

54258

Parkin

[COMMITTEE PRINT]
REVENUE ACT OF 1934

COMPARATIVE PRINT

Showing Changes from Existing Law Made by the Bill as Reported by
Senate Finance Committee

73^D CONGRESS
2^D SESSION

H. R. 7835

IN THE SENATE OF THE UNITED STATES

FEBRUARY 20 (calendar day, FEBRUARY 29), 1934

Read twice and referred to the Committee on Finance

[Part printed in italic is new matter; part struck through is present law proposed to be omitted; part in roman type is present law in which no change is proposed]

AN ACT

To provide revenue, equalize taxation, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, divided into titles and sections according to
4 the following Table of Contents, may be cited as the "Reve-
5 nue Act of ~~1932~~ 1934":

J. 48873—1

BEST AVAILABLE COPY

TABLE OF CONTENTS

TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

- Sec. 1. Application of title.
- Sec. 2. Cross references.
- Sec. 3. Classification of provisions.
- Sec. 4. Special classes of taxpayers.

SUBTITLE B—GENERAL PROVISIONS

PART I—RATES OF TAX

- Sec. 11. Normal tax on individuals.
- Sec. 12. Surtax on individuals.
- Sec. 13. Tax on corporations.
- Sec. 14. Taxable period embracing years with different laws.

PART II—COMPUTATION OF NET INCOME

- Sec. 21. Net income.
- Sec. 22. Gross income.
- Sec. 23. Deductions from gross income.
- Sec. 24. Items not deductible.
- Sec. 25. Credits of individual against net income.
- Sec. 26. Credits of corporation against net income.

PART III—CREDITS AGAINST TAX

- Sec. 31. Taxes of foreign countries and possessions of United States.
- Sec. 32. Taxes withheld at source.
- Sec. 33. Erroneous payments. *Credit for overpayments.*

PART IV—ACCOUNTING PERIODS AND METHODS OF ACCOUNTING

- Sec. 41. General rule.
- Sec. 42. Period in which items of gross income included.
- Sec. 43. Period for which deductions and credits taken.
- Sec. 44. Installment basis.
- Sec. 45. Allocation of income and deductions.
- Sec. 46. Change of accounting period.
- Sec. 47. Returns for a period of less than twelve months.
- Sec. 48. Definitions.

PART V—RETURNS AND PAYMENT OF TAX

- Sec. 51. Individual returns.
- Sec. 52. Corporation returns.
- Sec. 53. Time and place for filing returns.
- Sec. 54. Records and special returns.
- Sec. 55. Publicity of returns.
- Sec. 56. Payment of tax.
- Sec. 57. Examination of return and determination of tax.
- Sec. 58. Additions to tax and penalties.
- Sec. 59. Administrative proceedings.

PART VI—MISCELLANEOUS PROVISIONS

- Sec. 61. Laws made applicable.
- Sec. 62. Rules and regulations.
- Sec. 63. Taxes in lieu of taxes under 1938 1939 Act.
- Sec. 64. Short title.
- Sec. 65. Effective date of title.

SUBTITLE C—SUPPLEMENTAL PROVISIONS

SUPPLEMENT A—RATES OF TAX

- Sec. 101. Capital net gains and losses.
- Sec. 102. Sale of mines and oil or gas wells.

- Sec. ~~103~~ 101. Exemptions from tax on corporations.
 Sec. ~~104~~ 104. Accumulation of surplus to evade internal-revenue taxes.
 Sec. ~~105~~ 105. Taxable period embracing years with different laws.
 Sec. 108. Surtax on corporations improperly accumulating surplus.
 Sec. 109. Rates of tax on citizens and corporations of certain foreign countries.

SUPPLEMENT B—COMPUTATION OF NET INCOME

- Sec. 111. Determination of amount of, and recognition of, gain or loss.
 Sec. 112. Recognition of gain or loss.
 Sec. 113. Adjusted basis for determining gain or loss.
 Sec. 114. Basis for depreciation and depletion.
 Sec. 115. Distributions by corporations.
 Sec. 116. Exclusions from gross income.
 Sec. 117. Capital gains and losses.
 Sec. 118. Loss from wash sales of stock or securities.
 Sec. 119. Income from sources within United States.
 Sec. 120. Unlimited deduction for charitable and other contributions.

SUPPLEMENT C—CREDITS AGAINST TAX

- Sec. 131. Taxes of foreign countries and possessions of United States.
 Sec. ~~132~~ 132. Payments under 1928 Act.

SUPPLEMENT D—RETURNS AND PAYMENT OF TAX

- Sec. 141. Consolidated returns of corporations.
 Sec. 142. Fiduciary returns.
 Sec. 143. Withholding of tax at source.
 Sec. 144. Payment of corporation income tax at source.
 Sec. 145. Penalties.
 Sec. 146. Closing by Commissioner of taxable year.
 Sec. 147. Information at source.
 Sec. 148. Information by corporations.
 Sec. 149. Returns of brokers.
 Sec. 150. Collection of foreign items.

SUPPLEMENT E—ESTATES AND TRUSTS

- Sec. 161. Imposition of tax.
 Sec. 162. Net income.
 Sec. 163. Credits against net income.
 Sec. 164. Different taxable years.
 Sec. 165. Employers' trusts.
 Sec. 166. Revocable trusts.
 Sec. 167. Income for benefit of grantor.
 Sec. ~~168~~ 168. Capital net gains and losses.
 Sec. ~~170~~ 170. Taxes of foreign countries and possessions of United States.

SUPPLEMENT F—PARTNERSHIPS

- Sec. 181. Partnership not taxable.
 Sec. 182. Tax of partners.
 Sec. 183. Computation of partnership income.
 Sec. 184. Credits against net income.
 Sec. 185. Earned income.
 Sec. ~~186~~ 186. Capital net gains and losses.
 Sec. ~~188~~ 188. Taxes of foreign countries and possessions of United States.
 Sec. ~~189~~ 189. Partnership returns.
 Sec. 188. Different taxable years of partner and partnership.

SUPPLEMENT G—INSURANCE COMPANIES

- Sec. 201. Tax on life insurance companies.
 Sec. 202. Gross income of life insurance companies.
 Sec. 203. Net income of life insurance companies.
 Sec. 204. Insurance companies other than life or mutual.
 Sec. ~~205~~ 205. Taxes of foreign countries and possessions of United States.
 Sec. ~~207~~ 207. Computation of gross income.
 Sec. ~~208~~ 207. Mutual insurance companies other than life.

SUPPLEMENT H--NONRESIDENT ALIEN INDIVIDUALS

- Sec. 911. Normal tax.
- Sec. 919 *§11*. Gross income.
- Sec. 913 *§12*. Deductions.
- Sec. 914 *§13*. Credits against net income.
- Sec. 915 *§14*. Allowance of deductions and credits.
- Sec. 916 *§15*. Credits against tax.
- Sec. 917 *§16*. Returns.
- Sec. 918 *§17*. Payment of tax.

SUPPLEMENT I--FOREIGN CORPORATIONS

- Sec. 231. Gross income.
- Sec. 232. Deductions.
- Sec. 233. Allowance of deductions and credits.
- Sec. 234. Credits against tax.
- Sec. 235. Returns.
- Sec. 236. Payment of tax.
- Sec. 237. Foreign insurance companies.
- Sec. 238. Affiliation.

SUPPLEMENT J--POSSESSIONS OF THE UNITED STATES

- Sec. 251. Income from sources within possessions of United States.
- Sec. 252. Citizens of possessions of United States.

SUPPLEMENT K--CHINA TRADE ACT CORPORATIONS

- Sec. 261. Credit against net income.
- Sec. 262. Credits against the tax.
- Sec. 263. Affiliation.
- Sec. 264. Income of shareholders.

SUPPLEMENT L--ASSESSMENT AND COLLECTION OF DEFICIENCIES

- Sec. 271. Definition of deficiency.
- Sec. 272. Procedure in general.
- Sec. 273. Jeopardy assessments.
- Sec. 274. Bankruptcy and receiverships.
- Sec. 275. Period of limitation upon assessment and collection.
- Sec. 276. Same--Exceptions.
- Sec. 277. Suspension of running of statute.

SUPPLEMENT M--INTEREST AND ADDITIONS TO THE TAX

- Sec. 291. Failure to file return.
- Sec. 292. Interest on deficiencies.
- Sec. 293. Additions to the tax in case of deficiency.
- Sec. 294. Additions to the tax in case of nonpayment.
- Sec. 295. Time extended for payment of tax shown on return.
- Sec. 296. Time extended for payment of deficiency.
- Sec. 297. Interest in case of jeopardy assessments.
- Sec. 298. Bankruptcy and receiverships.
- Sec. 299. Removal of property or departure from United States.

SUPPLEMENT N--CLAIMS AGAINST TRANSFEREES AND FIDUCIARIES

- Sec. 311. Transferred assets.
- Sec. 312. Notice of fiduciary relationship.

SUPPLEMENT O--OVERPAYMENTS

- Sec. 321. Overpayment of installment.
- Sec. 322. Refunds and credits.

TITLE IA—ADDITIONAL INCOME TAXES

Sec. 351. Surplus on personal holding companies.

TITLE II—AMENDMENTS TO ESTATE TAX

Sec. 401. Revocable trusts.

Sec. 402. Prior taxed property.

Sec. 403. Citizenship and residence of decedents.

Sec. 404. Real estate situated outside the United States.

Sec. 405. Estate tax rates.

Sec. 406. Nondeductibility of certain transfers.

TITLE III—AMENDMENTS TO PRIOR ACTS AND MISCELLANEOUS

Sec. 501. Period for petition to board under prior Acts.

Sec. 502. Recovery of amounts erroneously refunded.

Sec. 503. Statute of limitations on suits for refund.

Sec. 504. Overpayments found by the Board of Tax Appeals.

Sec. 505. Bankruptcy and receiverships.

Sec. 506. Retroactivity of regulations, rulings, etc.

Sec. 507. Examination of books and witnesses.

Sec. 508. Sale of personal property under distraint.

Sec. 509. Discharge of liens.

Sec. 510. Jeopardy assessments.

Sec. 511. Gifts of property subject to power.

Sec. 512. General counsel for the Treasury.

Sec. 513. Assistants in the Treasury.

Sec. 514. Postal rates.

Sec. 515. Commissioner as party to suit.

Sec. 516. Nondeductibility of certain gifts.

TITLE IV—EXCISE TAXES

Sec. 601. Termination of soft-drink tax.

Sec. 602. Tax on certain oils.

Sec. 603. Taxes on lubricating oil and gasoline.

Sec. 604. Producers' tax on crude petroleum.

Sec. 605. Tax on refining of crude petroleum.

Sec. 606. Enforcement of liability for taxes collected.

Sec. 607. Tax on furs.

Sec. 608. Termination of tax on clocks and clock parts.

Sec. 609. Tax on cigarettes.

Sec. 610. Tax on matches.

Sec. 611. Stamp tax on sales of produce for future delivery.

TITLE V—CAPITAL STOCK AND EXCESS-PROFITS TAXES

Sec. 701. Capital stock tax.

Sec. 702. Excess-profits tax.

Sec. 703. Capital stock tax and excess-profits tax imposed by National Industrial Recovery Act.

TITLE VI—GENERAL PROVISIONS

Sec. 801. Definitions.

Sec. 802. Separability clause.

Sec. 803. Effective date of Act.

1 SEC. 4. SPECIAL CLASSES OF TAXPAYERS.

2 The application of the General Provisions and of Supple-
3 ments A to D, inclusive, to each of the following special
4 classes of taxpayers, shall be subject to the exceptions and
5 additional provisions found in the Supplement applicable to
6 such class, as follows:

7 (a) Estates and trusts and the beneficiaries thereof,—
8 Supplement E.

9 (b) Members of partnerships,—Supplement F.

10 (c) Insurance companies,—Supplement G.

11 (d) Nonresident alien individuals,—Supplement H.

12 (e) Foreign corporations,—Supplement I.

13 (f) Individual citizens of any possession of the United
14 States who are not otherwise citizens of the United States and
15 who are not residents of the United States,—Supplement J.

16 (g) Individual citizens of the United States or domestic
17 corporations, satisfying the conditions of section 251 by
18 reason of deriving a large portion of their gross income from
19 sources within a possession of the United States,—Supple-
20 ment J.

21 (h) China Trade Act corporations,—Supplement K.

1 **SUBTITLE B—GENERAL PROVISIONS**

2 **Part I—Rates of Tax**

3 **SEC. 11. NORMAL TAX ON INDIVIDUALS.**

4 *There shall be levied, collected, and paid for each tax-*
 5 *able year upon the net income of every individual a normal*
 6 *tax equal to the sum of the following:*

7 *(a) 4 per centum of the first \$4,000 of the*
 8 *amount of the net income in excess of the credits against*
 9 *net income provided in section 25; and*

10 *(b) 8 per centum of the remainder of such excess*
 11 *amount.*

12 *There shall be levied, collected, and paid for each*
 13 *taxable year upon the net income of every individual a*
 14 *normal tax of 4 per centum of the amount of the net income*
 15 *in excess of the credits against net income provided in*
 16 *section 25.*

17 **SEC. 12. SURTAX ON INDIVIDUALS.**

18 *(a) RATES OF SURTAX.—There shall be levied, col-*
 19 *lected, and paid for each taxable year upon the net income*
 20 *of every individual a surtax as follows:*

21 *Upon a net income of \$6,000 there shall be no*
 22 *surtax; upon net incomes in excess of \$6,000 and not*
 23 *in excess of \$10,000, 1 per centum of such excess:*

24 *\$40 upon net incomes of \$10,000; and upon net*
 25 *incomes in excess of \$10,000 and not in excess of*
 26 *\$12,000, 2 per centum in addition of such excess.*

1 **\$90 upon net incomes of \$12,000; and upon net**
2 **incomes in excess of \$12,000 and not in excess of**
3 **\$14,000, 3 per centum in addition of such excess.**

4 **\$140 upon net incomes of \$14,000; and upon net**
5 **incomes in excess of \$14,000 and not in excess of**
6 **\$16,000, 4 per centum in addition of such excess.**

7 **\$220 upon net incomes of \$16,000; and upon net**
8 **incomes in excess of \$16,000 and not in excess of**
9 **\$18,000, 5 per centum in addition of such excess.**

10 **\$320 upon net incomes of \$18,000; and upon net**
11 **incomes in excess of \$18,000 and not in excess of**
12 **\$20,000, 6 per centum in addition of such excess.**

13 **\$440 upon net incomes of \$20,000; and upon net**
14 **incomes in excess of \$20,000 and not in excess of**
15 **\$22,000, 8 per centum in addition of such excess.**

16 **\$600 upon net incomes of \$22,000; and upon net**
17 **incomes in excess of \$22,000 and not in excess of**
18 **\$24,000, 9 per centum in addition of such excess.**

19 **\$780 upon net incomes of \$24,000; and upon net**
20 **incomes in excess of \$24,000 and not in excess of**
21 **\$26,000, 10 per centum in addition of such excess.**

22 **\$980 upon net incomes of \$26,000; and upon net**
23 **incomes in excess of \$26,000 and not in excess of**
24 **\$28,000, 11 per centum in addition of such excess.**

1 **\$1,200** upon net incomes of **\$28,000**; and upon
2 net incomes in excess of **\$28,000** and not in excess of
3 **\$30,000**, **12** per centum in addition of such excess.

4 **\$1,440** upon net incomes of **\$30,000**; and upon
5 net incomes in excess of **\$30,000** and not in excess of
6 **\$32,000**, **12** per centum in addition of such excess.

7 **\$1,700** upon net incomes of **\$32,000**; and upon
8 net incomes in excess of **\$32,000** and not in excess of
9 **\$36,000**, **15** per centum in addition of such excess.

10 **\$2,300** upon net incomes of **\$36,000**; and upon
11 net incomes in excess of **\$36,000** and not in excess of
12 **\$38,000**, **16** per centum in addition of such excess.

13 **\$2,620** upon net incomes of **\$38,000**; and upon
14 net incomes in excess of **\$38,000** and not in excess of
15 **\$40,000**, **17** per centum in addition of such excess.

16 **\$2,960** upon net incomes of **\$40,000**; and upon
17 net incomes in excess of **\$40,000** and not in excess of
18 **\$42,000**, **18** per centum in addition of such excess.

19 **\$3,320** upon net incomes of **\$42,000**; and upon
20 net incomes in excess of **\$42,000** and not in excess of
21 **\$44,000**, **19** per centum in addition of such excess.

22 **\$3,700** upon net incomes of **\$44,000**; and upon
23 net incomes in excess of **\$44,000** and not in excess of
24 **\$46,000**, **20** per centum in addition of such excess.

1 **\$4,100** upon net incomes of **\$48,000**; and upon
2 net incomes in excess of **\$48,000** and not in excess of
3 **\$48,000**, **21** per centum in addition of such excess.

4 **\$4,520** upon net incomes of **\$48,000**; and upon
5 net incomes in excess of **\$48,000** and not in excess of
6 **\$50,000**, **22** per centum in addition of such excess.

7 **\$4,960** upon net incomes of **\$50,000**; and upon
8 net incomes in excess of **\$50,000** and not in excess of
9 **\$52,000**, **23** per centum in addition of such excess.

10 **\$5,420** upon net incomes of **\$52,000**; and upon
11 net incomes in excess of **\$52,000** and not in excess of
12 **\$54,000**, **24** per centum in addition of such excess.

13 **\$5,900** upon net incomes of **\$54,000**; and upon
14 net incomes in excess of **\$54,000** and not in excess of
15 **\$56,000**, **25** per centum in addition of such excess.

16 **\$6,400** upon net incomes of **\$56,000**; and upon
17 net incomes in excess of **\$56,000** and not in excess of
18 **\$58,000**, **26** per centum in addition of such excess.

19 **\$6,920** upon net incomes of **\$58,000**; and upon
20 net incomes in excess of **\$58,000** and not in excess of
21 **\$60,000**, **27** per centum in addition of such excess.

22 **\$7,460** upon net incomes of **\$60,000**; and upon
23 net incomes in excess of **\$60,000** and not in excess of
24 **\$62,000**, **28** per centum in addition of such excess.

1 **\$8,020** upon net incomes of **\$62,000**; and upon
2 net incomes in excess of **\$62,000** and not in excess of
3 **\$64,000**, **20** per centum in addition of such excess.

4 **\$8,600** upon net incomes of **\$64,000**; and upon
5 net incomes in excess of **\$64,000** and not in excess of
6 **\$66,000**, **20** per centum in addition of such excess.

7 **\$9,200** upon net incomes of **\$66,000**; and upon
8 net incomes in excess of **\$66,000** and not in excess of
9 **\$68,000**, **21** per centum in addition of such excess.

10 **\$9,820** upon net incomes of **\$68,000**; and upon
11 net incomes in excess of **\$68,000** and not in excess of
12 **\$70,000**, **22** per centum in addition of such excess.

13 **\$10,460** upon net incomes of **\$70,000**; and upon
14 net incomes in excess of **\$70,000** and not in excess of
15 **\$72,000**, **23** per centum in addition of such excess.

16 **\$11,120** upon net incomes of **\$72,000**; and upon
17 net incomes in excess of **\$72,000** and not in excess of
18 **\$74,000**, **24** per centum in addition of such excess.

19 **\$11,800** upon net incomes of **\$74,000**; and upon
20 net incomes in excess of **\$74,000** and not in excess of
21 **\$76,000**, **25** per centum in addition of such excess.

22 **\$12,500** upon net incomes of **\$76,000**; and upon
23 net incomes in excess of **\$76,000** and not in excess
24 of **\$78,000**, **26** per centum in addition of such excess.

1 **\$12,220** upon net incomes of **\$78,000**; and upon
2 net incomes in excess of **\$78,000** and not in excess
3 of **\$80,000**, 27 per centum in addition of such excess.

4 **\$12,960** upon net incomes of **\$80,000**; and upon
5 net incomes in excess of **\$80,000** and not in excess
6 of **\$82,000**, 28 per centum in addition of such excess.

7 **\$14,720** upon net incomes of **\$82,000**; and upon
8 net incomes in excess of **\$82,000** and not in excess
9 of **\$84,000**, 30 per centum in addition of such excess.

10 **\$15,500** upon net incomes of **\$84,000**; and upon
11 net incomes in excess of **\$84,000** and not in excess
12 of **\$86,000**, 40 per centum in addition of such excess.

13 **\$16,800** upon net incomes of **\$86,000**; and upon
14 net incomes in excess of **\$86,000** and not in excess
15 of **\$88,000**, 41 per centum in addition of such excess.

16 **\$17,120** upon net incomes of **\$88,000**; and upon
17 net incomes in excess of **\$88,000**, and not in excess
18 of **\$90,000**, 42 per centum in addition of such excess.

19 **\$17,960** upon net incomes of **\$90,000**; and upon
20 net incomes in excess of **\$90,000** and not in excess of
21 **\$92,000**, 43 per centum in addition of such excess.

22 **\$18,820** upon net incomes of **\$92,000**; and upon
23 net incomes in excess of **\$92,000** and not in excess of
24 **\$94,000**, 44 per centum in addition of such excess.

1 **\$19,700** upon net incomes of **\$94,000**; and upon
2 net incomes in excess of **\$94,000** and not in excess of
3 **\$96,000**, 45 per centum in addition of such excess.

4 **\$20,600** upon net incomes of **\$96,000**; and upon
5 net incomes in excess of **\$96,000** and not in excess of
6 **\$98,900**, 46 per centum in addition of such excess.

7 **\$21,520** upon net incomes of **\$98,000**; and upon
8 net incomes in excess of **\$98,000** and not in excess of
9 **\$100,000**, 47 per centum in addition of such excess.

10 **\$22,460** upon net incomes of **\$100,000**; and upon
11 net incomes in excess of **\$100,000** and not in excess of
12 **\$150,000**, 48 per centum in addition of such excess.

13 **\$46,460** upon net incomes of **\$150,000**; and upon
14 net incomes in excess of **\$150,000** and not in excess of
15 **\$200,000**, 49 per centum in addition of such excess.

16 **\$70,960** upon net incomes of **\$200,000**; and upon
17 net incomes in excess of **\$200,000** and not in excess of
18 **\$300,000**, 50 per centum in addition of such excess.

19 **\$120,960** upon net incomes of **\$300,000**; and
20 upon net incomes in excess of **\$300,000** and not in
21 excess of **\$400,000**, 51 per centum in addition of such
22 excess.

23 **\$171,960** upon net incomes of **\$400,000**; and
24 upon net incomes in excess of **\$400,000** and not in
25 excess of **\$500,000**, 52 per centum in addition of such
26 excess.

1 \$222,060 upon net incomes of \$500,000; and
 2 upon net incomes in excess of \$500,000 and not in
 3 excess of \$750,000, 53 per centum in addition of such
 4 excess.

5 \$356,460 upon net incomes of \$750,000; and
 6 upon net incomes in excess of \$750,000 and not in
 7 excess of \$1,000,000, 54 per centum in addition of such
 8 excess.

9 \$401,460 upon net incomes of \$1,000,000; and
 10 upon net incomes in excess of \$1,000,000, 55 per
 11 centum in addition of such excess.

12 (a) *DEFINITION OF "SURTAX NET INCOME".—As*
 13 *used in this section the term "surtax net income" means the*
 14 *amount of the net income in excess of the credits against net*
 15 *income provided in section 25 (b).*

16 (b) *RATES OF SURTAX.—There shall be levied, col-*
 17 *lected, and paid for each taxable year upon the surtax net*
 18 *income of every individual a surtax as follows:*

19 *Upon a surtax net income of \$4,000 there shall be*
 20 *no surtax; upon surtax net incomes in excess of \$4,000*
 21 *and not in excess of \$8,000, 4 per centum of such excess.*

22 *\$160 upon surtax net incomes of \$8,000; and upon*
 23 *surtax net incomes in excess of \$8,000 and not in excess*
 24 *of \$10,000, 5 per centum in addition of such excess.*

25 *\$260 upon surtax net incomes of \$10,000; and*
 26 *upon surtax net incomes in excess of \$10,000 and not in*

1 excess of \$12,000, 6 per centum in addition of such
2 excess.

3 \$380 upon surtax net incomes of \$12,000; and
4 upon surtax net incomes in excess of \$12,000 and not
5 in excess of \$14,000, 7 per centum in addition of such
6 excess.

7 \$520 upon surtax net incomes of \$14,000; and
8 upon surtax net incomes in excess of \$14,000 and not
9 in excess of \$16,000, 8 per centum in addition of such
10 excess.

11 \$680 upon surtax net incomes of \$16,000; and
12 upon surtax net incomes in excess of \$16,000 and not
13 in excess of \$18,000, 10 per centum in addition of
14 such excess.

15 \$880 upon surtax net incomes of \$18,000; and
16 upon surtax net incomes in excess of \$18,000 and not
17 in excess of \$20,000, 12 per centum in addition of such
18 excess.

19 \$1,120 upon surtax net incomes of \$20,000; and
20 upon surtax net incomes in excess of \$20,000 and not
21 in excess of \$22,000, 14 per centum in addition of
22 such excess.

23 \$1,400 upon surtax net incomes of \$22,000; and
24 upon surtax net incomes in excess of \$22,000 and not

1 *in excess of \$26,000, 16 per centum in addition of such*
2 *excess.*

3 *\$2,040 upon surtax net incomes of \$26,000; and*
4 *upon surtax net incomes in excess of \$26,000 and not*
5 *in excess of \$32,000, 18 per centum in addition of such*
6 *excess.*

7 *\$3,120 upon surtax net incomes of \$32,000; and*
8 *upon surtax net incomes in excess of \$32,000 and not*
9 *in excess of \$38,000, 21 per centum in addition of*
10 *such excess.*

11 *\$4,380 upon surtax net incomes of \$38,000; and*
12 *upon surtax net incomes in excess of \$38,000 and not*
13 *in excess of \$44,000, 24 per centum in addition of such*
14 *excess.*

15 *\$5,820 upon surtax net incomes of \$44,000; and*
16 *upon surtax net incomes in excess of \$44,000 and not*
17 *in excess of \$50,000, 27 per centum in addition of such*
18 *excess.*

19 *\$7,440 upon surtax net incomes of \$50,000; and*
20 *upon surtax net incomes in excess of \$50,000 and not*
21 *in excess of \$56,000, 30 per centum in addition of such*
22 *excess.*

23 *\$9,240 upon surtax net incomes of \$56,000; and*
24 *upon surtax net incomes in excess of \$56,000 and not*

1 in excess of \$62,000, 33 per centum in addition of such
2 excess.

3 \$11,220 upon surtax net incomes of \$62,000;
4 and upon surtax net incomes in excess of \$62,000 and
5 not in excess of \$68,000, 36 per centum in addition of
6 such excess.

7 \$13,380 upon surtax net incomes of \$68,000;
8 and upon surtax net incomes in excess of \$68,000 and
9 not in excess of \$74,000, 39 per centum in addition of
10 such excess.

11 \$15,720 upon surtax net incomes of \$74,000;
12 and upon surtax net incomes in excess of \$74,000 and
13 not in excess of \$80,000, 42 per centum in addition of
14 such excess.

15 \$18,240 upon surtax net incomes of \$80,000; and
16 upon surtax net incomes in excess of \$80,000 and not in
17 excess of \$90,000, 45 per centum in addition of such
18 excess.

19 \$22,740 upon surtax net incomes of \$90,000; and
20 upon surtax net incomes in excess of \$90,000 and not
21 in excess of \$100,000, 50 per centum in addition of
22 such excess.

23 \$27,740 upon surtax net incomes of \$100,000;
24 and upon surtax net incomes in excess of \$100,000

1 and not in excess of \$150,000, 52 per centum in
2 addition of such excess.

3 \$53,740 upon surtax net incomes of \$150,000;
4 and upon surtax net incomes in excess of \$150,000
5 and not in excess of \$200,000, 53 per centum in addi-
6 tion of such excess.

7 \$80,240 upon surtax net incomes of \$200,000;
8 and upon surtax net incomes in excess of \$200,000
9 and not in excess of \$300,000, 54 per centum in
10 addition of such excess.

11 \$134,240 upon surtax net incomes of \$300,000;
12 and upon surtax net incomes in excess of \$300,000
13 and not in excess of \$400,000, 55 per centum in addi-
14 tion of such excess.

15 \$189,240 upon surtax net incomes of \$400,000;
16 and upon surtax net incomes in excess of \$400,000
17 and not in excess of \$500,000, 56 per centum in addi-
18 tion of such excess.

19 \$245,240 upon surtax net incomes of \$500,000;
20 and upon surtax net incomes in excess of \$500,000
21 and not in excess of \$750,000, 57 per centum in
22 addition of such excess.

23 \$387,740 upon surtax net incomes of \$750,000;
24 and upon surtax net incomes in excess of \$750,000 and

1 *not in excess of \$1,000,000, 58 per centum in addition*
 2 *of such excess.*

3 *\$532,740 upon surtax net incomes of \$1,000,000;*
 4 *and upon surtax net incomes in excess of \$1,000,000,*
 5 *59 per centum in addition of such excess.*

6 **(b) SALE OF MINES AND OIL OR GAS WELLS.**—For
 7 limitation of surtax attributable to sale of mines and oil or
 8 gas wells, see section 102.

9 **(c) CAPITAL NET GAINS AND LOSSES.**—For rate and
 10 computation of tax in lieu of normal and surtax in case of net
 11 incomes of not less than \$16,000, approximately, or in case
 12 of net incomes, excluding items of capital gain, capital loss,
 13 and capital deductions, of not less than \$16,000, approxi-
 14 mately, see section 101.

15 **(c) TAX ON PERSONAL HOLDING COMPANIES.**—For
 16 surtax on personal holding companies, see section 351.

17 **(d) EVASION AVOIDANCE OF SURTAXES BY INCOR-**
 18 **PORATION.**—For ~~tax~~ surtax on corporations which accumu-
 19 late surplus to evade avoid surtax on stockholders, see section
 20 104 102.

21 **SEC. 13. TAX ON CORPORATIONS.**

22 **(a) RATE OF TAX.**—There shall be levied, collected,
 23 and paid for each taxable year upon the net income of every
 24 corporation, a tax of 13½ per centum of the amount of the
 25 net income in excess of the credit against net income pro-

1 vided in section 26. (*For addition to rate in case of con-*
2 *solidated returns, see section 141.*)

3 (b) EXEMPT CORPORATIONS.—For corporations ex-
4 empt from tax, see section ~~103~~ 101.

5 (c) TAX ON PERSONAL HOLDING COMPANIES.—For
6 surtax on personal holding companies, see section 351.

7 ~~(e)~~ (d) IMPROPER ACCUMULATION OF SURPLUS.—
8 For ~~tax~~ surtax on corporations which accumulate surplus to
9 evade avoid internal-revenue tax surtax on stockholders, see
10 section ~~104~~ 102.

11 **SEC. 14. TAXABLE PERIOD EMBRACING YEARS WITH**
12 **DIFFERENT LAWS.**

13 If a taxable period embraces portions of two calendar
14 years for which the laws are different, the tax shall be
15 computed as provided in section 105.

16 **Part II—Computation of Net Income**

17 **SEC. 21. NET INCOME.**

18 “Net income” means the gross income computed
19 under section 22, less the deductions allowed by section 23.

20 **SEC. 22. GROSS INCOME.**

21 (a) GENERAL DEFINITION.—“Gross income” in-
22 cludes gains, profits, and income derived from salaries,
23 wages, or compensation for personal service, of whatever
24 kind and in whatever form paid, or from professions, voca-
25 tions, trades, businesses, commerce, or sales, or dealings in

1 property, whether real or personal, growing out of the
2 ownership or use of or interest in such property; also from
3 interest, rent, dividends, securities, or the transaction of
4 any business carried on for gain or profit, or gains or profits
5 and income derived from any source whatever. In the
6 case of Presidents of the United States and judges of courts
7 of the United States taking office after the date of the
8 enactment of this Act *June 6, 1932*, the compensation
9 received as such shall be included in gross income; and all
10 Acts fixing the compensation of such Presidents and judges
11 are hereby amended accordingly.

12 (b) EXCLUSIONS FROM GROSS INCOME.—The fol-
13 lowing items shall not be included in gross income and shall
14 be exempt from taxation under this title:

15 (1) LIFE INSURANCE.—Amounts received under
16 a life insurance contract paid by reason of the death of
17 the insured, whether in a single sum or ~~in installments~~
18 *otherwise* (but if such amounts are held by the insurer
19 under an agreement to pay interest thereon, the interest
20 payments shall be included in gross income) ;

21 (2) ANNUITIES, ETC.—Amounts received (other
22 than amounts paid by reason of the death of the insured
23 and interest payments on such amounts *and other than*
24 *amounts received as annuities*) under a life insurance,
25 ~~endowment, or annuity insurance or endowment~~ con-

1 tract, but if such amounts (when added to amounts
2 received before the taxable year under such contract)
3 exceed the aggregate premiums or consideration paid
4 (whether or not paid during the taxable year) then the
5 excess shall be included in gross income. *Amounts*
6 *received as an annuity under an annuity or endowment*
7 *contract shall be included in gross income; except that*
8 *there shall be excluded from gross income (until the*
9 *aggregate amount excluded from gross income under*
10 *this title or prior income tax laws in respect of such*
11 *annuity equals the aggregate premiums or considera-*
12 *tion paid for such annuity): (A) the excess of the*
13 *amount received in the taxable year over an amount*
14 *equal to 3 per centum of the aggregate premiums or*
15 *consideration paid for such annuity (whether or not*
16 *paid during such year), or (B) the entire amount of*
17 *the annuity if the sum thereof and amounts of other*
18 *annuities received in the same taxable year is not more*
19 *than \$500. In the case of a transfer for a valuable*
20 *consideration, by assignment or otherwise, of a life in-*
21 *surance, endowment, or annuity contract, or any inter-*
22 *est therein, only the actual value of such consideration*
23 *and the amount of the premiums and other sums sub-*
24 *sequently paid by the transferee shall be exempt from*
25 taxation under paragraph (1) or this paragraph;

1 (3) GIFTS, REQUESTS, AND DEVISES.—The value
2 of property acquired by gift, bequest, devise, or inherit-
3 ance (but the income from such property shall be
4 included in gross income) ;

5 (4) TAX-FREE INTEREST.—Interest upon (A)
6 the obligations of a State, Territory, or any political sub-
7 division thereof, or the District of Columbia; or (B)
8 securities issued under the provisions of the Federal
9 Farm Loan Act, or under the provisions of such Act as
10 amended obligations of a corporation organized under
11 Act of Congress, if such corporation is an instrumen-
12 tality of the United States; or (C) the obligations of
13 the United States or its possessions. Every person
14 owning any of the obligations or securities enumerated
15 in clause (A), (B), or (C) shall, in the return re-
16 quired by this title, submit a statement showing the
17 number and amount of such obligations and securities
18 owned by him and the income received therefrom, in
19 such form and with such information as the Commis-
20 sioner may require. In the case of obligations of the
21 United States issued after September 1, 1917 (other
22 than postal savings certificates of deposit) and in the
23 case of obligations of a corporation organized under Act
24 of Congress, the interest shall be exempt only if and
25 to the extent provided in the respective Acts authoriz-

1 ing the issue thereof as amended and supplemented, and
 2 shall be excluded from gross income only if and to the
 3 extent it is wholly exempt to the taxpayer from the
 4 taxes imposed by this title;

5 (5) COMPENSATION FOR INJURIES OR SICK-
 6 NESS.—Amounts received, through accident or health
 7 insurance or under workmen's compensation acts, as
 8 compensation for personal injuries or sickness, plus the
 9 amount of any damages received whether by suit or
 10 agreement on account of such injuries or sickness;

11 (6) MINISTERS.—The rental value of a dwelling
 12 house and appurtenances thereof furnished to a minister
 13 of the gospel as part of his compensation;

14 (7) MISCELLANEOUS ITEMS.—The following
 15 items, to the extent provided in section 116:

16 Earned income from sources without the
 17 United States;

18 Salaries of certain Territorial employees;

19 The income of foreign governments;

20 Income of States, municipalities, and other
 21 political subdivisions;

22 Receipts of shipowners' mutual protection
 23 and indemnity associations;

24 Dividends from China Trade Act corpora-
 25 tions.

1 (c) **INVENTORIES.**—Whenever in the opinion of the
2 Commissioner the use of inventories is necessary in order
3 clearly to determine the income of any taxpayer, inven-
4 tories shall be taken by such taxpayer upon such basis as
5 the Commissioner, with the approval of the Secretary, may
6 prescribe as conforming as nearly as may be to the best
7 accounting practice in the trade or business and as most
8 clearly reflecting the income.

9 (d) **DISTRIBUTIONS BY CORPORATIONS.**—Distribu-
10 tions by corporations shall be taxable to the shareholders as
11 provided in section 115.

12 (e) **DETERMINATION OF GAIN OR LOSS.**—In the case
13 of a sale or other disposition of property, the gain or loss
14 shall be computed as provided in sections 111, 112, and 113
15 *section 111.*

16 (f) **GROSS INCOME FROM SOURCES WITHIN AND**
17 **WITHOUT UNITED STATES.**—For computation of gross in-
18 come from sources within and without the United States,
19 see section 119.

20 **SEC. 23. DEDUCTIONS FROM GROSS INCOME.**

21 In computing net income there shall be allowed as
22 deductions:

23 (a) **EXPENSES.**—All the ordinary and necessary ex-
24 penses paid or incurred during the taxable year in carrying
25 on any trade or business, including a reasonable allowance

1 for salaries or other compensation for personal services
 2 actually rendered; traveling expenses (including the entire
 3 amount expended for meals and lodging) while away from
 4 home in the pursuit of a trade or business; and rentals
 5 or other payments required to be made as a condition to
 6 the continued use or possession, for purposes of the trade
 7 or business, of property to which the taxpayer has not
 8 taken or is not taking title or in which he has no equity.

9 (b) INTEREST.—All interest paid or accrued within
 10 the taxable year on indebtedness, except ~~(1)~~ on indebted-
 11 ness incurred or continued to purchase or carry obligations
 12 or securities (other than obligations of the United States
 13 issued after September 24, 1917, and originally subscribed
 14 for by the taxpayer) the interest upon which is wholly
 15 exempt from the taxes imposed by this title, ~~or (2)~~ on
 16 indebtedness incurred or continued in connection with the
 17 purchasing or carrying of an annuity.

18 (c) TAXES GENERALLY.—Taxes paid or accrued
 19 within the taxable year, except—

20 (1) Federal income, war-profits, and excess-
 21 profits taxes imposed by the authority of the United
 22 States;

23 (2) income, war-profits, and excess-profits taxes
 24 imposed by the authority of any foreign country or pos-
 25 session of the United States; but this deduction shall be

1 allowed in the case of a taxpayer who does not signify
 2 in his return his desire to have to any extent the
 3 benefits of section 131 (relating to credit for taxes
 4 of foreign countries and possessions of the United
 5 States); and

6 (3) *estate, inheritance, legacy, succession, and*
 7 *gift taxes; and*

8 ~~(3)~~ (4) taxes assessed against local benefits of a
 9 kind tending to increase the value of the property
 10 assessed; but this paragraph shall not exclude the allow-
 11 ance as a deduction of so much of such taxes as is
 12 properly allocable to maintenance or interest charges.

13 ~~For the purpose of this subsection, estate, inheritance, legacy,~~
 14 ~~and succession taxes accrue on the due date thereof, except~~
 15 ~~as otherwise provided by the law of the jurisdiction imposing~~
 16 ~~such taxes, and shall be allowed as a deduction only to the~~
 17 ~~estate.~~

18 (d) TAXES OF SHAREHOLDER PAID BY CORPORA-
 19 TION.—The deduction for taxes allowed by subsection (c)
 20 shall be allowed to a corporation in the case of taxes
 21 imposed upon a shareholder of the corporation upon his
 22 interest as shareholder which are paid by the corporation
 23 without reimbursement from the shareholder, but in such
 24 cases no deduction shall be allowed the shareholder for the
 25 amount of such taxes.

1 (e) **LOSSES BY INDIVIDUALS.**—~~Subject to the limita-~~
 2 ~~tions provided in subsection (x) of this section, in~~ *In* the
 3 case of an individual, losses sustained during the taxable
 4 year and not compensated for by insurance or otherwise—

5 (1) if incurred in trade or business; or

6 (2) if incurred in any transaction entered into for
 7 profit, though not connected with the trade or
 8 business; or

9 (3) of property not connected with the trade or
 10 business, if the loss arises from fires, storms, shipwreck,
 11 or other casualty, or from theft. No loss shall be allowed
 12 as a deduction under this paragraph if at the time of
 13 the filing of the return such loss has been claimed as
 14 a deduction for estate tax purposes in the estate tax
 15 return.

16 (f) **LOSSES BY CORPORATIONS.**—~~Subject to the limita-~~
 17 ~~tions provided in subsection (x) of this section, in~~ *In* the
 18 case of a corporation, losses sustained during the taxable
 19 year and not compensated for by insurance or otherwise.

20 (g) **WAGERING LOSSES.**—*Losses from wagering*
 21 *transactions shall be allowed only to the extent of the gains*
 22 *from such transactions.*

23 ~~(g)~~ (h) **BASIS FOR DETERMINING LOSS.**—The basis
 24 for determining the amount of deduction for losses sustained,
 25 to be allowed under subsection (e) or (f), shall be the

1 adjusted basis provided in section 113 (b) for determining
 2 the gain or loss from the sale or other disposition of
 3 property.

4 ~~(h)~~ (i) LOSS ON WASH SALES OF STOCK OR SECURI-
 5 TIES.—For disallowance of loss deduction in the case of
 6 sales of stock or securities where within thirty days before
 7 or after the date of the sale the taxpayer has acquired
 8 substantially identical property, see section 118.

9 (j) CAPITAL LOSSES.—Losses from sales or ex-
 10 changes of capital assets shall be allowed only to the extent
 11 provided in section 117(d).

12 ~~(j)~~ (k) BAD DEBTS.—Debts ascertained to be worth-
 13 less and charged off within the taxable year (or, in the discre-
 14 tion of the Commissioner, a reasonable addition to a reserve
 15 for bad debts) ; and when satisfied that a debt is recover-
 16 able only in part, the Commissioner may allow such debt
 17 in an amount not in excess of the part charged off within
 18 the taxable year, as a deduction.

