections of the House bill are eliminated.

SEC. 703. DEDUCTION OF ESTATE AND INHERITANCE TAXES—RETROACTIVE

Section 214 (a) (3) of the revenue act of 1926 and corresponding provisions of prior revenue acts permit a deduction, from gross income in computing the net income subject to tax, for taxes paid or accrued during the taxable year. Obviously this provision applies only to taxes imposed upon the taxpayer, and does not permit the deduction of taxes paid by a volunteer. Extraordinary difficulty has been encountered in applying this deduction in the case of estate, inheritance, legacy, and succession taxes, imposed by a State, Territory, or a foreign country. These taxes are usually paid by the executor of the estate. Under the regulations of the department the deduction was allowed the estate, in computing its income tax, if the tax was considered as an estate tax, and was allowed as a deduction to the beneficiary if the tax was considered to be an inheritance, legacy, or succession tax. As a result of recent Supreme Court decisions (Keith *v.* Johnson, and United States *v.* Mitchell), redeterminations of the deductions claimed by the estate or by the beneficiary will be necessary unless the situation is remedied by retroactive legislation. Consequently, the House bill inserted section 703 in the bill, the general effect of which will be to ratify what the taxpayers have done and to prescribe specific rules for future action.

SEC. 704. TAXABILITY OF TRUSTS AS CORPORATIONS—RETROACTIVE

Difficulty has been experienced in determining whether under prior revenue laws an organization was taxable as a trust or as a corporation. The rules have differed from time to time. There have been conflicting court decisions, and it appears desirable to clarify the situation by making definite provision for such cases. Section 704(a) provides that if a return was filed as a trust for any taxable year preceding the taxable year 1925, the organization shall be taxed as a trust for such year if it was taxable as a trust under the regulations or any interpretative ruling of the Bureau of Internal Revenue in force at the time the return was filed or when the trust was terminated. Retroactive relief appears to be proper in connection with organizations of this character because in many cases no question was raised as to tax liability until after the trust had been dissolved. It is believed that the foregoing rule will operate equitably.

It was the practice in some States, antedating even the 1913 act, to subdivide and sell real estate through the agency of a trustee in the manner outlined in section 704(b). Under the construction placed on prior laws by the department and by some of the courts such organizations may be taxable as associations or corporations rather than as trusts. In many cases the trust has long since terminated, the trust funds have been distributed, and if the trustee is held liable for a corporation tax there will be no means by which reimbursement from the beneficiaries can now be obtained. In all of these cases the venture has been taxed as a trust under former departmental rulings and such tax has been paid.

In order to adjust the matter on a reasonably equitable basis, section 704(b) provides that any trust which comes within the several limits and conditions in that subsection shall be taxed as a trust and not as an association or corporation.

Bureau of Internal Revenue—Personnel

As has been explained, heretofore, section 707 of the House bill authorizing the Secretary of the Treasury to increase salaries of an adequate number of competent personnel to handle the work of the General Counsel's Office and of the Bureau of Internal Revenue will not be necessary if the amendments to the classification act of 1923, proposed in other legislation become law. Consequently, this section of the House bill is eliminated.

Sec. 706. Bureau of Internal Revenue—Traveling Expenses

Under existing law (39 Stat. 87) the Commissioner of Internal Revenue may designate the post of duty of the employees of the Internal Revenue Service engaged in field work. Such employees, when ordered from their designated post of duty, are entitled to receive their traveling expenses and subsistence allowances. However, the commissioner is unable to bring field agents to Washington except for temporary detail (34 Stat. 449, sec. 6). The creation of the special advisory committee and the necessity of procuring for it the best personnel in the Internal Revenue Service has made it advisable to grant authority for the detail beyond the temporary detail of 60 days now permitted. The grant of this authority carries with it the authority to pay the traveling and subsistence expenses or allowances, in accordance with existing law.

APPENDIX A

Actual and estimated receipts, fiscal years 1927 and 1929

[Under the revenue act of 1926]

Source	Actual, 1927	Estimated, 1929
Customs	$603,000,000.00	$585,000,000.00
Customs, tonnage tax	2,000,000.00	2,000,000.00
Total customs	605,000,000.00	587,000,000.00
Internal revenue:		
Current income tax	1,889,000,000.00	1,890,000,000.00
Back income taxes	331,000,000.00	220,000,000.00
Total income tax	2,220,000,000.00	2,110,000,000.00
Miscellaneous internal revenue (see details below)	646,000,000.00	630,000,000.00
Total internal revenue	2,866,000,000.00	2,740,000,000.00
Total customs and internal revenue	3,471,000,000.00	3,327,000,000.00
Miscellaneous receipts	654,500,000.00	527,700,000.00
Total receipts	4,125,500,000.00	3,854,700,000.00
Miscellaneous internal revenue:		
Estate tax	$100,339,851.96	$50,000,000.00
Tobacco tax	376,170,205.04	420,000,000.00
Admissions	17,940,636.69	18,500,000.00
Dues	10,436,620.79	10,000,000.00
Automobiles	66,437,881.32	65,000,000.00
Pistols and revolvers	102,539.17	[1]
Use of yachts and pleasure boats	7,966.72	[1]
Stamp taxes—		
Bonds, capital stock issues, etc	13,944,445.65	16,000,000.00
Capital stock transfers	16,674,102.63	20,000,000.00
Sale of produce on exchanges	2,854,554.45	3,500,000.00
Playing cards	4,742,468.50	5,500,000.00
Distilled spirits, etc	21,190,551.96	13,000,000.00
Cereal beverages	198,610.72	[1]
Oleomargarine, process butter, etc	3,185,297.13	3,500,000.00
Receipts under prohibition law	502,876.72	[1]
Collections through customhouses	40,302.09	[1]
Miscellaneous (over 90 per cent delinquent taxes in 1927)	1,969,337.30	2,000,000.00
Capital stock tax (repealed 1926)	8,970,230.93	3,000,000.00
Tax on narcotics	797,825.32	[1]
Total miscellaneous internal revenue taxes [2]	645,730,686.19	630,000,000.00

[1] Included in "Miscellaneous."
[2] Based upon the report of the Internal Revenue Bureau.