19 ~~(k)~~ (l) DEPRECIATION.—A reasonable allowance for
 20 the exhaustion, wear and tear of property used in the trade or
 21 business, including a reasonable allowance for obsolescence.
 22 In the case of property held by one person for life with
 23 remainder to another person, the deduction shall be com-
 24 puted as if the life tenant were the absolute owner of the
 25 property and shall be allowed to the life tenant. In the

1 case of property held in trust the allowable deduction shall
2 be apportioned between the income beneficiaries and the
3 trustee in accordance with the pertinent provisions of the
4 instrument creating the trust, or, in the absence of such
5 provisions, on the basis of the trust income allocable to each.

6 (4) (m) DEPLETION.—In the case of mines, oil and gas
7 wells, other natural deposits, and timber, a reasonable allow-
8 ance for depletion and for depreciation of improvements,
9 according to the peculiar conditions in each case; such rea-
10 sonable allowance in all cases to be made under rules and
11 regulations to be prescribed by the Commissioner, with the
12 approval of the Secretary. In any case in which it is ascer-
13 tained as a result of operations or of development work that
14 the recoverable units are greater or less than the prior esti-
15 mate thereof, then such prior estimate (but not the basis for
16 depletion) shall be revised and the allowance under this
17 subsection for subsequent taxable years shall be based upon
18 such revised estimate. In the case of leases the deductions
19 shall be equitably apportioned between the lessor and lessee.
20 In the case of property held by one person for life with
21 remainder to another person, the deduction shall be computed
22 as if the life tenant were the absolute owner of the property
23 and shall be allowed to the life tenant. In the case of
24 property held in trust the allowable deduction shall be appor-
25 tioned between the income beneficiaries and the trustee in

1 accordance with the pertinent provisions of the instrument
2 creating the trust, or, in the absence of such provisions, on
3 the basis of the trust income allocable to each. (For per-
4 centage depletion *allowable under this subsection*, see section
5 114 (b), (3) and (4).)

6 ~~(m)~~ (n) BASIS FOR DEPRECIATION AND DEPLE-
7 TION.—The basis upon which depletion, exhaustion, wear
8 and tear, and obsolescence are to be allowed in respect
9 of any property shall be as provided in section 114.

10 ~~(n)~~ (o) CHARITABLE AND OTHER CONTRIBUTI-
11 TIONS.—In the case of an individual, contributions or gifts
12 made within the taxable year to or for the use of:

13 (1) the United States, any State, Territory, or
14 any political subdivision thereof, or the District of
15 Columbia, for exclusively public purposes;

16 (2) a corporation, or trust, or community chest,
17 fund, or foundation, organized and operated exclusively
18 for religious, charitable, scientific, literary, or educa-
19 tional purposes, or for the prevention of cruelty to
20 children or animals, no part of the net earnings of
21 which inures to the benefit of any private shareholder
22 or individual, *and no substantial part of the activities*
23 *of which is participation in partisan politics or is carry-*
24 *ing on propuganda, or otherwise attempting, to influence*
25 *legislation;*

1 (3) the special fund for vocational rehabilitation
2 authorized by section 12 of the World War Veterans'
3 Act, 1924;

4 (4) posts or organizations of war veterans, or
5 auxiliary units or societies of any such posts or organi-
6 zations, if such posts, organizations, units, or societies
7 are organized in the United States or any of its posses-
8 sions, and if no part of their net earnings inures to the
9 benefit of any private shareholder or individual; or

10 (5) a fraternal society, order, or association.
11 operating under the lodge system, but only if such
12 contributions or gifts are to be used exclusively for
13 religious, charitable, scientific, literary, or educational
14 purposes, or for the prevention of cruelty to children
15 or animals;

16 to an amount which in all the above cases combined does
17 not exceed 15 per centum of the taxpayer's net income as
18 computed without the benefit of this subsection. Such con-
19 tributions or gifts shall be allowable as deductions only if
20 verified under rules and regulations prescribed by the Com-
21 missioner, with the approval of the Secretary. (For
22 unlimited deduction if contributions and gifts exceed 90 per
23 centum of the net income, see section 120.)

24 ~~(c) FUTURE EXPENSES IN CASE OF CASUAL SALES~~
25 OF REAL PROPERTY.—In the case of a casual sale or other

1 casual disposition of real property by an individual; a reason-
 2 able allowance for future expense liabilities, incurred under
 3 the provisions of the contract under which such sale or
 4 other disposition was made; under such regulations as the
 5 Commissioner, with the approval of the Secretary, may
 6 prescribe, including the giving of a bond, with such sureties
 7 and in such sum (not less than the estimated tax liability
 8 computed without the benefit of this subsection) as the
 9 Commissioner may require, conditioned upon the payment
 10 (notwithstanding any statute of limitations) of the tax, com-
 11 puted without the benefit of this subsection, in respect of any
 12 amounts allowed as a deduction under this subsection and
 13 not actually expended in carrying out the provisions of such
 14 contract.

15 (p) DIVIDENDS RECEIVED BY CORPORATIONS.—In
 16 the case of a corporation, the amount received as dividends—

17 ~~(1)~~ from a domestic corporation which is subject
 18 to taxation under this title; or
 19 *dividends from a domestic corporation which is subject to*
 20 *taxation under this title.*

21 ~~(2)~~ from any foreign corporation when it is shown
 22 to the satisfaction of the Commissioner that more than
 23 50 per centum of the gross income of such foreign
 24 corporation for the three-year period ending with the
 25 close of its taxable year preceding the declaration of

1 such dividends ~~(or for such part of such period as the~~
2 ~~foreign corporation has been in existence)~~ was derived
3 from sources within the United States as determined
4 under section 110.

5 The deduction allowed by this subsection shall not be allowed
6 in respect of dividends received from a corporation organized
7 under the China Trade Act, 1922, or from a corporation
8 which under section 251 is taxable only on its gross income
9 from sources within the United States by reason of its
10 receiving a large percentage of its gross income from sources
11 within a possession of the United States.

12 (q) PENSION TRUSTS.—An employer establishing or
13 maintaining a pension trust to provide for the payment of
14 reasonable pensions to his employees (if such trust is exempt
15 from tax under section 165, relating to trusts created for the
16 exclusive benefit of employees) shall be allowed as a deduc-
17 tion (in addition to the contributions to such trust during the
18 taxable year to cover the pension liability accruing during
19 the year, allowed as a deduction under subsection (a) of
20 this section) a reasonable amount transferred or paid into
21 such trust during the taxable year in excess of such con-
22 tributions, but only if such amount (1) has not theretofore
23 been allowable as a deduction, and (2) is apportioned in
24 equal parts over a period of ten consecutive years beginning
25 with the year in which the transfer or payment is made.

1 Any deduction allowable under section 23 (q) of the Reve-
2 nue Act of 1928 or the Revenue Act of 1932 which under
3 such section was apportioned to any taxable year subsequent
4 to the taxable year 1931 shall *beginning after December 31,*
5 *1933, shall* be allowed as a deduction in the years to which
6 so apportioned to the extent allowable under such section
7 if it had remained in force with respect to such year.

8 ~~(r) LIMITATION ON STOCK LOSSES.—~~

9 ~~(1) Losses from sales or exchanges of stocks and~~
10 ~~bonds (as defined in subsection (t) of this section)~~
11 ~~which are not capital assets (as defined in section 101)~~
12 ~~shall be allowed only to the extent of the gains from~~
13 ~~such sales or exchanges (including gains which may~~
14 ~~be derived by a taxpayer from the retirement of his~~
15 ~~own obligations).~~

16 ~~(2) This subsection shall not apply to a dealer in~~
17 ~~securities (as to stocks and bonds acquired for resale~~
18 ~~to customers) in respect of transactions in the ordinary~~
19 ~~course of his business, nor to a bank or trust company~~
20 ~~incorporated under the laws of the United States or~~
21 ~~of any State or Territory.~~

22 ~~(s) SAME—SHORT SALES.—~~ For the purposes of this
23 title, gains or losses (A) from short sales of stocks and bonds,
24 or (B) attributable to privileges or options to buy or sell
25 such stocks and bonds, or (C) from sales or exchanges of

1 such privileges or options, shall be considered as gains or
2 losses from sales or exchanges of stocks or bonds which
3 are not capital assets.

4 ~~(b)~~ DEFINITION OF STOCKS AND BONDS.—As used
5 in subsections ~~(r)~~ and ~~(s)~~, the term “stocks and bonds”
6 means ~~(1)~~ shares of stock in any corporation, or ~~(2)~~ rights
7 to subscribe for or to receive such shares, or ~~(3)~~ bonds,
8 debentures, notes, or certificates or other evidences of indebt-
9 edness, issued by any corporation ~~(other than a government~~
10 ~~or political subdivision thereof)~~, with interest coupons or in
11 registered form, or ~~(4)~~ certificates of profit, or of interest
12 in property or accumulations, in any investment trust or
13 similar organization holding or dealing in any of the instru-
14 ments mentioned or described in this subsection, regardless
15 of whether or not such investment trust or similar organi-
16 zation constitutes a corporation within the meaning of this
17 Act.

18 SEC. 24. ITEMS NOT DEDUCTIBLE.

19 (a) GENERAL RULE.—In computing net income no
20 deduction shall in any case be allowed in respect of—

- 21 (1) Personal, living, or family expenses;
- 22 (2) Any amount paid out for new buildings or for
23 permanent improvements or betterments made to
24 increase the value of any property or estate;

1 (3) Any amount expended in restoring property
2 or in making good the exhaustion thereof for which an
3 allowance is or has been made; or

4 (4) Premiums paid on any life insurance policy
5 covering the life of any officer or employee, or of any
6 person financially interested in any trade or business
7 carried on by the taxpayer, when the taxpayer is
8 directly or indirectly a beneficiary under such ~~policy.~~
9 *policy;*

10 (5) *Any amount otherwise allowable as a deduc-*
11 *tion which is allocable to one or more classes of income*
12 *other than interest (whether or not any amount of*
13 *income of that class or classes is received or accrued)*
14 *wholly exempt from the taxes imposed by this title; or*

15 (6) *Loss from sales or exchanges of property,*
16 *directly or indirectly, (A) between members of a family,*
17 *or (B) except in the case of distributions in liquidation,*
18 *between an individual and a corporation in which such*
19 *individual owns, directly or indirectly, more than 50 per*
20 *centum in value of the outstanding stock. For the pur-*
21 *pose of this paragraph—(C) an individual shall be con-*
22 *sidered as owning the stock owned, directly or indirectly,*
23 *by his family; and (D) the family of an individual shall*
24 *include only his brothers and sisters (whether by the*

1 whole or half blood), spouse, ancestors, and lineal
2 descendants.

3 (b) HOLDERS OF LIFE OR TERMINABLE INTEREST.—

4 Amounts paid under the laws of any State, Territory, Dis-
5 trict of Columbia, possession of the United States, or foreign
6 country as income to the holder of a life or terminable inter-
7 est acquired by gift, bequest, or inheritance shall not be
8 reduced or diminished by any deduction for shrinkage (by
9 whatever name called) in the value of such interest due to
10 the lapse of time, nor by any deduction allowed by this Act
11 (except the deductions provided for in subsections ~~(k)~~ (l)
12 and ~~(l)~~ (m) of section 23) for the purpose of computing the
13 net income of an estate or trust but not allowed under the
14 laws of such State, Territory, District of Columbia, possession
15 of the United States, or foreign country for the purpose of
16 computing the income to which such holder is entitled.

17 (c) TAX WITHHELD ON TAX-FREE COVENANT
18 BONDS.—For *non-deductibility* of tax withheld on tax-free
19 covenant bonds, see section 143 (a) (3).

20 SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

21 There shall be allowed for the purpose of the normal
22 tax, but not for the surtax, the following credits against the
23 net income:

1 ~~(a) DIVIDENDS.~~—The amount received as dividends—

2 ~~(1)~~ from a domestic corporation which is subject
3 to taxation under this title, or

4 ~~(2)~~ from a foreign corporation when it is shown
5 to the satisfaction of the Commissioner that more than
6 50 per centum of the gross income of such foreign
7 corporation for the three-year period ending with the
8 close of its taxable year preceding the declaration of
9 such dividends (or for such part of such period as the
10 corporation has been in existence) was derived from
11 sources within the United States as determined under
12 the provisions of section 110.

13 The credit allowed by this subsection shall not be
14 allowed in respect of dividends received from a corporation
15 organized under the China Trade Act, 1922, or from a cor-
16 poration which under section 251 is taxable only on its gross
17 income from sources within the United States by reason of
18 its receiving a large percentage of its gross income from
19 sources within a possession of the United States.

20 ~~(b) INTEREST ON UNITED STATES OBLIGATIONS.~~—

21 The amount received as interest upon obligations of the
22 United States which is included in gross income under
23 section 22.

24 ~~(c) PERSONAL EXEMPTION.~~—In the case of a single
25 person, a personal exemption of \$1,000; or in the case of

1 the head of a family or a married person living with husband
 2 or wife, a personal exemption of \$2,500. A husband and
 3 wife living together shall receive but one personal exemp-
 4 tion. The amount of such personal exemption shall be
 5 \$2,500. If such husband and wife make separate returns,
 6 the personal exemption may be taken by either or divided
 7 between them.

8 (d) CREDIT FOR DEPENDENTS.—\$400 for each per-
 9 son (other than husband or wife) dependent upon and
 10 receiving his chief support from the taxpayer if such
 11 dependent person is under eighteen years of age or is inca-
 12 pable of self-support because mentally or physically defective.

13 (e) CHANGE OF STATUS.—If the status of the tax-
 14 payer, in so far as it affects the personal exemption or credit
 15 for dependents, changes during the taxable year, the per-
 16 sonal exemption and credit shall be apportioned, under rules
 17 and regulations prescribed by the Commissioner with the
 18 approval of the Secretary, in accordance with the number
 19 of months before and after such change. For the purpose
 20 of such apportionment a fractional part of a month shall be
 21 disregarded unless it amounts to more than half a month in
 22 which case it shall be considered as a month.

23 (a) CREDITS FOR NORMAL TAX ONLY.—There shall
 24 be allowed for the purpose of the normal tax, but not for
 25 the surtax, the following credits against the net income:

1 (1) *DIVIDENDS.*—*The amount received as divi-*
2 *dends from a domestic corporation which is subject*
3 *to taxation under this title. The credit allowed by this*
4 *paragraph shall not be allowed in respect of dividends*
5 *received from a corporation organized under the China*
6 *Trade Act, 1922, or from a corporation which under*
7 *section 251 is taxable only on its gross income from*
8 *sources within the United States by reason of its re-*
9 *ceiving a large percentage of its gross income from*
10 *sources within a possession of the United States.*

11 (2) *INTEREST ON UNITED STATES OBLIGA-*
12 *TIONS.*—*The amount received as interest upon ob-*
13 *ligations of the United States which is included in*
14 *gross income under section 22.*

15 (3) *INTEREST ON OBLIGATIONS OF INSTRU-*
16 *MENTALITIES OF THE UNITED STATES.*—*The amount*
17 *received as interest on obligations of a corporation*
18 *organized under Act of Congress, if (A) such corpora-*
19 *tion is an instrumentality of the United States; and*
20 *(B) such interest is included in gross income under*
21 *section 22; and (C) under the Act authorizing the*
22 *issue thereof, as amended and supplemented, such*
23 *interest is exempt from normal tax.*

24 (4) *EARNED INCOME CREDIT.*—*10 per centum*
25 *of the amount of the earned net income, but not in*

1 *excess of 10 per centum of the amount of the net income.*

2 *(5) EARNED INCOME DEFINITIONS.—For the*
3 *purposes of this section—*

4 *(A) "Earned income" means wages, sal-*
5 *aries, professional fees, and other amounts re-*
6 *ceived as compensation for personal services*
7 *actually rendered, but does not include any amount*
8 *not included in gross income, nor that part of the*
9 *compensation derived by the taxpayer for personal*
10 *services rendered by him to a corporation which*
11 *represents a distribution of earnings or profits*
12 *rather than a reasonable allowance as compen-*
13 *sation for the personal services actually rendered.*
14 *In the case of a taxpayer engaged in a trade*
15 *or business in which both personal services and*
16 *capital are material income producing factors,*
17 *a reasonable allowance as compensation for the*
18 *personal services actually rendered by the tax-*
19 *payer, not in excess of 20 per centum of his share*
20 *of the net profits of such trade or business, shall*
21 *be considered as earned income.*

22 *(B) "Earned income deductions" means*
23 *such deductions as are allowed by section 23 for*
24 *the purpose of computing net income, and are*

1 *properly allocable to or chargeable against earned*
2 *income.*

3 (C) "*Earned net income*" means the ex-
4 cess of the amount of the earned income over the
5 sum of the earned income deductions. If the
6 taxpayer's net income is not more than \$3,000,
7 his entire net income shall be considered to be
8 earned net income, and if his net income is more
9 than \$3,000, his earned net income shall not be
10 considered to be less than \$3,000. In no case
11 shall the earned net income be considered to be
12 more than \$20,000.

13 (b) *CREDITS FOR BOTH NORMAL TAX AND SUR-*
14 *TAX.*—There shall be allowed for the purposes of the normal
15 tax and the surtax the following credits against net income:

16 (1) *PERSONAL EXEMPTION.*—In the case of a
17 single person, a personal exemption of \$1,000; or in
18 the case of the head of a family or a married person
19 living with husband or wife, a personal exemption of
20 \$2,500. A husband and wife living together shall
21 receive but one personal exemption. The amount of
22 such personal exemption shall be \$2,500. If such
23 husband and wife make separate returns, the personal
24 exemption may be taken by either or divided between
25 them.

1 (2) *CREDIT FOR DEPENDENTS.*—\$400 for each
2 person (other than husband or wife) dependent upon
3 and receiving his chief support from the taxpayer if
4 such dependent person is under eighteen years of age
5 or is incapable of self-support because mentally or
6 physically defective.

7 (3) *CHANGE OF STATUS.*—If the status of the
8 taxpayer, in so far as it affects the personal exemption
9 or credit for dependents, changes during the taxable
10 year, the personal exemption and credit shall be ap-
11 portioned, under rules and regulations prescribed by
12 the Commissioner with the approval of the Secretary,
13 in accordance with the number of months before and
14 after such change. For the purpose of such apportion-
15 ment a fractional part of a month shall be disregarded
16 unless it amounts to more than half a month in which
17 case it shall be considered as a month.

18 **SEC. 26. CREDITS OF CORPORATION AGAINST NET INCOME.**

19 For the purpose only of the tax imposed by section 13
20 there shall be allowed as a credit against net income the
21 amount received as interest upon obligations of the United
22 States or of corporations organized under Act of Congress
23 which is included in gross income under section 22 allowed
24 to an individual as a credit for purposes of normal tax by
25 section 25(a)(2) or (3).

Part III—Credits Against Tax**SEC. 31. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.**

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax, to the extent provided in section 131.

SEC. 32. TAXES WITHHELD AT SOURCE.

The amount of tax withheld at the source under section 143 shall be allowed as a credit against the tax.

SEC. 33. ERRONEOUS PAYMENTS CREDIT FOR OVERPAYMENTS.

~~(a) CREDIT FOR OVERPAYMENTS.~~—For credit against the tax of overpayments of taxes imposed by this title for other taxable years, see section 322.

~~(b) FISCAL YEAR ENDING IN 1932.~~—For credit against the tax of amounts of tax paid for a fiscal year beginning in 1931 and ending in 1932, see section 132.

Part IV—Accounting Periods and Methods of Accounting**SEC. 41. GENERAL RULE.**

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting

1 has been so employed, or if the method employed does not
2 clearly reflect the income, the computation shall be made
3 in accordance with such method as in the opinion of the
4 Commissioner does clearly reflect the income. If the tax-
5 payer's annual accounting period is other than a fiscal year
6 as defined in section 48 or if the taxpayer has no annual
7 accounting period or does not keep books, the net income
8 shall be computed on the basis of the calendar year. (For
9 use of inventories, see section 22 (c).)

10 **SEC. 42. PERIOD IN WHICH ITEMS OF GROSS INCOME**
11 **INCLUDED.**

12 The amount of all items of gross income shall be in-
13 cluded in the gross income for the taxable year in which
14 received by the taxpayer, unless, under methods of account-
15 ing permitted under section 41, any such amounts are to be
16 properly accounted for as of a different period. *In the case*
17 *of the death of a taxpayer there shall be included in computing*
18 *net income for the taxable period in which falls the date of*
19 *his death, amounts accrued up to the date of his death if not*
20 *otherwise properly includible in respect of such period or a*
21 *prior period.*

22 **SEC. 43. PERIOD FOR WHICH DEDUCTIONS AND CREDITS**
23 **TAKEN.**

24 The deductions and credits provided for in this title shall
25 be taken for the taxable year in which "paid or accrued" or

1 "paid or incurred", dependent upon the method of account-
2 ing upon the basis of which the net income is computed,
3 unless in order to clearly reflect the income the deductions
4 or credits should be taken as of a different period. *In the*
5 *case of the death of a taxpayer there shall be allowed as*
6 *deductions and credits for the taxable period in which*
7 *falls the date of his death, amounts accrued up to the*
8 *date of his death if not otherwise properly allowable in*
9 *respect of such period or a prior period.*

10 **SEC. 44. INSTALLMENT BASIS.**

11 (a) **DEALERS IN PERSONAL PROPERTY.**—Under regu-
12 lations prescribed by the Commissioner with the approval
13 of the Secretary, a person who regularly sells or otherwise
14 disposes of personal property on the installment plan may
15 return as income therefrom in any taxable year that propor-
16 tion of the installment payments actually received in that
17 year which the gross profit realized or to be realized when
18 payment is completed, bears to the total contract price.

19 (b) **SALES OF REALTY AND CASUAL SALES OF PER-**
20 **SONALTY.**—In the case (1) of a casual sale or other casual
21 disposition of personal property (other than property of a
22 kind which would properly be included in the inventory of
23 the taxpayer if on hand at the close of the taxable year),
24 for a price exceeding \$1,000, or (2) of a sale or other dis-
25 position of real property, if in either case the initial pay-

1 ments do not exceed 40 per centum of the selling price
2 30 per centum of the selling price (or, in case the sale or
3 other disposition was in a taxable year beginning prior to
4 January 1, 1934, the percentage of the selling price pre-
5 scribed in the law applicable to such year), the income may,
6 under regulations prescribed by the Commissioner with the
7 approval of the Secretary, be returned on the basis and in
8 the manner above prescribed in this section. As used in
9 this section the term "initial payments" means the pay-
10 ments received in cash or property other than evidences of
11 indebtedness of the purchaser during the taxable period in
12 which the sale or other disposition is made.

13 (c) CHANGE FROM ACCRUAL TO INSTALLMENT
14 BASIS.—If a taxpayer entitled to the benefits of subsection
15 (a) elects for any taxable year to report his net income on
16 the installment basis, then in computing his income for the
17 year of change or any subsequent year, amounts actually
18 received during any such year on account of sales or other
19 dispositions of property made in any prior year shall not be
20 excluded.

21 (d) GAIN OR LOSS UPON DISPOSITION OF INSTALL-
22 MENT OBLIGATIONS.—If an installment obligation is satis-
23 fied at other than its face value or distributed, transmitted,
24 sold, or otherwise disposed of, gain or loss shall result to the
25 extent of the difference between the basis of the obligation

1 and (1) in the case of satisfaction at other than face value
2 or a sale or exchange—the amount realized, or (2) in case
3 of a distribution, transmission, or disposition otherwise
4 than by sale or exchange—the fair market value of the
5 obligation at the time of such distribution, transmission, or
6 disposition. *Any gain or loss so resulting shall be considered*
7 *as resulting from the sale or exchange of the property in*
8 *respect of which the installment obligation was received.*
9 The basis of the obligation shall be the excess of the face
10 value of the obligation over an amount equal to the income
11 which would be returnable were the obligation satisfied in
12 full. This subsection shall not apply to the transmission at
13 death of installment obligations if there is filed with the
14 Commissioner, at such time as he may by regulation pre-
15 scribe, a bond in such amount and with such sureties as he
16 may deem necessary, conditioned upon the return as income,
17 by the person receiving any payment on such obligations, of
18 the same proportion of such payment as would be returnable
19 as income by the decedent if he had lived and had received
20 such payment.

21 **SEC. 45. ALLOCATION OF INCOME AND DEDUCTIONS.**

22 In any case of two or more ~~trades or~~ *organizations,*
23 *trades, or businesses* (whether or not incorporated, whether
24 or not organized in the United States, and whether or not
25 affiliated) owned or controlled directly or indirectly by the

1 same interests, the Commissioner is authorized to distribute,
2 apportion, or allocate gross income or deductions between or
3 among such ~~trades or organizations~~, *trades, or* businesses, if
4 he determines that such distribution, apportionment, or allo-
5 cation is necessary in order to prevent evasion of taxes or
6 clearly to reflect the income of any of such ~~trades or organi-~~
7 *zations, trades, or* businesses.

8 **SEC. 46. CHANGE OF ACCOUNTING PERIOD.**

9 If a taxpayer changes his accounting period from fiscal
10 year to calendar year, from calendar year to fiscal year, or
11 from one fiscal year to another, the net income shall, with the
12 approval of the Commissioner, be computed on the basis of
13 such new accounting period, subject to the provisions of
14 section 47.

15 **SEC. 47. RETURNS FOR A PERIOD OF LESS THAN TWELVE**
16 **MONTHS.**

17 (a) **RETURNS FOR SHORT PERIOD RESULTING FROM**
18 **CHANGE OF ACCOUNTING PERIOD.**—If a taxpayer, with
19 the approval of the Commissioner, changes the basis of com-
20 puting net income from fiscal year to calendar year a separate
21 return shall be made for the period between the close of the
22 last fiscal year for which return was made and the following
23 December 31. If the change is from calendar year to
24 fiscal year, a separate return shall be made for the period
25 between the close of the last calendar year for which return

1 was made and the date designated as the close of the fiscal
2 year. If the change is from one fiscal year to another fiscal
3 year a separate return shall be made for the period between
4 the close of the former fiscal year and the date designated as
5 the close of the new fiscal year.

6 (b) INCOME COMPUTED ON BASIS OF SHORT
7 PERIOD.—Where a separate return is made under sub-
8 section (a) on account of a change in the accounting period,
9 and in all other cases where a separate return is required
10 or permitted, by regulations prescribed by the Commis-
11 sioner with the approval of the Secretary, to be made for
12 a fractional part of a year, then the income shall be com-
13 puted on the basis of the period for which separate return
14 is made.

15 (c) INCOME PLACED ON ANNUAL BASIS.—If a
16 separate return is made under subsection (a) on account
17 of a change in the accounting period, the net income, com-
18 puted on the basis of the period for which separate return
19 is made, shall be placed on an annual basis by multiplying
20 the amount thereof by twelve and dividing by the number
21 of months included in the period for which the separate
22 return is made. The tax shall be such part of the tax
23 computed on such annual basis as the number of months
24 in such period is of twelve months.

25 (d) CAPITAL NET GAINS AND LOSSES—EARNED
26 INCOME.—The Commissioner with the approval of the

1 Secretary shall by regulations prescribe the method of apply-
2 ing the provisions of subsections (b) and (c) (relating to
3 computing income on the basis of a short period, and plac-
4 ing such income on an annual basis) to cases where the
5 taxpayer makes a separate return under subsection (a) on
6 account of a change in the accounting period, and it appears
7 that for the period for which the return is so made he has
8 ~~derived a capital net gain, or sustained a capital net loss,~~
9 ~~or~~ received earned income.

10 (e) REDUCTION OF CREDITS AGAINST NET IN-
11 COME.—In the case of a return made for a fractional part
12 of a year, except a return made under subsection (a), on
13 account of a change in the accounting period, the personal
14 exemption and credit for dependents shall be reduced respec-
15 tively to amounts which bear the same ratio to the full
16 credits provided as the number of months in the period for
17 which return is made bears to twelve months.

18 (f) CLOSING OF TAXABLE YEAR IN CASE OF JEOP-
19 ARDY.—For closing of taxable year in case of jeopardy, see
20 section 146.

21 SEC. 48. DEFINITIONS.

22 When used in this title—

23 (a) TAXABLE YEAR.—“Taxable year” means the cal-
24 endar year, or the fiscal year ending during such calendar year,
25 upon the basis of which the net income is computed under
26 this Part. “Taxable year” includes, in the case of a return

1 made for a fractional part of a year under the provisions of
2 this title or under regulations prescribed by the Commissioner
3 with the approval of the Secretary, the period for which such
4 return is made. ~~The first taxable year, to be called the~~
5 ~~taxable year 1932, shall be the calendar year 1932 or any~~
6 ~~fiscal year ending during the calendar year 1932.~~

7 (b) FISCAL YEAR.—“Fiscal year” means an
8 accounting period of twelve months ending on the last day
9 of any month other than December.

10 (c) PAID, INCURRED, ACCRUED.—The terms “paid
11 or incurred” and “paid or accrued” shall be construed
12 according to the method of accounting upon the basis of
13 which the net income is computed under this Part.

14 (d) TRADE OR BUSINESS.—The term “trade or
15 business” includes the performance of the functions of a
16 public office.

17 Part V—Returns and Payment of Tax

18 SEC. 51. INDIVIDUAL RETURNS.

19 (a) REQUIREMENT.—The following individuals shall
20 each make under oath a return stating specifically the items
21 of his gross income and the deductions and credits allowed
22 under this title—

23 (1) Every individual having a net income for
24 the taxable year of \$1,000 or over, if single, or if
25 married and not living with husband or wife;

1 (2) Every individual having a net income for
2 the taxable year of \$2,500 or over, if married and
3 living with husband or wife; and

4 (3) Every individual having a gross income for
5 the taxable year of \$5,000 or over, regardless of the
6 amount of his net income.

7 (b) HUSBAND AND WIFE.—If a husband and wife
8 living together have an aggregate net income for the taxable
9 year of \$2,500 or over, or an aggregate gross income for
10 such year of \$5,000 or over—

11 (1) Each shall make such a return, or

12 (2) The income of each shall be included in a
13 single joint return, in which case the tax shall be com-
14 puted on the aggregate income.

15 (c) PERSONS UNDER DISABILITY.—If the taxpayer
16 is unable to make his own return, the return shall be made
17 by a duly authorized agent or by the guardian or other
18 person charged with the care of the person or property of
19 such taxpayer.

20 (d) FIDUCIARIES.—For returns to be made by fidu-
21 ciaries, see section 142.

22 SEC. 52. CORPORATION RETURNS.

23 (a) REQUIREMENT.—Every corporation subject to
24 taxation under this title shall make a return, stating specifi-
25 cally the items of its gross income and the deductions and

1 credits allowed by this title. The return shall be sworn to
2 by the president, vice president, or other principal officer
3 and by the ~~treasurer or assistant treasurer~~ *treasurer, assistant*
4 *treasurer, or chief accounting officer.* In cases where
5 receivers, trustees in bankruptcy, or assignees are operating
6 the property or business of corporations, such receivers,
7 trustees, or assignees shall make returns for such corporations
8 in the same manner and form as corporations are required
9 to make returns. Any tax due on the basis of such returns
10 made by receivers, trustees, or assignees shall be collected in
11 the same manner as if collected from the corporations of
12 whose business or property they have custody and control.

13 (b) CONSOLIDATED RETURNS.—For provision as to
14 consolidated returns of affiliated corporations, see section
15 141.

16 **SEC. 53. TIME AND PLACE FOR FILING RETURNS.**

17 (a) TIME FOR FILING.—

18 (1) GENERAL RULE.—Returns made on the basis
19 of the calendar year shall be made on or before the 15th
20 day of March following the close of the calendar year.
21 Returns made on the basis of a fiscal year shall be
22 made on or before the 15th day of the third month
23 following the close of the fiscal year.

24 (2) EXTENSION OF TIME.—The Commissioner
25 may grant a reasonable extension of time for filing

1 returns, under such rules and regulations as he shall
2 prescribe with the approval of the Secretary. Except
3 in the case of taxpayers who are abroad, no such
4 extension shall be for more than six months.

5 (b) TO WHOM RETURN MADE.—

6 (1) INDIVIDUALS.—Returns (other than cor-
7 poration returns) shall be made to the collector for
8 the district in which is located the legal residence or
9 principal place of business of the person making the
10 return, or, if he has no legal residence or principal place
11 of business in the United States, then to the collector at
12 Baltimore, Maryland.

13 (2) CORPORATIONS.—Returns of corporations
14 shall be made to the collector of the district in which is
15 located the principal place of business or principal office
16 or agency of the corporation, or, if it has no principal
17 place of business or principal office or agency in the
18 United States, then to the collector at Baltimore,
19 Maryland.

20 **SEC. 54. RECORDS AND SPECIAL RETURNS.**

21 (a) BY TAXPAYER.—Every person liable to any tax
22 imposed by this title or for the collection thereof, shall keep
23 such records, render under oath such statements, make such
24 returns, and comply with such rules and regulations, as the

1 Commissioner, with the approval of the Secretary, may from
2 time to time prescribe.

3 (b) TO DETERMINE LIABILITY TO TAX.—Whenever
4 in the judgment of the Commissioner necessary he may
5 require any person, by notice served upon him, to make a
6 return, render under oath such statements, or keep such
7 records, as the Commissioner deems sufficient to show
8 whether or not such person is liable to tax under this title.

9 (c) INFORMATION AT THE SOURCE.—For require-
10 ment of statements and returns by one person to assist in
11 determining the tax liability of another person, see sections
12 147 to 150.

13 SEC. 55. PUBLICITY OF RETURNS.

14 Returns made under this title shall be open to inspection
15 in the same manner, to the same extent, and subject to the
16 same provisions of law, including penalties, as returns made
17 under Title II of the Revenue Act of 1926; and all returns
18 made under this Act ~~after June 16, 1933,~~ shall constitute
19 public records and shall be open to public examination and
20 inspection to such extent as shall be authorized in rules and
21 regulations promulgated by the President.

22 SEC. 56. PAYMENT OF TAX.

23 (a) TIME OF PAYMENT.—The total amount of tax
24 imposed by this title shall be paid on the fifteenth day of
25 March following the close of the calendar year, or, if the

1 return should be made on the basis of a fiscal year, then on
2 the fifteenth day of the third month following the close of
3 the fiscal year.

4 (b) **INSTALLMENT PAYMENTS.**—The taxpayer may
5 elect to pay the tax in four equal installments, in which case
6 the first installment shall be paid on the date prescribed for
7 the payment of the tax by the taxpayer, the second install-
8 ment shall be paid on the fifteenth day of the third month,
9 the third installment on the fifteenth day of the sixth month,
10 and the fourth installment on the fifteenth day of the ninth
11 month, after such date. If any installment is not paid on or
12 before the date fixed for its payment, the whole amount of
13 the tax unpaid shall be paid upon notice and demand from
14 the collector.

15 (c) **EXTENSION OF TIME FOR PAYMENT.**—At the
16 request of the taxpayer, the Commissioner may extend the
17 time for payment of the amount determined as the tax by
18 the taxpayer, or any installment thereof, for a period not to
19 exceed six months from the date prescribed for the payment
20 of the tax or an installment thereof. In such case the amount
21 in respect of which the extension is granted shall be paid on
22 or before the date of the expiration of the period of the
23 extension.

24 (d) **VOLUNTARY ADVANCE PAYMENT.**—A tax im-
25 posed by this title, or any installment thereof, may be paid,

1 at the election of the taxpayer, prior to the date prescribed
2 for its payment.

3 (e) **ADVANCE PAYMENT IN CASE OF JEOPARDY.**—

4 For advance payment in case of jeopardy, see section 146.

5 (f) **TAX WITHHELD AT SOURCE.**—For requirement

6 of withholding tax at the source in the case of nonresident

7 aliens and foreign corporations, and in the case of so-called

8 “tax-free covenant bonds”, see sections 143 and 144.

9 (g) **FRACTIONAL PARTS OF CENT.**—In the payment

10 of any tax under this title a fractional part of a cent shall

11 be disregarded unless it amounts to one-half cent or more,

12 in which case it shall be increased to 1 cent.

13 (h) **RECEIPTS.**—Every collector to whom any pay-

14 ment of any income tax is made shall upon request give to

15 the person making such payment a full written or printed

16 receipt *therefor*, stating the amount paid and the particular

17 account for which such payment was made; and whenever

18 any debtor pays taxes on account of payments made or to be

19 made by him to separate creditors the collector shall, if

20 requested by such debtor, give a separate receipt for the tax

21 paid on account of each creditor in such form that the debtor

22 can conveniently produce such receipts separately to his sev-

23 eral creditors in satisfaction of their respective demands up to

24 the amounts stated in the receipts; and such receipt shall be

25 sufficient evidence in favor of such debtor to justify him in

1 withholding from his next payment to his creditor the amount
2 therein stated; but the creditor may, upon giving to his
3 debtor a full written receipt acknowledging the payment to
4 him of any sum actually paid and accepting the amount of
5 tax paid as aforesaid (specifying the same) as a further
6 satisfaction of the debt to that amount, require the surrender
7 to him of such collector's receipt.

8 **SEC. 57. EXAMINATION OF RETURN AND DETERMINA-**
9 **TION OF TAX.**

10 As soon as practicable after the return is filed the Com-
11 missioner shall examine it and shall determine the correct
12 amount of the tax.

13 **SEC. 58. ADDITIONS TO TAX AND PENALTIES.**

14 (a) For additions to the tax in case of negligence or
15 fraud in the nonpayment of tax or failure to file return
16 therefor, see Supplement M.

17 (b) For criminal penalties for nonpayment of tax or
18 failure to file return therefor, see section 145.

19 **SEC. 59. ADMINISTRATIVE PROCEEDINGS.**

20 For administrative proceedings in respect of the non-
21 payment or overpayment of a tax imposed by this title, see
22 as follows:

23 (a) Supplement L, relating to assessment and collec-
24 tion of deficiencies.

1 (b) Supplement M, relating to interest and additions
2 to tax.

3 (c) Supplement N, relating to claims against trans-
4 ferees and fiduciaries.

5 (d) Supplement O, relating to overpayments.

6 **Part VI—Miscellaneous Provisions**

7 **SEC. 61. LAWS MADE APPLICABLE.**

8 All administrative, special, or stamp provisions of law,
9 including the law relating to the assessment of taxes, so far
10 as applicable, are hereby extended to and made a part of
11 this title.

12 **SEC. 62. RULES AND REGULATIONS.**

13 The Commissioner, with the approval of the Secretary,
14 shall prescribe and publish all needful rules and regulations
15 for the enforcement of this title.

16 **SEC. 63. TAXES IN LIEU OF TAXES UNDER 1928 1932 ACT.**

17 The taxes imposed by this title shall be in lieu of the
18 corresponding taxes imposed by the sections of the Revenue
19 Act of 1928 bearing the same numbers *Revenue Act of 1932*.

20 **SEC. 64. SHORT TITLE.**

21 This title may be cited as the "Income Tax Act of
22 1922 1934."

23 **SEC. 65. EFFECTIVE DATE OF TITLE.**

24 This title shall take effect as of January 1, 1932, except
25 that sections 145 and 150, and this section, shall take effect
26 on the enactment of this Act.

1 **SUBTITLE C—SUPPLEMENTAL PROVISIONS**2 **Supplement A—Rates of Tax**

3 [Supplementary to Subtitle B, Part I]

4 **SEC. 101. CAPITAL NET GAINS AND LOSSES.**

5 ~~(a) TAX IN CASE OF CAPITAL NET GAIN.~~—In the
6 case of any taxpayer, other than a corporation, who for any
7 taxable year derives a capital net gain (as hereinafter
8 defined in this section), there shall, at the election of the
9 taxpayer, be levied, collected, and paid, in lieu of all other
10 taxes imposed by this title, a tax determined as follows:
11 A partial tax shall first be computed upon the basis of the
12 ordinary net income at the rates and in the manner as if this
13 section had not been enacted and the total tax shall be this
14 amount plus 12½ per centum of the capital net gain.

15 ~~(b) TAX IN CASE OF CAPITAL NET LOSS.~~—In the
16 case of any taxpayer, other than a corporation, who for any
17 taxable year sustains a capital net loss (as hereinafter defined
18 in this section), there shall be levied, collected, and paid, in
19 lieu of all other taxes imposed by this title, a tax determined
20 as follows: A partial tax shall first be computed upon the
21 basis of the ordinary net income at the rates and in the
22 manner as if this section had not been enacted, and the total
23 tax shall be this amount minus 12½ per centum of the capital
24 net loss; but in no case shall the tax of a taxpayer who has
25 sustained a capital net loss be less than the tax computed
26 without regard to the provisions of this section.

1 ~~(c)~~ **DEFINITIONS.**—For the purposes of this title—

2 ~~(1)~~ “Capital gain” means taxable gain from the
3 sale or exchange of capital assets consummated after
4 December 31, 1921.

5 ~~(2)~~ “Capital loss” means deductible loss result-
6 ing from the sale or exchange of capital assets.

7 ~~(3)~~ “Capital deductions” means such deductions
8 as are allowed by section 23 for the purpose of com-
9 puting net income, and are properly allocable to or
10 chargeable against capital assets sold or exchanged
11 during the taxable year.

12 ~~(4)~~ “Ordinary deductions” means the deductions
13 allowed by section 23 other than capital losses and
14 capital deductions.

15 ~~(5)~~ “Capital net gain” means the excess of the
16 total amount of capital gain over the sum of ~~(A)~~ the
17 capital deductions and capital losses, plus ~~(B)~~ the
18 amount, if any, by which the ordinary deductions
19 exceed the gross income computed without including
20 capital gains.

21 ~~(6)~~ “Capital net loss” means the excess of the
22 sum of the capital losses plus the capital deductions
23 over the total amount of capital gain.

24 ~~(7)~~ “Ordinary net income” means the net
25 income, computed in accordance with the provisions

1 of this title, after excluding all items of capital gain,
2 capital loss, and capital deductions.

3 (8) "Capital assets" means property held by
4 the taxpayer for more than two years (whether or not
5 connected with his trade or business), but does not
6 include stock in trade of the taxpayer or other property
7 of a kind which would properly be included in the
8 inventory of the taxpayer if on hand at the close of
9 the taxable year, or property held by the taxpayer
10 primarily for sale in the course of his trade or business.
11 For the purposes of this definition—

12 (A) In determining the period for which the
13 taxpayer has held property received on an ex-
14 change there shall be included the period for which
15 he held the property exchanged, if under the pro-
16 visions of section 113, the property received has,
17 for the purpose of determining gain or loss from a
18 sale or exchange, the same basis in whole or in
19 part in his hands as the property exchanged.

20 (B) In determining the period for which the
21 taxpayer has held property however acquired there
22 shall be included the period for which such prop-
23 erty was held by any other person, if under the
24 provisions of section 113, such property has, for
25 the purpose of determining gain or loss from a sale

1 or exchange, the same basis in whole or in part
2 in his hands as it would have in the hands of such
3 other person.

4 ~~(C)~~ In determining the period for which the
5 taxpayer has held stock or securities received upon
6 a distribution where no gain is recognized to
7 the distributee under the provisions of section 112
8 ~~(g)~~ of this Act or the Revenue Act of 1928, there
9 shall be included the period for which he held the
10 stock or securities in the distributing corporation
11 prior to the receipt of the stock or securities upon
12 such distribution.

13 ~~(D)~~ In determining the period for which the
14 taxpayer has held stock or securities the acquisition
15 of which ~~(or the contract or option to acquire~~
16 ~~which)~~ resulted in the nondeductibility ~~(under~~
17 ~~section 118 of this Act or the Revenue Act of~~
18 ~~1928, relating to wash sales)~~ of the loss from the
19 sale or other disposition of substantially identical
20 stock or securities, there shall be included the
21 period for which he held the stock or securities the
22 loss from the sale or other disposition of which was
23 not deductible.

24 ~~(d)~~ COLLECTION AND PAYMENT OF TAX.—The total
25 tax determined under subsection ~~(a)~~ or ~~(b)~~ shall be col-

1 lected and paid in the same manner, at the same time, and
2 subject to the same provisions of law, including penalties, as
3 other taxes under this title.

4 **SEC. 102. SALE OF MINES AND OIL OR GAS WELLS.**

5 (a) In the case of a bona fide sale of mines, oil or gas
6 wells, or any interest therein, where the principal value of
7 the property has been demonstrated by prospecting or
8 exploration and discovery work done by the taxpayer, the
9 portion of the tax imposed by section 12 of this title attrib-
10 utable to such sale shall not exceed 16 per centum of the
11 selling price of such property or interest.

12 (b) For limitation to 12½ per centum rate of tax,
13 see section 101.

14 **SEC. 103 101. EXEMPTIONS FROM TAX ON CORPORATIONS.**

15 The following organizations shall be exempt from
16 taxation under this title—

17 (1) Labor, agricultural, or horticultural organi-
18 zations;

19 (2) Mutual savings banks not having a capital
20 stock represented by shares;

21 (3) Fraternal beneficiary societies, orders, or
22 associations, (A) operating under the lodge system or
23 for the exclusive benefit of the members of a fraternity
24 itself operating under the lodge system; and (B) pro-
25 viding for the payment of life, sick, accident, or other

1 benefits to the members of such society, order, or
2 association or their dependents;

3 (4) Domestic building and loan associations sub-
4 stantially all the business of which is confined to mak-
5 ing loans to members; and cooperative banks without
6 capital stock organized and operated for mutual
7 purposes and without profit;

8 (5) Cemetery companies owned and operated
9 exclusively for the benefit of their members or which
10 are not operated for profit; and any corporation char-
11 tered solely for burial purposes as a cemetery corpora-
12 tion and not permitted by its charter to engage in any
13 business not necessarily incident to that purpose, no
14 part of the net earnings of which inures to the benefit
15 of any private shareholder or individual;

16 (6) Corporations, and any community chest,
17 fund, or foundation, organized and operated exclusively
18 for religious, charitable, scientific, literary, or educa-
19 tional purposes, or for the prevention of cruelty to
20 children or animals, no part of the net earnings of
21 which inures to the benefit of any private shareholder
22 or individual, *and no substantial part of the activities of*
23 *which is participation in partisan politics or is carrying*
24 *on propaganda, or otherwise attempting, to influence*
25 *legislation;*

1 (7) Business leagues, chambers of commerce,
2 real-estate boards, or boards of trade, not organized for
3 profit and no part of the net earnings of which inures
4 to the benefit of any private shareholder or individual;

5 (8) Civic leagues or organizations not organized
6 for profit but operated exclusively for the promotion of
7 social welfare, or local associations of employees, the
8 membership of which is limited to the employees of a
9 designated person or persons in a particular munici-
10 pality, and the net earnings of which are devoted
11 exclusively to charitable, educational, or recreational
12 purposes;

13 (9) Clubs organized and operated exclusively for
14 pleasure, recreation, and other nonprofitable purposes,
15 no part of the net earnings of which inures to the
16 benefit of any private shareholder;

17 (10) Benevolent life insurance associations of a
18 purely local character, mutual ditch or irrigation com-
19 panies, mutual or cooperative telephone companies, or
20 like organizations; but only if 85 per centum or more of
21 the income consists of amounts collected from members
22 for the sole purpose of meeting losses and expenses;

23 (11) Farmers' or other mutual hail, cyclone,
24 casualty, or fire insurance companies or associations
25 (including interinsurers and reciprocal underwriters)

1 the income of which is used or held for the purpose of
2 paying losses or expenses;

3 (12) Farmers', fruit growers', or like associa-
4 tions organized and operated on a cooperative basis
5 (a) for the purpose of marketing the products of mem-
6 bers or other producers, and turning back to them the
7 proceeds of sales, less the necessary marketing expenses,
8 on the basis of either the quantity or the value of the
9 products furnished by them, or (b) for the purpose of
10 purchasing supplies and equipment for the use of mem-
11 bers or other persons, and turning over such supplies
12 and equipment to them at actual cost, plus necessary
13 expenses. Exemption shall not be denied any such
14 association because it has capital stock, if the dividend
15 rate of such stock is fixed at not to exceed the legal rate
16 of interest in the State of incorporation or 8 per centum
17 per annum, whichever is greater, on the value of the
18 consideration for which the stock was issued, and if
19 substantially all such stock (other than nonvoting
20 preferred stock, the owners of which are not entitled
21 or permitted to participate, directly or indirectly, in
22 the profits of the association, upon dissolution or other-
23 wise, beyond the fixed dividends) is owned by pro-
24 ducers who market their products or purchase their
25 supplies and equipment through the association; nor

1 shall exemption be denied any such association because
2 there is accumulated and maintained by it a reserve
3 required by State law or a reasonable reserve for any
4 necessary purpose. Such an association may market
5 the products of nonmembers in an amount the value
6 of which does not exceed the value of the products
7 marketed for members, and may purchase supplies and
8 equipment for nonmembers in an amount the value of
9 which does not exceed the value of the supplies and
10 equipment purchased for members, provided the value
11 of the purchases made for persons who are neither
12 members nor producers does not exceed 15 per centum
13 of the value of all its purchases;

14 (13) Corporations organized by an association
15 exempt under the provisions of paragraph (12), or
16 members thereof, for the purpose of financing the
17 ordinary crop operations of such members or other pro-
18 ducers, and operated in conjunction with such associa-
19 tion. Exemption shall not be denied any such corpora-
20 tion because it has capital stock, if the dividend rate
21 of such stock is fixed at not to exceed the legal rate
22 of interest in the State of incorporation or 8 per centum
23 per annum, whichever is greater, on the value of the
24 consideration for which the stock was issued, and if
25 substantially all such stock (other than nonvoting pre-

1 ferred stock, the owners of which are not entitled or
2 permitted to participate, directly or indirectly, in the
3 profits of the corporation, upon dissolution or other-
4 wise, beyond the fixed dividends) is owned by such
5 association, or members thereof; nor shall exemption
6 be denied any such corporation because there is accu-
7 mulated and maintained by it a reserve required by
8 State law or a reasonable reserve for any necessary
9 purpose;

10 (14) Corporations organized for the exclusive pur-
11 pose of holding title to property, collecting income
12 therefrom, and turning over the entire amount thereof,
13 less expenses, to an organization which itself is exempt
14 from the tax imposed by this title;

15 ~~(15) Federal land banks, national farm loan asso-~~
16 ~~ciations, and Federal intermediate credit banks, as pro-~~
17 ~~vided in the Federal Farm Loan Act, as amended;~~

18 (15) Corporations organized under Act of Con-
19 gress, if such corporations are instrumentalities of the
20 United States and if, under such Act, as amended and
21 supplemented, such corporations are exempt from
22 Federal income taxes;

23 (16) Voluntary employees' beneficiary associa-
24 tions providing for the payment of life, sick, accident,
25 or other benefits to the members of such association or

1 their dependents, if (A) no part of their net earnings
 2 inures (other than through such payments) to the bene-
 3 fit of any private shareholder or individual, and (B)
 4 85 per centum or more of the income consists of
 5 amounts collected from members for the sole purpose
 6 of making such payments and meeting expenses;

7 (17) Teachers' retirement fund associations of a
 8 purely local character, if (A) no part of their net earn-
 9 ings inures (other than through payment of retirement
 10 benefits) to the benefit of any private shareholder or
 11 individual, and (B) the income consists solely of
 12 amounts received from public taxation, amounts
 13 received from assessments upon the teaching salaries of
 14 members, and income in respect of investments.

15 **SEC. 104. ACCUMULATION OF SURPLUS TO EVADE INTER-**
 16 **NAL-REVENUE TAXES.**

17 (a) If any corporation, however created or organized,
 18 is formed or availed of for the purpose of preventing the
 19 imposition of any internal-revenue tax upon its shareholders
 20 through the medium of permitting its gains and profits to
 21 accumulate instead of being divided or distributed, there shall
 22 be levied, collected, and paid for each taxable year upon
 23 the net income of such corporation a tax equal to 50 per
 24 centum of the amount thereof, which shall be in addition
 25 to the tax imposed by section 13 and shall be computed;

1 collected, and paid upon the same basis and in the same
 2 manner and subject to the same provisions of law, including
 3 penalties, as that tax.

4 **SEC. 102. SURTAX ON CORPORATIONS IMPROPERLY ACCUMU-**
 5 **LATING SURPLUS.**

6 (a) *IMPOSITION OF TAX.*—There shall be levied, col-
 7 lected, and paid for each taxable year upon the adjusted net
 8 income of every corporation (other than a personal holding
 9 company as defined in section 351) if such corporation,
 10 however created or organized, is formed or availed of for
 11 the purpose of preventing the imposition of the surtax upon
 12 its shareholders or the shareholders of any other corporation,
 13 through the medium of permitting gains and profits to accu-
 14 mulate instead of being divided or distributed, a surtax equal
 15 to the sum of the following:

16 (1) 25 per centum of the amount of the adjusted
 17 net income not in excess of \$100,000, plus

18 (2) 35 per centum of the amount of the adjusted
 19 net income in excess of \$100,000.

20 (b) *PRIMA FACIE EVIDENCE.*—The fact that any
 21 corporation is a mere holding or investment company, or
 22 that the gains or profits are permitted to accumulate beyond
 23 the reasonable needs of the business, shall be prima facie evi-
 24 dence of a purpose to escape any internal revenue tax avoid
 25 surtax.

1 ~~(c)~~ As used in this section the term "net income"
2 means the net income as defined in section 21, increased by
3 the sum of the amount of the dividend deduction allowed
4 under section 23~~(p)~~ and the amount of the interest on
5 obligations of the United States issued after September 1,
6 1917, which would be subject to tax in whole or in part
7 in the hands of an individual owner.

8 (c) DEFINITION OF "ADJUSTED NET INCOME".—
9 As used in this section, the term "adjusted net income"
10 means the net income increased by the amount of the dividend
11 deduction allowed under section 23(p), but diminished by
12 the amount of dividends paid during the taxable year.

13 ~~(d)~~ The tax imposed by this section shall not apply
14 if all the shareholders of the corporation include (at the
15 time of filing their returns) in their gross income their
16 entire distributive shares, whether distributed or not, of
17 the net income of the corporation for such year. Any
18 amount so included in the gross income of a shareholder
19 shall be treated as a dividend received. Any subsequent
20 distribution made by the corporation out of the earnings or
21 profits for such taxable year shall, if distributed to any
22 shareholder who has so included in his gross income his
23 distributive share, be exempt from tax in the amount of
24 the share so included.

1 (d) *TAX ON PERSONAL HOLDING COMPANIES.*—For
2 *surtax on personal holding companies, see section 351.*

3 **SEC. 103. RATES OF TAX ON CITIZENS AND CORPORATIONS OF**
4 **CERTAIN FOREIGN COUNTRIES.**

5 *Whenever the President finds that, under the laws of*
6 *any foreign country, citizens or corporations of the United*
7 *States are being subjected to discriminatory or extraterritorial*
8 *taxes, the President shall so proclaim and the rates of*
9 *tax imposed by sections 11, 12, 13, 201(b), and 204(a)*
10 *shall, for the taxable year during which such proclamation*
11 *is made and for each taxable year thereafter, be doubled in*
12 *the case of each citizen and corporation of such foreign*
13 *country; but the tax at such doubled rate shall be considered*
14 *as imposed by section 11, 12, 13, 201(b), or 204(a), as*
15 *the case may be. In no case shall this section operate to*
16 *increase the taxes imposed by such sections (computed with-*
17 *out regard to this section) to an amount in excess of 80 per*
18 *centum of the net income of the taxpayer. Whenever the*
19 *President finds that the laws of any foreign country with*
20 *respect to which the President has made a proclamation*
21 *under the preceding provisions of this section have been*
22 *modified so that discriminatory and extraterritorial taxes*
23 *applicable to citizens and corporations of the United States*

1 *have been removed, he shall so proclaim, and the provisions*
 2 *of this section providing for doubled rates of tax shall not*
 3 *apply to any citizen or corporation of such foreign country*
 4 *with respect to any taxable year beginning after such*
 5 *proclamation is made.*

6 **SEC. 106. TAXABLE PERIOD EMBRACING YEARS WITH**
 7 **DIFFERENT LAWS.**

8 If it is necessary to compute the tax for a period begin-
 9 ning in one calendar year (hereinafter in this section called
 10 "first calendar year") and ending in the following calendar
 11 year (hereinafter in this section called "second calendar
 12 year") and the law applicable to the second calendar year
 13 is different from the law applicable to the first calendar year,
 14 then the tax under this title for the period ending during the
 15 second calendar year shall be in the sum of: (1) the same
 16 proportion of a tax for the entire period, determined under
 17 the law applicable to the first calendar year and at the rates
 18 for such year, which the portion of such period falling within
 19 the first calendar year is of the entire period; and (2) the
 20 same proportion of a tax for the entire period, determined
 21 under the law applicable to the second calendar year and at
 22 the rates for such year, which the portion of such period
 23 falling within the second calendar year is of the entire period.

1 **Supplement B—Computation of Net Income**

2 [Supplementary to Subtitle B, Part II]

3 **SEC. 111. DETERMINATION OF AMOUNT OF, AND RECOG-**
4 **NITION OF, GAIN OR LOSS.**

5 (a) **COMPUTATION OF GAIN OR LOSS.**—~~Except as~~
6 ~~hereinafter provided in this section, the~~ *The* gain from the
7 sale or other disposition of property shall be the excess of the
8 amount realized therefrom over the adjusted basis provided in
9 section 113 (b) *for determining gain*, and the loss shall be
10 the excess of ~~such~~ *the adjusted basis provided in such section*
11 *for determining loss* over the amount realized.

12 (b) **AMOUNT REALIZED.**—The amount realized from
13 the sale or other disposition of property shall be the sum of
14 any money received plus the fair market value of the
15 property (other than money) received.

16 (c) **RECOGNITION OF GAIN OR LOSS.**—In the case of
17 a sale or exchange, the extent to which the gain or loss
18 determined under this section shall be recognized for the
19 purposes of this title, shall be determined under the provi-
20 sions of section 112.

21 (d) **INSTALLMENT SALES.**—Nothing in this sec-
22 tion shall be construed to prevent (in the case of property
23 sold under contract providing for payment in installments)
24 the taxation of that portion of any installment payment
25 representing gain or profit in the year in which such pay-
26 ment is received.

1 SEC. 112. RECOGNITION OF GAIN OR LOSS.

2 (a) GENERAL RULE.—Upon the sale or exchange of
3 property the entire amount of the gain or loss, determined
4 under section 111, shall be recognized, except as hereinafter
5 provided in this section.

6 (b) EXCHANGES SOLELY IN KIND.—

7 (1) PROPERTY HELD FOR PRODUCTIVE USE OR
8 INVESTMENT.—No gain or loss shall be recognized if
9 property held for productive use in trade or business
10 or for investment (not including stock in trade or other
11 property held primarily for sale, nor stocks, bonds,
12 notes, choses in action, certificates of trust or beneficial
13 interest, or other securities or evidences of indebtedness
14 or interest) is exchanged solely for property of a like
15 kind to be held either for productive use in trade or
16 business or for investment.

17 (2) STOCK FOR STOCK OF SAME CORPORATION.—No gain or loss shall be recognized if common
18 stock in a corporation is exchanged solely for common
19 stock in the same corporation, or if preferred stock in a
20 corporation is exchanged solely for preferred stock in
21 the same corporation.
22

23 (3) STOCK FOR STOCK ON REORGANIZATION.—
24 No gain or loss shall be recognized if stock or securi-
25 ties in a corporation a party to a reorganization are, in

1 pursuance of the plan of reorganization, exchanged
2 solely for stock or securities in such corporation or in
3 another corporation a party to the reorganization. §

4 (4) SAME—GAIN OF CORPORATION.—No gain
5 or loss shall be recognized if a corporation a party to a
6 reorganization exchanges property, in pursuance of the
7 plan of reorganization, solely for stock or securities in
8 another corporation a party to the reorganization. §

9 (5) TRANSFER TO CORPORATION CONTROLLED
10 BY TRANSFEROR.—No gain or loss shall be recognized
11 if property is transferred to a corporation by one or more
12 persons solely in exchange for stock or securities in such
13 corporation, and immediately after the exchange such
14 person or persons are in control of the corporation; but
15 in the case of an exchange by two or more persons this
16 paragraph shall apply only if the amount of the stock
17 and securities received by each is substantially in pro-
18 portion to his interest in the property prior to the
19 exchange.

20 (c) GAIN FROM EXCHANGES NOT SOLELY IN KIND.—

21 (1) If an exchange would be within the provi-
22 sions of subsection (b) (1), (2), (3), or (5) of this
23 section if it were not for the fact that the property
24 received in exchange consists not only of property per-
25 mitted by such paragraph to be received without the

1 recognition of gain, but also of other property or money,
2 then the gain, if any, to the recipient shall be recog-
3 nized, but in an amount not in excess of the sum of such
4 money and the fair market value of such other property.

5 (2) If a distribution made in pursuance of a plan
6 of reorganization is within the provisions of paragraph
7 (1) of this subsection but has the effect of the distri-
8 bution of a taxable dividend, then there shall be taxed
9 as a dividend to each distributee such an amount of
10 the gain recognized under paragraph (1) as is not in
11 excess of his ratable share of the undistributed earnings
12 and profits of the corporation accumulated after Feb-
13 ruary 28, 1913. The remainder, if any, of the gain
14 recognized under paragraph (1) shall be taxed as a
15 gain from the exchange of property.

16 (d) SAME—GAIN OF CORPORATION.—If an ex-
17 change would be within the provisions of subsection (b)
18 (4) of this section if it were not for the fact that the property
19 received in exchange consists not only of stock or securities
20 permitted by such paragraph to be received without the
21 recognition of gain, but also of other property or money,
22 then—

23 (1) If the corporation receiving such other prop-
24 erty or money distributes it in pursuance of the plan

1 of reorganization, no gain to the corporation shall be
2 recognized from the exchange, but

3 (2) If the corporation receiving such other prop-
4 erty or money does not distribute it in pursuance of the
5 plan of reorganization, the gain, if any, to the corpora-
6 tion shall be recognized, but in an amount not in excess
7 of the sum of such money and the fair market value of
8 such other property so received, which is not so
9 distributed.

10 (e) LOSS FROM EXCHANGES NOT SOLELY IN
11 KIND.—If an exchange would be within the provisions of
12 subsection (b) (1) to (5), inclusive, of this section if it
13 were not for the fact that the property received in exchange
14 consists not only of property permitted by such paragraph
15 to be received without the recognition of gain or loss, but
16 also of other property or money, then no loss from the
17 exchange shall be recognized.

18 (f) INVOLUNTARY CONVERSIONS.—If property (as a
19 result of its destruction in whole or in part, theft or seizure,
20 or an exercise of the power of requisition or condemnation,
21 or the threat or imminence thereof) is compulsorily or
22 involuntarily converted into property similar or related in
23 service or use to the property so converted, or into money
24 which is forthwith in good faith, under regulations pre-
25 scribed by the Commissioner with the approval of the Sec-

1 retary, expended in the acquisition of other property similar
2 or related in service or use to the property so converted, or
3 in the acquisition of control of a corporation owning such
4 other property, or in the establishment of a replacement
5 fund, no gain or loss shall be recognized. If any part of the
6 money is not so expended, the gain, if any, shall be recog-
7 nized, but in an amount not in excess of the money which
8 is not so expended.

9 ~~(g) DISTRIBUTION OF STOCK ON REORGANIZA-~~
10 ~~TION.—~~If there is distributed, in pursuance of a plan of
11 reorganization, to a shareholder in a corporation a party to
12 the reorganization, stock or securities in such corporation
13 or in another corporation a party to the reorganization,
14 without the surrender by such shareholder of stock or securi-
15 ties in such a corporation, no gain to the distributee from
16 the receipt of such stock or securities shall be recognized.

17 ~~(h) SAME—EFFECT ON FUTURE DISTRIBUTIONS.—~~
18 The distribution, in pursuance of a plan of reorganization,
19 by or on behalf of a corporation a party to the reorganiza-
20 tion, of its stock or securities or stock or securities in a cor-
21 poration a party to the reorganization, if no gain to the
22 distributee from the receipt of such stock or securities was
23 recognized by law, shall not be considered a distribution
24 of earnings or profits within the meaning of section 115(b)

1 for the purpose of determining the taxability of subsequent
2 distributions by the corporation.

3 ~~(i)~~ (g) DEFINITION OF REORGANIZATION.—As used
4 in this section and ~~sections 113 and 115~~ section 113—

5 (1) The term “reorganization” means (A) a
6 statutory merger or consolidation ~~(including, or (B)~~
7 the acquisition by one corporation ~~of~~ in exchange solely
8 for its voting stock: of at least a ~~majority~~ 80 per centum
9 of the voting stock and at least a ~~majority~~ 80 per
10 centum of the total number of shares of all other classes
11 of stock of another ~~corporation, or corporation; or of~~
12 substantially all the properties of another corporation);
13 ~~or (B), or (C)~~ a transfer by a corporation of all or a
14 part of its assets to another corporation if immediately
15 after the transfer the transferor or its stockholders or
16 both are in control of the corporation to which the
17 assets are transferred, or ~~(C)~~ (D) a recapitalization,
18 or ~~(D)~~ (E) a mere change in identity, form, or place
19 of organization, however effected.

20 (2) The term “a party to a reorganization”
21 includes a corporation resulting from a reorganization
22 and includes both corporations in the case of an ~~an~~ acquisi-
23 tion by one corporation of at least a ~~majority~~ of the
24 voting stock and at least a ~~majority~~ of the total num-
25 ber of shares of all other classes of stock of another

1 ~~corporation~~ a reorganization resulting from the acqui-
 2 sition by one corporation of stock or properties of
 3 another.

4 ~~(j)~~ (h) DEFINITION OF CONTROL.—As used in this
 5 section the term “control” means the ownership of at least
 6 80 per centum of the voting stock and at least 80 per centum
 7 of the total number of shares of all other classes of stock of
 8 the corporation.

9 ~~(k)~~ (i) FOREIGN CORPORATIONS.—In determining
 10 the extent to which gain shall be recognized in the case of
 11 any of the exchanges ~~or distributions~~ (made after the date of
 12 the enactment of this Act) described in subsection (b) (3),
 13 (4), or (5), or described in so much of subsection (c) as
 14 refers to subsection (b) (3) or (5), or described in subsec-
 15 tion (d) ~~or (g)~~, a foreign corporation shall not be considered
 16 as a corporation unless, prior to such exchange ~~or distribu-~~
 17 ~~tion~~, it has been established to the satisfaction of the Com-
 18 missioner that such exchange ~~or distribution~~ is not in pursu-
 19 ance of a plan having as one of its principal purposes the
 20 avoidance of Federal income taxes.

21 **SEC. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR**
 22 **LOSS.**

23 (a) BASIS (UNADJUSTED) OF PROPERTY.—The basis
 24 of property shall be the cost of such property; except that—

1 (1) INVENTORY VALUE.—If the property should
2 have been included in the last inventory, the basis shall
3 be the last inventory value thereof.

4 (2) GIFTS AFTER DECEMBER 31, 1920.—If the
5 property was acquired by gift after December 31,
6 1920, the basis shall be the same as it would be in
7 the hands of the donor or the last preceding owner by
8 whom it was not acquired by gift, *except that for the*
9 *purpose of determining loss the basis shall be the basis*
10 *so determined or the fair market value of the property*
11 *at the time of the gift, whichever is lower.* If the facts
12 necessary to determine ~~such basis~~ *the basis in the hands*
13 *of the donor or the last preceding owner* are unknown
14 to the donee, the Commissioner shall, if possible,
15 obtain such facts from such donor or last preceding
16 owner, or any other person cognizant thereof. If the
17 Commissioner finds it impossible to obtain such facts,
18 *the basis in the hands of such donor or last preceding*
19 *owner* shall be the fair market value of such property
20 as found by the Commissioner as of the date or approx-
21 imate date at which, according to the best information
22 that the Commissioner is able to obtain, such property
23 was acquired by such donor or last preceding owner.

24 (3) TRANSFER IN TRUST AFTER DECEMBER 31,
25 1920.—If the property was acquired after December

1 31, 1920, by a transfer in trust (other than by a
2 transfer in trust by a bequest or devise) the basis shall
3 be the same as it would be in the hands of the grantor,
4 increased in the amount of gain or decreased in the
5 amount of loss recognized to the grantor upon such
6 transfer under the law applicable to the year in which
7 the transfer was made.

8 (4) GIFT OR TRANSFER IN TRUST BEFORE
9 JANUARY 1, 1921.—If the property was acquired by
10 gift or transfer in trust on or before December 31, 1920,
11 the basis shall be the fair market value of such property
12 at the time of such acquisition. The provisions of this
13 paragraph shall apply to the acquisition of such
14 property interests as are specified in section 402(e) of
15 the Revenue Act of 1921, or in section 302(f) of
16 the Revenue Act of 1924 or the Revenue Act of 1926
17 ~~(relating to property passing under power of appoint-~~
18 ~~ment) regardless of the time of acquisition.~~

19 (5) PROPERTY TRANSMITTED AT DEATH.—If
20 personal property was acquired by specific bequest, or
21 if real property was acquired by general or specific
22 devise or by intestacy, the basis shall be the fair market
23 value of the property at the time of the death of the
24 decedent. If the property was acquired by the
25 decedent's estate from the decedent, the basis in the

1 hands of the estate shall be the fair market value of
2 the property at the time of the death of the decedent.
3 In all other cases if the property was acquired either
4 by will or by intestacy, the basis shall be the fair market
5 value of the property at the time of the distribution to
6 the taxpayer. *If the property was acquired by be-*
7 *quest, devise, or inheritance, or by the decedent's*
8 *estate from the decedent, the basis shall be the fair*
9 *market value of such property at the time of such*
10 *acquisition. In the case of property transferred in*
11 *trust to pay the income for life to or upon the order or*
12 *direction of the grantor, with the right reserved to the*
13 *grantor at all times prior to his death to revoke the*
14 *trust, the basis of such property in the hands of the*
15 *persons entitled under the terms of the trust instrument*
16 *to the property after the grantor's death shall, after*
17 *such death, be the same as if the trust instrument had*
18 *been a will executed on the day of the grantor's death.*
19 *For the purpose of this paragraph property passing*
20 *without full and adequate consideration under a general*
21 *power of appointment exercised by will shall be deemed*
22 *to be property passing from the individual exercising*
23 *such power by bequest or devise.*

24 (6) TAX-FREE EXCHANGES GENERALLY.—If the
25 property was ~~acquired~~ acquired, after February 28,

1 1913, upon an exchange described in section 112 (b)
2 to (e), inclusive, the basis shall be the same as in
3 the case of the property exchanged, decreased in the
4 amount of any money received by the taxpayer and
5 increased in the amount of gain or decreased in the
6 amount of loss to the taxpayer that was recognized
7 upon such exchange under the law applicable to the
8 year in which the exchange was made. If the property
9 so acquired consisted in part of the type of property
10 permitted by section 112 (b) to be received without
11 the recognition of gain or loss, and in part of other
12 property, the basis provided in this paragraph shall be
13 allocated between the properties (other than money)
14 received, and for the purpose of the allocation there
15 shall be assigned to such other property an amount
16 equivalent to its fair market value at the date of the
17 exchange. This paragraph shall not apply to property
18 acquired by a corporation by the issuance of its stock
19 or securities as the consideration in whole or in part
20 for the transfer of the property to it.

21 (7) TRANSFERS TO CORPORATION WHERE CON-
22 TROL OF PROPERTY REMAINS IN SAME PERSONS.—If
23 the property was acquired after December 31, 1917,
24 by a corporation in connection with a reorganization,
25 and immediately after the transfer an interest or control

1 in such property of 50 per centum or more remained
2 in the same persons or any of them, then the basis shall
3 be the same as it would be in the hands of the trans-
4 feror, increased in the amount of gain or decreased in
5 the amount of loss recognized to the transferor upon
6 such transfer under the law applicable to the year in
7 which the transfer was made. This paragraph shall
8 not apply if the property acquired consists of stock or
9 securities in a corporation a party to the reorganization,
10 unless acquired by the issuance of stock or securities of
11 the transferee as the consideration in whole or in part
12 for the transfer.

13 (8) PROPERTY ACQUIRED BY ISSUANCE OF
14 STOCK OR AS PAID-IN SURPLUS.—If the property was
15 acquired after December 31, 1920, by a corporation—

16 (A) by the issuance of its stock or securities
17 in connection with a transaction described in sec-
18 tion 112 (b) (5) (including, also, cases where
19 part of the consideration for the transfer of such
20 property to the corporation was property or
21 money, in addition to such stock or securities), or

22 (B) as paid-in surplus or as a contribution
23 to capital,

24 then the basis shall be the same as it would be in the
25 hands of the transferor, increased in the amount of gain

1 or decreased in the amount of loss recognized to the
2 transferor upon such transfer under the law applicable
3 to the year in which the transfer was made.

4 ~~(9)~~ TAX-FREE DISTRIBUTIONS.—If the property
5 consists of stock or securities distributed after Decem-
6 ber 31, 1923, to a taxpayer in connection with a
7 transaction described in section 112(g), the basis in
8 the case of the stock in respect of which the distribu-
9 tion was made shall be apportioned, under rules and
10 regulations prescribed by the Commissioner with the
11 approval of the Secretary, between such stock and the
12 stock or securities distributed.

13 ~~(10)~~ (9) INVOLUNTARY CONVERSION.—If the
14 property was ~~acquired~~ *acquired*, after February 28,
15 1913, as the result of a compulsory or involuntary
16 conversion described in section 112(f), the basis shall
17 be the same as in the case of the property so con-
18 verted, decreased in the amount of any money received
19 by the taxpayer which was not expended in accordance
20 with the provisions of law (applicable to the year in
21 which such conversion was made) determining the tax-
22 able status of the gain or loss upon such conversion,
23 and increased in the amount of gain or decreased in
24 the amount of loss to the taxpayer recognized upon

1 such conversion under the law applicable to the year
2 in which such conversion was made.

3 ~~(11)~~ (10) WASH SALES OF STOCK.—If the prop-
4 erty consists of stock or securities the acquisition of
5 which (or the contract or option to acquire which)
6 resulted in the nondeductibility (under section 118
7 of this Act or corresponding provisions of prior income
8 tax laws, relating to wash sales) of the loss from the
9 sale or other disposition of substantially identical stock
10 or securities, then the basis shall be the basis of the
11 stock or securities so sold or disposed of, increased or
12 decreased, as the case may be, by the difference, if any,
13 between the price at which the property was acquired
14 and the price at which such substantially identical
15 stock or securities were sold or otherwise disposed of.

16 ~~(12)~~ (11) PROPERTY ACQUIRED DURING AFFIL-
17 IATION.—In the case of property acquired by a corpo-
18 ration, during a period of affiliation, from a corporation
19 with which it was affiliated, the basis of such property,
20 after such period of affiliation, shall be determined, in
21 accordance with regulations prescribed by the Com-
22 missioner with the approval of the Secretary, without
23 regard to inter-company transactions in respect of
24 which gain or loss was not recognized. For the pur-
25 poses of this paragraph, the term “ period of affiliation ”

1 means the period during which such corporations were
2 affiliated (determined in accordance with the law ap-
3 plicable thereto) but does not include any taxable year
4 beginning on or after January 1, 1922, unless a con-
5 solidated return was made, nor any taxable year after
6 the taxable year 1928. The basis in case of property
7 acquired by a corporation during any period, in the
8 taxable year 1929 or any subsequent taxable year, in
9 respect of which a consolidated return is made by such
10 corporation under section 141 of this Act or the Rev-
11 enue Act of 1928 *or the Revenue Act of 1932*, shall be
12 determined in accordance with regulations prescribed
13 under section 141 (b) of this Act or the Revenue Act
14 of 1928 *or the Revenue Act of 1932*. The basis in
15 the case of property held by a corporation during any
16 period, in the taxable year 1929 or any subsequent
17 taxable year, in respect of which a consolidated return
18 is made by such corporation under section 141 of this
19 Act or the Revenue Act of 1928 *or the Revenue Act of*
20 *1932*, shall be adjusted in respect of any items relating
21 to such period, in accordance with regulations pre-
22 scribed under section 141 (b) of this Act or the
23 Revenue Act of 1928 *or the Revenue Act of 1932*,
24 applicable to such period.

1 (12) *BASIS ESTABLISHED BY REVENUE ACT*
2 *OF 1932.*—If the property was acquired, after Febru-
3 ary 28, 1913, in any taxable year beginning prior to
4 January 1, 1934, and the basis thereof, for the pur-
5 poses of the Revenue Act of 1932 was prescribed by
6 section 113(a) (6), (7), or (9) of such Act, then for
7 the purposes of this Act the basis shall be the same as the
8 basis therein prescribed in the Revenue Act of 1932.

9 (13) *PARTNERSHIPS.*—If the property was ac-
10 quired, after February 28, 1913, by a partnership and
11 the basis is not otherwise determined under any of the
12 paragraphs (1) to (12), inclusive, of this subsection,
13 then the basis shall be the same as it would be in the
14 hands of the transferor, increased in the amount of gain
15 or decreased in the amount of loss recognized to the
16 transferor upon such transfer under the law applicable
17 to the year in which the transfer was made. If the
18 property was distributed in kind by a partnership to
19 any partner, the basis of such property in the hands of
20 the partner shall be such part of the basis in his hands
21 of his partnership interest as is properly allocable to
22 such property.

23 ~~(13)~~ (14) *PROPERTY ACQUIRED BEFORE MARCH*
24 1, 1913.—In the case of property acquired before
25 March 1, 1913, if the basis otherwise determined under
26 this subsection, adjusted (for the period prior to

1 *March 1, 1913*) as provided in subsection (b), is
2 less than the fair market value of the property as of
3 *March 1, 1913*, then the basis *for determining gain* shall
4 be such fair market value. In determining the fair
5 market value of stock in a corporation as of *March 1,*
6 *1913*, due regard shall be given to the fair market value
7 of the assets of the corporation as of that date.

8 (b) **ADJUSTED BASIS.**—The adjusted basis for deter-
9 mining the gain or loss from the sale or other disposition of
10 property, whenever acquired, shall be the basis determined
11 under subsection (a), adjusted as hereinafter provided. .

12 (1) **GENERAL RULE.**—Proper adjustment in
13 respect of the property shall in all cases be made—

14 (A) for expenditures, receipts, losses, or
15 other items, properly chargeable to capital account,
16 including taxes and other carrying charges on unim-
17 proved and unproductive real property, but no
18 such adjustment shall be made for taxes or other
19 carrying charges for which deductions have been
20 taken by the taxpayer in determining net income
21 for the taxable year or prior taxable years;

22 (B) in respect of any period since February
23 28, 1913, for exhaustion, wear and tear, obso-
24 lescence, amortization, and depletion, to the extent
25 allowed (but not less than the amount allowable)

1 under this Act or prior income tax laws. Where
2 for any taxable year prior to the taxable year 1932
3 the depletion allowance was based on discovery
4 value or a percentage of income, then the adjust-
5 ment for depletion for such year shall be based on
6 the depletion which would have been allowable
7 for such year if computed without reference to
8 discovery value or a percentage of income;

9 (C) in respect of any period prior to March
10 1, 1913, for exhaustion, wear and tear, obsoles-
11 cence, amortization, and depletion, to the extent
12 sustained;

13 (D) in the case of stock (to the extent not
14 provided for in the foregoing subparagraphs) for
15 the amount of distributions previously made
16 which, under the law applicable to the year in
17 which the distribution was made, either were tax-
18 free or were applicable in reduction of basis (not
19 including distributions made by a corporation,
20 which was classified as a personal service cor-
21 poration under the provisions of the Revenue Act
22 of 1918 or 1921, out of its earnings or profits
23 which were taxable in accordance with the provi-
24 sions of section 218 of the Revenue Act of 1918
25 or 1921).

1 (2) **SUBSTITUTED BASIS.**—The term “substi-
2 tuted basis” as used in this subsection means a basis
3 determined under any provision of subsection (a) of
4 this section or under any corresponding provision of a
5 prior income tax law, providing that the basis shall be
6 determined—

7 (A) by reference to the basis in the hands of
8 a transferor, donor, or grantor, or

9 (B) by reference to other property held at
10 any time by the person for whom the basis is to
11 be determined.

12 Whenever it appears that the basis of property in the
13 hands of the taxpayer is a substituted basis, then the
14 adjustments provided in paragraph (1) of this sub-
15 section shall be made after first making in respect of
16 such substituted basis proper adjustments of a similar
17 nature in respect of the period during which the prop-
18 erty was held by the transferor, donor, or grantor, or
19 during which the other property was held by the person
20 for whom the basis is to be determined. A similar rule
21 shall be applied in the case of a series of substituted
22 bases.

23 **SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.**

24 (a) **BASIS FOR DEPRECIATION.**—The basis upon
25 which exhaustion, wear and tear, and obsolescence are to

1 be allowed in respect of any property shall be the adjusted
2 basis provided in section 113 (b) for the purpose of deter-
3 mining the gain ~~or~~ less upon the sale or other disposition
4 of such property.

5 (b) BASIS FOR DEPLETION.—

6 (1) GENERAL RULE.—The basis upon which de-
7 pletion is to be allowed in respect of any property shall
8 be the adjusted basis provided in section 113 (b) for
9 the purpose of determining the gain ~~or~~ less upon the sale
10 or other disposition of such property, except as provided
11 in paragraphs (2), (3), and (4) of this subsection.

12 (2) DISCOVERY VALUE IN CASE OF MINES.—

13 In the case of mines (other than metal, coal or sulphur
14 mines) discovered by the taxpayer after February 28,
15 1913, the basis for depletion shall be the fair market
16 value of the property at the date of discovery or within
17 thirty days thereafter, if such mines were not acquired
18 as the result of purchase of a proven tract or lease, and
19 if the fair market value of the property is materially
20 disproportionate to the cost. The depletion allowance
21 *under section 23(m)* based on discovery value pro-
22 vided in this paragraph shall not exceed 50 per centum
23 of the net income of the taxpayer (computed without
24 allowance for depletion) from the property upon which
25 the discovery was made, except that in no case shall

1 the depletion allowance *under section 23(m)* be less
2 than it would be if computed without reference to dis-
3 covery value. Discoveries shall include minerals in
4 commercial quantities contained within a vein or de-
5 posit discovered in an existing mine or mining tract
6 by the taxpayer after February 28, 1913, if the vein
7 or deposit thus discovered was not merely the un-
8 interrupted extension of a continuing commercial vein
9 or deposit already known to exist, and if the dis-
10 covered minerals are of sufficient value and quantity
11 that they could be separately mined and marketed at
12 a profit.

13 (3) PERCENTAGE DEPLETION FOR OIL AND GAS
14 WELLS.—In the case of oil and gas wells the allowance
15 for depletion *under section 23(m)* shall be $27\frac{1}{4}$ per
16 centum of the gross income from the property during
17 the taxable year, excluding from such gross income an
18 amount equal to any rents or royalties paid or incurred
19 by the taxpayer in respect of the property. Such
20 allowance shall not exceed 50 per centum of the net
21 income of the taxpayer (computed without allowance
22 for depletion) from the property, except that in no
23 case shall the depletion allowance *under section 23(m)*
24 be less than it would be if computed without reference
25 to this paragraph.