APPENDIX B

Income-tax collections for fiscal year 1927 and the first nine months of fiscal year 1928, by quarters

[Separated as to prior year and current returns]

Quarter ended—	Current corporation	Current individual	Total current taxes	Back corporation	Back individual	Total back taxes	Total collections
Sept. 30, 1926	$275, 457, 762. 96	$186, 642, 158. 12	$462, 099, 921. 08	$44, 125, 054. 13	$26, 358, 881. 17	$70, 483, 935. 30	$532, 583, 856. 38
Dec. 31, 1926	268, 110, 372. 84	181, 663, 780. 55	449, 774, 153. 39	37, 653, 734. 48	22, 661, 169. 32	60, 314, 903. 80	510, 089, 057. 19
Mar. 31, 1927	304, 209, 249. 65	206, 156, 942. 64	510, 366, 192. 29	43, 686, 894. 22	50, 530, 895. 24	94, 217, 789. 46	604, 583, 981. 75
June 30, 1927	277, 922, 892. 55	188, 312, 458. 14	466, 235, 350. 69	56, 846, 572. 07	49, 613, 625. 64	106, 460, 197. 71	572, 695, 548. 40
Fiscal year 1927	1, 125, 700, 278. 00	762, 775, 339. 45	1, 888, 475, 617. 45	182, 312, 254. 90	149, 164, 571. 37	331, 476, 826. 27	2, 219, 962, 443. 72
Sept. 30, 1927	289, 035, 961. 82	170, 890, 130. 51	459, 926, 092. 33	39, 852, 003. 17	17, 939, 234. 03	57, 791, 237. 20	517, 717, 329. 53
Dec. 31, 1927	295, 670, 483. 44	157, 023, 917. 43	452, 694, 400. 87	29, 044, 810. 41	18, 771, 428. 00	47, 815, 738. 41	500, 510, 139. 28
Mar. 31, 1928	263, 882, 212. 78	249, 060, 687. 98	512, 942, 900. 76	53, 676, 058. 19	30, 518, 793. 22	84, 194, 851. 41	597, 137, 752. 17
Total (9 months)	848, 588, 658. 04	576, 974, 735. 92	1, 425, 563, 393. 96	122, 572, 371. 77	67, 229, 455. 25	189, 801, 827. 02	1, 615, 365, 220. 98

[NOTE.—Apportionment between corporations and individuals, for fiscal year 1927, is estimated.]

APPENDIX C

Statement showing on basis of daily Treasury statements public-debt retirements from specific sources for each fiscal year from 1920 to 1927

[War debt reached its peak of $26,596,701,648.01 in the fiscal year 1920 on August 31, 1919]

June 30	Public-debt retirements chargeable against ordinary receipts: Sinking fund	Foreign repayments	Bonds received under the debt settlements	Received for estate taxes in bonds or notes	Franchise tax receipts	Miscellaneous: Gifts, forfeitures, etc.	Total	Surplus of receipts	Decrease in general fund balance	Total debt reduction	Total gross debt
1919											$25,484,506,160
1920		$72,669,900		$3,141,050	$2,922,450	$12,950	$78,746,350	$212,475,196	$893,963,145	$1,185,184,693	24,299,321,467
1921	$261,100,250	73,939,300		26,348,950	60,724,500	168,500 4,842,066	422,281,500 4,842,066	86,723,772	[1] 191,976,423	321,870,915	23,977,450,552
1922	276,046,000	64,837,900		21,084,850	60,333,000	392,850	422,694,600	313,801,651	277,572,593	1,014,068,844	22,963,381,708
1923	284,018,800	32,140,000	$68,752,950	6,568,550	10,815,300	554,891	402,850,491	309,657,460	[1] 98,833,606	613,674,343	22,349,707,365
1924	295,987,350	38,509,150	110,878,450	8,897,050	3,634,550	93,200	457,999,750	505,366,986	135,527,640	1,098,894,376	21,250,812,989
1925	306,308,400	386,100	158,793,500	47,550	794,160	208,404	466,538,114	250,505,238	17,575,749	734,619,101	20,516,193,888
1926	317,091,750	4,393,500	165,260,000		567,901	62,900	487,376,051	377,767,817	7,833,705	872,077,573	19,643,216,315
1927	333,528,400	19,254,500	159,961,800		1,231,835	5,578,310	519,554,845	635,809,922	[1] 24,055,384	1,131,309,283	18,511,906,932
Total	2,074,080,950	306,138,350	663,646,700	66,088,000	141,023,696	11,914,071	3,262,883,767	2,692,108,044	1,017,607,417	6,972,599,228	

Retirements from—	
Charges against ordinary receipts	$3,262,883,767
Surplus of receipts	2,692,108,044
Reduction in general fund balance	1,017,607,417
Total	6,972,599,228

Total gross debt June 30, 1919	$25,484,506,160
Total gross debt June 30, 1927	18,511,906,932
Total	6,972,599,228

[1] Increase in net balance in general fund—operates as an increase in total gross debt.

NOTE.—The above detailed figures of retirements chargeable against ordinary receipts for the fiscal year 1921 include $4,842,066.45 written off the debt Dec. 31, 1920, on account of fractional currency estimated to have been irrevocably lost or destroyed in circulation.

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