1 (4) PERCENTAGE DEPLETION FOR COAL AND
2 METAL MINES AND SULPHUR.—The allowance for
3 depletion *under section 23(m)* shall be, in the case of
4 coal mines, 5 per centum, in the case of metal mines,
5 15 per centum, and, in the case of sulphur mines or de-
6 posits, 23 per centum, of the gross income from the
7 property during the taxable year, excluding from such
8 gross income an amount equal to any rents or royalties
9 paid or incurred by the taxpayer in respect of the prop-
10 erty. Such allowance shall not exceed 50 per centum
11 of the net income of the taxpayer (computed without
12 allowance for depletion) from the property, ~~except that~~
13 ~~in no case shall the depletion allowance for the taxable~~
14 ~~year 1932 or 1933 be less than it would be if computed~~
15 ~~without reference to this paragraph. A taxpayer mak-~~
16 ~~ing return for the taxable year 1933 shall state in~~
17 ~~such return, as to each property (or, if he first~~
18 ~~makes return in respect of a property for any tax-~~
19 ~~able year after the taxable year 1933, then in such~~
20 ~~first return), whether he elects to have the deple-~~
21 ~~tion allowance for such property for succeeding tax-~~
22 ~~able years computed with or without reference to~~
23 ~~percentage depletion. The depletion allowance in~~
24 ~~respect of such property for all succeeding taxable~~
25 ~~years shall be computed according to the election thus~~

1 made. If the taxpayer fails to make such statement in
2 the return, the depletion allowance for such property
3 for succeeding taxable years shall be computed without
4 reference to percentage depletion. During the period
5 for which property acquired after December 31, 1988,
6 is held by the taxpayer—

7 ~~(A)~~ if the basis of the property in the hands
8 of the taxpayer is, under section 113(a), deter-
9 mined by reference to the basis in the hands of
10 the transferor, donor, or grantor, then the deple-
11 tion allowance in respect of the property shall be
12 computed with or without reference to percentage
13 depletion, according to the method of computation
14 which would have been applicable if the transferor,
15 donor, or grantor had continued to hold the prop-
16 erty, or

17 ~~(B)~~ if the basis of the property is, under sec-
18 tion 113(a), determined by reference to the basis
19 of other property previously held by the taxpayer,
20 then the depletion allowance in respect of the
21 property shall be computed with or without refer-
22 ence to percentage depletion, according to the
23 method of computation which would have been
24 applicable in respect of the property previously

1 hold if the taxpayer had continued to hold such
2 property.

3 *A taxpayer making his first return under this title in*
4 *respect of a property shall state whether he elects to have*
5 *the depletion allowance for such property for the taxable*
6 *year for which the return is made computed with or*
7 *without regard to percentage depletion, and the depletion*
8 *allowance in respect of such property for such year*
9 *shall be computed according to the election thus made.*
10 *If the taxpayer fails to make such statement in the*
11 *return, the depletion allowance for such property for*
12 *such year shall be computed without reference to*
13 *percentage depletion. The method, determined as*
14 *above, of computing the depletion allowance shall be*
15 *applied in the case of the property for all taxable*
16 *years in which it is in the hands of such taxpayer,*
17 *or of any other person if the basis of the property*
18 *(for determining gain) in his hands is, under section*
19 *113, determined by reference to the basis in the hands*
20 *of such taxpayer, either directly or through one or*
21 *more substituted bases, as defined in that section.*

22 **SEC. 115. DISTRIBUTIONS BY CORPORATIONS.**

23 **(a) DEFINITION OF DIVIDEND.**—The term “dividend”
24 when used in this title (except in section 203(a)(4)
25 and section ~~208(e)(1)~~ 207(c)(1), relating to insurance

1 companies) means any distribution made by a corporation
2 to its shareholders, whether in money or in other property,
3 out of its earnings or profits accumulated after February
4 28, 1913.

5 (b) SOURCE OF DISTRIBUTIONS.—For the purposes
6 of this Act every distribution is made out of earnings or
7 profits to the extent thereof, and from the most recently
8 accumulated earnings or profits. Any earnings or profits
9 accumulated, or increase in value of property accrued, before
10 March 1, 1913, may be distributed exempt from tax, after
11 the earnings and profits accumulated after February 28,
12 1913, have been distributed, but any such tax-free distribu-
13 tion shall be applied against and reduce the *adjusted* basis of
14 the stock provided in section 113.

15 (c) DISTRIBUTIONS IN LIQUIDATION.—Amounts dis-
16 tributed in complete liquidation of a corporation shall be
17 treated as in full payment in exchange for the stock, and
18 amounts distributed in partial liquidation of a corporation
19 shall be treated as in part or full payment in exchange for the
20 stock. The gain or loss to the distributee resulting from
21 such exchange shall be determined under section 111, but
22 shall be recognized only to the extent provided in section
23 112. *Despite the provisions of section 117(a), 100 per*
24 *centum of the gain so recognized shall be taken into account*
25 *in computing net income.* In the case of amounts distributed

1 (whether before January 1, 1934, or on or after such date)
2 in partial liquidation (other than a distribution within the
3 provisions of section ~~112(h)~~ subsection (h) of this section
4 of stock or securities in connection with a reorganization)
5 the part of such distribution which is properly chargeable
6 to capital account shall not be considered a distribution of
7 earnings or profits within the meaning of subsection (b)
8 of this section for the purpose of determining the taxability
9 of subsequent distributions by the corporation.

10 (d) OTHER DISTRIBUTIONS FROM CAPITAL.—If any
11 distribution (not in partial or complete liquidation) made by
12 a corporation to its shareholders is not out of increase in
13 value of property accrued before March 1, 1913, and is not
14 out of earnings or profits, then the amount of such distribu-
15 tion shall be applied against and reduce the *adjusted* basis of
16 the stock provided in section 113, and if in excess of such
17 basis, such excess shall be taxable in the same manner as a
18 gain from the sale or exchange of property.

19 (e) DISTRIBUTIONS BY PERSONAL SERVICE CORPORA-
20 TIONS.—Any distribution made by a corporation, which was
21 classified as a personal service corporation under the pro-
22 visions of the Revenue Act of 1918 or the Revenue Act
23 of 1921, out of its earnings or profits which were taxable
24 in accordance with the provisions of section 218 of the Reve-

1 nue Act of 1918 or section 218 of the Revenue Act of 1921,
2 shall be exempt from tax to the distributees.

3 (f) STOCK DIVIDENDS.—A stock dividend shall not be
4 subject to tax.

5 (g) REDEMPTION OF STOCK.—If a corporation cancels
6 or redeems its stock (whether or not such stock was issued
7 as a stock dividend) at such time and in such manner as
8 to make the distribution and cancellation or redemption in
9 whole or in part essentially equivalent to the distribution
10 of a taxable dividend, the amount so distributed in redemp-
11 tion or cancellation of the stock, to the extent that it repre-
12 sents a distribution of earnings or profits accumulated after
13 February 28, 1913, shall be treated as a taxable dividend.

14 (h) DISTRIBUTION OF STOCK ON REORGANIZA-
15 TION—EFFECT ON FUTURE DISTRIBUTIONS.—The dis-
16 tribution before January 1, 1934, in pursuance of a plan
17 of reorganization, by or on behalf of a corporation a party
18 to the reorganization, of its stock or securities or stock or
19 securities in a corporation a party to the reorganization, if
20 no gain to the distributee from the receipt of such stock or
21 securities was recognized by law, shall not be considered a
22 distribution of earnings or profits within the meaning of this
23 section for the purpose of determining the taxability of sub-
24 sequent distributions by the corporation. As used in this

1 subsection, the terms "reorganization" and "party to the
2 reorganization" shall have the meanings assigned to such
3 terms in section 112 of the Revenue Act of 1932.

4 ~~(h)~~ (i) DEFINITION OF PARTIAL LIQUIDATION.—As
5 used in this section the term "amounts distributed in partial
6 liquidation" means a distribution by a corporation in com-
7 plete cancellation or redemption of a part of its stock, or one
8 of a series of distributions in complete cancellation or redemp-
9 tion of all or a portion of its stock.

10 **SEC. 116. EXCLUSIONS FROM GROSS INCOME.**

11 In addition to the items specified in section 22 (b), the
12 following items shall not be included in gross income and
13 shall be exempt from taxation under this title:

14 (a) EARNED INCOME FROM SOURCES WITHOUT
15 UNITED STATES.—In the case of an individual citizen of
16 the United States, a bona fide nonresident of the United
17 States for more than six months during the taxable year,
18 amounts received from sources without the United States
19 (except amounts paid by the United States or any agency
20 thereof) if such amounts *would* constitute earned income
21 as defined in section 25(a) if received from sources within the
22 United States; but such individual shall not be allowed as
23 a deduction from his gross income any deductions properly
24 allocable to or chargeable against amounts excluded from
25 gross income under this subsection. As used in this subsec-

1 tion the term "earned income" means wages, salaries,
2 professional fees, and other amounts received as compensa-
3 tion for personal services actually rendered, but does not
4 include that part of the compensation derived by the tax-
5 payer for personal services rendered by him to a corporation
6 which represents a distribution of earnings or profits rather
7 than a reasonable allowance as compensation for the personal
8 services actually rendered. In the case of a taxpayer en-
9 gaged in a trade or business in which both personal services
10 and capital are material income producing factors, a reason-
11 able allowance as compensation for the personal services
12 actually rendered by the taxpayer, not in excess of 20 per
13 centum of his share of the net profits of such trade or busi-
14 ness, shall be considered as earned income.

15 (b) TEACHERS IN ALASKA AND HAWAII.—In the
16 case of an individual employed by Alaska or Hawaii or any
17 political subdivision thereof as a teacher in any educational
18 institution, the compensation received as such. This sub-
19 section shall not exempt compensation paid directly or
20 indirectly by the Government of the United States. Sub-
21 section (b) of section 5 of the Act entitled "An Act to pro-
22 vide a government for the Territory of Hawaii", approved
23 April 30, 1900, as amended by the Act entitled "An Act to
24 amend section 5 of the Act entitled 'An Act to provide a
25 government for the Territory of Hawaii', approved April 30,

1 1900", approved April 12, 1920 [U.S.C., Sup. V, title 48,
2 sec. 405 (b)], is repealed as of January 1, 1932.

3 (c) INCOME OF FOREIGN GOVERNMENTS.—The in-
4 come of foreign governments received from investments in
5 the United States in stocks, bonds, or other domestic securi-
6 ties, owned by such foreign governments, or from interest on
7 deposits in banks in the United States of moneys belonging
8 to such foreign governments, or from any other source
9 within the United States.

10 (d) INCOME OF STATES, MUNICIPALITIES, ETC.—
11 Income derived from any public utility or the exercise of any
12 essential governmental function and accruing to any State,
13 Territory, or the District of Columbia, or any political sub-
14 division of a State or Territory, or income accruing to the
15 government of any possession of the United States, or any
16 political subdivision thereof.

17 Whenever any State, Territory, or the District of
18 Columbia, or any political subdivision of a State or Terri-
19 tory, prior to September 8, 1916, entered in good faith
20 into a contract with any person, the object and purpose of
21 which is to acquire, construct, operate, or maintain a public
22 utility—

23 (1) If by the terms of such contract the tax
24 imposed by this title is to be paid out of the proceeds
25 from the operation of such public utility, prior to any

1 division of such proceeds between the person and
2 the State, Territory, political subdivision, or the
3 District of Columbia, and if, but for the imposition of
4 the tax imposed by this title, a part of such proceeds for
5 the taxable year would accrue directly to or for the
6 use of such State, Territory, political subdivision, or
7 the District of Columbia, then a tax upon the net income
8 from the operation of such public utility shall be
9 levied, assessed, collected, and paid in the manner
10 and at the rates prescribed in this title, but there
11 shall be refunded to such State, Territory, political
12 subdivision, or the District of Columbia (under rules
13 and regulations to be prescribed by the Commissioner
14 with the approval of the Secretary) an amount which
15 bears the same relation to the amount of the tax as the
16 amount which (but for the imposition of the tax
17 imposed by this title) would have accrued directly to
18 or for the use of such State, Territory, political sub-
19 division, or the District of Columbia, bears to the
20 amount of the net income from the operation of such
21 public utility for such taxable year.

22 (2) If by the terms of such contract no part of
23 the proceeds from the operation of the public utility
24 for the taxable year would, irrespective of the tax
25 imposed by this title, accrue directly to or for the use

1 of such State, Territory, political subdivision, or the
2 District of Columbia, then the tax upon the net income
3 of such person from the operation of such public utility
4 shall be levied, assessed, collected, and paid in the
5 manner and at the rates prescribed in this title.

6 (e) BRIDGES TO BE ACQUIRED BY STATE OR POLITI-
7 CAL SUBDIVISION.—Whenever any State or political sub-
8 division thereof, in pursuance of a contract to which it is not
9 a party entered into before the enactment of the Revenue
10 Act of 1928, is to acquire a bridge—

11 (1) If by the terms of such contract the tax im-
12 posed by this title is to be paid out of the proceeds from
13 the operation of such bridge prior to any division of
14 such proceeds, and if, but for the imposition of the
15 tax imposed by this title, a part of such proceeds for the
16 taxable year would accrue directly to or for the use of
17 or would be applied for the benefit of such State or
18 political subdivision, then a tax upon the net income
19 from the operation of such bridge shall be levied,
20 assessed, collected, and paid in the manner and at the
21 rates prescribed in this title, but there shall be refunded
22 to such State or political subdivision (under rules and
23 regulations to be prescribed by the Commissioner with
24 the approval of the Secretary) an amount which bears
25 the same relation to the amount of the tax as the amount

1 which (but for the imposition of the tax imposed by
2 this title) would have accrued directly to or for the use
3 of or would be applied for the benefit of such State or
4 political subdivision, bears to the amount of the net
5 income from the operation of such bridge for such tax-
6 able year. No such refund shall be made unless the
7 entire amount of the refund is to be applied in part
8 payment for the acquisition of such bridge.

9 (2) If by the terms of such contract no part of
10 the proceeds from the operation of the bridge for the
11 taxable year would, irrespective of the tax imposed by
12 this title, accrue directly to or for the use of or be
13 applied for the benefit of such State or political sub-
14 division, then the tax upon the net income from the
15 operation of such bridge shall be levied, assessed, col-
16 lected, and paid in the manner and at the rates pre-
17 scribed in this title.

18 (f) **DIVIDEND FROM "CHINA TRADE ACT" COR-**
19 **PORATION.**—In the case of a person, amounts distributed as
20 dividends to or for his benefit by a corporation organized
21 under the China Trade Act, 1922, if, at the time of such
22 distribution, he is a resident of China, and the equitable right
23 to the income of the shares of stock of the corporation is in
24 good faith vested in him.

1 (g) SHIPOWNERS' PROTECTION AND INDEMNITY
2 ASSOCIATIONS.—The receipts of shipowners' mutual protec-
3 tion and indemnity associations not organized for profit, and
4 no part of the net earnings of which inures to the benefit of
5 any private shareholder; but such corporations shall be sub-
6 ject as other persons to the tax upon their net income from
7 interest, dividends, and rents.

8 *SEC. 117. CAPITAL GAINS AND LOSSES.*

9 (a) *GENERAL RULE.*—*In the case of a taxpayer,*
10 *other than a corporation, only the following percentages of*
11 *the gain or loss recognized upon the sale or exchange of a*
12 *capital asset shall be taken into account in computing net*
13 *income:*

14 *100 per centum if the capital asset has been held*
15 *for not more than 1 year;*

16 *80 per centum if the capital asset has been held*
17 *for more than 1 year but not for more than 2 years;*

18 *60 per centum if the capital asset has been held*
19 *for more than 2 years but not for more than 5 years;*

20 *40 per centum if the capital asset has been held for*
21 *more than 5 years but not for more than 10 years;*

22 *30 per centum if the capital asset has been held*
23 *for more than 10 years.*

24 (b) *DEFINITION OF CAPITAL ASSETS.*—*For the pur-*
25 *poses of this title, "capital assets" means property held by*

1 *the taxpayer (whether or not connected with his trade or*
2 *business), but does not include stock in trade of the taxpayer*
3 *or other property of a kind which would properly be included*
4 *in the inventory of the taxpayer if on hand at the close of*
5 *the taxable year, or property held by the taxpayer primarily*
6 *for sale to customers in the ordinary course of his trade or*
7 *business.*

8 *(c) DETERMINATION OF PERIOD FOR WHICH HELD.—*

9 *For the purpose of subsection (a)—*

10 *(1) In determining the period for which the tax-*
11 *payer has held property received on an exchange there*
12 *shall be included the period for which he held the prop-*
13 *erty exchanged, if under the provisions of section 113,*
14 *the property received has, for the purpose of determining*
15 *gain or loss from a sale or exchange, the same basis in*
16 *whole or in part in his hands as the property exchanged.*

17 *(2) In determining the period for which the tax-*
18 *payer has held property however acquired there shall*
19 *be included the period for which such property was held*
20 *by any other person, if under the provisions of section*
21 *113, such property has, for the purpose of determining*
22 *gain or loss from a sale or exchange, the same basis in*
23 *whole or in part in his hands as it would have in the*
24 *hands of such other person.*

1 (3) *In determining the period for which the tax-*
2 *payer has held stock or securities received upon a dis-*
3 *tribution where no gain was recognized to the distributee*
4 *under the provisions of section 112(g) of the Revenue*
5 *Act of 1928 or the Revenue Act of 1932, there shall be*
6 *included the period for which he held the stock or securi-*
7 *ties in the distributing corporation prior to the receipt of*
8 *the stock or securities upon such distribution.*

9 (4) *In determining the period for which the tax-*
10 *payer has held stock or securities the acquisition of*
11 *which (or the contract or option to acquire which) re-*
12 *sulted in the nondeductibility (under section 118 of this*
13 *Act or section 118 of the Revenue Act of 1928 or the*
14 *Revenue Act of 1932, relating to wash sales) of the loss*
15 *from the sale or other disposition of substantially iden-*
16 *tical stock or securities, there shall be included the period*
17 *for which he held the stock or securities the loss from*
18 *the sale or other disposition of which was not deductible.*

19 (d) *LIMITATION ON CAPITAL LOSSES.—Losses from*
20 *sales or exchanges of capital assets shall be allowed only to*
21 *the extent of \$2,000 plus the gains from such sales or*
22 *exchanges. If a bank or trust company incorporated under*
23 *the laws of the United States or of any State or Territory,*
24 *a substantial part of whose business is the receipt of*
25 *deposits, sells any bond, debenture, note, or certificate or*

1 *other evidence of indebtedness issued by any corporation*
 2 *(including one issued by a government or political sub-*
 3 *division thereof), with interest coupons or in registered*
 4 *form, any loss resulting from such sale shall not be subject*
 5 *to the foregoing limitation except such portion of the loss*
 6 *as is equal to the amount, if any, by which the adjusted*
 7 *basis of such instrument exceeds the par or face value*
 8 *thereof.*

9 *(e) GAINS AND LOSSES FROM SHORT SALES, ETC.—*

10 *For the purpose of this title—*

11 *(1) gains or losses from short sales of property*
 12 *shall be considered as gains or losses from sales or*
 13 *exchanges of capital assets; and*

14 *(2) gains or losses attributable to the failure to*
 15 *exercise privileges or options to buy or sell property*
 16 *shall be considered as gains or losses from sales or*
 17 *exchanges of capital assets held for one year or less.*

18 *(f) RETIREMENT OF BONDS, ETC.—For the purposes*
 19 *of this title, amounts received by the holder upon the retire-*
 20 *ment of bonds, debentures, notes, or certificates or other*
 21 *evidences of indebtedness issued by any corporation (includ-*
 22 *ing those issued by a government or political subdivision*
 23 *thereof), with interest coupons or in registered form, shall be*
 24 *considered as amounts received in exchange therefor.*

1 SEC. 118. LOSS FROM WASH SALES OF STOCK OR SECU-
2 RITIES.

3 (a) In the case of any loss claimed to have been sus-
4 tained from any sale or other disposition of shares of stock
5 or securities where it appears that, within a period beginning
6 30 days before the date of such sale or disposition and ending
7 30 days after such date, the taxpayer has acquired (by pur-
8 chase or by an exchange upon which the entire amount of
9 gain or loss was recognized by law), or has entered into a
10 contract or option so to acquire, substantially identical
11 stock or securities, then no deduction for the loss shall be
12 allowed under section 23 (e) (2) ; nor shall such deduction
13 be allowed under section 23 (f) unless the claim is made by a
14 corporation, a dealer in stocks or securities, and with respect
15 to a transaction made in the ordinary course of its business.

16 (b) If the amount of stock or securities acquired (or
17 covered by the contract or option to acquire) is less than the
18 amount of stock or securities sold or otherwise disposed of,
19 then the particular shares of stock or securities the loss from
20 the sale or other disposition of which is not deductible shall
21 be determined under rules and regulations prescribed by the
22 Commissioner with the approval of the Secretary.

23 (c) If the amount of stock or securities acquired (or
24 covered by the contract or option to acquire) is not less
25 than the amount of stock or securities sold or otherwise dis-

1 posed of, then the particular shares of stock or securities the
 2 acquisition of which (or the contract or option to acquire
 3 which) resulted in the nondeductibility of the loss shall be
 4 determined under rules and regulations prescribed by the
 5 Commissioner with the approval of the Secretary.

6 **SEC. 119. INCOME FROM SOURCES WITHIN UNITED STATES.**

7 (a) **GROSS INCOME FROM SOURCES IN UNITED**
 8 **STATES.**—The following items of gross income shall be
 9 treated as income from sources within the United States:

10 (1) **INTEREST.**—*Interest from the United States,*
 11 *any Territory, any political subdivision of a Territory,*
 12 *or the District of Columbia, and interest on bonds, notes,*
 13 *or other interest-bearing obligations of residents, corpo-*
 14 *rate or otherwise, not including—*

15 (A) interest on deposits with persons carry-
 16 ing on the banking business paid to persons not
 17 engaged in business within the United States and
 18 not having an office or place of business therein, or

19 (B) interest received from a resident alien
 20 individual, a resident foreign corporation, or a
 21 domestic corporation, when it is shown to the satis-
 22 faction of the Commissioner that less than 20 per
 23 centum of the gross income of such resident payor
 24 or domestic corporation has been derived from
 25 sources within the United States, as determined

1 under the provisions of this section, for the three-
2 year period ending with the close of the taxable
3 year of such payor preceding the payment of such
4 interest, or for such part of such period as may be
5 applicable, or

6 (C) income derived by a foreign central
7 bank of issue from bankers' acceptances;

8 (2) DIVIDENDS.—The amount received as divi-
9 dends—

10 (A) from a domestic corporation other
11 than a corporation entitled to the benefits of
12 section 251, and other than a corporation less than
13 20 per centum of whose gross income is shown to
14 the satisfaction of the Commissioner to have been
15 derived from sources within the United States, as
16 determined under the provisions of this section,
17 for the three-year period ending with the close
18 of the taxable year of such corporation preceding
19 the declaration of such dividends (or for such part
20 of such period as the corporation has been in
21 existence), or

22 (B) from a foreign corporation unless less
23 than 50 per centum of the gross income of such
24 foreign corporation for the three-year period end-
25 ing with the close of its taxable year preceding

1 the declaration of such dividends (or for such part
2 of such period as the corporation has been in
3 existence) was derived from sources within the
4 United States as determined under the provisions
5 of this section; *but dividends from a foreign cor-*
6 *poration shall, for the purposes of section 131*
7 *(relating to foreign tax credit), be treated as in-*
8 *come from sources without the United States;*

9 (3) **PERSONAL SERVICES.**—Compensation for
10 labor or personal services performed in the United
11 States;

12 (4) **RENTALS AND ROYALTIES.**—Rentals or
13 royalties from property located in the United States or
14 from any interest in such property, including rentals
15 or royalties for the use of or for the privilege of using
16 in the United States, patents, copyrights, secret
17 processes and formulas, good will, trade-marks, trade
18 brands, franchises, and other like property; and

19 (5) **SALE OF REAL PROPERTY.**—Gains, profits,
20 and income from the sale of real property located in
21 the United States.

22 (6) **SALE OF PERSONAL PROPERTY.**—*For gains,*
23 *profits, and income from the sale of personal property*
24 *see subsection (e).*

1 (b) NET INCOME FROM SOURCES IN UNITED
2 STATES.—From the items of gross income specified in sub-
3 section (a) of this section there shall be deducted the
4 expenses, losses, and other deductions properly apportioned
5 or allocated thereto and a ratable part of any expenses, losses,
6 or other deductions which can not definitely be allocated
7 to some item or class of gross income. The remainder, if
8 any, shall be included in full as net income from sources
9 within the United States.

10 (c) GROSS INCOME FROM SOURCES WITHOUT
11 UNITED STATES.—The following items of gross income shall
12 be treated as income from sources without the United States:

13 (1) Interest other than that derived from sources
14 within the United States as provided in subsection
15 (a) (1) of this section;

16 (2) Dividends other than those derived from
17 sources within the United States as provided in sub-
18 section (a) (2) of this section;

19 (3) Compensation for labor or personal services
20 performed without the United States;

21 (4) Rentals or royalties from property located
22 without the United States or from any interest in such
23 property, including rentals or royalties for the use of
24 or for the privilege of using without the United States,
25 patents, copyrights, secret processes and formulas,

1 good will, trade-marks, trade brands, franchises, and
2 other like properties; and

3 (5) Gains, profits, and income from the sale of
4 real property located without the United States.

5 (d) NET INCOME FROM SOURCES WITHOUT UNITED
6 STATES.—From the items of gross income specified in sub-
7 section (c) of this section there shall be deducted the ex-
8 penses, losses, and other deductions properly apportioned
9 or allocated thereto, and a ratable part of any expenses,
10 losses, or other deductions which can not definitely be allo-
11 cated to some item or class of gross income. The remainder,
12 if any, shall be treated in full as net income from sources
13 without the United States.

14 (e) INCOME FROM SOURCES PARTLY WITHIN AND
15 PARTLY WITHOUT UNITED STATES.—Items of gross
16 income, expenses, losses and deductions, other than those
17 specified in subsections (a) and (c) of this section, shall
18 be allocated or apportioned to sources within or without
19 the United States, under rules and regulations prescribed
20 by the Commissioner with the approval of the Secretary.
21 Where items of gross income are separately allocated to
22 sources within the United States, there shall be deducted
23 (for the purpose of computing the net income therefrom)
24 the expenses, losses, and other deductions properly appor-
25 tioned or allocated thereto and a ratable part of other

1 expenses, losses or other deductions which can not definitely
2 be allocated to some item or class of gross income. The
3 remainder, if any, shall be included in full as net income
4 from sources within the United States. In the case of
5 gross income derived from sources partly within and partly
6 without the United States, the net income may first be
7 computed by deducting the expenses, losses, or other deduc-
8 tions apportioned or allocated thereto and a ratable part of
9 any expenses, losses, or other deductions which can not
10 definitely be allocated to some items or class of gross
11 income; and the portion of such net income attributable
12 to sources within the United States may be determined by
13 processes or formulas of general apportionment prescribed
14 by the Commissioner with the approval of the Secretary.
15 Gains, profits, and income from—

16 (1) transportation or other services rendered
17 partly within and partly without the United States, or
18 (2) from the sale of personal property produced
19 (in whole or in part) by the taxpayer within and sold
20 without the United States, or produced (in whole or in
21 part) by the taxpayer without and sold within the
22 United States,

23 shall be treated as derived partly from sources within and
24 partly from sources without the United States. Gains, profits
25 and income derived from the purchase of personal property

1 within and its sale without the United States or from the
 2 purchase of personal property without and its sale within the
 3 United States, shall be treated as derived entirely from
 4 sources within the country in which sold, except that gains,
 5 profits, and income derived from the purchase of personal
 6 property within the United States and its sale within a
 7 possession of the United States or from the purchase of per-
 8 sonal property within a possession of the United States and
 9 its sale within the United States shall be treated as derived
 10 partly from sources within and partly from sources without
 11 the United States.

12 (f) DEFINITIONS.—As used in this section the words
 13 “sale” or “sold” include “exchange” or “exchanged”;
 14 and the word “produced” includes “created”, “fabri-
 15 cated”, “manufactured”, “extracted”, “processed”,
 16 “cured”, or “aged”.

17 **SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE**
 18 **AND OTHER CONTRIBUTIONS.**

19 In the case of an individual if in the taxable year and
 20 in each of the ten preceding taxable years the amount of the
 21 contributions or gifts described in section ~~23(n)~~ 23(o) plus
 22 the amount of income, war-profits, or excess-profits taxes
 23 paid during such year in respect of preceding taxable years,
 24 exceeds 90 per centum of the taxpayer's net income for each
 25 such year, as computed without the benefit of section ~~23(n)~~

1 23(o), then the 15 per centum limit imposed by such section
2 shall not be applicable.

3 **Supplement C—Credits Against Tax**

4 [Supplementary to Subtitle B, Part III]

5 **SEC. 131. TAXES OF FOREIGN COUNTRIES AND POSSES-**
6 **SIONS OF UNITED STATES.**

7 (a) **ALLOWANCE OF CREDIT.**—If the taxpayer signi-
8 fies in his return his desire to have the benefits of this section,
9 the tax imposed by this title shall be credited with:

10 (1) **CITIZEN AND DOMESTIC CORPORATION.**—In
11 the case of a citizen of the United States and of a domes-
12 tic corporation, the amount of any income, war-profits,
13 and excess-profits taxes paid or accrued during the tax-
14 able year to any foreign country or to any possession
15 of the United States; and

16 (2) **RESIDENT OF UNITED STATES.**—In the case
17 of a resident of the United States, the amount of any
18 such taxes paid or accrued during the taxable year to
19 any possession of the United States; and

20 (3) **ALIEN RESIDENT OF UNITED STATES.**—In
21 the case of an alien resident of the United States, the
22 amount of any such taxes paid or accrued during the
23 taxable year to any foreign country, if the foreign
24 country of which such alien resident is a citizen or sub-
25 ject, in imposing such taxes, allows a similar credit

1 to citizens of the United States residing in such country;
2 and

3 (4) PARTNERSHIPS AND ESTATES.—In the case
4 of any such individual who is a member of a partner-
5 ship or a beneficiary of an estate or trust, his propor-
6 tionate share of such taxes of the partnership or the
7 estate or trust paid or accrued during the taxable year
8 to a foreign country or to any possession of the United
9 States, as the case may be.

10 (b) LIMIT ON CREDIT.—The amount of the credit
11 taken under this section shall be subject to each of the
12 following limitations:

13 (1) The amount of the credit in respect of the
14 tax paid or accrued to any country shall not exceed the
15 same proportion of the tax against which such credit
16 is taken, which the taxpayer's net income from sources
17 within such country bears to his entire net income for
18 the same taxable year; and

19 (2) The total amount of the credit shall not
20 exceed the same proportion of the tax against which
21 such credit is taken, which the taxpayer's net income
22 from sources without the United States bears to his
23 entire net income for the same taxable year.

24 (c) ADJUSTMENTS ON PAYMENT OF ACCRUED
25 TAXES.—If accrued taxes when paid differ from the

1 amounts claimed as credits by the taxpayer, or if any tax
2 paid is refunded in whole or in part, the taxpayer shall
3 notify the Commissioner, who shall redetermine the amount
4 of the tax for the year or years affected, and the amount of
5 tax due upon such redetermination, if any, shall be paid by
6 the taxpayer upon notice and demand by the collector, or
7 the amount of tax overpaid, if any, shall be credited or
8 refunded to the taxpayer in accordance with the provisions
9 of section 322. In the case of such a tax accrued but not
10 paid, the Commissioner as a condition precedent to the
11 allowance of this credit may require the taxpayer to give a
12 bond with sureties satisfactory to and to be approved by the
13 Commissioner in such sum as the Commissioner may require,
14 conditioned upon the payment by the taxpayer of any
15 amount of tax found due upon any such redetermination; and
16 the bond herein prescribed shall contain such further condi-
17 tions as the Commissioner may require.

18 (d) YEAR IN WHICH CREDIT TAKEN.—The credits
19 provided for in this section may, at the option of the tax-
20 payer and irrespective of the method of accounting employed
21 in keeping his books, be taken in the year in which the
22 taxes of the foreign country or the possession of the United
23 States accrued, subject, however, to the conditions prescribed
24 in subsection (c) of this section. If the taxpayer elects to
25 take such credits in the year in which the taxes of the foreign

1 country or the possession of the United States accrued, the
2 credits for all subsequent years shall be taken upon the
3 same basis, and no portion of any such taxes shall be allowed
4 as a deduction in the same or any succeeding year.

5 (e) PROOF OF CREDITS.—The credits provided in this
6 section shall be allowed only if the taxpayer establishes
7 to the satisfaction of the Commissioner (1) the total amount
8 of income derived from sources without the United States,
9 determined as provided in section 119, (2) the amount
10 of income derived from each country, the tax paid or accrued
11 to which is claimed as a credit under this section, such
12 amount to be determined under rules and regulations
13 prescribed by the Commissioner with the approval of the
14 Secretary, and (3) all other information necessary for the
15 verification and computation of such credits.

16 (f) TAXES OF FOREIGN SUBSIDIARY.—For the pur-
17 poses of this section a domestic corporation which owns a
18 majority of the voting stock of a foreign corporation from
19 which it receives dividends ~~(not deductible under section~~
20 ~~23(p))~~ in any taxable year shall be deemed to have paid
21 the same proportion of any income, war-profits, or excess-
22 profits taxes paid by such foreign corporation to any foreign
23 country or to any possession of the United States, upon or
24 with respect to the accumulated profits of such foreign corpo-
25 ration from which such dividends were paid, which the

1 amount of such dividends bears to the amount of such accu-
2 mulated profits: *Provided*, That the amount of tax deemed to
3 have been paid under this subsection shall in no case exceed
4 the same proportion of the tax against which credit is taken
5 which the amount of such dividends bears to the amount of
6 the entire net income of the domestic corporation in which
7 such dividends are included. The term "accumulated
8 profits" when used in this subsection in reference to a
9 foreign corporation, means the amount of its gains, profits,
10 or income in excess of the income, war-profits, and excess-
11 profits taxes imposed upon or with respect to such profits or
12 income; and the Commissioner with the approval of the Sec-
13 retary shall have full power to determine from the accumu-
14 lated profits of what year or years such dividends were paid;
15 treating dividends paid in the first sixty days of any year as
16 having been paid from the accumulated profits of the pre-
17 ceding year or years (unless to his satisfaction shown other-
18 wise), and in other respects treating dividends as having
19 been paid from the most recently accumulated gains, profits,
20 or earnings. In the case of a foreign corporation, the income,
21 war-profits, and excess-profits taxes of which are determined
22 on the basis of an accounting period of less than one year, the
23 word "year" as used in this subsection shall be construed
24 to mean such accounting period.

1 (g) CORPORATIONS TREATED AS FOREIGN.—For the
2 purposes of this section the following corporations shall be
3 treated as foreign corporations:

4 (1) A corporation entitled to the benefits of sec-
5 tion 251, by reason of receiving a large percentage of
6 its gross income from sources within a possession of
7 the United States;

8 (2) A corporation organized under the China
9 Trade Act, 1922, and entitled to the credit provided for
10 in section 261.

11 **SEC. 132. PAYMENTS UNDER 1928 ACT.**

12 Any amount paid before or after the enactment of this
13 Act on account of the tax imposed for a fiscal year beginning
14 in 1931 and ending in 1932 by Title II of the Revenue Act
15 of 1928 shall be credited toward the payment of the tax
16 imposed for such fiscal year by this Act, and if the amount
17 so paid exceeds the amount of such tax imposed by this Act,
18 the excess shall be credited or refunded in accordance with
19 the provisions of section 322.

20 **Supplement D—Returns and Payment of Tax**

21 [Supplementary to Subtitle B, Part V]

22 **SEC. 141. CONSOLIDATED RETURNS OF CORPORATIONS.**

23 (a) PRIVILEGE TO FILE CONSOLIDATED RETURNS.—

24 An affiliated group of corporations shall, subject to the

1 provisions of this section, have the privilege of making a
2 consolidated return for the taxable year in lieu of separate
3 returns. The making of a consolidated return shall be
4 upon the condition that all the corporations which have
5 been members of the affiliated group at any time during the
6 taxable year for which the return is made consent to all the
7 regulations under subsection (b) (or, in case such regula-
8 tions are not prescribed prior to the making of the return,
9 then the regulations prescribed under section 141 (b) of the
10 Revenue Act of ~~1928~~ 1932 in so far as not inconsistent with
11 this Act) prescribed prior to the making of such return;
12 and the making of a consolidated return shall be considered
13 as such consent. In the case of a corporation which is a
14 member of the affiliated group for a fractional part of the
15 year the consolidated return shall include the income of such
16 corporation for such part of the year as it is a member of
17 the affiliated group.

18 (b) REGULATIONS.—The Commissioner, with the
19 approval of the Secretary, shall prescribe such regulations
20 as he may deem necessary in order that the tax liability
21 of an affiliated group of corporations making a consolidated
22 return and of each corporation in the group, both during
23 and after the period of affiliation, may be determined,
24 computed, assessed, collected, and adjusted in such manner

1 as clearly to reflect the income and to prevent avoidance of
2 tax liability.

3 (c) COMPUTATION AND PAYMENT OF TAX.—In any
4 case in which a consolidated return is made the tax shall be
5 determined, computed, assessed, collected, and adjusted in
6 accordance with the regulations under subsection (b) (or,
7 in case such regulations are not prescribed prior to the
8 making of the return, then the regulations prescribed under
9 section 141 (b) of the Revenue Act of ~~1928~~ 1932 in so far
10 as not inconsistent with this Act) prescribed prior to the
11 date on which such return is made; ~~except that for the~~
12 ~~taxable years 1932 and 1933 there shall be added to the~~
13 ~~rate of tax prescribed by sections 13(a), 201(b), and~~
14 ~~204(a) a rate of three fourths of 1 per centum and except~~
15 ~~that for the taxable years 1934 and 1935 there shall be~~
16 ~~added to the rate of tax prescribed by sections 13(a),~~
17 ~~201(b), and 204(a), a rate of 1 per centum 2 per centum,~~
18 ~~but the tax at such increased rate shall be considered as~~
19 ~~imposed by section 13(a), 201(b), or 204(a), as the case~~
20 ~~may be.~~

21 (d) DEFINITION OF "AFFILIATED GROUP".—As
22 used in this section an "affiliated group" means one or more
23 chains of corporations connected through stock ownership
24 with a common parent corporation if—

1 (1) At least 95 per centum of the stock of each
2 of the corporations (except the common parent corpora-
3 tion) is owned directly by one or more of the other
4 corporations; and

5 (2) The common parent corporation owns di-
6 rectly at least 95 per centum of the stock of at least one
7 of the other corporations.

8 As used in this subsection the term "stock" does not include
9 nonvoting stock which is limited and preferred as to
10 dividends.

11 (e) A consolidated return shall be made only for the
12 domestic corporations within the affiliated group. An insur-
13 ance company subject to the tax imposed by section 201 or
14 204 shall not be included in the same consolidated return
15 with a corporation subject to the tax imposed by section 13,
16 and an insurance company subject to the tax imposed by
17 section 201 shall not be included in the same consolidated
18 return with an insurance company subject to the tax imposed
19 by section 204.

20 (f) CHINA TRADE ACT CORPORATIONS.—A corpora-
21 tion organized under the China Trade Act, 1922, shall not
22 be deemed to be affiliated with any other corporation within
23 the meaning of this section.

24 (g) CORPORATIONS DERIVING INCOME FROM POS-
25 SESSIONS OF UNITED STATES.—For the purposes of this

1 section a corporation entitled to the benefits of section 251,
2 by reason of receiving a large percentage of its income from
3 possessions of the United States, shall be treated as a foreign
4 corporation.

5 (h) **SUBSIDIARY FORMED TO COMPLY WITH FOREIGN**
6 **LAW.**—In the case of a domestic corporation owning or con-
7 trolling, directly or indirectly, 100 per centum of the capital
8 stock (exclusive of directors' qualifying shares) of a corpora-
9 tion organized under the laws of a contiguous foreign country
10 and maintained solely for the purpose of complying with the
11 laws of such country as to title and operation of property,
12 such foreign corporation may, at the option of the domestic
13 corporation, be treated for the purpose of this title as a
14 domestic corporation.

15 (i) **SUSPENSION OF RUNNING OF STATUTE OF LIMIT-**
16 **TATIONS.**—If a notice under section 272 (a) in respect of
17 a deficiency for any taxable year is mailed to a corporation,
18 the suspension of the running of the statute of limitations,
19 provided in section 277, shall apply in the case of corpora-
20 tions with which such corporation made a consolidated
21 return for such taxable year.

22 (j) **ALLOCATION OF INCOME AND DEDUCTIONS.**—
23 For allocation of income and deductions of related trades or
24 businesses, see section 45.

1 SEC. 142. FIDUCIARY RETURNS.

2 (a) **REQUIREMENT OF RETURN.**—Every fiduciary
3 (except a receiver appointed by authority of law in posses-
4 sion of part only of the property of an individual) shall
5 make under oath a return for any of the following individuals,
6 estates, or trusts for which he acts, stating specifically the
7 items of gross income thereof and the deductions and credits
8 allowed under this title—

9 (1) Every individual having a net income for the
10 taxable year of \$1,000 or over, if single, or if married
11 and not living with husband or wife;

12 (2) Every individual having a net income for the
13 taxable year of \$2,500 or over, if married and living
14 with husband or wife;

15 (3) Every individual having a gross income for
16 the taxable year of \$5,000 or over, regardless of the
17 amount of his net income;

18 (4) Every estate or trust the net income of which
19 for the taxable year is \$1,000 or over;

20 (5) Every estate or trust the gross income of
21 which for the taxable year is \$5,000 or over, regardless
22 of the amount of the net income; and

23 (6) Every estate or trust of which any beneficiary
24 is a nonresident alien.

1 (b) **JOINT FIDUCIARIES.**—Under such regulations as
2 the Commissioner with the approval of the Secretary may
3 prescribe a return made by one of two or more joint fidu-
4 ciaries and filed in the office of the collector of the district
5 where such fiduciary resides shall be sufficient compliance
6 with the above requirement. Such fiduciary shall make oath
7 (1) that he has sufficient knowledge of the affairs of the
8 individual, estate, or trust for which the return is made, to
9 enable him to make the return, and (2) that the return is,
10 to the best of his knowledge and belief, true and correct.

11 (c) **LAW APPLICABLE TO FIDUCIARIES.**—Any fidu-
12 ciary required to make a return under this title shall be
13 subject to all the provisions of law which apply to individuals.

14 **SEC. 143. WITHHOLDING OF TAX AT SOURCE.**

15 (a) **TAX-FREE COVENANT BONDS.**—

16 (1) **REQUIREMENT OF WITHHOLDING.**—In any
17 case where bonds, mortgages, or deeds of trust, or other
18 similar obligations of a ~~corporation contain~~ *corporation,*
19 *issued before July 1, 1934, contain* a contract or
20 provision by which the obligor agrees to pay any portion
21 of the tax imposed by this title upon the obligee, or
22 to reimburse the obligee for any portion of the tax, or
23 to pay the interest without deduction for any tax which
24 the obligor may be required or permitted to pay thereon,

1 or to retain therefrom under any law of the United
2 States, the obligor shall deduct and withhold a tax
3 equal to 2 per centum of the interest upon such bonds,
4 mortgages, deeds of trust, or other obligations, whether
5 such interest is payable annually or at shorter or longer
6 periods, if payable to an individual, a partnership,
7 or a foreign corporation not engaged in trade or
8 business within the United States and not having any
9 office or place of business therein: *Provided*, That if
10 the liability assumed by the obligor does not exceed
11 2 per centum of the interest, then the deduction and
12 withholding shall be at the following rates: (A) 8 per
13 centum 4 per centum in the case of a nonresident
14 alien individual, or of any partnership not engaged in
15 trade or business within the United States and not hav-
16 ing any office or place of business therein and com-
17 posed in whole or in part of nonresident aliens, (B)
18 13 $\frac{1}{4}$ per centum in the case of such a foreign corpora-
19 tion, and (C) 2 per centum in the case of other
20 individuals and partnerships: *Provided further*, That
21 if the owners of such obligations are not known to the
22 withholding agent the Commissioner may authorize
23 such deduction and withholding to be at the rate of
24 2 per centum, or, if the liability assumed by the obligor

1 does not exceed 2 per centum of the interest, then at
2 the rate of ~~8 per centum~~ *4 per centum*.

3 (2) **BENEFIT OF CREDITS AGAINST NET**
4 **INCOME.**—Such deduction and withholding shall not be
5 required in the case of a citizen or resident entitled to
6 receive such interest, if he files with the withholding
7 agent on or before February 1 a signed notice in writ-
8 ing claiming the benefit of the credits provided in
9 ~~section 25(e) and (d)~~ *section 25(b)*; nor in the case
10 of a nonresident alien individual if so provided for in
11 regulations prescribed by the Commissioner under
12 ~~section 215~~ *section 214*.

13 (3) **INCOME OF OBLIGOR AND OBLIGEE.**—The
14 obligor shall not be allowed a deduction for the pay-
15 ment of the tax imposed by this title, or any other tax
16 paid pursuant to the tax-free covenant clause, nor shall
17 such tax be included in the gross income of the obligee.

18 (b) **NONRESIDENT ALIENS.**—All persons, in what-
19 ever capacity acting, including lessees or mortgagors of real or
20 personal property, fiduciaries, employers, and all officers and
21 employees of the United States, having the control, receipt,
22 custody, disposal, or payment of interest (except interest on
23 deposits with persons carrying on the banking business paid
24 to persons not engaged in business in the United States and

1 not having an office or place of business therein), rent,
2 salaries, wages, premiums, annuities, compensations, remun-
3 erations, emoluments, or other fixed or determinable annual
4 or periodical gains, profits, and income, of any nonresident
5 alien individual, or of any partnership not engaged in trade
6 or business within the United States and not having any
7 office or place of business therein and composed in whole or
8 in part of nonresident aliens, (other than income received
9 as dividends of the class allowed as a credit by section
10 25 (a)) shall (except in the cases provided for in subsection
11 (a) of this section and except as otherwise provided in regu-
12 lations prescribed by the Commissioner under section ~~215~~
13 214) deduct and withhold from such annual or periodical
14 gains, profits, and income a tax equal to ~~8 per centum~~ 4 per
15 centum thereof: *Provided*, That the Commissioner may
16 authorize such tax to be deducted and withheld from the
17 interest upon any securities the owners of which are not
18 known to the withholding agent.

19 (c) RETURN AND PAYMENT.—Every person required
20 to deduct and withhold any tax under this section shall
21 make return thereof on or before March 15 of each year and
22 shall on or before June 15, in lieu of the time prescribed in
23 section 56, pay the tax to the official of the United States
24 Government authorized to receive it. Every such person is
25 hereby made liable for such tax and is hereby indemnified

1 against the claims and demands of any person for the amount
2 of any payments made in accordance with the provisions
3 of this section.

4 (d) INCOME OF RECIPIENT.—Income upon which
5 any tax is required to be withheld at the source under
6 this section shall be included in the return of the recipient of
7 such income, but any amount of tax so withheld shall be
8 credited against the amount of income tax as computed in
9 such return.

10 (e) TAX PAID BY RECIPIENT.—If any tax required
11 under this section to be deducted and withheld is paid by
12 the recipient of the income, it shall not be re-collected from
13 the withholding agent; nor in cases in which the tax is so
14 paid shall any penalty be imposed upon or collected from
15 the recipient of the income or the withholding agent for
16 failure to return or pay the same, unless such failure was
17 fraudulent and for the purpose of evading payment.

18 (f) REFUNDS AND CREDITS.—Where there has been
19 an overpayment of tax under this section any refund or
20 credit made under the provisions of section 322 shall be made
21 to the withholding agent unless the amount of such tax was
22 actually withheld by the withholding agent.

23 ~~(g) Notwithstanding the provisions of subsections (a)~~
24 ~~and (b), the deduction and withholding for any period~~
25 ~~prior to the date of the enactment of this Act shall be at the~~

1 rates of ~~12~~ per centum and 5 per centum in lieu of the
2 rates of ~~18~~³/₄ per centum and 8 per centum prescribed in
3 such subsections.

4 **SEC. 144. PAYMENT OF CORPORATION INCOME TAX AT**
5 **SOURCE.**

6 In the case of foreign corporations subject to taxation
7 under this title not engaged in trade or business within the
8 United States and not having any office or place of business
9 therein, there shall be deducted and withheld at the source
10 in the same manner and upon the same items of income as is
11 provided in section 143 a tax equal to ~~12~~ per centum
12 thereof in respect of all payments of income made before the
13 enactment of this Act, and equal to ~~18~~³/₄ per centum thereof in
14 respect of all payments of income made after the enactment
15 of this Act ~~13~~³/₄ per centum, and such tax shall be returned
16 and paid in the same manner and subject to the same condi-
17 tions as provided in that section: *Provided*, That in the case
18 of interest described in subsection (a) of that section (relat-
19 ing to tax-free covenant bonds) the deduction and withhold-
20 ing shall be at the rate specified in such subsection.

21 **SEC. 145. PENALTIES.**

22 (a) Any person required under this title to pay any
23 tax, or required by law or regulations made under authority
24 thereof to make a return, keep any records, or supply any
25 information, for the purposes of the computation, assessment,

1 or collection of any tax imposed by this title, who willfully
2 fails to pay such tax, make such return, keep such records,
3 or supply such information, at the time or times required by
4 law or regulations, shall, in addition to other penalties pro-
5 vided by law, be guilty of a misdemeanor and, upon convic-
6 tion thereof, be fined not more than \$10,000, or imprisoned
7 for not more than one year, or both, together with the costs
8 of prosecution.

9 (b) Any person required under this title to collect,
10 account for, and pay over any tax imposed by this title, who
11 willfully fails to collect or truthfully account for and pay over
12 such tax, and any person who willfully attempts in any man-
13 ner to evade or defeat any tax imposed by this title or the
14 payment thereof, shall, in addition to other penalties pro-
15 vided by law, be guilty of a felony and, upon conviction
16 thereof, be fined not more than \$10,000, or imprisoned for
17 not more than five years, or both, together with the costs of
18 prosecution.

19 (c) The term " person " as used in this section includes
20 an officer or employee of a corporation or a member or
21 employee of a partnership, who as such officer, employee, or
22 member is under a duty to perform the act in respect of
23 which the violation occurs.

24 **SEC. 146. CLOSING BY COMMISSIONER OF TAXABLE YEAR.**

25 (a) **TAX IN JEOPARDY.**—If the Commissioner finds

1 that a taxpayer designs quickly to depart from the United
2 States or to remove his property therefrom, or to conceal
3 himself or his property therein, or to do any other act tend-
4 ing to prejudice or to render wholly or partly ineffectual
5 proceedings to collect the tax for the taxable year then last
6 past or the taxable year then current unless such proceedings
7 be brought without delay, the Commissioner shall declare
8 the taxable period for such taxpayer immediately terminated
9 and shall cause notice of such finding and declaration to be
10 given the taxpayer, together with a demand for immediate
11 payment of the tax for the taxable period so declared termi-
12 nated and of the tax for the preceding taxable year or so
13 much of such tax as is unpaid, whether or not the time
14 otherwise allowed by law for filing return and paying the
15 tax has expired; and such taxes shall thereupon become
16 immediately due and payable. In any proceeding in court
17 brought to enforce payment of taxes made due and payable
18 by virtue of the provisions of this section the finding of the
19 Commissioner, made as herein provided, whether made after
20 notice to the taxpayer or not, shall be for all purposes
21 presumptive evidence of the taxpayer's design.

22 (b) SECURITY FOR PAYMENT.—A taxpayer who is
23 not in default in making any return or paying income, war-
24 profits, or excess-profits tax under any Act of Congress may
25 furnish to the United States, under regulations to be pre-

1 scribed by the Commissioner, with the approval of the
2 Secretary, security approved by the Commissioner that he
3 will duly make the return next thereafter required to be
4 filed and pay the tax next thereafter required to be paid.
5 The Commissioner may approve and accept in like manner
6 security for return and payment of taxes made due and
7 payable by virtue of the provisions of this section, provided
8 the taxpayer has paid in full all other income, war-profits,
9 or excess-profits taxes due from him under any Act of
10 Congress.

11 (c) SAME—EXEMPTION FROM SECTION.—If secur-
12 ity is approved and accepted pursuant to the provisions
13 of this section and such further or other security with respect
14 to the tax or taxes covered thereby is given as the Com-
15 missioner shall from time to time find necessary and require,
16 payment of such taxes shall not be enforced by any pro-
17 ceedings under the provisions of this section prior to the
18 expiration of the time otherwise allowed for paying such
19 respective taxes.

20 (d) CITIZENS.—In the case of a citizen of the United
21 States or of a possession of the United States about to depart
22 from the United States the Commissioner may, at his discre-
23 tion, waive any or all of the requirements placed on the
24 taxpayer by this section.

1 (e) DEPARTURE OF ALIEN.—No alien shall depart
2 from the United States unless he first procures from the col-
3 lector or agent in charge a certificate that he has complied
4 with all the obligations imposed upon him by the income,
5 war-profits, and excess-profits tax laws.

6 (f) ADDITION TO TAX.—If a taxpayer violates or
7 attempts to violate this section there shall, in addition to all
8 other penalties, be added as part of the tax 25 per centum
9 of the total amount of the tax or deficiency in the tax,
10 together with interest at the rate of 1 per centum a month
11 from the time the tax became due.

12 **SEC. 147. INFORMATION AT SOURCE.**

13 (a) PAYMENTS OF \$1,000 OR MORE.—All persons, in
14 whatever capacity acting, including lessees or mortgagors of
15 real or personal property, fiduciaries, and employers, making
16 payment to another person, of interest, rent, salaries, wages,
17 premiums, annuities, compensations, remunerations, emolu-
18 ments, or other fixed or determinable gains, profits, and
19 income (other than payments described in section 148 (a)
20 or 149), of \$1,000 or more in any taxable year, or,
21 in the case of such payments made by the United
22 States, the officers or employees of the United States having
23 information as to such payments and required to make
24 returns in regard thereto by the regulations hereinafter
25 provided for, shall render a true and accurate return to the

1 Commissioner, under such regulations and in such form
2 and manner and to such extent as may be prescribed by
3 him with the approval of the Secretary, setting forth the
4 amount of such gains, profits, and income, and the name
5 and address of the recipient of such payment.

6 (b) RETURNS REGARDLESS OF AMOUNT OF PAY-
7 MENT.—Such returns may be required, regardless of
8 amounts, (1) in the case of payments of interest upon bonds,
9 mortgages, deeds of trust, or other similar obligations of cor-
10 porations, and (2) in the case of collections of items (not
11 payable in the United States) of interest upon the bonds of
12 foreign countries and interest upon the bonds of and divi-
13 dends from foreign corporations by persons undertaking as a
14 matter of business or for profit the collection of foreign pay-
15 ments of such interest or dividends by means of coupons,
16 checks, or bills of exchange.

17 (c) RECIPIENT TO FURNISH NAME AND ADDRESS.—
18 When necessary to make effective the provisions of this
19 section the name and address of the recipient of income
20 shall be furnished upon demand of the person paying the
21 income.

22 (d) OBLIGATIONS OF UNITED STATES.—The pro-
23 visions of this section shall not apply to the payment of
24 interest on obligations of the United States.

1 **SEC. 148. INFORMATION BY CORPORATIONS.**

2 (a) **DIVIDEND PAYMENTS.**—Every corporation sub-
3 ject to the tax impos^{ed} by this title shall, when required
4 by the Commissioner, render a correct return, duly verified
5 under oath, of its payments of dividends, stating the name
6 and address of each shareholder, the number of shares owned
7 by him, and the amount of dividends paid to him.

8 (b) **PROFITS OF TAXABLE YEAR DECLARED AS**
9 **DIVIDENDS.**—There shall be included in the return or
10 appended thereto a statement of such facts as will enable
11 the Commissioner to determine the portion of the earnings
12 or profits of the corporation (including gains, profits, and
13 income not taxed) accumulated during the taxable year for
14 which the return is made, which have been distributed or
15 ordered to be distributed, respectively, to its shareholders
16 during such year.

17 (b) **PROFITS DECLARED AS DIVIDENDS.**—Every
18 corporation shall, when required by the Commissioner,
19 furnish him a statement of such facts as will enable him to
20 determine the portion of the earnings or profits of the cor-
21 poration (including gains, profits, and income not taxed)
22 accumulated during such periods as the Commissioner may
23 specify, which have been distributed or ordered to be dis-
24 tributed, respectively, to its shareholders during such taxable
25 years as the Commissioner may specify.

1 (c) ACCUMULATED GAINS AND PROFITS.—When
2 requested by the Commissioner, or any collector, every cor-
3 poration shall forward to him a correct statement of accu-
4 mulated gains and profits and the names and addresses of the
5 individuals or shareholders who would be entitled to the
6 same if divided or distributed, and of the amounts that would
7 be payable to each.

8 **SEC. 149. RETURNS OF BROKERS.**

9 Every person doing business as a broker shall, when
10 required by the Commissioner, render a correct return duly
11 verified under oath, under such rules and regulations as the
12 Commissioner, with the approval of the Secretary, may
13 prescribe, showing the names of customers for whom such
14 person has transacted any business, with such details as to
15 the profits, losses, or other information which the Commis-
16 sioner may require, as to each of such customers, as will
17 enable the Commissioner to determine whether all income
18 tax due on profits or gains of such customers has been paid.

19 **SEC. 150. COLLECTION OF FOREIGN ITEMS.**

20 All persons undertaking as a matter of business or for
21 profit the collection of foreign payments of interest or divi-
22 dends by means of coupons, checks, or bills of exchange
23 shall obtain a license from the Commissioner and shall be
24 subject to such regulations enabling the Government to
25 obtain the information required under this title as the Com-

1 commissioner, with the approval of the Secretary, shall prescribe;
 2 and whoever knowingly undertakes to collect such payments
 3 without having obtained a license therefor, or without com-
 4 plying with such regulations, shall be guilty of a misde-
 5 meanor and shall be fined not more than \$5,000 or
 6 imprisoned for not more than one year, or both.

7 **Supplement E—Estates and Trusts**

8 **SEC. 161. IMPOSITION OF TAX.**

9 (a) **APPLICATION OF TAX.**—The taxes imposed by
 10 this title upon individuals shall apply to the income of estates
 11 or of any kind of property held in trust, including—

12 (1) Income accumulated in trust for the benefit
 13 of unborn or unascertained persons or persons with
 14 contingent interests, and income accumulated or held
 15 for future distribution under the terms of the will or
 16 trust;

17 (2) Income which is to be distributed currently
 18 by the fiduciary to the beneficiaries, and income col-
 19 lected by a guardian of an infant which is to be held
 20 or distributed as the court may direct;

21 (3) Income received by estates of deceased per-
 22 sons during the period of administration or settlement
 23 of the estate; and

24 (4) Income which, in the discretion of the fidu-
 25 ciary, may be either distributed to the beneficiaries or
 26 accumulated.

1 (b) COMPUTATION AND PAYMENT.—The tax shall be
2 computed upon the net income of the estate or trust, and
3 shall be paid by the fiduciary, except as provided in section
4 166 (relating to revocable trusts) and section 167 (relat-
5 ing to income for benefit of the grantor). For return made
6 by beneficiary, see section 142.

7 **SEC. 162. NET INCOME.**

8 The net income of the estate or trust shall be computed
9 in the same manner and on the same basis as in the case of
10 an individual, except that—

11 (a) There shall be allowed as a deduction (in lieu of
12 the deduction for charitable, etc., contributions authorized
13 by section 23~~(a)~~(o)) any part of the gross income, without
14 limitation, which pursuant to the terms of the will or deed
15 creating the trust, is during the taxable year paid or per-
16 manently set aside for the purposes and in the manner speci-
17 fied in section 23~~(a)~~(o), or is to be used exclusively for
18 religious, charitable, scientific, literary, or educational pur-
19 poses, or for the prevention of cruelty to children or animals,
20 or for the establishment, acquisition, maintenance or opera-
21 tion of a public cemetery not operated for profit;

22 (b) There shall be allowed as an additional deduc-
23 tion in computing the net income of the estate or trust the
24 amount of the income of the estate or trust for its taxable
25 year which is to be distributed currently by the fiduciary

1 to the beneficiaries, and the amount of the income collected
2 by a guardian of an infant which is to be held or distributed
3 as the court may direct, but the amount so allowed as a
4 deduction shall be included in computing the net income of
5 the beneficiaries whether distributed to them or not. Any
6 amount allowed as a deduction under this paragraph shall not
7 be allowed as a deduction under subsection (c) of this section
8 in the same or any succeeding taxable year;

9 (c) In the case of income received by estates of
10 deceased persons during the period of administration or
11 settlement of the estate, and in the case of income which,
12 in the discretion of the fiduciary, may be either distributed
13 to the beneficiary or accumulated, there shall be allowed
14 as an additional deduction in computing the net income
15 of the estate or trust the amount of the income of the estate
16 or trust for its taxable year, which is properly paid or
17 credited during such year to any legatee, heir, or beneficiary,
18 but the amount so allowed as a deduction shall be included
19 in computing the net income of the legatee, heir, or bene-
20 ficiary.

21 **SEC. 163. CREDITS AGAINST NET INCOME.**

22 (a) CREDITS OF ESTATE OR TRUST.—For the purpose
23 of the normal tax *and the surtax* the estate or trust shall be
24 allowed the same personal exemption as is allowed to a single
25 person under section ~~25(e)~~ 25(b)(1), and, if no part of the

1 income of the estate or trust is included in computing the net
2 income of any legatee, heir, or beneficiary, then in addition
3 the same credits against net income for dividends and interest
4 as are allowed by section 25 (a) and ~~(b)~~.

5 (b) CREDITS OF BENEFICIARY.—If any part of the
6 income of an estate or trust is included in computing the
7 net income of any legatee, heir, or beneficiary, such legatee,
8 heir, or beneficiary shall, for the purpose of the normal tax,
9 be allowed as credits against net income, in addition to
10 the credits allowed to him under section 25, his propor-
11 tionate share of such amounts of dividends and interest
12 specified in section 25 (a) and ~~(b)~~ as are, under this Sup-
13 plement, required to be included in computing his net
14 income. Any remaining portion of such amounts specified
15 in section 25 (a) and ~~(b)~~ shall, for the purpose of the
16 normal tax, be allowed as credits to the estate or trust.

17 **SEC. 164. DIFFERENT TAXABLE YEARS.**

18 If the taxable year of a beneficiary is different from
19 that of the estate or trust, the amount which he is required
20 under section 162 (b), to include in computing his net
21 income, shall be based upon the income of the estate or
22 trust for any taxable year of the estate or trust (*whether*
23 *beginning on, before, or after January 1, 1934*) ending
24 within his taxable year.

1 SEC. 165. EMPLOYEES' TRUSTS.

2 A trust created by an employer as a part of a stock
3 bonus, pension, or profit-sharing plan for the exclusive
4 benefit of some or all of his employees, to which contribu-
5 tions are made by such employer, or employees, or both, for
6 the purpose of distributing to such employees the earnings
7 and principal of the fund accumulated by the trust in accord-
8 ance with such plan, shall not be taxable under section 161,
9 but the amount actually distributed or made available to
10 any distributee shall be taxable to him in the year in which
11 so distributed or made available to the extent that it exceeds
12 the amounts paid in by him. Such distributees shall for
13 the purpose of the normal tax be allowed as credits against
14 net income such part of the amount so distributed or made
15 available as represents the items of dividends and interest
16 specified in section 25 (a) and (b).

17 SEC. 166. REVOCABLE TRUSTS.

18 Where at any time during the taxable year the power
19 to revest in the grantor title to any part of the corpus of
20 the trust is vested—

21 (1) in the grantor, either alone or in conjunction
22 with any person not having a substantial adverse
23 interest in the disposition of such part of the corpus or
24 the income therefrom, or

1 (2) in any person not having a substantial
 2 adverse interest in the disposition of such part of the
 3 corpus or the income therefrom,
 4 then the income of such part of the trust (for such taxable
 5 year) shall be included in computing the net income of the
 6 grantor.

7 **SEC. 167. INCOME FOR BENEFIT OF GRANTOR.**

8 (a) Where any part of the income of a trust—

9 (1) is, or in the discretion of the grantor or of
 10 any person not having a substantial adverse interest in
 11 the disposition of such part of the income may be, held
 12 or accumulated for future distribution to the grantor; or

13 (2) may, in the discretion of the grantor or of
 14 any person not having a substantial adverse interest in
 15 the disposition of such part of the income, be distributed
 16 to the grantor; or

17 (3) is, or in the discretion of the grantor or of
 18 any person not having a substantial adverse interest in
 19 the disposition of such part of the income may be,
 20 applied to the payment of premiums upon policies of
 21 insurance on the life of the grantor (except policies of
 22 insurance irrevocably payable for the purposes and in
 23 the manner specified in section 23 ~~(a)~~ (c), relating to
 24 the so-called "charitable contribution" deduction);

1 then such part of the income of the trust shall be included
2 in computing the net income of the grantor.

3 (b) As used in this section, the term "in the discre-
4 tion of the grantor" means "in the discretion of the grantor,
5 either alone or in conjunction with any person not having
6 a substantial adverse interest in the disposition of the part
7 of the income in question".

8 **SEC. 168. CAPITAL NET GAINS AND LOSSES.**

9 In the case of an estate or trust, or of a beneficiary of
10 an estate or trust, the proper part of each share of the net
11 income which consists, respectively, of ordinary net income,
12 capital net gain, or capital net loss, shall be determined
13 under rules and regulations to be prescribed by the Com-
14 missioner with the approval of the Secretary, and shall be
15 separately shown in the return of the estate or trust, and
16 shall be taxed to the beneficiary or to the estate or trust as
17 provided in this Supplement, but at the rates and in the
18 manner provided in section 101(a) and (b), relating to
19 capital net gains and losses.

20 **SEC. 170 168. TAXES OF FOREIGN COUNTRIES AND POSSES-**
21 **SIONS OF UNITED STATES.**

22 The amount of income, war-profits, and excess-profits
23 taxes imposed by foreign countries or possessions of the
24 United States shall be allowed as credit against the tax of the
25 beneficiary of an estate or trust to the extent provided in
26 section 131.

Supplement F—Partnerships**SEC. 181. PARTNERSHIP NOT TAXABLE.**

Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

SEC. 182. TAX OF PARTNERS.

~~(a) GENERAL RULE.~~—There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year. If the taxable year of a partner is different from that of the partnership, the amount so included shall be based upon the income of the partnership for any taxable year of the partnership ending within his taxable year. No part of any loss disallowed to a partnership as a deduction by section 23 ~~(r)~~ shall be allowed as a deduction to a member of such partnership in computing net income.

~~(b) PARTNERSHIP YEAR EMBRACING CALENDAR YEARS WITH DIFFERENT LAWS.~~—If a fiscal year of a partnership begins in one calendar year and ends in another calendar year, and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then

~~(1)~~ the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income ~~(deter-~~

1 mined under the law applicable to such calendar year)-
 2 equal to the proportion which the part of such fiscal
 3 year falling within such calendar year bears to the full
 4 fiscal year; and

5 (2) the rates for the calendar year during which
 6 such fiscal year ends shall apply to an amount of each
 7 partner's share of such partnership net income (deter-
 8 mined under the law applicable to such calendar year)-
 9 equal to the proportion which the part of such fiscal
 10 year falling within such calendar year bears to the full
 11 fiscal year.

12 In such cases the part of such income subject to the rates in
 13 effect for the most recent calendar year shall be added to
 14 the other income of the taxpayer subject to such rates and
 15 the resulting amount shall be placed in the lower brackets
 16 of the rate schedule applicable to such year, and the part
 17 of such income subject to the rates in effect for the next
 18 preceding calendar year shall be placed in the next higher
 19 brackets of the rate schedule applicable to such year.

20 **SEC. 182. COMPUTATION OF PARTNERSHIP INCOME.**

21 The net income of the partnership shall be computed
 22 in the same manner and on the same basis as in the case
 23 of an individual, except that the so-called "charitable con-
 24 tribution" deduction provided in section 23 (n) shall not
 25 be allowed.

SEC. 184. CREDITS AGAINST NET INCOME.

The partner shall, for the purpose of the normal tax, be allowed as a credit against his net income, in addition to the credits allowed to him under section 25; his proportionate share of such amounts (*not in excess of the net income of the partnership*) of dividends and interest specified in section 25 (a) and (b) as are received by the partnership.

SEC. 185. EARNED INCOME.

In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary and shall be separately shown in the return of the partnership and shall be taxed to the member as provided in this Supplement.

SEC. 194. CAPITAL NET GAINS AND LOSSES.

In the case of the members of a partnership the proper part of each share of the net income which consists, respectively, of ordinary net income, capital net gain, or capital net loss, shall be determined under the rules and regulations to be prescribed by the Commissioner with the approval of the Secretary, and shall be separately shown in the return of the partnership and shall be taxed to the member as provided in this Supplement, but at the rates and in the manner provided in section 101 (a) and (b), relating to capital net gains and losses.

1 **SEC. 188 186. TAXES OF FOREIGN COUNTRIES AND POSSES-**
2 **SIONS OF UNITED STATES.**

3 The amount of income, war-profits, and excess-profits
4 taxes imposed by foreign countries or possessions of the
5 United States shall be allowed as a credit against the tax
6 of the member of a partnership to the extent provided in
7 section 131.

8 **SEC. 189 187. PARTNERSHIP RETURNS.**

9 Every partnership shall make a return for each taxable
10 year, stating specifically the items of its gross income and
11 the deductions allowed by this title, and shall include in the
12 return the names and addresses of the individuals who would
13 be entitled to share in the net income if distributed and the
14 amount of the distributive share of each individual. The
15 return shall be sworn to by any one of the partners.

16 **SEC. 188. DIFFERENT TAXABLE YEARS OF PARTNER AND**
17 **PARTNERSHIP.**

18 *(a) GENERAL RULE.—If the taxable year of a*
19 *partner is different from that of the partnership, the distribu-*
20 *tive share of the net income of the partnership to be included*
21 *in computing the net income of the partner for his taxable*
22 *year shall be based upon the net income of the partnership*
23 *for any taxable year of the partnership (whether beginning*
24 *on, before, or after January 1, 1934) ending within the*
25 *taxable year of the partner.*

1 **(b) PARTNERSHIP YEARS BEGINNING IN 1933.—**
 2 *For the purpose of computing the net income of a partner*
 3 *for a taxable year beginning after December 31, 1933, the*
 4 *partnership net income for any taxable year of the partner-*
 5 *ship beginning before January 1, 1934, shall be computed*
 6 *under the Revenue Act of 1932, without regard to sections*
 7 *101 and 186 thereof (relating to capital net gain and capital*
 8 *net loss) but as if section 117 of this Act (except subsection*
 9 *(d) thereof) had formed a part of Title I of the Revenue*
 10 *Act of 1932.*

11 **Supplement G—Insurance Companies**

12 **SEC. 201. TAX ON LIFE INSURANCE COMPANIES.**

13 **(a) DEFINITION.—**When used in this title the term
 14 “life insurance company” means an insurance company
 15 engaged in the business of issuing life insurance and annuity
 16 contracts (including contracts of combined life, health, and
 17 accident insurance), the reserve funds of which held for the
 18 fulfillment of such contracts comprise more than 50 per
 19 centum of its total reserve funds.

20 **(b) RATE OF TAX.—**In lieu of the tax imposed by
 21 section 13, there shall be levied, collected, and paid for each
 22 taxable year upon the net income of every life insurance
 23 company a tax as follows:

24 **(1)** In the case of a domestic life insurance
 25 company, $13\frac{1}{2}$ per centum of its net income the amount

1 of its net income in excess of the credit provided in
2 subsection (c) of this section;

3 (2) In the case of a foreign life insurance
4 company, 13 $\frac{1}{2}$ per centum of its net income from
5 sources within the United States the amount of its
6 net income from sources within the United States in
7 excess of the credit provided in subsection (c) of this
8 section.

9 (For addition to rate in case of consolidated returns, see
10 section 141.)

11 (c) For the purpose only of the tax imposed by this
12 section there shall be allowed as a credit against net income
13 the amount received as interest upon obligations of the United
14 States or of corporations organized under Act of Congress
15 which is allowed to an individual as a credit for purposes
16 of normal tax by section 25 (a) (2) or (3).

17 **SEC. 202. GROSS INCOME OF LIFE INSURANCE COMPANIES.**

18 (a) In the case of a life insurance company the term
19 "gross income" means the gross amount of income received
20 during the taxable year from interest, dividends, and rents.

21 (b) The term "reserve funds required by law"
22 includes, in the case of assessment insurance, sums actually
23 deposited by any company or association with State or Ter-
24 ritorial officers pursuant to law as guaranty or reserve funds,
25 and any funds maintained under the charter or articles of

1 incorporation of the company or association exclusively for
 2 the payment of claims arising under certificates of member-
 3 ship or policies issued upon the assessment plan and not
 4 subject to any other use.

5 **SEC. 203. NET INCOME OF LIFE INSURANCE COMPANIES.**

6 (a) **GENERAL RULE.**—In the case of a life insurance
 7 company the term “net income” means the gross income
 8 less—.

9 (1) **TAX-FREE INTEREST.**—The amount of inter-
 10 est received during the taxable year which under section
 11 ~~22(b) is exempt 22(b)(4) from the taxes imposed by~~
 12 ~~this title is excluded from gross income;~~

13 (2) **RESERVE FUNDS.**—An amount equal to 4
 14 per centum of the mean of the reserve funds required by
 15 law and held at the beginning and end of the taxable
 16 year, except that in the case of any such reserve fund
 17 which is computed at a lower interest assumption rate,
 18 the rate of 3½ per centum shall be substituted for 4 per
 19 centum. Life insurance companies issuing policies cov-
 20 ering life, health, and accident insurance combined in
 21 one policy issued on the weekly premium payment plan,
 22 continuing for life and not subject to cancellation, shall
 23 be allowed, in addition to the above, a deduction of 3½
 24 per centum of the mean of such reserve funds (not
 25 required by law) held at the beginning and end of the

1 taxable year, as the Commissioner finds to be necessary
2 for the protection of the holders of such policies only;

3 (3) DIVIDENDS.—The amount received as divi-
4 dends ~~(A)~~ from a domestic corporation which is
5 subject to taxation under this title, other than a corpora-
6 tion entitled to the benefits of section 251, and other
7 than a corporation organized under the China Trade
8 Act, 1922, or ~~(B)~~ from any foreign corporation when
9 it is shown to the satisfaction of the Commissioner
10 that more than 50 per centum of the gross income of
11 such foreign corporation for the three-year period
12 ending with the close of its taxable year preceding the
13 declaration of such dividends ~~(or for such part of such~~
14 ~~period as the foreign corporation has been in existence)~~
15 was derived from sources within the United States as
16 determined under section 110;

17 (4) RESERVE FOR DIVIDENDS.—An amount
18 equal to 2 per centum of any sums held at the end of
19 the taxable year as a reserve for dividends (other than
20 dividends payable during the year following the taxable
21 year) the payment of which is deferred for a period
22 of not less than five years from the date of the policy
23 contract;

24 (5) INVESTMENT EXPENSES.—Investment ex-
25 penses paid during the taxable year: *Provided, That*

1 if any general expenses are in part assigned to or
2 included in the investment expenses, the total deduc-
3 tion under this paragraph shall not exceed one-fourth
4 of 1 per centum of the book value of the mean of the
5 invested assets held at the beginning and end of the
6 taxable year;

7 (6) REAL ESTATE EXPENSES.—Taxes and other
8 expenses paid during the taxable year exclusively upon
9 or with respect to the real estate owned by the com-
10 pany, not including taxes assessed against local bene-
11 fits of a kind tending to increase the value of the prop-
12 erty assessed, and not including any amount paid out
13 for new buildings, or for permanent improvements or
14 betterments made to increase the value of any property.
15 The deduction allowed by this paragraph shall be
16 allowed in the case of taxes imposed upon a shareholder
17 of a company upon his interest as shareholder, which
18 are paid by the company without reimbursement from
19 the shareholder, but in such cases no deduction shall be
20 allowed the shareholder for the amount of such taxes;

21 (7) DEPRECIATION.—A reasonable allowance,
22 as provided in section 23(1), for the exhaustion, wear
23 and tear of property, including a reasonable allowance
24 for obsolescence; and

1 (8) INTEREST.—All interest paid or accrued
2 within the taxable year on its indebtedness, except on
3 indebtedness incurred or continued to purchase or carry
4 obligations or securities (other than obligations of the
5 United States issued after September 24, 1917, and
6 originally subscribed for by the taxpayer) the interest
7 upon which is wholly exempt from taxation under this
8 title.

9 (b) RENTAL VALUE OF REAL ESTATE.—The deduc-
10 tion under subsection (a) (6) or (7) of this section on
11 account of any real estate owned and occupied in whole or
12 in part by a life insurance company, shall be limited to an
13 amount which bears the same ratio to such deduction (com-
14 puted without regard to this subsection) as the rental value
15 of the space not so occupied bears to the rental value of the
16 entire property.

17 (c) FOREIGN LIFE INSURANCE COMPANIES.—In the
18 case of a foreign life insurance company the amount of its
19 net income for any taxable year from sources within the
20 United States shall be the same proportion of its net income
21 for the taxable year from sources within and without the
22 United States, which the reserve funds required by law and
23 held by it at the end of the taxable year upon business
24 transacted within the United States is of the reserve funds
25 held by it at the end of the taxable year upon all business
26 transacted.

1 **SEC. 204. INSURANCE COMPANIES OTHER THAN LIFE OR**
 2 **MUTUAL.**

3 (a) **IMPOSITION OF TAX.**—In lieu of the tax imposed
 4 by section 13 of this title, there shall be levied, collected,
 5 and paid for each taxable year upon the net income of every
 6 insurance company (other than a life or mutual insurance
 7 company) a tax as follows:

8 (1) In the case of such a domestic insurance com-
 9 pany, 13 $\frac{1}{4}$ per centum of its ~~net income~~ *the amount*
 10 *of its net income in excess of the credit provided in*
 11 *subsection (f) of this section;*

12 (2) In the case of such a foreign insurance com-
 13 pany, 13 $\frac{1}{4}$ per centum of its ~~net income from sources~~
 14 ~~within the United States~~ *the amount of its net income*
 15 *from sources within the United States in excess of the*
 16 *credit provided in subsection (f) of this section.*

17 (*For addition to rate in case of consolidated returns,*
 18 *see section 141.*)

19 (b) **DEFINITION OF INCOME, ETC.**—In the case of an
 20 insurance company subject to the tax imposed by this
 21 section—

22 (1) **GROSS INCOME.**—“Gross income” means
 23 the sum of (A) the combined gross amount earned
 24 during the taxable year, from investment income and

1 from underwriting income as provided in this subsection,
2 computed on the basis of the underwriting and invest-
3 ment exhibit of the annual statement approved by the
4 National Convention of Insurance Commissioners, and
5 (B) gain during the taxable year from the sale or other
6 disposition of property, and (C) all other items
7 constituting gross income under section 22;

8 (2) NET INCOME.—“Net income” means the
9 gross income as defined in paragraph (1) of this sub-
10 section less the deductions allowed by subsection (c) of
11 this section;

12 (3) INVESTMENT INCOME.—“Investment in-
13 come” means the gross amount of income earned
14 during the taxable year from interest, dividends, and
15 rents, computed as follows:

16 To all interest, dividends and rents received dur-
17 ing the taxable year, add interest, dividends and rents
18 due and accrued at the end of the taxable year, and
19 deduct all interest, dividends and rents due and accrued
20 at the end of the preceding taxable year;

21 (4) UNDERWRITING INCOME.—“Underwriting
22 income” means the premiums earned on insurance con-
23 tracts during the taxable year less losses incurred and
24 expenses incurred;

1 (5) **PREMIUMS EARNED.**—“Premiums earned
2 on insurance contracts during the taxable year” means
3 an amount computed as follows:

4 From the amount of gross premiums written on
5 insurance contracts during the taxable year, deduct
6 return premiums and premiums paid for reinsurance.
7 To the result so obtained add unearned premiums on
8 outstanding business at the end of the preceding taxable
9 year and deduct unearned premiums on outstanding
10 business at the end of the taxable year;

11 (6) **LOSSES INCURRED.**—“Losses incurred”
12 means losses incurred during the taxable year on insur-
13 ance contracts, computed as follows:

14 To losses paid during the taxable year, add sal-
15 vage and reinsurance recoverable outstanding at the
16 end of the preceding taxable year, and deduct salvage
17 and reinsurance recoverable outstanding at the end
18 of the taxable year. To the result so obtained add
19 all unpaid losses outstanding at the end of the taxable
20 year and deduct unpaid losses outstanding at the end
21 of the preceding taxable year;

22 (7) **EXPENSES INCURRED.**—“Expenses incurred”
23 means all expenses shown on the annual statement
24 approved by the National Convention of Insurance
25 Commissioners, and shall be computed as follows:

1 To all expenses paid during the taxable year add
 2 expenses unpaid at the end of the taxable year and
 3 deduct expenses unpaid at the end of the preceding
 4 taxable year. For the purpose of computing the net
 5 income subject to the tax imposed by this section there
 6 shall be deducted from expenses incurred as defined
 7 in this paragraph all expenses incurred which are not
 8 allowed as deductions by subsection (c) of this section.

9 (c) DEDUCTIONS ALLOWED.—In computing the net
 10 income of an insurance company subject to the tax imposed
 11 by this section there shall be allowed as deductions:

12 (1) All ordinary and necessary expenses
 13 incurred, as provided in section 23 (a) ;

14 (2) All interest as provided in section 23 (b) ;

15 (3) Taxes as provided in section 23 (c) ;

16 (4) Losses incurred as defined in subsection
 17 (b) (6) of this section;

18 (5) ~~Losses~~ *Subject to the limitation contained in*
 19 *section 117(d), losses* sustained during the taxable year
 20 from the sale or other disposition of property;

21 (6) Bad debts in the nature of agency balances
 22 and bills receivable ascertained to be worthless and
 23 charged off within the taxable year;

24 (7) The amount received as dividends from cor-
 25 porations as provided in section 23 (p) ;

1 (8) The amount of interest earned during the
2 taxable year which under section 22 (b) (4) is exempt
3 from the taxes imposed by this title, and the amount of
4 interest allowed as a credit under section 26 excluded
5 from gross income;

6 (9) A reasonable allowance for the exhaustion,
7 wear and tear of property, as provided in section
8 23-~~(k)~~(l).

9 (d) DEDUCTIONS OF FOREIGN CORPORATIONS.—In
10 the case of a foreign corporation the deductions allowed in
11 this section shall be allowed to the extent provided in
12 Supplement I.

13 (e) DOUBLE DEDUCTIONS.—Nothing in this section
14 shall be construed to permit the same item to be twice
15 deducted.

16 (f) *For the purpose only of the tax imposed by this*
17 *section there shall be allowed as a credit against net income*
18 *the amount received as interest upon obligations of the United*
19 *States or of corporations organized under Act of Congress*
20 *which is allowed to an individual as a credit for purposes of*
21 *normal tax by section 25(a) (2) or (3).*

22 **SEC. 206 205. TAXES OF FOREIGN COUNTRIES AND POSSES-**
23 **SIONS OF UNITED STATES.**

24 The amount of income, war-profits, and excess-profits
25 taxes imposed by foreign countries or possessions of the

1 United States shall be allowed as a credit against the tax of
2 a domestic insurance company subject to the tax imposed by
3 section 201 or 204, to the extent provided in the case of a
4 domestic corporation in section 131, and in such cases "net
5 income" as used in that section means the net income as
6 defined in this Supplement.

7 **SEC. ~~207~~ 206. COMPUTATION OF GROSS INCOME.**

8 The gross income of insurance companies subject to the
9 tax imposed by section 201 or 204 shall not be determined
10 in the manner provided in section 119.

11 **SEC. ~~208~~ 207. MUTUAL INSURANCE COMPANIES OTHER
12 THAN LIFE.**

13 (a) APPLICATION OF TITLE.—Mutual insurance
14 companies, other than life insurance companies, shall be
15 taxable in the same manner as other corporations, except as
16 hereinafter provided in this section.

17 (b) GROSS INCOME.—Mutual marine-insurance com-
18 panies shall include in gross income the gross premiums
19 collected and received by them less amounts paid for
20 reinsurance.

21 (c) DEDUCTIONS.—In addition to the deductions
22 allowed to corporations by section 23 the following deduc-
23 tions to insurance companies shall also be allowed, unless
24 otherwise allowed—

1 (1) MUTUAL INSURANCE COMPANIES OTHER
2 THAN LIFE INSURANCE.—In the case of mutual insur-
3 ance companies other than life insurance companies—

4 (A) the net addition required by law to be
5 made within the taxable year to reserve funds
6 (including in the case of assessment insurance
7 companies the actual deposit of sums with State
8 or Territorial officers pursuant to law as additions
9 to guarantee or reserve funds) ; and

10 (B) the sums other than dividends paid
11 within the taxable year on policy and annuity
12 contracts.

13 (2) MUTUAL MARINE INSURANCE COM-
14 PANIES.—In the case of mutual marine insurance com-
15 panies, in addition to the deductions allowed in para-
16 graph (1) of this subsection, unless otherwise allowed,
17 amounts repaid to policyholders on account of pre-
18 miums previously paid by them, and interest paid upon
19 such amounts between the ascertainment and the
20 payment thereof;

21 (3) MUTUAL INSURANCE COMPANIES OTHER
22 THAN LIFE AND MARINE.—In the case of mutual insur-
23 ance companies (including interinsurers and reciprocal
24 underwriters, but not including mutual life or mutual

1 marine insurance companies) requiring their members
2 to make premium deposits to provide for losses and
3 expenses, the amount of premium deposits returned to
4 their policyholders and the amount of premium deposits
5 retained for the payment of losses, expenses, and
6 reinsurance reserves.

7 **Supplement H—Nonresident Alien Individuals**

8 **SEC. 211. NORMAL TAX.**

9 ~~(a) GENERAL RULE.~~—In the case of a nonresident
10 alien individual who is not a resident of a contiguous country,
11 the normal tax shall be 8 per centum of the amount of the
12 net income in excess of the credits against net income
13 allowed to such individual.

14 ~~(b) ALIENS RESIDENT IN CONTIGUOUS COUN-~~
15 ~~TRIES.~~—In the case of an alien individual resident in a
16 contiguous country, the normal tax shall be an amount
17 equal to the sum of the following:

18 ~~(1)~~ 4 per centum of the amount by which the
19 part of the net income attributable to wages, salaries,
20 professional fees, or other amounts received as compen-
21 sation for personal services actually performed in the
22 United States, exceeds the personal exemption and
23 credit for dependents; but the amount taxable at such
24 4 per centum rate shall not exceed \$4,000; and

1 ~~(2)~~ 8 per centum of the amount of the net income
2 in excess of the sum of ~~(A)~~ the amount taxed under
3 paragraph ~~(1)~~ of this subsection plus ~~(B)~~ the total
4 credits against net income allowed to such individual.

5 ~~(c)~~ IN LIEU OF NORMAL TAX UNDER SECTION 11.—

6 The tax imposed by this section shall be in lieu of the normal
7 tax imposed by section 11.

8 **SEC. 212 211. GROSS INCOME.**

9 (a) GENERAL RULE.—In the case of a nonresident
10 alien individual gross income includes only the gross income
11 from sources within the United States.

12 (b) SHIPS UNDER FOREIGN FLAG.—The income of a
13 nonresident alien individual which consists exclusively of
14 earnings derived from the operation of a ship or ships docu-
15 mented under the laws of a foreign country which grants an
16 equivalent exemption to citizens of the United States and to
17 corporations organized in the United States, shall not be
18 included in gross income and shall be exempt from taxation
19 under this title.

20 **SEC. 213 212. DEDUCTIONS.**

21 (a) GENERAL RULE.—In the case of a nonresident
22 alien individual the deductions shall be allowed only if and to
23 the extent that they are connected with income from sources
24 within the United States; and the proper apportionment and

1 allocation of the deductions with respect to sources of income
2 within and without the United States shall be determined as
3 provided in section 119, under rules and regulations pre-
4 scribed by the Commissioner with the approval of the
5 Secretary.

6 (b) LOSSES.—

7 (1) The deduction, for losses not connected with
8 the trade or business if incurred in transactions entered
9 into for profit, allowed by section 23 (e) (2) shall be
10 allowed whether or not connected with income from
11 sources within the United States, but only if the profit,
12 if such transaction had resulted in a profit, would be
13 taxable under this title.

14 (2) The deduction for losses of property not con-
15 nected with the trade or business if arising from certain
16 casualties or theft, allowed by section 23 (e) (3), shall
17 be allowed whether or not connected with income from
18 sources within the United States, but only if the loss
19 is of property within the United States.

20 (c) CHARITABLE, ETC., CONTRIBUTIONS.—The so-
21 called "charitable contribution" deduction allowed by
22 section 23-~~(n)~~(o) shall be allowed whether or not connected
23 with income from sources within the United States, but only
24 as to contributions or gifts made to domestic corporations,

1 or to community chests, funds, or foundations, created in the
2 United States, or to the vocational rehabilitation fund.

3 **SEC. ~~214~~ 213. CREDITS AGAINST NET INCOME.**

4 In the case of a nonresident alien individual the
5 personal exemption allowed by section ~~25(e)~~ 25(b)(1) of
6 this title shall be only \$1,000. The credit for dependents
7 allowed by section ~~25(d)~~ 25(b)(2) shall not be allowed
8 in the case of a nonresident alien individual unless he is a
9 resident of a contiguous country.

10 **SEC. ~~215~~ 214. ALLOWANCE OF DEDUCTIONS AND CREDITS.**

11 (a) RETURN TO CONTAIN INFORMATION.—A non-
12 resident alien individual shall receive the benefit of the
13 deductions and credits allowed to him in this title only by
14 filing or causing to be filed with the collector a true and
15 accurate return of his total income received from all sources
16 in the United States, in the manner prescribed in this title;
17 including therein all the information which the Commis-
18 sioner may deem necessary for the calculation of such
19 deductions and credits.

20 (b) TAX WITHHELD AT SOURCE.—The benefit of the
21 personal exemption and credit for dependents, and of the
22 reduced rate of tax provided for in section ~~211(b)~~, may, in
23 the discretion of the Commissioner and under regulations
24 prescribed by him with the approval of the Secretary, be

1 received by a nonresident alien individual entitled thereto,
2 by filing a claim therefor with the withholding agent.

3 **SEC. 216 215. CREDITS AGAINST TAX.**

4 A nonresident alien individual shall not be allowed the
5 credits against the tax for taxes of foreign countries and
6 possessions of the United States allowed by section 131.

7 **SEC. 217 216. RETURNS.**

8 In the case of a nonresident alien individual the return,
9 in lieu of the time prescribed in section 53 (a) (1), shall
10 be made on or before the fifteenth day of the sixth month
11 following the close of the fiscal year, or, if the return is
12 made on the basis of the calendar year, then on or before
13 the fifteenth day of June.

14 **SEC. 218 217. PAYMENT OF TAX.**

15 (a) **TIME OF PAYMENT.**—In the case of a nonresident
16 alien individual the total amount of tax imposed by this
17 title shall be paid, in lieu of the time prescribed in section
18 56 (a), on the fifteenth day of June following the close of
19 the calendar year, or, if the return should be made on
20 the basis of a fiscal year, then on the fifteenth day of the
21 sixth month following the close of the fiscal year.

22 (b) **WITHHOLDING AT SOURCE.**—For withholding at
23 source of tax on income of nonresident aliens, see section
24 143.

1 Supplement I—Foreign Corporations**2 SEC. 231. GROSS INCOME.**

3 (a) GENERAL RULE.—In the case of a foreign cor-
4 poration gross income includes only the gross income from
5 sources within the United States.

6 (b) SHIPS UNDER FOREIGN FLAG.—The income of a
7 foreign corporation, which consists exclusively of earnings
8 derived from the operation of a ship or ships documented
9 under the laws of a foreign country which grants an equiva-
10 lent exemption to citizens of the United States and to cor-
11 porations organized in the United States, shall not be
12 included in gross income and shall be exempt from taxation
13 under this title.

14 SEC. 232. DEDUCTIONS.

15 In the case of a foreign corporation the deductions shall
16 be allowed only if and to the extent that they are connected
17 with income from sources within the United States; and the
18 proper apportionment and allocation of the deductions with
19 respect to sources within and without the United States shall
20 be determined as provided in section 119, under rules and
21 regulations prescribed by the Commissioner with the approval
22 of the Secretary.

23 SEC. 233. ALLOWANCE OF DEDUCTIONS AND CREDITS.

24 A foreign corporation shall receive the benefit of the
25 deductions and credits allowed to it in this title only by

1 filing or causing to be filed with the collector a true and
2 accurate return of its total income received from all sources
3 in the United States, in the manner prescribed in this title;
4 including therein all the information which the Commis-
5 sioner may deem necessary for the calculation of such deduc-
6 tions and credits.

7 **SEC. 234. CREDITS AGAINST TAX.**

8 Foreign corporations shall not be allowed the credits
9 against the tax for taxes of foreign countries and possessions
10 of the United States allowed by section 131.

11 **SEC. 235. RETURNS.**

12 In the case of a foreign corporation not having any
13 office or place of business in the United States the return,
14 in lieu of the time prescribed in section 53 (a) (1), shall be
15 made on or before the fifteenth day of the sixth month fol-
16 lowing the close of the fiscal year, or, if the return is made
17 on the basis of the calendar year then on or before the
18 fifteenth day of June. If any foreign corporation has no
19 office or place of business in the United States but has an
20 agent in the United States, the return shall be made by the
21 agent.

22 **SEC. 236. PAYMENT OF TAX.**

23 (a) **TIME OF PAYMENT.**—In the case of a foreign
24 corporation not having any office or place of business in the
25 United States the total amount of tax imposed by this title

1 shall be paid, in lieu of the time prescribed in section 56 (a),
2 on the fifteenth day of June following the close of the
3 calendar year, or, if the return should be made on the basis
4 of a fiscal year, then on the fifteenth day of the sixth month
5 following the close of the fiscal year.

6 (b) **WITHHOLDING AT SOURCE.**—For withholding at
7 source of tax on income of foreign corporations, see
8 section 143.

9 **SEC. 237. FOREIGN INSURANCE COMPANIES.**

10 For special provisions relating to foreign insurance
11 companies, see Supplement G.

12 **SEC. 238. AFFILIATION.**

13 A foreign corporation shall not be deemed to be
14 affiliated with any other corporation within the meaning
15 of section 141.

16 **Supplement J—Possessions of the United States**

17 **SEC. 251. INCOME FROM SOURCES WITHIN POSSESSIONS**
18 **OF UNITED STATES.**

19 (a) **GENERAL RULE.**—In the case of citizens of the
20 United States or domestic corporations, satisfying the follow-
21 ing conditions, gross income means only gross income from
22 sources within the United States—

23 (1) If 80 per centum or more of the gross income
24 of such citizen or domestic corporation (computed with-
25 out the benefit of this section), for the three-year period

1 immediately preceding the close of the taxable year
2 (or for such part of such period immediately preceding
3 the close of such taxable year as may be applicable)
4 was derived from sources within a possession of the
5 United States; and

6 (2) If, in the case of such corporation, 50 per
7 centum or more of its gross income (computed without
8 the benefit of this section) for such period or such part
9 thereof was derived from the active conduct of a trade
10 or business within a possession of the United States; or

11 (3) If, in case of such citizen, 50 per centum or
12 more of his gross income (computed without the bene-
13 fit of this section) for such period or such part thereof
14 was derived from the active conduct of a trade or busi-
15 ness within a possession of the United States either on
16 his own account or as an employee or agent of another.

17 (b) AMOUNTS RECEIVED IN UNITED STATES.—Not-
18 withstanding the provisions of subsection (a) there shall be
19 included in gross income all amounts received by such citi-
20 zens or corporations within the United States, whether de-
21 rived from sources within or without the United States.

22 (c) DEFINITION.—As used in this section the term
23 “possession of the United States” does not include the
24 Virgin Islands of the United States.

1 (d) DEDUCTIONS.—

2 (1) Citizens of the United States entitled to the
3 benefits of this section shall have the same deductions
4 as are allowed by Supplement H in the case of a
5 nonresident alien individual.

6 (2) Domestic corporations entitled to the benefits
7 of this section shall have the same deductions as are
8 allowed by Supplement I in the case of a foreign
9 corporation.

10 (e) CREDITS AGAINST NET INCOME.—A citizen of
11 the United States entitled to the benefits of this section shall
12 be allowed a personal exemption of only \$1,000 and shall
13 not be allowed the credit for dependents provided in section
14 ~~25(d)~~ 25(b)(2).

15 (f) ALLOWANCE OF DEDUCTIONS AND CREDITS.—
16 Citizens of the United States and domestic corporations
17 entitled to the benefits of this section shall receive the benefit
18 of the deductions and credits allowed to them in this title
19 only by filing or causing to be filed with the collector a true
20 and accurate return of their total income received from all
21 sources in the United States, in the manner prescribed in
22 this title; including therein all the information which the
23 Commissioner may deem necessary for the calculation of
24 such deductions and credits.

1 (g) CREDITS AGAINST TAX.—Persons entitled to the
2 benefits of this section shall not be allowed the credits against
3 the tax for taxes of foreign countries and possessions of the
4 United States allowed by section 131.

5 (h) AFFILIATION.—A corporation entitled to the
6 benefits of this section shall not be deemed to be affiliated
7 with any other corporation within the meaning of sec-
8 tion 141.

9 **SEC. 252. CITIZENS OF POSSESSIONS OF UNITED STATES.**

10 (a) Any individual who is a citizen of any possession
11 of the United States (but not otherwise a citizen of the
12 United States) and who is not a resident of the United
13 States, shall be subject to taxation under this title only as to
14 income derived from sources within the United States, and
15 in such case the tax shall be computed and paid in the same
16 manner and subject to the same conditions as in the case of
17 other persons who are taxable only as to income derived
18 from such sources.

19 (b) Nothing in this section shall be construed to alter
20 or amend the provisions of the Act entitled "An Act making
21 appropriations for the naval service for the fiscal year ending
22 June 30, 1922, and for other purposes," approved July 12,
23 1921, relating to the imposition of income taxes in the
24 Virgin Islands of the United States.

1 **Supplement K—China Trade Act Corporations**2 **SEC. 261. CREDIT AGAINST NET INCOME.**

3 (a) **ALLOWANCE OF CREDIT.**—For the purpose only
4 of the tax imposed by section 13 there shall be allowed, in
5 the case of a corporation organized under the China Trade
6 Act, 1922, in addition to the credit provided in section 26, a
7 credit against the net income of an amount equal to the
8 proportion of the net income derived from sources within
9 China (determined in a similar manner to that provided in
10 section 119) which the par value of the shares of stock of the
11 corporation owned on the last day of the taxable year by (1)
12 persons resident in China, the United States, or possessions
13 of the United States, and (2) individual citizens of the
14 United States or China wherever resident, bears to the par
15 value of the whole number of shares of stock of the corpora-
16 tion outstanding on such date: *Provided*, That in no case
17 shall the amount by which the tax imposed by section 13 is
18 diminished by reason of such credit exceed the amount of the
19 special dividend certified under subsection (b) of this section.

20 (b) **SPECIAL DIVIDEND.**—Such credit shall not be
21 allowed unless the Secretary of Commerce has certified to
22 the Commissioner—

23 (1) The amount which, during the year ending
24 on the date fixed by law for filing the return, the cor-
25 poration has distributed as a special dividend to or for

1 the benefit of such persons as on the last day of the
2 taxable year were resident in China, the United States,
3 or possessions of the United States, or were individual
4 citizens of the United States or China, and owned
5 shares of stock of the corporation;

6 (2) That such special dividend was in addition
7 to all other amounts, payable or to be payable to such
8 persons or for their benefit, by reason of their interest
9 in the corporation; and

10 (3) That such distribution has been made to or
11 for the benefit of such persons in proportion to the par
12 value of the shares of stock of the corporation owned
13 by each; except that if the corporation has more than
14 one class of stock, the certificates shall contain a state-
15 ment that the articles of incorporation provide a method
16 for the apportionment of such special dividend among
17 such persons, and that the amount certified has been
18 distributed in accordance with the method so provided.

19 (c) OWNERSHIP OF STOCK.—For the purposes of this
20 section shares of stock of a corporation shall be considered
21 to be owned by the person in whom the equitable right to
22 the income from such shares is in good faith vested.

23 (d) DEFINITION OF CHINA.—As used in this section
24 the term “China” shall have the same meaning as when
25 used in the China Trade Act, 1922.

1 **SEC. 262. CREDITS AGAINST THE TAX.**

2 A corporation organized under the China Trade Act,
3 1922, shall not be allowed the credits against the tax for
4 taxes of foreign countries and possessions of the United
5 States allowed by section 131.

6 **SEC. 263. AFFILIATION.**

7 A corporation organized under the China Trade Act,
8 1922, shall not be deemed to be affiliated with any other
9 corporation within the meaning of section 141.

10 **SEC. 264. INCOME OF SHAREHOLDERS.**

11 For exclusion of dividends from gross income, see
12 section 116.

13 **Supplement L—Assessment and Collection of Deficiencies**

14 **SEC. 271. DEFINITION OF DEFICIENCY.**

15 As used in this title in respect of a tax imposed by this
16 title "deficiency" means—

17 (a) The amount by which the tax imposed by this
18 title exceeds the amount shown as the tax by the tax-
19 payer upon his return; but the amount so shown on the
20 return shall first be increased by the amounts previously
21 assessed (or collected without assessment) as a deficiency,
22 and decreased by the amounts previously abated, credited,
23 refunded, or otherwise repaid in respect of such tax; or

24 (b) If no amount is shown as the tax by the tax-
25 payer upon his return, or if no return is made by the tax-

1 payer, then the amount by which the tax exceeds the
2 amounts previously assessed (or collected without assess-
3 ment) as a deficiency; but such amounts previously assessed,
4 or collected without assessment, shall first be decreased
5 by the amounts previously abated, credited, refunded, or
6 otherwise repaid in respect of such tax.

7 **SEC. 272. PROCEDURE IN GENERAL.**

8 (a) **PETITION TO BOARD OF TAX APPEALS.**—If in
9 the case of any taxpayer, the Commissioner determines that
10 there is a deficiency in respect of the tax imposed by this title,
11 the Commissioner is authorized to send notice of such defi-
12 ciency to the taxpayer by registered mail. Within ~~60~~ 90
13 days after such notice is mailed (not counting Sunday
14 or a legal holiday in the District of Columbia as the
15 ~~sixtieth~~ *ninetieth* day), the taxpayer may file a petition
16 with the Board of Tax Appeals for a redetermination of the
17 deficiency. No assessment of a deficiency in respect of the
18 tax imposed by this title and no distraint or proceeding in
19 court for its collection shall be made, begun, or prosecuted
20 until such notice has been mailed to the taxpayer, nor until
21 the expiration of such ~~60-day~~ 90-day period, nor, if a petition
22 has been filed with the Board, until the decision of the Board
23 has become final. Notwithstanding the provisions of section
24 3224 of the Revised Statutes the making of such assessment
25 or the beginning of such proceeding or distraint during

1 the time such prohibition is in force may be enjoined by a
2 proceeding in the proper court.

3 For exceptions to the restrictions imposed by this sub-
4 section, see—

5 (1) Subsection (d) of this section, relating to
6 waivers by the taxpayer;

7 (2) Subsection (f) of this section, relating to
8 notifications of mathematical errors appearing upon
9 the face of the return;

10 (3) Section 273, relating to jeopardy assessments;

11 (4) Section 274, relating to bankruptcy and
12 receiverships; and

13 (5) Section 1001 of the Revenue Act of 1926, as
14 amended, relating to assessment or collection of the
15 amount of the deficiency determined by the Board
16 pending court review.

17 (b) COLLECTION OF DEFICIENCY FOUND BY
18 BOARD.—If the taxpayer files a petition with the Board, the
19 entire amount redetermined as the deficiency by the decision
20 of the Board which has become final shall be assessed and
21 shall be paid upon notice and demand from the collector.
22 No part of the amount determined as a deficiency by the
23 Commissioner but disallowed as such by the decision of the
24 Board which has become final shall be assessed or be col-

1 lected by distraint or by proceeding in court with or without
2 assessment.

3 (c) FAILURE TO FILE PETITION.—If the taxpayer
4 does not file a petition with the Board within the time
5 prescribed in subsection (a) of this section, the deficiency,
6 notice of which has been mailed to the taxpayer, shall be
7 assessed, and shall be paid upon notice and demand from
8 the collector.

9 (d) WAIVER OF RESTRICTIONS.—The taxpayer shall
10 at any time have the right, by a signed notice in writing filed
11 with the Commissioner, to waive the restrictions provided
12 in subsection (a) of this section on the assessment and collec-
13 tion of the whole or any part of the deficiency.

14 (e) INCREASE OF DEFICIENCY AFTER NOTICE
15 MAILED.—The Board shall have jurisdiction to redetermine
16 the correct amount of the deficiency even if the amount so
17 redetermined is greater than the amount of the deficiency,
18 notice of which has been mailed to the taxpayer, and to
19 determine whether any penalty, additional amount or addi-
20 tion to the tax should be assessed—if claim therefor is
21 asserted by the Commissioner at or before the hearing or a
22 rehearing.

23 (f) FURTHER DEFICIENCY LETTERS RESTRICTED.—
24 If the Commissioner has mailed to the taxpayer notice of a
25 deficiency as provided in subsection (a) of this section, and

1 the taxpayer files a petition with the Board within the time
2 prescribed in such subsection, the Commissioner shall have
3 no right to determine any additional deficiency in respect of
4 the same taxable year, except in the case of fraud, and
5 except as provided in subsection (e) of this section, relating
6 to assertion of greater deficiencies before the Board, or in
7 section 273 (c), relating to the making of jeopardy assess-
8 ments. If the taxpayer is notified that, on account of a
9 mathematical error appearing upon the face of the return,
10 an amount of tax in excess of that shown upon the return
11 is due, and that an assessment of the tax has been or will be
12 made on the basis of what would have been the correct
13 amount of tax but for the mathematical error, such notice
14 shall not be considered (for the purposes of this subsection,
15 or of subsection (a) of this section, prohibiting assessment
16 and collection until notice of deficiency has been mailed, or
17 of section 322 (c), prohibiting credits or refunds after peti-
18 tion to the Board of Tax Appeals) as a notice of a deficiency,
19 and the taxpayer shall have no right to file a petition with
20 the Board based on such notice, nor shall such assessment or
21 collection be prohibited by the provisions of subsection (a)
22 of this section.

23 (g) JURISDICTION OVER OTHER TAXABLE YEARS.—
24 The Board in redetermining a deficiency in respect of any
25 taxable year shall consider such facts with relation to the

1 taxes for other taxable years as may be necessary correctly
2 to redetermine the amount of such deficiency, but in so doing
3 shall have no jurisdiction to determine whether or not the
4 tax for any other taxable year has been overpaid or
5 underpaid.

6 (h) FINAL DECISIONS OF BOARD.—For the purposes
7 of this title the date on which a decision of the Board becomes
8 final shall be determined according to the provisions of
9 section 1005 of the Revenue Act of 1926.

10 (i) PRORATING OF DEFICIENCY TO INSTALL-
11 MENTS.—If the taxpayer has elected to pay the tax in
12 installments and a deficiency has been assessed, the defi-
13 ciency shall be prorated to the four installments. Except
14 as provided in section 273 (relating to jeopardy assess-
15 ments), that part of the deficiency so prorated to any install-
16 ment the date for payment of which has not arrived, shall
17 be collected at the same time as and as part of such install-
18 ment. That part of the deficiency so prorated to any
19 installment the date for payment of which has arrived, shall
20 be paid upon notice and demand from the collector.

21 (j) EXTENSION OF TIME FOR PAYMENT OF DEFICI-
22 CIENCIES.—Where it is shown to the satisfaction of the
23 Commissioner that the payment of a deficiency upon the
24 date prescribed for the payment thereof will result in undue
25 hardship to the taxpayer the Commissioner, with the ap-

1 proval of the Secretary (except where the deficiency is
2 due to negligence, to intentional disregard of rules and
3 regulations, or to fraud with intent to evade tax), may
4 grant an extension for the payment of such deficiency or
5 any part thereof for a period not in excess of eighteen
6 months, and, in exceptional cases, for a further period not
7 in excess of twelve months. If an extension is granted, the
8 Commissioner may require the taxpayer to furnish a bond
9 in such amount, not exceeding double the amount of the
10 deficiency, and with such sureties, as the Commissioner
11 deems necessary, conditioned upon the payment of the
12 deficiency in accordance with the terms of the extension.

13 (k) ADDRESS FOR NOTICE OF DEFICIENCY.—In the
14 absence of notice to the Commissioner under section 312 (a)
15 of the existence of a fiduciary relationship, notice of a defi-
16 ciency in respect of a tax imposed by this title, if mailed to
17 the taxpayer at his last known address, shall be sufficient
18 for the purposes of this title even if such taxpayer is deceased,
19 or is under a legal disability, or, in the case of a corporation,
20 has terminated its existence.

21 **SEC. 273. JEOPARDY ASSESSMENTS.**

22 (a) AUTHORITY FOR MAKING.—If the Commissioner
23 believes that the assessment or collection of a deficiency will
24 be jeopardized by delay, he shall immediately assess such
25 deficiency (together with all interest, additional amounts, or

1 additions to the tax provided for by law) and notice and
2 demand shall be made by the collector for the payment
3 thereof.

4 (b) DEFICIENCY LETTERS.—If the jeopardy assess-
5 ment is made before any notice in respect of the tax to which
6 the jeopardy assessment relates has been mailed under sec-
7 tion 272 (a), then the Commissioner shall mail a notice
8 under such subsection within sixty days after the making of
9 the assessment.

10 (c) AMOUNT ASSESSABLE BEFORE DECISION OF
11 BOARD.—The jeopardy assessment may be made in respect
12 of a deficiency greater or less than that notice of which has
13 been mailed to the taxpayer, despite the provisions of section
14 272 (f) prohibiting the determination of additional deficien-
15 cies, and whether or not the taxpayer has theretofore filed
16 a petition with the Board of Tax Appeals. The Commis-
17 sioner shall notify the Board of the amount of such assess-
18 ment, if the petition is filed with the Board before the
19 making of the assessment or is subsequently filed, and the
20 Board shall have jurisdiction to redetermine the entire
21 amount of the deficiency and of all amounts assessed at the
22 same time in connection therewith.

23 (d) AMOUNT ASSESSABLE AFTER DECISION OF
24 BOARD.—If the jeopardy assessment is made after the deci-
25 sion of the Board is rendered such assessment may be made

1 only in respect of the deficiency determined by the Board
2 in its decision.

3 (e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy
4 assessment may not be made after the decision of the Board
5 has become final or after the taxpayer has filed a petition
6 for review of the decision of the Board.

7 (f) BOND TO STAY COLLECTION.—When a jeopardy
8 assessment has been made the taxpayer, within 10 days
9 after notice and demand from the collector for the pay-
10 ment of the amount of the assessment, may obtain a stay
11 of collection of the whole or any part of the amount of
12 the assessment by filing with the collector a bond in such
13 amount, not exceeding double the amount as to which the
14 stay is desired, and with such sureties, as the collector
15 deems necessary, conditioned upon the payment of so much
16 of the amount, the collection of which is stayed by the
17 bond, as is not abated by a decision of the Board which
18 has become final, together with interest thereon as provided
19 in section 297.

20 (g) SAME—FURTHER CONDITIONS.—If the bond is
21 given before the taxpayer has filed his petition with the
22 Board under section 272 (a), the bond shall contain a
23 further condition that if a petition is not filed within the
24 period provided in such subsection, then the amount the
25 collection of which is stayed by the bond will be paid

1 on notice and demand at any time after the expiration
2 of such period, together with interest thereon at the rate
3 of 6 per centum per annum from the date of the jeopardy
4 notice and demand to the date of notice and demand under
5 this subsection.

6 (h) WAIVER OF STAY.—Upon the filing of the bond
7 the collection of so much of the amount assessed as is c
8 ered by the bond shall be stayed. The taxpayer shall
9 the right to waive such stay at any time in respect of the
10 whole or any part of the amount covered by the bond, and
11 if as a result of such waiver any part of the amount covered
12 by the bond is paid, then the bond shall, at the request of
13 the taxpayer, be proportionately reduced. If the Board
14 determines that the amount assessed is greater than the
15 amount which should have been assessed, then when the
16 decision of the Board is rendered the bond shall, at the
17 request of the taxpayer, be proportionately reduced.

18 (i) COLLECTION OF UNPAID AMOUNTS.—When the
19 petition has been filed with the Board and when the amount
20 which should have been assessed has been determined by a
21 decision of the Board which has become final, then any
22 unpaid portion, the collection of which has been stayed by
23 the bond, shall be collected as part of the tax upon notice
24 and demand from the collector, and any remaining portion

1 of the assessment shall be abated. If the amount already
2 collected exceeds the amount determined as the amount
3 which should have been assessed, such excess shall be
4 credited or refunded to the taxpayer as provided in section
5 322, without the filing of claim therefor. If the amount
6 determined as the amount which should have been assessed
7 is greater than the amount actually assessed, then the dif-
8 ference shall be assessed and shall be collected as part of the
9 tax upon notice and demand from the collector.

10 (j) CLAIMS IN ABATEMENT.—No claim in abatement
11 shall be filed in respect of any assessment in respect of any
12 tax imposed by this title.

13 **SEC. 274. BANKRUPTCY AND RECEIVERSHIPS.**

14 (a) IMMEDIATE ASSESSMENT.—Upon the adjudica-
15 tion of bankruptcy of any taxpayer in any bankruptcy pro-
16 ceeding or the appointment of a receiver for any taxpayer
17 in any receivership proceeding before any court of the
18 United States or of any State or Territory or of the District
19 of Columbia, any deficiency (together with all interest, addi-
20 tional amounts, or additions to the tax provided for by law)
21 determined by the Commissioner in respect of a tax imposed
22 by this title upon such taxpayer shall, despite the restrictions
23 imposed by section 272 (a) upon assessments be immediately
24 assessed if such deficiency has not theretofore been assessed

1 in accordance with law. *In such cases the trustee in bank-*
2 *ruptcy or receiver shall give notice in writing to the Com-*
3 *missioner of the adjudication of bankruptcy or the appoint-*
4 *ment of the receiver, and the running of the statute of limi-*
5 *tations on the making of assessments shall be suspended*
6 *for the period from the date of adjudication in bankruptcy*
7 *or the appointment of the receiver to a date 30 days after*
8 *the date upon which the notice from the trustee or receiver*
9 *is received by the Commissioner; but the suspension under*
10 *this sentence shall in no case be for a period in excess of*
11 *two years. Claims for the deficiency and such in-*
12 *terest, additional amounts and additions to the tax may be*
13 *presented, for adjudication in accordance with law, to the*
14 *court before which the bankruptcy or receivership proceeding*
15 *is pending, despite the pendency of proceedings for the rede-*
16 *termination of the deficiency in pursuance of a petition to the*
17 *Board; but no petition for any such redetermination shall be*
18 *filed with the Board after the adjudication of bankruptcy or*
19 *the appointment of the receiver.*

20 (b) **UNPAID CLAIMS.**—Any portion of the claim
21 allowed in such bankruptcy or receivership proceeding
22 which is unpaid shall be paid by the taxpayer upon notice
23 and demand from the collector after the termination of such
24 proceeding, and may be collected by distraint or proceeding
25 in court within six years after termination of such proceed-

1 ing. Extensions of time for such payment may be had in
2 the same manner and subject to the same provisions and
3 limitations as are provided in section 272(j) and section
4 296 in the case of a deficiency in a tax imposed by this title.

5 **SEC. 275. PERIOD OF LIMITATION UPON ASSESSMENT**
6 **AND COLLECTION.**

7 Except as provided in section 276—

8 (a) **GENERAL RULE.**—The amount of income taxes
9 imposed by this title shall be assessed within ~~two~~ *three* years
10 after the return was filed, and no proceeding in court with-
11 out assessment for the collection of such taxes shall be begun
12 after the expiration of such period.

13 (b) **REQUEST FOR PROMPT ASSESSMENT.**—In the
14 case of income received during the lifetime of a decedent, or
15 by his estate during the period of administration, or by a
16 corporation, the tax shall be assessed, and any proceeding
17 in court without assessment for the collection of such tax
18 shall be begun, within ~~one year~~ *eighteen months* after writ-
19 ten request therefor (filed after the return is made) by
20 the executor, administrator, or other fiduciary representing
21 the estate of such decedent, or by the corporation, but not
22 after the expiration of ~~two~~ *three* years after the return was
23 filed. This subsection shall not apply in the case of a
24 corporation unless—

1 (1) Such written request notifies the Commis-
2 sioner that the corporation contemplates dissolution at
3 or before the expiration of such year 18 months period;
4 and

5 (2) The dissolution is in good faith begun before
6 the expiration of such year 18 months period; and

7 (3) The dissolution is completed.

8 (c) *OMISSION FROM GROSS INCOME.*—If the tax-
9 payer omits from gross income an amount properly includible
10 therein which is in excess of 25 per centum of the amount of
11 gross income stated in the return, the tax may be assessed,
12 or a proceeding in court for the collection of such tax may
13 be begun without assessment, at any time within 5 years after
14 the return was filed.

15 (d) For the purposes of subsections (a), (b), and (c) a
16 return filed before the last day prescribed by law for the
17 filing thereof shall be considered as filed on such last day.

18 (e) *CORPORATION AND SHAREHOLDER.*—If a
19 corporation makes no return of the tax imposed by this title,
20 but each of the shareholders includes in his return his dis-
21 tributive share of the net income of the corporation, then
22 the tax of the corporation shall be assessed within four years
23 after the last date on which any such shareholder's return
24 was filed.

1 **SEC. 276. SAME—EXCEPTIONS.**

2 (a) **FALSE RETURN OR NO RETURN.**—In the case of
3 a false or fraudulent return with intent to evade tax or of
4 a failure to file a return the tax may be assessed, or a pro-
5 ceeding in court for the collection of such tax may be begun
6 without assessment, at any time.

7 (b) **WAIVERS.**—Where before the expiration of the
8 time prescribed in section 275 for the assessment of the tax,
9 both the Commissioner and the taxpayer have consented in
10 writing to its assessment after such time, the tax may be
11 assessed at any time prior to the expiration of the period
12 agreed upon. The period so agreed upon may be extended
13 by subsequent agreements in writing made before the expira-
14 tion of the period previously agreed upon.

15 (c) **COLLECTION AFTER ASSESSMENT.**—Where the
16 assessment of any income tax imposed by this title has been
17 made within the period of limitation properly applicable
18 thereto, such tax may be collected by distraint or by a pro-
19 ceeding in court, but only if begun (1) within six years
20 after the assessment of the tax, or (2) prior to the expira-
21 tion of any period for collection agreed upon in writing by
22 the Commissioner and the taxpayer before the expiration of
23 such six-year period. The period so agreed upon may be
24 extended by subsequent agreements in writing made before
25 the expiration of the period previously agreed upon.

1 SEC. 277. SUSPENSION OF RUNNING OF STATUTE.

2 The running of the statute of limitations provided in
3 section 275 or 276 on the making of assessments and the
4 beginning of distraint or a proceeding in court for collection,
5 in respect of any deficiency, shall (after the mailing of a
6 notice under section 272 (a)) be suspended for the period
7 during which the Commissioner is prohibited from making
8 the assessment or beginning distraint or a proceeding in
9 court (and in any event, if a proceeding in respect of the
10 deficiency is placed on the docket of the Board, until the
11 decision of the Board becomes final), and for sixty days
12 thereafter.

13 Supplement M—Interest and Additions to the Tax**14 SEC. 291. FAILURE TO FILE RETURN.**

15 In case of any failure to make and file a return required
16 by this title, within the time prescribed by law or prescribed
17 by the Commissioner in pursuance of law, 25 per centum of
18 the tax shall be added to the tax, except that when a return
19 is filed after such time and it is shown that the failure to
20 file it was due to reasonable cause and not due to willful
21 neglect no such addition shall be made to the tax. The
22 amount so added to any tax shall be collected at the same
23 time and in the same manner and as a part of the tax unless
24 the tax has been paid before the discovery of the neglect,
25 in which case the amount so added shall be collected in the

1 same manner as the tax. The amount added to the tax
2 under this section shall be in lieu of the 25 per centum addi-
3 tion to the tax provided in section 3176 of the Revised
4 Statutes, as amended.

5 **SEC. 292. INTEREST ON DEFICIENCIES.**

6 Interest upon the amount determined as a deficiency
7 shall be assessed at the same time as the deficiency, shall
8 be paid upon notice and demand from the collector, and
9 shall be collected as a part of the tax, at the rate of 6 per
10 centum per annum from the date prescribed for the payment
11 of the tax (or, if the tax is paid in installments, from the
12 date prescribed for the payment of the first installment) to
13 the date the deficiency is assessed, or, in the case of a waiver
14 under section 272 (d), to the thirtieth day after the filing of
15 such waiver or to the date the deficiency is assessed which-
16 ever is the earlier.

17 **SEC. 293. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.**

18 (a) **NEGLIGENCE.**—If any part of any deficiency is
19 due to negligence, or intentional disregard of rules and
20 regulations but without intent to defraud, 5 per centum of
21 the total amount of the deficiency (in addition to such
22 deficiency) shall be assessed, collected, and paid in the same
23 manner as if it were a deficiency, except that the provisions
24 of section 272 (i), relating to the prorating of a deficiency,

1 and of section 292, relating to interest on deficiencies, shall
2 not be applicable.

3 (b) FRAUD.—If any part of any deficiency is due to
4 fraud with intent to evade tax, then 50 per centum of the
5 total amount of the deficiency (in addition to such defi-
6 ciency) shall be so assessed, collected, and paid, in lieu of
7 the 50 per centum addition to the tax provided in section
8 3176 of the Revised Statutes, as amended.

9 **SEC. 294. ADDITIONS TO THE TAX IN CASE OF NON-**
10 **PAYMENT.**

11 (a) TAX SHOWN ON RETURN.—

12 (1) GENERAL RULE.—Where the amount deter-
13 mined by the taxpayer as the tax imposed by this title,
14 or any installment thereof, or any part of such amount
15 or installment, is not paid on or before the date pre-
16 scribed for its payment, there shall be collected as a
17 part of the tax, interest upon such unpaid amount at the
18 rate of 1 per centum a month from the date prescribed
19 for its payment until it is paid.

20 (2) IF EXTENSION GRANTED.—Where an ex-
21 tension of time for payment of the amount so deter-
22 mined as the tax by the taxpayer, or any installment
23 thereof, has been granted, and the amount the time for
24 payment of which has been extended, and the interest
25 thereon determined under section 295, is not paid in

1 full prior to the expiration of the period of the extension,
2 then, in lieu of the interest provided for in paragraph
3 (1) of this subsection, interest at the rate of 1 per
4 centum a month shall be collected on such unpaid
5 amount from the date of the expiration of the period of
6 the extension until it is paid.

7 (b) DEFICIENCY.—Where a deficiency, or any
8 interest or additional amounts assessed in connection there-
9 with under section 292, or under section 293, or any addi-
10 tion to the tax in case of delinquency provided for in section
11 291, is not paid in full within ten days from the date of
12 notice and demand from the collector, there shall be collected
13 as part of the tax, interest upon the unpaid amount at the
14 rate of 1 per centum a month from the date of such notice
15 and demand until it is paid. If any part of a deficiency
16 prorated to any unpaid installment under section 272 (i) is
17 not paid in full on or before the date prescribed for the pay-
18 ment of such installment, there shall be collected as part of
19 the tax interest upon the unpaid amount at the rate of 1 per
20 centum a month from such date until it is paid.

21 (c) FIDUCIARIES.—For any period an estate is held
22 by a fiduciary appointed by order of any court of competent
23 jurisdiction or by will, there shall be collected interest at the
24 rate of 6 per centum per annum in lieu of the interest
25 provided in subsections (a) and (b) of this section.

1 (d) **FILING OF JEOPARDY BOND.**—If a bond is filed,
2 as provided in section 273, the provisions of subsections
3 (b) and (c) of this section shall not apply to the amount
4 covered by the bond.

5 **SEC. 296. TIME EXTENDED FOR PAYMENT OF TAX SHOWN**
6 **ON RETURN.**

7 If the time for payment of the amount determined as
8 the tax by the taxpayer, or any installment thereof, is
9 extended under the authority of section 56(c), there shall
10 be collected as a part of such amount, interest thereon at
11 the rate of 6 per centum per annum from the date when
12 such payment should have been made if no extension had
13 been granted, until the expiration of the period of the
14 extension.

15 **SEC. 296. TIME EXTENDED FOR PAYMENT OF DEFICIENCY.**

16 If the time for the payment of any part of a deficiency
17 is extended, there shall be collected, as a part of the tax,
18 interest on the part of the deficiency the time for payment
19 of which is so extended, at the rate of 6 per centum per
20 annum for the period of the extension, and no other interest
21 shall be collected on such part of the deficiency for such
22 period. If the part of the deficiency the time for payment
23 of which is so extended is not paid in accordance with the
24 terms of the extension, there shall be collected, as a part of
25 the tax, interest on such unpaid amount at the rate of 1

1 per centum a month for the period from the time fixed by
2 the terms of the extension for its payment until it is paid,
3 and no other interest shall be collected on such unpaid
4 amount for such period.

5 **SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS.**

6 In the case of the amount collected under section
7 273 (i) there shall be collected at the same time as such
8 amount, and as a part of the tax, interest at the rate of 6 per
9 centum per annum upon such amount from the date of the
10 jeopardy notice and demand to the date of notice and demand
11 under section 273 (i), or, in the case of the amount collected
12 in excess of the amount of the jeopardy assessment, interest
13 as provided in section 292. If the amount included in the
14 notice and demand from the collector under section 273 (i)
15 is not paid in full within ten days after such notice and
16 demand, then there shall be collected, as part of the tax,
17 interest upon the unpaid amount at the rate of 1 per centum
18 a month (or, for any period the estate of the taxpayer is held
19 by a fiduciary appointed by any court of competent jurisdic-
20 tion or by will, at the rate of 6 per centum per annum) from
21 the date of such notice and demand until it is paid.

22 **SEC. 298. BANKRUPTCY AND RECEIVERSHIPS.**

23 If the unpaid portion of the claim allowed in a bank-
24 ruptcy or receivership proceeding, as provided in section 274,
25 is not paid in full within ten days from the date of notice

1 and demand from the collector, then there shall be collected
2 as a part of such amount interest upon the unpaid portion
3 thereof at the rate of 1 per centum a month from the date
4 of such notice and demand until payment.

5 **SEC. 299. REMOVAL OF PROPERTY OR DEPARTURE FROM**
6 **UNITED STATES.**

7 For additions to tax in case of leaving the United States
8 or concealing property in such manner as to hinder collection
9 of the tax, see section 146.

10 **Supplement N—Claims against Transferees and**
11 **Fiduciaries**

12 **SEC. 311. TRANSFERRED ASSETS.**

13 (a) **METHOD OF COLLECTION.**—The amounts of the
14 following liabilities shall, except as hereinafter in this section
15 provided, be assessed, collected, and paid in the same man-
16 ner and subject to the same provisions and limitations as in
17 the case of a deficiency in a tax imposed by this title (includ-
18 ing the provisions in case of delinquency in payment after
19 notice and demand, the provisions authorizing distraint and
20 proceedings in court for collection, and the provisions
21 prohibiting claims and suits for refunds) :

22 (1) **TRANSFEREES.**—The liability, at law or in
23 equity, of a transferee of property of a taxpayer, in
24 respect of the tax (including interest, additional

1 amounts, and additions to the tax provided by law)
2 imposed upon the taxpayer by this title.

3 (2) **FIDUCIARIES.**—The liability of a fiduciary
4 under section 3467 of the Revised Statutes in respect
5 of the payment of any such tax from the estate of the
6 taxpayer.

7 Any such liability may be either as to the amount of tax
8 shown on the return or as to any deficiency in tax.

9 (b) **PERIOD OF LIMITATION.**—The period of limita-
10 tion for assessment of any such liability of a transferee or
11 fiduciary shall be as follows:

12 (1) In the case of the liability of an initial trans-
13 feree of the property of the taxpayer,—within one
14 year after the expiration of the period of limitation for
15 assessment against the taxpayer;

16 (2) In the case of the liability of a transferee of
17 a transferee of the property of the taxpayer,—within
18 one year after the expiration of the period of limitation
19 for assessment against the preceding transferee, but
20 only if within three years after the expiration of the
21 period of limitation for assessment against the tax-
22 payer;—

23 except that if before the expiration of the period of limitation
24 for the assessment of the liability of the transferee, a court

1 proceeding for the collection of the tax or liability in respect
2 thereof has been begun against the taxpayer or last preceding
3 transferee, respectively,—then the period of limitation for
4 assessment of the liability of the transferee shall expire one
5 year after the return of execution in the court proceeding.

6 (3) In the case of the liability of a fiduciary,—
7 not later than one year after the liability arises or not
8 later than the expiration of the period for collection
9 of the tax in respect of which such liability arises,
10 whichever is the later.

11 (c) PERIOD FOR ASSESSMENT AGAINST TAX-
12 PAYEE.—For the purposes of this section, if the taxpayer is
13 deceased, or in the case of a corporation, has terminated its
14 existence, the period of limitation for assessment against the
15 taxpayer shall be the period that would be in effect had the
16 death or termination of existence not occurred.

17 (d) SUSPENSION OF RUNNING OF STATUTE OF
18 LIMITATIONS.—The running of the statute of limitations
19 upon the assessment of the liability of a transferee or
20 fiduciary shall, after the mailing to the transferee or fiduciary
21 of the notice provided for in section 272 (a), be suspended
22 for the period during which the Commissioner is prohibited
23 from making the assessment in respect of the liability of the
24 transferee or fiduciary (and in any event, if a proceeding in
25 respect of the liability is placed on the docket of the Board,

1 until the decision of the Board becomes final), and for sixty
2 days thereafter.

3 (e) ADDRESS FOR NOTICE OF LIABILITY.—In the
4 absence of notice to the Commissioner under section 312 (b)
5 of the existence of a fiduciary relationship, notice of liability
6 enforceable under this section in respect of a tax imposed
7 by this title, if mailed to the person subject to the liability at
8 his last known address, shall be sufficient for the purposes of
9 this title even if such person is deceased, or is under a legal
10 disability, or, in the case of a corporation, has terminated its
11 existence.

12 (f) DEFINITION OF "TRANSFeree".—As used in
13 this section, the term "transferee" includes heir, legatee,
14 devisee, and distributee.

15 SEC. 312. NOTICE OF FIDUCIARY RELATIONSHIP.

16 (a) FIDUCIARY OF TAXPAYER.—Upon notice to the
17 Commissioner that any person is acting in a fiduciary
18 capacity such fiduciary shall assume the powers, rights,
19 duties, and privileges of the taxpayer in respect of a tax
20 imposed by this title (except as otherwise specifically pro-
21 vided and except that the tax shall be collected from the
22 estate of the taxpayer), until notice is given that the
23 fiduciary capacity has terminated.

24 (b) FIDUCIARY OF TRANSFeree.—Upon notice to
25 the Commissioner that any person is acting in a fiduciary

1 capacity for a person subject to the liability specified in
2 section 311, the fiduciary shall assume, on behalf of such
3 person, the powers, rights, duties, and privileges of such
4 person under such section (except that the liability shall
5 be collected from the estate of such person), until notice
6 is given that the fiduciary capacity has terminated.

7 (c) **MANNER OF NOTICE.**—Notice under subsection
8 (a) or (b) shall be given in accordance with regulations
9 prescribed by the Commissioner with the approval of the
10 Secretary.

11 **Supplement O—Overpayments**

12 **SEC. 321. OVERPAYMENT OF INSTALLMENT.**

13 If the taxpayer has paid as an installment of the tax
14 more than the amount determined to be the correct amount
15 of such installment, the overpayment shall be credited against
16 the unpaid installments, if any. If the amount already paid,
17 whether or not on the basis of installments, exceeds the
18 amount determined to be the correct amount of the tax, the
19 overpayment shall be credited or refunded as provided in
20 section 322.

21 **SEC. 322. REFUNDS AND CREDITS.**

22 (a) **AUTHORIZATION.**—Where there has been an
23 overpayment of any tax imposed by this title, the amount
24 of such overpayment shall be credited against any income,
25 war-profits, or excess-profits tax or installment thereof then

1 due from the taxpayer, and any balance shall be refunded
2 immediately to the taxpayer.

3 (b) LIMITATION ON ALLOWANCE.—

4 ~~(1) PERIOD OF LIMITATION.—~~ No such credit or
5 refund shall be allowed or made after two years from
6 the time the tax was paid, unless before the expiration
7 of such period a claim therefor is filed by the taxpayer.

8 (1) PERIOD OF LIMITATION.—Unless a claim
9 for credit or refund is filed by the taxpayer within three
10 years from the time the return was filed by the taxpayer
11 or within two years from the time the tax was paid, no
12 credit or refund shall be allowed or made after the
13 expiration of whichever of such periods expires the
14 later. If no return is filed by the taxpayer, then no
15 credit or refund shall be allowed or made after two
16 years from the time the tax was paid, unless before the
17 expiration of such period a claim therefor is filed by
18 the taxpayer.

19 (2) LIMIT ON AMOUNT OF CREDIT OR
20 REFUND.—The amount of the credit or refund shall not
21 exceed the portion of the tax paid during the ~~two~~ three
22 years immediately preceding the filing of the claim,
23 ~~or or~~, if no claim was filed, then during the ~~two~~ three
24 years immediately preceding the allowance of the
25 credit or refund.

1 (c) EFFECT OF PETITION TO BOARD.—If the Com-
2 missioner has mailed to the taxpayer a notice of deficiency
3 under section 272 (a) and if the taxpayer files a petition
4 with the Board of Tax Appeals within the time prescribed
5 in such subsection, no credit or refund in respect of the tax
6 for the taxable year in respect of which the Commissioner
7 has determined the deficiency shall be allowed or made and
8 no suit by the taxpayer for the recovery of any part of such
9 tax shall be instituted in any court except—

10 (1) As to overpayments determined by a decision
11 of the Board which has become final; and

12 (2) As to any amount collected in excess of an
13 amount computed in accordance with the decision of
14 the Board which has become final; and

15 (3) As to any amount collected after the period
16 of limitation upon the beginning of distraint or a pro-
17 ceeding in court for collection has expired; but in any
18 such claim for credit or refund or in any such suit for
19 refund the decision of the Board which has become
20 final, as to whether such period has expired before the
21 notice of deficiency was mailed, shall be conclusive.

22 (d) OVERPAYMENT FOUND BY BOARD.—If the
23 Board finds that there is no deficiency and further finds
24 that the taxpayer has made an overpayment of tax in
25 respect of the taxable year in respect of which the Com-

1 missioner determined the deficiency, the Board shall have
 2 jurisdiction to determine the amount of such overpayment,
 3 and such amount shall, when the decision of the Board has
 4 become final, be credited or refunded to the taxpayer. No
 5 such credit or refund shall be made of any portion of the tax
 6 unless the Board determines as part of its decision that it
 7 was paid more than two within three years before the filing
 8 of the claim or the filing of the petition, whichever is earlier.

9 (e) TAX WITHHELD AT SOURCE.—For refund or
 10 credit in case of excessive withholding at the source, see
 11 section 143 (f).

12 **TITLE IA—ADDITIONAL INCOME TAXES**

13 **SEC. 351. SURTAX ON PERSONAL HOLDING COMPANIES.**

14 (a) *IMPOSITION OF TAX.*—There shall be levied, col-
 15 lected, and paid, for each taxable year, upon the undis-
 16 tributed adjusted net income of every personal holding com-
 17 pany a surtax equal to the sum of the following:

18 (1) 30 per centum of the amount thereof not in
 19 excess of \$100,000; plus

20 (2) 40 per centum of the amount thereof in excess
 21 of \$100,000.

22 (b) *DEFINITIONS.*—As used in this title—

23 (1) The term “personal holding company”
 24 means any corporation (other than a corporation
 25 exempt from taxation under section 101, and other than

1 a bank or trust company incorporated under the laws
2 of the United States or of any State or Territory, a
3 substantial part of whose business is the receipt of
4 deposits, and other than a life-insurance company)
5 if—(A) at least 80 per centum of its gross income for
6 the taxable year is derived from royalties, dividends,
7 interest, annuities, and (except in the case of regular
8 dealers in stock or securities) gains from the sale of
9 stock or securities, and (B) at any time during the
10 last half of the taxable year more than 50 per centum
11 in value of its outstanding stock is owned, directly or
12 indirectly, by or for not more than five individuals.
13 For the purpose of determining the ownership of stock
14 in a personal holding company—(C) stock owned,
15 directly or indirectly, by a corporation, partnership,
16 estate, or trust shall be considered as being owned pro-
17 portionately by its shareholders, partners, or benefi-
18 ciaries; (D) an individual shall be considered as own-
19 ing, to the exclusion of any other individual, the stock
20 owned, directly or indirectly, by his family, and this
21 rule shall be applied in such manner as to produce the
22 smallest possible number of individuals owning, directly
23 or indirectly, more than 50 per centum in value of the
24 outstanding stock; and (E) the family of an individual
25 shall include only his brothers and sisters (whether by

1 *the whole or half blood), spouse, ancestors, and lineal*
2 *descendants.*

3 *(2) The term "undistributed adjusted net in-*
4 *come" means the adjusted net income minus the sum of:*

5 *(A) 10 per centum of the excess of the ad-*
6 *justed net income over the amount of the dividend*
7 *deduction allowed under section 23(p);*

8 *(B) A reasonable amount used or set aside*
9 *to retire indebtedness incurred prior to January 1,*
10 *1934; and*

11 *(C) Dividends paid during the taxable year.*

12 *(3) The term "adjusted net income" means the*
13 *sum of:*

14 *(A) The net income; and*

15 *(B) The amount of the dividend deduction*
16 *allowed under section 23(p);*

17 *minus the sum of:*

18 *(C) Federal income, war-profits, and excess-*
19 *profits taxes paid or accrued, but not including the*
20 *tax imposed by this section; and*

21 *(D) Contributions or gifts, not otherwise*
22 *allowed as a deduction, to or for the use of donees*
23 *described in section 23(o) for the purposes therein*
24 *specified,*

1 (4) *The terms used in this section shall have the*
2 *same meaning as when used in Title I.*

3 (c) *ADMINISTRATIVE PROVISIONS.—All provisions*
4 *of law (including penalties) applicable in respect of the taxes*
5 *imposed by Title I of this Act, shall insofar as not inconsistent*
6 *with this section, be applicable in respect of the tax imposed*
7 *by this section, except that the provisions of section 131 of*
8 *that title shall not be applicable.*

9 (d) *IMPROPER ACCUMULATION OF SURPLUS.—For*
10 *surtax on corporations which accumulate surplus to avoid*
11 *surtax on stockholders, see section 102.*

12 **TITLE II—AMENDMENTS TO ESTATE TAX**

13 **SEC. 401. REVOCABLE TRUSTS.**

14 *Section 302(d) of the Revenue Act of 1926 is amended*
15 *to read as follows:*

16 “(d) (1) *To the extent of any interest therein of which*
17 *the decedent has at any time made a transfer, by trust or*
18 *otherwise, where the enjoyment thereof was subject at the date*
19 *of his death to any change through the exercise of a power,*
20 *either by the decedent alone or in conjunction with any per-*
21 *son, to alter, amend, or revoke, or where the decedent relin-*
22 *quished any such power in contemplation of his death, except*
23 *in case of a bona fide sale for an adequate and full considera-*
24 *tion in money or money's worth.*

1 “(2) For the purposes of this subdivision the power
2 to alter, amend, or revoke shall be considered to exist on the
3 date of the decedent's death even though the exercise of the
4 power is subject to a precedent giving of notice or even
5 though the alteration, amendment, or revocation takes effect
6 only on the expiration of a stated period after the exercise
7 of the power, whether or not on or before the date of the
8 decedent's death notice has been given or the power has been
9 exercised. In such cases proper adjustment shall be made
10 representing the interests which would have been excluded
11 from the power if the decedent had lived, and for such pur-
12 pose if the notice has not been given or the power has not
13 been exercised on or before the date of his death, such notice
14 shall be considered to have been given, or the power exercised,
15 on the date of his death.

16 “(3) The relinquishment of any such power, not admit-
17 ted or shown to have been in contemplation of the decedent's
18 death, made within two years prior to his death without
19 such a consideration and affecting the interest or interests
20 (whether arising from one or more transfers or the creation
21 of one or more trusts) of any one beneficiary of a value or
22 aggregate value, at the time of such death, in excess of
23 \$5,000, then, to the extent of such excess, such relinquis-
24 ment or relinquishments shall, unless shown to the contrary,

- 1 *be deemed to have been made in contemplation of death*
 2 *within the meaning of this title;”*

NOTE.—Section 302(d) of the Revenue Act of 1926 will, after the above amendment, read as follows:

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

* * * * *

(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(2) For the purposes of this subdivision the power to alter, amend, or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from this power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised on the date of his death.

(3) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death but after the enactment of this Act without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of \$5,000, then, to the extent of such excess, such relinquishment or relinquishments shall be shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;

3 **SEC. 402. PRIOR TAXED PROPERTY.**

- 4 *Paragraph (2) of subdivision (a) and paragraph*
 5 *(2) of subdivision (b) of section 303 of the Revenue Act*
 6 *of 1926, as amended, are amended by inserting before the*
 7 *period at the end of the second sentence of each such para-*
 8 *graph a comma and the following: “ and only if in determin-*
 9 *ing the value of the net estate of the prior decedent no deduction*

- 1 *was allowable under this paragraph in respect of the property*
 2 *or property given in exchange therefor”.*

NOTE.—Section 303 (a) (2) and 303 (b) (2) of the Revenue Act of 1926 will, after the above insert, read as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) in the case of a nonresident by deducting from the value of the gross estate—

* * * * *

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1), (3), and (4) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of the decedent's gross estate. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

* * * * *

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

* * * * *

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States

States, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the United States. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

NOTE.—See also the amendments proposed to the above provisions by section 403 of this bill.

1 **SEC. 403. CITIZENSHIP AND RESIDENCE OF DECEDENTS.**

2 (a) Section 303(a) of the Revenue Act of 1926, as
3 amended, is amended by striking out "In the case of a
4 resident" and inserting in lieu thereof "In the case of a
5 citizen or resident of the United States".

NOTE.—Section 303(a) of the Revenue Act of 1926 will, after the above amendment, read as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a citizen or resident of the United States, by deducting from the value of the gross estate—

(1) * * *

6 (b) Section 303(b) of such Act, as amended, is
7 amended by striking out "In the case of a nonresident"
8 and inserting in lieu thereof "In the case of a nonresident
9 not a citizen of the United States".

NOTE.—Section 303(b) of the Revenue Act of 1926 will, after the above amendment, read as follows:

(b) In the case of a nonresident not a citizen of the United States, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) * * *

10 (c) Section 303(c) of such Act, as amended, is
11 amended by striking out "in the case of a nonresident"

1 *and inserting in lieu thereof "in the case of a nonresident*
 2 *not a citizen of the United States".*

NOTE.—Section 303(c) of the Revenue Act of 1926 will, after the above amendment, read as follows:

(c) No deduction shall be allowed in the case of a nonresident *not a citizen of the United States* unless the executor includes in the return required to be filed under section 304 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

3 (d) Section 303(d) and (e) of such Act, as
 4 amended, are amended by striking out the phrase "non-
 5 resident decedent" wherever such phrase appears in such
 6 subdivisions and inserting in lieu thereof in each case "non-
 7 resident not a citizen of the United States".

NOTE.—Section 303(d) and (e) of the Revenue Act of 1926 will, after the above amendment, read as follows:

(d) For the purpose of this title, stock in a domestic corporation owned and held by a nonresident ~~decedent~~ *not a citizen of the United States* shall be deemed property within the United States, and any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of subdivision (c) or (d) of section 302, shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death. For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration "in money or money's worth."

(e) The amount receivable as insurance upon the life of a nonresident ~~decedent~~ *not a citizen of the United States*, and any moneys deposited with any person carrying on the banking business, by or for a nonresident ~~decedent~~ *not a citizen of the United States* who was not engaged in business in the United States at the time of his death, shall not, for the purpose of this title, be deemed property within the United States.

8 (e) Section 304(a) and (b) of such Act, as
 9 amended, are amended by striking out "nonresident"
 10 wherever such word appears and inserting in lieu thereof
 11 in each case "nonresident not a citizen of the United States".

NOTE.—Section 304(a) and (b) of the Revenue Act of 1926 will, after the above amendment, read as follows:

SEC. 304. (a) The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall

give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident *not a citizen of the United States*, of that part of his gross estate situated in the United States; (2) the deductions allowed under section 303; (3) the value of the net estate of the decedent as defined in section 303; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(b) Return shall be made in all cases where the gross estate at the death of the decedent exceeds \$100,000, and in the case of the estate of every nonresident *not a citizen of the United States* any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

- 1 (f) *Section 403 of the Revenue Act of 1932 is amended*
 2 *by striking out "resident decedent" and inserting in lieu*
 3 *thereof "citizen or resident of the United States".*

NOTE.—Section 403 of the Revenue Act of 1932 will, after the above amendment, read as follows:

SEC. 403. ASSESSMENT, COLLECTION, AND PAYMENT OF TAX.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a ~~resident decedent~~ *citizen or resident of the United States* a return shall be required if the value of the gross estate at the time of the decedent's death exceeds \$50,000.

4 **SEC. 404. REAL ESTATE SITUATED OUTSIDE THE UNITED**
 5 **STATES.**

- 6 *So much of section 302 of the Revenue Act of 1926*
 7 *as reads as follows: "The value of the gross estate of the*
 8 *decedent shall be determined by including the value at the*
 9 *time of his death of all property, real or personal, tangible*
 10 *or intangible, wherever situated" is amended to read as*
 11 *follows: "The value of the gross estate of the decedent shall*

1 *be determined by including the value at the time of his death*
 2 *of all property, real or personal, tangible or intangible,*
 3 *wherever situated, except real property situated outside the*
 4 *United States”.*

NOTE.—The amendment to section 302 of the Revenue Act of 1926 made by this section consists of the addition of a comma and the words “except real property situated outside the United States”.

5 **SEC. 405. ESTATE TAX RATES.**

6 (a) *The last fourteen paragraphs of section 401(b)*
 7 *of the Revenue Act of 1932 are amended to read as follows:*

8 \$126,000 upon net estates of \$1,000,000; and upon
 9 net estates in excess of \$1,000,000 and not in excess of
 10 \$1,500,000, 20 per centum in addition of such excess.

11 \$226,000 upon net estates of \$1,500,000; and upon
 12 net estates in excess of \$1,500,000 and not in excess of
 13 \$2,000,000, 22 per centum in addition of such excess.

14 \$336,000 upon net estates of \$2,000,000; and upon
 15 net estates in excess of \$2,000,000 and not in excess of
 16 \$2,500,000, 25 per centum in addition of such excess.

17 \$461,000 upon net estates of \$2,500,000; and upon
 18 net estates in excess of \$2,500,000 and not in excess of
 19 \$3,000,000, 27 per centum in addition of such excess.

20 \$596,000 upon net estates of \$3,000,000; and upon
 21 net estates in excess of \$3,000,000 and not in excess of
 22 \$3,500,000, 30 per centum in addition of such excess.

1 *\$746,000 upon net estates of \$3,500,000; and upon*
2 *net estates in excess of \$3,500,000 and not in excess of*
3 *\$4,000,000, 32 per centum in addition of such excess.*

4 *\$906,000 upon net estates of \$4,000,000; and upon*
5 *net estates in excess of \$4,000,000 and not in excess of*
6 *\$4,500,000, 35 per centum in addition of such excess.*

7 *\$1,081,000 upon net estates of \$4,500,000; and upon*
8 *net estates in excess of \$4,500,000 and not in excess of*
9 *\$5,000,000, 37 per centum in addition of such excess.*

10 *\$1,266,000 upon net estates of \$5,000,000; and upon*
11 *net estates in excess of \$5,000,000 and not in excess of*
12 *\$6,000,000, 40 per centum in addition of such excess.*

13 *\$1,666,000 upon net estates of \$6,000,000; and upon*
14 *net estates in excess of \$6,000,000 and not in excess of*
15 *\$7,000,000, 42 per centum in addition of such excess.*

16 *\$2,086,000 upon net estates of \$7,000,000; and upon*
17 *net estates in excess of \$7,000,000 and not in excess of*
18 *\$8,000,000, 44 per centum in addition of such excess.*

19 *\$2,526,000 upon net estates of \$8,000,000; and upon*
20 *net estates in excess of \$8,000,000 and not in excess of*
21 *\$9,000,000, 46 per centum in addition of such excess.*

22 *\$2,986,000 upon net estates of \$9,000,000; and upon*
23 *net estates in excess of \$9,000,000 and not in excess of*
24 *\$10,000,000, 48 per centum in addition of such excess.*

- 1 *\$3,466,000 upon net estates of \$10,000,000; and upon*
 2 *net estates in excess of \$10,000,000, 50 per centum in addi-*
 3 *tion of such excess.*

NOTE.—Section 401(b) of the Revenue Act of 1932 will, after the above amendment, read as follows:

(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

Upon net estates not in excess of \$10,000, 1 per centum.

\$100 upon net estates of \$10,000; and upon net estates in excess of \$10,000 and not in excess of \$20,000, 2 per centum in addition of such excess.

\$300 upon net estates of \$20,000; and upon net estates in excess of \$20,000 and not in excess of \$30,000, 3 per centum in addition of such excess.

\$600 upon net estates of \$30,000; and upon net estates in excess of \$30,000 and not in excess of \$40,000, 4 per centum in addition of such excess.

\$1,000 upon net estates of \$40,000; and upon net estates in excess of \$40,000 and not in excess of \$50,000, 5 per centum in addition of such excess.

\$1,500 upon net estates of \$50,000; and upon net estates in excess of \$50,000 and not in excess of \$100,000, 7 per centum in addition of such excess.

\$5,000 upon net estates of \$100,000; and upon net estates in excess of \$100,000 and not in excess of \$200,000, 9 per centum in addition of such excess.

\$14,000 upon net estates of \$200,000; and upon net estates in excess of \$200,000 and not in excess of \$400,000, 11 per centum in addition of such excess.

\$36,000 upon net estates of \$400,000; and upon net estates in excess of \$400,000 and not in excess of \$600,000, 13 per centum in addition of such excess.

\$62,000 upon net estates of \$600,000; and upon net estates in excess of \$600,000 and not in excess of \$800,000, 15 per centum in addition of such excess.

\$92,000 upon net estates of \$800,000; and upon net estates in excess of \$800,000 and not in excess of \$1,000,000, 17 per centum in addition of such excess.

\$126,000 upon net estates of \$1,000,000; and upon net estates in excess of \$1,000,000 and not in excess of \$1,500,000, ~~19~~ 20 per centum in addition of such excess.

~~\$221,000~~ *\$226,000* upon net estates of \$1,500,000; and upon net estates in excess of \$1,500,000 and not in excess of \$2,000,000, ~~21~~ 22 per centum in addition of such excess.

~~\$326,000~~ *\$336,000* upon net estates of \$2,000,000; and upon net estates in excess of \$2,000,000 and not in excess of \$2,500,000, ~~22~~ 25 per centum in addition of such excess.

~~\$441,000~~ *\$461,000* upon net estates of \$2,500,000; and upon net estates in excess of \$2,500,000 and not in excess of \$3,000,000, ~~25~~ 27 per centum in addition of such excess.

~~\$566,000~~ *\$596,000* upon net estates of \$3,000,000; and upon net estates in excess of \$3,000,000 and not in excess of \$3,500,000, ~~27~~ 30 per centum in addition of such excess.

~~\$701,000~~ *\$746,000* upon net estates of \$3,500,000; and upon net estates in excess of \$3,500,000 and not in excess of \$4,000,000, ~~29~~ 32 per centum in addition of such excess.

~~\$846,000~~ ~~\$906,000~~ upon net estates of \$4,000,000; and upon net estates in excess of \$4,000,000 and not in excess of \$4,500,000, ~~21~~ ~~55~~ per centum in addition of such excess.

~~\$1,001,000~~ ~~\$1,081,000~~ upon net estates of \$4,500,000; and upon net estates in excess of \$4,500,000 and not in excess of \$5,000,000, ~~23~~ ~~57~~ per centum in addition of such excess.

~~\$1,166,000~~ ~~\$1,266,000~~ upon net estates of \$5,000,000; and upon net estates in excess of \$5,000,000 and not in excess of \$6,000,000, ~~25~~ ~~40~~ per centum in addition of such excess.

~~\$1,516,000~~ ~~\$1,666,000~~ upon net estates of \$6,000,000; and upon net estates in excess of \$6,000,000 and not in excess of \$7,000,000, ~~27~~ ~~42~~ per centum in addition of such excess.

~~\$1,886,000~~ ~~\$2,086,000~~ upon net estates of \$7,000,000; and upon net estates in excess of \$7,000,000 and not in excess of \$8,000,000, ~~29~~ ~~44~~ per centum in addition of such excess.

~~\$2,276,000~~ ~~\$2,526,000~~ upon net estates of \$8,000,000; and upon net estates in excess of \$8,000,000 and not in excess of \$9,000,000, ~~41~~ ~~46~~ per centum in addition of such excess.

~~\$2,686,000~~ ~~\$2,986,000~~ upon net estates of \$9,000,000; and upon net estates in excess of \$9,000,000 and not in excess of \$10,000,000, ~~43~~ ~~48~~ per centum in addition of such excess.

~~\$3,116,000~~ ~~\$3,466,000~~ upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000, ~~45~~ ~~50~~ per centum in addition of such excess.

- 1 *(b) The amendments made by this section shall be*
 2 *effective only with respect to transfers of estates of decedents*
 3 *dying after the date of the enactment of this Act.*

4 **SEC. 406. NONDEDUCTIBILITY OF CERTAIN TRANSFERS.**

- 5 *Section 303(a)(3) and section 303(b)(3) of the*
 6 *Revenue Act of 1926, as amended, are amended by inserting*
 7 *after "individual", wherever appearing therein, a comma*
 8 *and the following: "and no substantial part of the activities*
 9 *of which is participation in partisan politics or is carry-*
 10 *ing on propaganda, or otherwise attempting, to influence*
 11 *legislation".*

NOTE.—Section 303(a)(3) of the Revenue Act of 1926, as amended, will, after the above amendment, read as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

* * * * * * *

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, *and no substantial part of the activities of which is participation in partisan politics or is carrying on propaganda, or otherwise attempting, to influence legislation*, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and

Section 303(b) (3) of the Revenue Act of 1926, as amended, will, after the above amendment, read as follows:

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

* * * * *

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, *and no substantial part of the activities of which is participation in partisan politics or is carrying on propaganda, or otherwise attempting, to influence legislation*, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

1 **TITLE III—AMENDMENTS TO PRIOR ACTS AND**
 2 **MISCELLANEOUS**

3 **SEC. 501. PERIOD FOR PETITION TO BOARD UNDER PRIOR ACTS.**

4 Section 274(a) of the Revenue Act of 1926, section
 5 308(a) of the Revenue Act of 1926, section 513(a) of the
 6 Revenue Act of 1932, and section 272(a) of the Revenue
 7 Act of 1928 and the Revenue Act of 1932 (relating to the
 8 period during which a taxpayer may petition the Board of
 9 Tax Appeals for redetermination of a deficiency), are
 10 amended by striking out "60 days" and inserting in lieu
 11 thereof "90 days"; by striking out "not counting Sunday
 12 as the sixtieth day" and inserting in lieu thereof "not count-
 13 ing Sunday or a legal holiday in the District of Columbia
 14 as the ninetieth day"; and by striking out "60-day" and
 15 inserting in lieu thereof "90-day". The amendments made
 16 by this section shall apply only in respect of notices mailed
 17 after 30 days after the date of the enactment of this Act.

NOTE.—Section 274(a) of the Revenue Act of 1926, section 308(a) of the Revenue Act of 1926, section 513(a) of the Revenue Act of 1932, and section 272(a) of the Revenue Act of 1928 and the Revenue Act of 1932 will, after the above amendments, read as follows:

SEC. 274. (a) If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ 90 days after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 279, 282, or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board

has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

SEC. 308. (a) If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within ~~60 days~~ *90 days* after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 312 or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such ~~60-day~~ *90-day* period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

SEC. 513. ASSESSMENT AND COLLECTION OF DEFICIENCIES.

(a) PETITION TO BOARD OF TAX APPEALS.—If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the donor by registered mail. Within ~~60 days~~ *90 days* after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the donor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the donor, nor until the expiration of such ~~60-day~~ *90-day* period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection see—

- (1) Subsection (d) of this section, relating to waivers by the donor;
- (2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
- (3) Section 514, relating to jeopardy assessments;
- (4) Section 516, relating to bankruptcy and receiverships; and
- (5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(Revenue Act of 1928) SEC. 272. PROCEDURE IN GENERAL.

(a) Petition to Board of Tax Appeals.—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ *90 days* after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor

until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

- (1) Subsection (d) of this section, relating to waivers by the taxpayer;
- (2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
- (3) Section 273, relating to jeopardy assessments;
- (4) Section 274, relating to bankruptcy and receiverships; and
- (5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(Revenue Act of 1932) SEC. 272. PROCEDURE IN GENERAL.

(a) **PETITION TO BOARD OF TAX APPEALS.**—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ 90 days after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

- (1) Subsection (d) of this section, relating to waivers by the taxpayer;
- (2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
- (3) Section 273, relating to jeopardy assessments;
- (4) Section 274, relating to bankruptcy and receiverships; and
- (5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

1 SEC. 502. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

2 (a) *Section 610 of the Revenue Act of 1928 is amended*
3 *by adding at the end thereof a new subsection to read as*
4 *follows:*

5 “(c) *Despite the provisions of subsections (a) and*
6 *(b) such suit may be brought at any time within five years*
7 *from the making of the refund if it appears that any part*

1 of the refund was induced by fraud or the misrepresentation
2 of a material fact.”

3 (b) The amendment made by subsection (a) of this
4 section shall not apply to any suit which was barred on the
5 date of the enactment of this Act.

NOTE.—Section 610 of the Revenue Act of 1928 will, after the addition of the new subsection, read as follows:

SEC. 610. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

(a) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 608, after the enactment of this Act, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

(b) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered as erroneous under section 608) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund or before May 1, 1928, whichever date is later.

(c) Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

6 **SEC. 503. STATUTE OF LIMITATIONS ON SUITS FOR REFUND.**

7 Section 608(b)(2) of the Revenue Act of 1928 is
8 amended by adding at the end thereof a new sentence to read
9 as follows: “If such agreement has been entered into, the
10 running of such statute of limitations shall be suspended in
11 accordance with the terms of the agreement.”

NOTE.—Section 608 of the Revenue Act of 1928 will, after the addition of the new sentence, read as follows:

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

A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the refund was

made after the expiration of the period of limitation for filing suit, unless—

- (1) within such period suit was begun by the taxpayer, or
- (2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts. *If such agreement has been entered into the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.*

1 **SEC. 504. OVERPAYMENTS FOUND BY THE BOARD OF TAX**
 2 **APPEALS.**

3 *(a) The last sentence of section 322(d) of the Revenue*
 4 *Act of 1932 and of the Revenue Act of 1928 are amended to*
 5 *read as follows: "No such credit or refund shall be made of*
 6 *any portion of the tax unless the Board determines as part*
 7 *of its decision that it was paid within two years before*
 8 *the filing of the claim or the filing of the petition, whichever*
 9 *is earlier."*

NOTE.—Section 322 (d) of the Revenue Act of 1932 and of the Revenue Act of 1928 will, after the above amendment, read as follows:

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than within two years before the filing of the claim or the filing of the petition, whichever is earlier.*

10 *(b) The last sentence of section 528(d) of the Revenue*
 11 *Act of 1932 is amended to read as follows: "No such credit*
 12 *or refund shall be made of any portion of the tax unless the*
 13 *Board determines as part of its decision that it was paid*
 14 *within three years before the filing of the claim or the filing*
 15 *of the petition, whichever is earlier."*

NOTE.—Section 528(d) of the Revenue Act of 1932 will, after the above amendment, read as follows:

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than within three years before the filing of the claim or the filing of the petition, whichever is earlier.*

1 (c) *The last sentence of section 284(e) of the Revenue*
 2 *Act of 1926, as amended, is amended to read as follows:*
 3 *“Unless the Board determines as part of its decision that*
 4 *the claim for credit or refund, or the petition, was filed*
 5 *within the time prescribed in subdivision (g) for filing*
 6 *claims, no such credit or refund shall be made of any por-*
 7 *tion of the tax unless the Board determines as part of its*
 8 *decision that it was paid within four years (or, in the case*
 9 *of a tax imposed by this title, within three years) before the*
 10 *filing of the claim or the filing of the petition, whichever*
 11 *is earlier.”*

NOTE.—Section 284 (e) of the Revenue Act of 1926 will, after the above amendment, read as follows:

(e) If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer as provided in subdivision (a). *Unless claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier. Unless the Board determines as part of its decision that the claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within four years (or, in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier.*

1 (d) *The last sentence of section 319(c) of the Revenue*
 2 *Act of 1926, as amended, is amended to read as follows:*
 3 *“No such refund shall be made of any portion of the tax*
 4 *unless the Board determines as part of its decision that it*
 5 *was paid within four years (or in the case of a tax imposed*
 6 *by this title, within three years) before the filing of the claim*
 7 *or the filing of the petition, whichever is earlier.”*

NOTE.—Section 319 (c) of the Revenue Act of 1926, as amended, will, after the above amendment, read as follows:

(c) If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3220 of the Revised Statutes, as amended. No such refund shall be made of any portion of the tax paid ~~more than~~ *unless the Board determines as part of its decision that it was paid within* four years (or, in the case of a tax imposed by this title, ~~more than~~ *within* three years) before the filing of the claim or the filing of the petition, whichever is earlier.

8 (e) *The amendments made by subsections (a), (b),*
 9 *(c), and (d) of this section shall have no effect in the case*
 10 *of any proceeding before the Board on a petition if any*
 11 *hearing by the Board thereon has been held prior to 30*
 12 *days after the date of the enactment of this Act.*

13 **SEC. 505. BANKRUPTCY AND RECEIVERSHIPS.**

14 (a) *Section 274(a) of the Revenue Act of 1932 and*
 15 *the Revenue Act of 1928 and section 282(a) of the Revenue*
 16 *Act of 1926 are amended by inserting after the first sentence*
 17 *thereof the following:*

18 *“In such cases the trustee in bankruptcy or receiver shall*
 19 *give notice in writing to the Commissioner of the adjudi-*
 20 *cation of bankruptcy or the appointment of the receiver, and*

1 the running of the statute of limitations on the making of
 2 assessments shall be suspended for the period from the date
 3 of adjudication in bankruptcy or the appointment of the
 4 receiver to a date 30 days after the date upon which the
 5 notice from the trustee or receiver is received by the Com-
 6 missioner; but the suspension under this sentence shall in no
 7 case be for a period in excess of two years."

NOTE.—Section 274(a) of the Revenue Act of 1932 and the Revenue Act of 1928 will, after the above insertion, read as follows:

(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272(a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. *In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years.* Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

Section 282(a) of the Revenue Act of 1928 will, after the above insertion, read as follows:

SEC. 282. (a) Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the provisions of subdivision (a) of section 274, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. *In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commis-*

sioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claim for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

1 ***(b) The amendments made by subsection (a) shall not***
 2 ***apply in any case in which the adjudication has occurred,***
 3 ***or the receiver has been appointed, prior to the date of the***
 4 ***enactment of this Act.***

5 **SEC. 506. RETROACTIVITY OF REGULATIONS, RULINGS, ETC.**

6 ***Section 1108 (a) of the Revenue Act of 1926, as***
 7 ***amended, is amended to read as follows:***

8 ***“(a) The Secretary, or the Commissioner with the***
 9 ***approval of the Secretary, may prescribe the extent, if any,***
 10 ***to which any ruling, regulation, or Treasury Decision,***
 11 ***relating to the internal revenue laws, shall be applied without***
 12 ***retroactive effect.”***

NOTE.—Section 1108(a) of the Revenue Act of 1926, as amended, which is amended by this section, reads as follows:

SEC. 1108. (a) In case a regulation or Treasury decision relating to the internal-revenue laws is amended by a subsequent regulation or Treasury decision, made by the Secretary or by the Commissioner with the approval of the Secretary, such subsequent regulation or Treasury decision may, with the approval of the Secretary, be applied without retroactive effect.

13 **SEC. 507. EXAMINATION OF BOOKS AND WITNESSES.**

14 ***The Commissioner, for the purpose of determining the***
 15 ***liability at law or in equity of a transferee of the property***
 16 ***of any person with respect to any Federal taxes imposed***
 17 ***upon such person, is hereby authorized, by any officer or***

1 *employee of the Bureau of Internal Revenue, including the*
2 *field service, designated by him for that purpose, to examine*
3 *any books, papers, records, or memoranda bearing upon*
4 *such liability, and may require the attendance of the trans-*
5 *feror or transferee, or of any officer or employee of such*
6 *person, or the attendance of any other person having knowl-*
7 *edge in the premises, and may take his testimony with*
8 *reference to the matter, with power to administer oaths to*
9 *such person or persons.*

10 **SEC. 508. SALE OF PERSONAL PROPERTY UNDER DISTRAINT.**

11 *Section 3192 of the Revised Statutes is amended to*
12 *read as follows:*

13 "SEC. 3192. When any property advertised for sale
14 under distraint, as aforesaid, is of a kind subject to tax, and
15 the tax has not been paid, and the amount bid for such
16 property is not equal to the amount of the tax, the collector
17 may purchase the same in behalf of the United States for an
18 amount not exceeding the said tax. All property so pur-
19 chased may be sold by the collector, under such regulations
20 as may be prescribed by the Commissioner of Internal
21 Revenue. The collector shall render to the Commissioner a
22 distinct account of all charges incurred in such sales, and,
23 in case of sale, shall pay into the Treasury the surplus,
24 if any there be, after defraying all lawful charges and
25 fees. When any personal property is advertised for sale

1 *under distraint as aforesaid, the officer making the seizure*
2 *shall proceed to sell such property at a public auction,*
3 *offering the same at a minimum price, including the expenses*
4 *of making the levy and of advertising the sale, and if the*
5 *amount bid for such property at the sale is not equal to the*
6 *minimum price so fixed, the officer conducting the sale may*
7 *declare the same to be purchased by him for the United States.*
8 *The property so purchased may be sold by the collector within*
9 *whose district the sale was made under such regulations as*
10 *may be prescribed by the Commissioner of Internal Revenue,*
11 *with the approval of the Secretary of the Treasury. The*
12 *collector shall render to the Commissioner a distinct account*
13 *of all charges incurred in such sales, and, in case of resale,*
14 *shall pay into the Treasury the proceeds as provided in*
15 *section 3210 of the Revised Statutes, as amended."*

16 **SEC. 509. DISCHARGE OF LIENS.**

17 *Section 3186(c) of the Revised Statutes, as amended*
18 *is amended by adding at the end thereof the following new*
19 *paragraph.*

20 *"(4) May issue a certificate of discharge of any part*
21 *of the property subject to the lien if there is paid over to*
22 *the collector in part satisfaction of the liability in respect of*
23 *such tax an amount determined by the Commissioner, which*
24 *shall not be less than the value, as determined by him, of the*
25 *interest of the United States in the part to be so discharged.*

1 *In determining such value the Commissioner shall give con-*
 2 *sideration to the fair market value of the part to be so dis-*
 3 *charged and to such liens thereon as have priority to the lien*
 4 *of the United States."*

NOTE.—Section 3186(c) of the Revised Statutes will, after the above amendment, read as follows:

(c) Subject to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the collector of internal revenue charged with an assessment in respect of any tax—

(1) May issue a certificate of release of the lien if the collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable;

(2) May issue a certificate of release of the lien if there is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations;

(3) May issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property.

(4) *May issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States.*

5 **SEC. 510. JEOPARDY ASSESSMENTS.**

6 *Section 1105 of the Revenue Act of 1932 is amended*
 7 *to read as follows:*

8 **"SEC. 1105. JEOPARDY ASSESSMENT.**

9 **" (a) If the Commissioner finds that a person liable for**
 10 **tax (other than income tax) under any provision of the in-**
 11 **ternal-revenue laws designs quickly to depart from the United**
 12 **States or to remove his property therefrom, or to conceal**
 13 **himself or his property therein, or to do any other act tend-**

1 ing to prejudice or to render wholly or partly ineffectual
2 proceedings to collect such tax unless such proceedings be
3 brought without delay, the Commissioner shall cause notice
4 of such finding to be given such person, together with a de-
5 mand for an immediate return and immediate payment of
6 such tax, and such tax shall thereupon become immediately
7 due and payable.

8 " (b) If such person (1) is not in default in making
9 any return or paying any tax under the internal-revenue
10 laws, and (2) furnishes to the United States, under regula-
11 tions to be prescribed by the Commissioner with the ap-
12 proval of the Secretary, security approved by the Commis-
13 sioner that he will duly return and pay the tax to which the
14 Commissioner's finding relates, then such tax shall not be
15 payable prior to the time otherwise fixed for payment.

16 " (a) If the Commissioner believes that the collection
17 of any tax (other than income tax, estate tax, and gift
18 tax) under any provision of the internal-revenue laws will
19 be jeopardized by delay, he shall, whether or not the time
20 otherwise prescribed by law for making return and paying
21 such tax has expired, immediately assess such tax (together
22 with all interest and penalties the assessment of which is
23 provided for by law). Such tax, penalties, and interest shall
24 thereupon become immediately due and payable, and im-
25 mediate notice and demand shall be made by the collector for

1 *the payment thereof. Upon failure or refusal to pay such*
 2 *tax, penalty, and interest, collection thereof by distraint shall*
 3 *be lawful without regard to the period prescribed in section*
 4 *3187 of the Revised Statutes, as amended.*

5 “(b) *The collection of the whole or any part of the*
 6 *amount of such assessment may be stayed by filing with the*
 7 *collector a bond in such amount, not exceeding double the*
 8 *amount as to which the stay is desired, and with such sureties,*
 9 *as the collector deems necessary, conditioned upon the pay-*
 10 *ment of the amount collection of which is stayed, at the*
 11 *time at which, but for this section, such amount would be*
 12 *due.”*

13 **SEC. 511. GIFTS OF PROPERTY SUBJECT TO POWER.**

14 *Subsection (c) of section 501 of the Revenue Act of*
 15 *1932 (relating to the inapplicability of gift tax in the case*
 16 *of the transfer of property in trust subject to the power of*
 17 *the donor to revest title in himself) is repealed.*

NOTE.—Section 501 (c) of the Revenue Act of 1932, repealed by the above provision, reads as follows:

(c) *The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.*

18 **SEC. 512. GENERAL COUNSEL FOR THE TREASURY.**

19 *(a) There is hereby created in the Department of the*
 20 *Treasury the office of General Counsel for the Department.*

1 of the Treasury (hereinafter in this section referred to as
2 the "General Counsel"). The General Counsel shall be
3 appointed by the President, by and with the advice and
4 consent of the Senate, and shall receive compensation at
5 the rate of \$10,000 per annum. The General Counsel shall
6 be the chief law officer of the Department, and shall perform
7 such duties in respect of the legal activities thereof as may
8 be prescribed by the Secretary or required by law. The
9 Secretary may appoint and fix the duties of such officers
10 and employees as he may deem necessary to assist the Gen-
11 eral Counsel in the performance of his duties. The Presi-
12 dent is authorized to appoint, by and with the advice and
13 consent of the Senate, not to exceed six Assistant General
14 Counsel and to fix their compensation at rates not in excess
15 of \$10,000 per annum. The Secretary may designate one
16 of such Assistant General Counsel to act as the General
17 Counsel during the absence of the General Counsel. The
18 General Counsel, with the approval of the Secretary, is
19 authorized to delegate to any Assistant General Counsel
20 any authority, duty, or function which the General Counsel
21 is authorized or required to exercise or perform. The rate
22 of compensation of any person appointed under the pro-
23 visions of this subsection shall be subject to the reduction
24 applicable to officers and employees of the Federal Govern-
25 ment generally.

1 **(b)** *The offices of General Counsel for the Bureau*
2 *of Internal Revenue, Assistant General Counsel for the*
3 *Bureau of Internal Revenue, Solicitor of the Treasury,*
4 *and Assistant Solicitor of the Treasury are hereby abolished.*
5 *The powers, duties, and functions of such offices are hereby*
6 *transferred to the General Counsel. This subsection shall*
7 *take effect when the General Counsel first appointed under*
8 *subsection (a) qualifies and takes office.*

9 **(c)** *Nothing in this section shall be construed to affect*
10 *the duties, powers, or functions imposed upon, or vested in,*
11 *the Department of Justice, or any officer thereof, by existing*
12 *law.*

13 **SEC. 513. ASSISTANTS IN THE TREASURY.**

14 *The President is authorized to appoint, by and with*
15 *the advice and consent of the Senate, five assistants to the*
16 *Secretary of the Treasury and to fix their compensation*
17 *at rates not to exceed \$10,000 per annum, but the rates so*
18 *fixed shall be subject to the reduction applicable to officers*
19 *and employees of the Federal Government generally. The*
20 *Secretary is authorized to delegate to such assistants any*
21 *authority, duty, or function which he is authorized or required*
22 *to exercise or perform. Whenever the President declares*
23 *by Executive order that the emergency requiring the appoint-*
24 *ments under this section has ceased to exist, the persons ap-*

1 pointed under this section shall cease to hold office under
 2 this section, and the power of the President under this section
 3 shall terminate.

4 **SEC. 514. POSTAL RATES.**

5 Section 1001(a), as amended, of the Revenue Act
 6 of 1932, and section 2 of the Act entitled "An Act to extend
 7 the gasoline tax for one year, to modify postage rates on
 8 mail matter, and for other purposes", approved June 16,
 9 1933, are amended by striking out "1934" wherever such
 10 date appears and inserting in lieu thereof "1935".

NOTE.—Section 1001(a), as amended, of the Revenue Act of 1932 will, after the above amendment, read as follows:

SEC. 1001. POSTAL RATES.

(a) On and after the thirtieth day after the date of the enactment of this Act and until July 1, ~~1934~~ 1935, the rate of postage on all mail matter of the first class (except postal cards and private mailing or post cards, and except other first class matter on which the rate of postage under existing law is 1 cent for each ounce or fraction thereof) shall be 1 cent for each ounce or fraction thereof in addition to the rate provided by existing law: *Provided*, That such additional rate shall not apply on or after July 1, 1933, to first-class matter mailed for local delivery.

Section 2 of the Act entitled "An Act to extend the gasoline tax for one year, to modify postage rates on mail matter, and for other purposes", approved June 16, 1933, will, after the above amendment, read as follows:

SEC. 2. The President is authorized during the period ending June 30, ~~1934~~ 1935, to proclaim such modifications of postage rates on mail matter (except that in the case of first-class matter the rate shall not be reduced to less than 2 cents an ounce or fraction thereof) as, after a survey by him, he may deem advisable by reason of increase in business, the interests of the public, or the needs of the Postal Service, and such modifications shall be in effect on and after such date as he shall proclaim and until July 1, ~~1934~~ 1935. In case a modification of the rate of postage on first-class matter is proclaimed, the President shall also make a corresponding modification in the percentages of gross postal receipts specified in section 1001(c) of the Revenue Act of 1932 as amended by this Act, which percentages shall be in effect during the period such modification of the rate of postage on first-class matter is in effect. Nothing in this section shall be construed as giving the President authority to change the rate fixed by law on first-class matter mailed for local delivery, postal cards, and private mailing or post cards.

1 **SEC. 515. COMMISSIONER AS PARTY TO SUIT.**

2 *Section 907 of the Revenue Act of 1924, as amended,*
3 *is amended by adding at the end thereof a new subdivision*
4 *to read as follows:*

5 “(g) *Petitions filed after the enactment of the Revenue*
6 *Act of 1934 with the Board shall be entitled ‘In re’, fol-*
7 *lowed by the name of the petitioner, and the proceedings*
8 *shall thereafter be so entitled in any appellate court review-*
9 *ing the action of the Board. When the incumbent of the*
10 *office of Commissioner of Internal Revenue changes, no sub-*
11 *stitution of the name of his successor shall be required in*
12 *proceedings pending before any such court.”*

NOTE.—Section 907 of the Revenue Act of 1924, as amended, will, after the above amendment, read as follows:

SEC. 907. (a) Notice and opportunity to be heard upon any proceeding instituted before the Board shall be given to the taxpayer and the Commissioner, and a report upon the proceeding and a decision thereon shall be made as quickly as practicable. The decision shall be made by a member in accordance with the report of the Board, and such decision so made shall, when entered, be the decision of the Board. If an opportunity to be heard upon the proceeding is given before a division of the Board, neither the taxpayer nor the Commissioner shall be entitled to notice and opportunity to be heard before the Board upon review, except upon a specific order of the chairman. Hearings before the Board and its divisions shall be open to the public, and the testimony, and, if the Board so requires, the argument shall be stenographically reported. The Board is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Board and to other persons and agencies. The proceedings of the Board and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, where no hearing has been held before the enactment of the Revenue Act of 1928, the burden of proof in respect of such issue shall be upon the Commissioner. The mailing by registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Board shall be held sufficient service of such pleading, decision, order, notice, or process,

(b) It shall be the duty of the Board and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Board shall report in writing all its findings of fact, opinions and memorandum opinions.

(c) All reports of the Board and all evidence received by the Board and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Board in any proceeding has become final the Board may, upon motion of the taxpayer or the Commissioner, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Board or any division; or the Board may, on its own motion, make such other disposition thereof as it deems advisable.

(d) The Board shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Board therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(e) The principal office of the Board shall be in the District of Columbia, but the Board or any of its divisions may sit at any place within the United States. The times and places of the meetings of the Board and of its divisions shall be prescribed by the chairman with a view to securing reasonable opportunity to taxpayers to appear before the Board or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

(f) The Secretary of the Treasury shall provide the Board with suitable rooms in courthouses or other buildings when necessary for hearings by the Board, or any division thereof, outside the District of Columbia.

(g) *Petitions filed after the enactment of the Revenue Act of 1934 with the Board shall be entitled "In re", followed by the name of the petitioner, and the proceedings shall thereafter be so entitled in any appellate court reviewing the action of the Board. When the incumbent of the office of Commissioner of Internal Revenue changes, no substitution of the name of his successor shall be required in proceedings pending before any such court.*

1 **SEC. 516. NONDEDUCTIBILITY OF CERTAIN GIFTS.**

2 (a) Section 505(a)(2)(B) and section 505(b)(2)
 3 of the Revenue Act of 1932 are amended by inserting after
 4 "individual" a comma and the following: "and no sub-
 5 stantial part of the activities of which is participation in
 6 partisan politics or is carrying on propaganda, or otherwise
 7 attempting, to influence legislation",

NOTE.—Section 505(a)(2)(B) of the Revenue Act of 1932 will, after the above amendment, read as follows:

SEC. 505. DEDUCTIONS.

In computing net gifts for any calendar year there shall be allowed as deductions:

(a) RESIDENTS.—In the case of a citizen or resident—

* * * * *

(2) CHARITABLE, ETC., GIFTS.—The amount of all gifts made during such year to or for the use of—

* * * * *

(B) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, *and no substantial part of the activities of which is participation in partisan politics or is carrying on propaganda, or otherwise attempting, to influence legislation;*

Section 505(b)(2) of the Revenue Act of 1932 will, after the above amendment, read as follows:

(b) NONRESIDENTS.—In the case of a nonresident not a citizen of the United States, the amount of all gifts made during such year to or for the use of—

* * * * *

(2) a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, *and no substantial part of the activities of which is participation in partisan politics or is carrying on propaganda, or otherwise attempting, to influence legislation;*

- 1 (b) Section 505(b)(3) of the Revenue Act of 1932
- 2 is amended by inserting after "animals" a comma and the
- 3 following: "no substantial part of the activities of which
- 4 is participation in partisan politics or is carrying on propa-
- 5 ganda, or otherwise attempting, to influence legislation".

NOTE.—Section 505(b)(3) of the Revenue Act of 1932 will, after the above amendment, read as follows:

(3) a trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, *no substantial part of the activities of which is participation in partisan politics or is carrying on propaganda, or otherwise attempting, to influence legislation;* but only if such gifts are to be used within the United States exclusively for such purposes;

7 **TITLE IV—EXCISE TAXES**8 **SEC. 601. TERMINATION OF SOFT DRINK TAX.**

9 *No tax shall be imposed under section 615 of the*
 10 *Revenue Act of 1932 on the sale or use of any article if*
 11 *such sale or use takes place after the date of the enactment*
 12 *of this Act.*

NOTE.—Section 615 of the Revenue Act of 1932 reads as follows:

SEC. 615. TAX ON SOFT DRINKS.

(a) There is hereby imposed—

(1) Upon all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of 1 per centum of alcohol by volume, sold by the manufacturer, producer, or importer, a tax of $1\frac{1}{4}$ cents per gallon.

(2) Upon unfermented grape juice, in natural or concentrated form (whether or not sugar has been added), containing 25 per centum or less of sugars by weight, sold by the manufacturer, producer, or importer, a tax of 5 cents per gallon.

(3) Upon all unfermented fruit juices (except grape juice), in natural or slightly concentrated form, or such fruit juices to which sugar has been added (as distinguished from finished or fountain syrups), intended for consumption as beverages with the addition of water or water and sugar, and upon all imitations of any such fruit juices, and upon all carbonated beverages, commonly known as soft drinks (except those described in paragraph (1)), manufactured, compounded, or mixed by the use of concentrate, essence, or extract, instead of a finished or fountain syrup, sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

(4) Upon all still drinks (except grape juice), containing less than one-half of 1 per centum of alcohol by volume, intended for consumption as beverages in the form in which sold (except natural or artificial mineral and table waters and imitations thereof, and pure apple cider), sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

(5) Upon all natural or artificial mineral waters or table waters, whether carbonated or not, and all imitations thereof, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 12 $\frac{1}{2}$ cents per gallon, a tax of 2 cents per gallon.

(6) Upon all finished or fountain syrups of the kinds used in manufacturing, compounding, or mixing drinks commonly known as soft drinks, sold by the manufacturer, producer, or importer, a tax of 6 cents per gallon; except that in the case of any such syrups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers the rate shall be 5 cents per gallon. Where any person conducting a soda fountain, ice cream parlor, or other similar place of business manufactures any syrups of the kinds described in this paragraph, there shall be levied, assessed, collected, and paid on each gallon manufactured and used in the preparation of soft drinks a tax of 6 cents per gallon; and where any person manufacturing carbonated beverages

manufactures and uses any such syrups in the manufacture of carbonated beverages sold in bottles or other closed containers there shall be levied, assessed, collected, and paid on each gallon of such syrups a tax of 5 cents per gallon. The taxes imposed by this paragraph shall not apply to finished or fountain syrups sold for use in the manufacture of a beverage subject to tax under paragraph (1) or (4), nor to any article enumerated in section 601 (c) (3):

(4) Upon all carbonic acid gas sold by the manufacturer, producer, or importer, or by a dealer in such gas, to a manufacturer of any carbonated beverages, or to any person conducting a soda fountain, ice cream parlor, or other similar place of business, and upon all carbonic acid gas used by the manufacturer, producer, or importer thereof in the preparation of soft drinks, a tax of 4 cents per pound.

(b) Each manufacturer, producer, or importer of any of the articles enumerated in subsection (a) and each person who sells carbonic acid gas to a manufacturer of carbonated beverages or to a person conducting a soda fountain, ice cream parlor, or other similar place of business, shall make monthly returns under oath in duplicate and pay the tax imposed in respect of the articles enumerated in subsection (a) to the collector for the district in which is located his principal place of business, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time the tax became due until paid.

(c) Each person required to pay any tax imposed by subsection (a) shall procure and keep posted a certificate of registry in accordance with regulations to be prescribed by the Commissioner, with the approval of the Secretary. Any person who fails to register or keep posted any certificate of registry in accordance with such regulations shall be subject to a penalty of not more than \$1,000 for each such offense.

1 SEC. 602. TAX ON CERTAIN OILS.

2 (a) There is hereby imposed upon the first domestic
 3 processing of coconut oil, or sesame oil, or palm oil, or palm
 4 kernel oil, or sunflower oil, or imported whale oil, or im-
 5 ported fish oil, or imported marine-animal oil, or of combi-
 6 nations of such oils or of mixtures containing substantial
 7 quantities of any one or more of such oils, a tax of 3 cents
 8 per each pound thereof processed, which shall be paid by
 9 the processor. For the purposes of this section, the term
 10 "first domestic processing" means the first use in the United

1 States, in the manufacture or production of an article in-
2 tended for sale, of the article with respect to which the tax
3 is imposed, but does not include the use of palm oil in the
4 manufacture of tin plate.

5 (b) Each processor required to pay the tax imposed by
6 his section shall make monthly returns under oath in dupli-
7 cate and pay the tax to the collector of internal revenue for
8 the district in which is located his principal place of business,
9 or if he has no principal place of business in the United
10 States, then to the collector of internal revenue at Balti-
11 more, Maryland. Such returns shall contain such infor-
12 mation and be made at such times and in such manner as the
13 Commissioner of Internal Revenue, with the approval of the
14 Secretary of the Treasury, may by regulations prescribe.
15 The tax shall, without assessment by the Commissioner or
16 notice from the collector, be due and payable to the collector
17 at the time so fixed for filing the return. If the tax is not
18 paid when due, there shall be added as part of the tax interest
19 at the rate of 1 per centum per month from the time the
20 tax became due until paid.

21 (c) Subject to such rules and regulations as the Com-
22 missioner, with the approval of the Secretary, may prescribe,
23 any person who has sold to a State, or political subdivision
24 thereof, for use in the exercise of an essential governmental
25 function any article containing any such oil, combination,

1 or mixture, upon the processing of which a tax has been
2 paid under this section shall be entitled to a credit or refund
3 of the tax paid with respect to the quantity of such oil, com-
4 bination, or mixture contained in such article.

5 (d) Upon the exportation to any foreign country or
6 to a possession of the United States of any article wholly
7 or in chief value of an article with respect to the processing
8 of which a tax has been paid under this section, the ex-
9 porter thereof shall be entitled to a refund of the amount
10 of such tax. Upon the giving of bond satisfactory to the
11 Secretary for faithful observance of the provisions of this
12 section requiring the payment of taxes, any person shall
13 be entitled, without payment of the tax, to process for such
14 exportation any article with respect to which a tax is im-
15 posed by this section.

16 (e) If (1) any person has, prior to January 26,
17 1934, made a bona fide contract for the sale on or after
18 the effective date of this section of any article wholly or
19 in chief value of an article with respect to which a tax is im-
20 posed by this section or of any article with respect to which a
21 tax is imposed by this subsection, and if (2) such contract
22 does not permit the addition to the amount to be paid
23 thereunder of the whole of such tax, then (unless the
24 contract expressly prohibits such addition) the vendee
25 shall pay so much of the tax as is not permitted to be

1 added to the contract price. Taxes payable by the vendee
 2 shall be paid to the vendor at the time the sale is con-
 3 summated and shall be returned and paid to the United
 4 States by the vendor in the same manner as other taxes
 5 under this section. In case of failure or refusal by the
 6 vendee to pay such taxes to the vendor, the vendor shall
 7 report the facts to the Commissioner, who shall cause col-
 8 lection of such taxes to be made from the vendee.

9 (f) All provisions of law (including penalties) appli-
 10 cable in respect of taxes imposed by section 600 of the Revenue
 11 Act of 1926 shall, insofar as applicable and not inconsistent
 12 with this section, be applicable in respect of the taxes imposed
 13 by this section.

14 (g) All collections under this section shall, notwith-
 15 standing any other provisions of law, be covered into
 16 the general fund of the Treasury of the United States.

17 **SEC. 603. TAXES ON LUBRICATING OIL AND GASOLINE.**

18 (a) Section 601(c)(1) of the Revenue Act of 1932,
 19 as amended, is amended by adding after the first sentence
 20 thereof the following: "Every person liable for tax under
 21 this paragraph shall register and file bond as provided in
 22 section 617, as amended."

NOTE.—Section 601(c)(1) of the Revenue Act of 1932, as amended,
 will, after the above amendment, read as follows:

(c) There is hereby imposed upon the following articles sold in
 the United States by the manufacturer or producer, or imported into

the United States, a tax at the rates hereinafter set forth, to be paid by the manufacturer, producer, or importer:

(1) Lubricating oils, 4 cents a gallon; but the tax on the articles described in this paragraph shall not apply with respect to the importation of such articles. *Every person liable for tax under this paragraph shall register and file bond as provided in section 617, as amended.*

Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax shall be imposed under this section upon lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him, but for the purposes of this title such vendee shall be considered the manufacturer or producer of such lubricating oils.

1 **(b) Sections 617(a) and (b) of the Revenue Act of**
2 *1932, as amended, are amended to read as follows:*

3 **“(a) There is hereby imposed on gasoline sold**
4 *by the producer or importer thereof, or by any producer*
5 *of gasoline, a tax of 1 cent a gallon, except that under*
6 *regulations prescribed by the Commissioner with the*
7 *approval of the Secretary the tax shall not apply in the*
8 *case of sales to a producer of gasoline.*

9 **“(b) If a producer or importer uses (otherwise**
10 *than in the production of gasoline) gasoline sold to him*
11 *free of tax, or produced or imported by him, such use*
12 *shall for the purposes of this title be considered a sale.*
13 *Any person to whom gasoline is sold tax-free under this*
14 *section on or after the effective date of the Revenue Act*
15 *of 1932 shall be considered the producer of such*
16 *gasoline.”*

NOTE—Section 617(a) and (b) of the Revenue Act of 1932, as amended, will, after the above amendment, read as follows:

(a) There is hereby imposed on gasoline sold by the *producer or importer thereof thereof, or by any producer of gasoline, a tax of 1 cent a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline.*

(b) If a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this title be considered a sale. Any person to whom gasoline is sold tax-free under this section on or after the effective date of the Revenue Act of 1932 shall be considered the producer of such gasoline.

1 (c) *Effective on the first day of the first calendar month*
 2 *after the enactment of this Act, section 617(c)(2) of the*
 3 *Revenue Act of 1932, as amended, is further amended to*
 4 *read as follows:*

5 “(2) the term gasoline means (A) all products
 6 commonly or commercially known or sold as gaso-
 7 line (including casinghead and natural gasoline),
 8 benzol, benzene, or naphtha, regardless of their classi-
 9 fications or uses; and (B) any other liquid of a kind
 10 prepared, advertised, offered for sale or sold for use as,
 11 or used as, a fuel for the propulsion of motor vehicles,
 12 motor boats, or airplanes; except that it does not include
 13 benzol or naphtha (other than gasoline) sold for use
 14 otherwise than as a fuel for the propulsion of motor
 15 vehicles, motor boats, or airplanes, and otherwise than
 16 in the manufacture or production of such fuel, and
 17 does not include kerosene, gas oil, or fuel oil.”

NOTE.—Section 617(c)(2) of the Revenue Act of 1932, as amended, will after the above amendment, read as follows:

(c) As used in this section:

• • • • • •
 (1) the term “gasoline” means gasoline, benzol, and any other liquid the chief use of which is as a fuel for the propulsion of motor vehicles, motor boats, or aeroplanes. As used in this paragraph the term “benzol” does not include benzol sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel.

(2) the term gasoline means (A) all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline), benzol, benzene, or naphtha, regardless of their classifications

or uses; and (B) any other liquid of a kind prepared, advertised, offered for sale or sold for use as, or used as, a fuel for the propulsion of motor vehicles, motor boats, or airplanes; except that it does not include benzol or naphtha (other than gasoline) sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel, and does not include kerosene, gas oil, or fuel oil.

1 (d) Section 617 of the Revenue Act of 1932, as
2 amended, is amended by adding at the end thereof the
3 following subsections:

4 “(d) Every person subject to tax under this section
5 or section 601(c)(1) shall, before the first day of the
6 first calendar month after the date of the enactment of
7 the Revenue Act of 1934 (or in the case of a person
8 commencing business after such day before incurring
9 any liability for tax under such sections) register with
10 the collector for the district in which is located his prin-
11 cipal place of business (or, if he has no principal place
12 of business in the United States, with the collector at
13 Baltimore, Maryland) and shall give a bond, to be
14 approved by such collector, conditioned that he shall not
15 engage in any attempt, by himself or by collusion with
16 others, to defraud the United States of any tax under
17 such sections; that he shall render truly and completely
18 all returns, statements, and inventories required by law
19 or regulations in pursuance thereof and shall pay all
20 taxes due under such sections; and that he shall comply
21 with all requirements of law and regulations in pursu-
22 ance thereof with respect to tax under such sections. Such

1 *bond shall be in such sum as the collector may require*
2 *in accordance with regulations prescribed by the Com-*
3 *missioner with the approval of the Secretary, but not*
4 *less than \$2,000. The collector may from time to time*
5 *require new or additional bond in accordance with this*
6 *subsection. Every person who fails to register or give*
7 *bond as required by this subsection, or who in connec-*
8 *tion with any purchase of gasoline falsely represents*
9 *himself to be registered and bonded as provided by this*
10 *subsection, or who wilfully makes any false statement*
11 *in an application for registration under this subsection,*
12 *shall upon conviction thereof be fined not more than*
13 *\$5,000 or imprisoned not more than five years, or both,*
14 *together with the costs of prosecution. If the Commis-*
15 *sioner finds that any manufacturer or producer has at*
16 *any time evaded any Federal tax on gasoline or*
17 *lubricating oil, he may revoke the registration of such*
18 *manufacturer or producer, and no sale to, or for*
19 *resale to, such manufacturer or producer thereafter*
20 *shall be tax-free under section 601(c)(1), this section,*
21 *or section 620, as amended, but such manufacturer or*
22 *producer shall not be relieved of the requirement of*
23 *giving bond under this subsection.*

24 *“(e) Under regulations prescribed by the Com-*
25 *missioner with the approval of the Secretary, records*

1 required to be kept with respect to taxes under section
2 601(c)(1), as amended, or this section, and returns,
3 reports, and statements with respect to such taxes filed
4 with the Commissioner or a collector, shall be open to
5 inspection by such officers of any State or Territory or
6 political subdivision thereof or the District of Columbia
7 as shall be charged with the enforcement or collection of
8 any tax on gasoline or lubricating oils. The Commis-
9 sioner and each collector shall furnish to any of such
10 officers, upon written request, certified copies of any such
11 statements, reports, or returns filed in his office upon the
12 payment of a fee of \$1 for each 100 words or fraction
13 thereof in the copy or copies requested.

14 “(f) Every person subject to tax under this section or
15 section 601(c)(1) shall, within 30 days after the enactment
16 of the Revenue Act of 1934, or before commencing business,
17 register with the collector for the district in which is located
18 his principal place of business or, if he has no principal place
19 of business in the United States, with the collector at Balti-
20 more, Maryland, and shall give a bond, to be approved by
21 such collector, conditioned that he shall not engage in any
22 attempt, by himself or by collusion with others, to defraud
23 the United States of any tax under such sections; that he
24 shall render truly and completely all returns, statements,

1 *and inventories required by law or regulations in pursuance*
2 *thereof and shall pay all taxes due under such sections; that*
3 *whenever his sales for any month exceed or are likely to*
4 *exceed the amount upon which the sum of such bond was*
5 *based he shall immediately give notice thereof to such col-*
6 *lector; and that he shall comply with all requirements of law*
7 *and regulations in pursuance thereof with respect to tax*
8 *under such sections. Such bond shall be in such sum as the*
9 *collector may require in accordance with regulations pre-*
10 *scribed by the Commissioner with the approval of the Secre-*
11 *tary, but not less than \$2,000. The collector may from time*
12 *to time require new or additional bond in accordance with*
13 *this section. Every person who incurs any liability for tax*
14 *under this section or section 601(c)(1) after 30 days after*
15 *the enactment of the Revenue Act of 1934, without first regis-*
16 *tering and giving bond as required by this subsection, shall*
17 *upon conviction thereof be fined not more than \$5,000 or*
18 *imprisoned not more than five years, or both, together with*
19 *the costs of prosecution."*

NOTE.—Section 617 of the Revenue Act of 1932, as amended, to which the above subsections are added, reads as follows:

SEC. 617. TAX ON GASOLINE.

(a) There is hereby imposed on gasoline sold by the importer thereof or by a producer of gasoline, a tax of 1 cent a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline.

(b) If a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this title be considered a sale.

(c) As used in this section—

(1) the term "producer" includes a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer.

(2) the term "gasoline" means gasoline, benzol, and any other liquid the chief use of which is as a fuel for the propulsion of motor vehicles, motor boats, or aeroplanes. As used in this paragraph the term "benzol" does not include benzol sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel.

1 **SEC. 604. PRODUCERS TAX ON CRUDE PETROLEUM.**

2 (a) *There is hereby imposed on crude petroleum sold*
3 *by the producer thereof, a tax of one-tenth of 1 cent per*
4 *barrel of 42 gallons, to be paid by the producer. Under*
5 *regulations prescribed by the Commissioner, with the ap-*
6 *proval of the Secretary, such tax shall not apply to crude*
7 *petroleum produced from any well which is not capable of*
8 *producing more than 5 barrels per day.*

9 (b) *Every person purchasing crude petroleum from*
10 *the producer thereof, and taking delivery thereof at the*
11 *premises where produced, shall collect the tax imposed by*
12 *subsection (a) from the producer. Every such purchaser,*
13 *and every producer liable for any tax under this section not*
14 *so collected from him, shall make monthly returns under*
15 *oath and pay such taxes to the collector for the district in*
16 *which are located the premises where such crude petroleum*
17 *was produced. Such returns shall contain such information*
18 *and be made at such times and in such manner as the Com-*
19 *missioner, with the approval of the Secretary, may by*
20 *regulations prescribe.*

1 (c) Every purchaser required to collect any tax under
2 this section shall make such collection by deducting and with-
3 holding the amount of such tax from any payments made by
4 such purchaser to the producer. Every such purchaser is
5 hereby indemnified against the claims and demands of such
6 producer for the amount of any payments made in accord-
7 ance with the provisions of this section.

8 (d) The Commissioner, with the approval of the Secre-
9 tary, may require such bond or other security from any
10 person subject to any provision of this section as he deems
11 necessary for the protection of the revenue and to assure
12 compliance with this section and other provisions of law
13 applicable with respect to the tax imposed by this section,
14 and may prescribe the form and conditions thereof, provide
15 for the approval of the sureties thereon (without regard to
16 any general provision of law), fix the amount and penalty
17 thereof (whether for the payment of liquidated damages or
18 of a penal sum), and authorize the cancellation of any such
19 bond, in the event of a breach of any condition thereof, upon
20 the payment of such lesser amount as he may deem sufficient.
21 Any person willfully failing to comply with any such require-
22 ment shall, upon conviction, be fined not more than \$1,000,
23 or imprisoned not more than six months, or both.

24 (e) In addition to records and reports otherwise re-
25 quired by law or regulation, every working interest operator

1 of a well producing crude petroleum or otherwise taking
2 crude petroleum from the earth or waters thereof (whether
3 or not the producer as defined in this section) shall keep such
4 records and make such reports with respect to production
5 and disposition of crude petroleum, at such time and in such
6 manner, as the regulations shall prescribe. Records, reports,
7 and returns required under this section or any provision
8 of law applicable with respect to tax under this section shall,
9 wherever held, be open to inspection at all reasonable hours
10 by any duly authorized representative of the Commissioner
11 or any agency of the United States or any State having
12 supervisory or regulatory powers over the production of
13 crude petroleum.

14. (f) For the purposes of this section—

15 (1) the refining of crude petroleum on the premises
16 where produced, the removal of crude petroleum there-
17 from, or any transfer or other disposition of crude
18 petroleum shall be considered a sale.

19 (2) the term "producer" means the person owning
20 crude petroleum or having any interest in or title to
21 crude petroleum at the time of its production.

22 (3) the term "working interest operator" means
23 the person having the management and operation of a
24 well.

1 (4) the amount of crude petroleum produced shall
2 be determined with allowance for any reasonable and
3 bona fide deduction for basic sediment and water agreed
4 upon by the producer and the purchaser for the purpose
5 of determining the amount sold.

6 (g) The provisions of section 623 and sections 771
7 to 774, inclusive, of the Revenue Act of 1932 shall be ap-
8 plicable with respect to the tax imposed by this section.

9 (h) This section shall take effect on the thirtieth day
10 after the date of its enactment.

11 **SEC. 605. TAX ON REFINING OF CRUDE PETROLEUM.**

12 (a) There is hereby imposed (1) on crude petroleum
13 refined or processed in the United States, a tax of one-
14 tenth of one cent per barrel of forty-two gallons, to be
15 paid by the refiner or processor, and (2) on gasoline pro-
16 duced or recovered in the United States from natural gas
17 a tax of one-tenth of one cent per barrel of forty-two gal-
18 lons, to be paid by the person producing or recovering such
19 gasoline.

20 (b) Every person liable for tax under this section
21 shall make monthly returns under oath in triplicate for
22 each plant or refinery, and pay such taxes to the collector
23 for the district in which such plant or refinery is located.
24 Such returns shall contain such information and be made
25 at such times and in such manner as the Commissioner with

1 the approval of the Secretary may by regulations prescribe.
2 The tax shall, without assessment by the Commissioner or
3 notice from the collector, be due and payable to the collector
4 at the time fixed for filing the return. If the tax is not paid
5 when due there shall be added as part of the tax interest at
6 the rate of one per centum a month from the time when the
7 tax becomes due until paid. Every refiner or processor
8 shall (in addition to records otherwise required by law
9 or regulation) keep such records as shall be prescribed by
10 regulations under this section showing daily receipts, stocks,
11 and disposals of crude petroleum and the names and ad-
12 dresses of the persons from whom received. Every person
13 handling, transporting, storing, or dealing in any manner
14 in crude petroleum shall keep such records and make such
15 returns with respect to transactions in crude petroleum as shall
16 be required by regulations under this section. Returns and
17 records required under this section shall be open to inspection
18 at all reasonable hours by any duly authorized representative
19 of the Commissioner or any agency of the United States or
20 any State having supervisory or regulatory powers over the
21 production of crude petroleum.

22 (c) As used in this section, the term "gasoline" means
23 gasoline as defined in section 617 of the Revenue Act of
24 1932, as amended.

1 (d) *The Commissioner, with the approval of the Secre-*
2 *tary, shall prescribe such regulations as he deems necessary*
3 *for the enforcement of this section.*

4 (e) *All provisions of law (including penalties) appli-*
5 *cable with respect to the taxes imposed by section 600 of the*
6 *Revenue Act of 1926, shall, in so far as applicable and not*
7 *inconsistent with this section, be applicable with respect to*
8 *the taxes imposed by this section.*

9 (f) *This section shall take effect on the thirtieth day*
10 *after the date of the enactment of this Act.*

11 **SEC. 606. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.**

12 *Whenever any person is required to collect or withhold*
13 *any internal-revenue tax from any other person and to pay*
14 *such tax over to the United States, the amount of tax so*
15 *collected or withheld shall be held to be a special fund in*
16 *trust for the United States. The amount of such fund shall*
17 *be assessed, collected, and paid in the same manner and sub-*
18 *ject to the same provisions and limitations (including penal-*
19 *ties) as are applicable with respect to the taxes from which*
20 *such fund arose.*

21 **SEC. 607. TAX ON FURS.**

22 *The tax imposed by section 604 of the Revenue Act of*
23 *1932 shall not apply to articles sold by the manufacturer,*
24 *producer, or importer, after the date of the enactment of*
25 *this Act, for less than \$20 .*

NOTE.—Section 604 of the Revenue Act of 1932 reads as follows:

SEC. 604. TAX ON FURS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Articles made of fur on the hide or pelt or of which any such fur is the component material of chief value.

1 **SEC. 608. TERMINATION OF TAX ON CLOCKS AND CLOCK PARTS.**

2 *The tax imposed by section 605 of the Revenue Act*
 3 *of 1932 shall not apply to clocks or clock parts sold by the*
 4 *manufacturer, producer, or importer after the date of the*
 5 *enactment of this Act.*

NOTE.—Section 605 of the Revenue Act of 1932 reads as follows:

SEC. 605. TAX ON JEWELRY, ETC.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: All articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments or silverplated ware, or frames or mountings for spectacles or eyeglasses); watches; clocks; parts for watches or clocks sold for more than 9 cents each; opera glasses, lorgnettes; marine glasses; field glasses; and binoculars. No tax shall be imposed under this section on any article used for religious purposes, or any articles (other than watch parts or clock parts) sold for less than \$2.

6 **SEC. 609. TAX ON CIGARETTES.**

7 *Effective on the day following the date of the enactment*
 8 *of this Act, the last two paragraphs of section 400(a) of*
 9 *the Revenue Act of 1926 are amended to read as follows:*

10 *“On cigarettes made of tobacco, or any substitute*
 11 *therefor, and weighing not more than three pounds per*
 12 *thousand, \$3 per thousand;*

13 *“Weighing more than three pounds per thousand,*
 14 *\$7.20 per thousand; except that if more than 6½ inches in*
 15 *length they shall be taxable at the rate provided in the pre-*

- 1 *ceding paragraph, counting each $2\frac{1}{4}$ inches (or fraction*
 2 *thereof) of the length of each as one cigarette."*

NOTE.—Section 400(a) of the Revenue Act of 1926, will, after the above amendment, read as follows:

SEC. 400. (a) Upon cigars and cigarettes manufactured in or imported into the United States, which on or after the expiration of 30 days after the enactment of this Act are sold by the manufacturer or imported, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by section 400 of the Revenue Act of 1924, the following taxes, to be paid by the manufacturer or importer thereof—

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 75 cents per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, \$2 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, 3 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, \$5 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, \$10.50 per thousand;

If manufactured or imported to retail at more than 20 cents each, \$13.50 per thousand;

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$3 per thousand;

weighing more than three pounds per thousand, \$7.20 per thousand; *except that if more than $6\frac{1}{2}$ inches in length they shall be taxable at the rate provided in the preceding paragraph, counting each $2\frac{1}{4}$ inches (or fraction thereof) of the length of each as one cigarette.*

3 **SEC. 610. TAX ON MATCHES.**

- 4 *Effective on the day following the date of enactment*
 5 *of this Act, section 612 of the Revenue Act of 1932 (relating*
 6 *to the tax on matches), is amended by adding before the*
 7 *period at the end thereof a comma and the following: "and*
 8 *except that in the case of fancy wooden matches and wooden*
 9 *matches having a stained, dyed, or colored stick or stem,*
 10 *packed in boxes or in bulk, the tax shall be 5 cents per one*
 11 *thousand matches."*

NOTE.—Section 612 of the Revenue Act of 1932 will, after the above amendment, read as follows:

SECTION 612. TAX ON MATCHES.

There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 2 cents per 1,000 matches, except that in the case of paper matches in books the tax shall be $\frac{1}{4}$ of 1 cent per 1,000 ~~matches~~ matches, and except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5 cents per one thousand matches.

1 **SEC. 611. STAMP TAX ON SALES OF PRODUCE FOR FUTURE**2 **DELIVERY.**

3 (a) *Effective on the day following the enactment of this*
 4 *Act subdivision 4 of Schedule A of Title VIII of the Revenue*
 5 *Act of 1926, as amended, is amended by striking out "5*
 6 *cents" wherever appearing in such subdivision, and insert-*
 7 *ing in lieu thereof "1 cent".*

NOTE.—Subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926, as amended, will after the above amendment, read as follows:

4. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each \$100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, ~~5 cents~~ 1 cent, and for each additional \$100 or fractional part thereof in excess of \$100, ~~5 cents~~ 1 cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade

the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

This subdivision shall not affect but shall be in addition to the provisions of the "United States cotton futures Act," approved August 11, 1916, as amended, and "The Future Trading Act," approved August 24, 1921.

- 1 **(b) Section 726(c) of the Revenue Act of 1932 is**
 2 **repealed.**

NOTE.—Section 726 of the Revenue Act of 1932, subsection (c) of which is repealed by the above amendment, reads as follows:

SEC. 726. STAMP TAX ON SALES OF PRODUCE FOR FUTURE DELIVERY.

(a) Subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926 is amended by striking out "1 cent" wherever appearing in such subdivision, and inserting in lieu thereof "5 cents".

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

~~(c) Effective July 1, 1934, such subdivision 4, as amended by subsection (a) of this section, is amended by striking out "5 cents" wherever appearing in such subdivision and inserting in lieu thereof "4 cent".~~

3 **TITLE V—CAPITAL STOCK AND EXCESS-PROFITS**

4 **TAXES**

5 **SEC. 701. CAPITAL STOCK TAX.**

- 6 **(a) For each year ending June 30, beginning with**
 7 **the year ending June 30, 1934, there is hereby imposed upon**
 8 **every domestic corporation with respect to carrying on or**
 9 **doing business for any part of such year an excise tax of**
 10 **\$1 for each \$1,000 of the adjusted declared value of its**
 11 **capital stock.**

- 12 **(b) For each year ending June 30, beginning with**
 13 **the year ending June 30, 1934, there is hereby imposed upon**
 14 **every foreign corporation with respect to carrying on or**

1 *doing business in the United States for any part of such year*
2 *an excise tax equivalent of \$1 for each \$1,000 of the adjusted*
3 *declared value of capital employed in the transaction of its*
4 *business in the United States.*

5 (c) *The taxes imposed by this section shall not apply—*

6 (1) *to any corporation enumerated in section*
7 *101;*

8 (2) *to any insurance company subject to the tax*
9 *imposed by section 201 or 204;*

10 (3) *to any domestic corporation in respect of the*
11 *year ending June 30, 1934, if it did not carry on or*
12 *do business during a part of the period from the date*
13 *of the enactment of this Act to June 30, 1934, both*
14 *dates inclusive; or*

15 (4) *to any foreign corporation in respect of the*
16 *year ending June 30, 1934, if it did not carry on or*
17 *do business in the United States during a part of the*
18 *period from the date of the enactment of this Act to*
19 *June 30, 1934, both dates inclusive.*

20 (d) *Every corporation liable for tax under this sec-*
21 *tion shall make a return under oath within one month after*
22 *the close of the year with respect to which such tax is imposed*
23 *to the collector for the district in which is located its principal*
24 *place of business or, if it has no principal place of business*
25 *in the United States, then to the collector at Baltimore,*

1 *Maryland. Such return shall contain such information and*
2 *be made in such manner as the Commissioner with the ap-*
3 *proval of the Secretary may by regulations prescribe. The*
4 *tax shall, without assessment by the Commissioner or notice*
5 *from the collector, be due and payable to the collector before*
6 *the expiration of the period for filing the return. If the*
7 *tax is not paid when due, there shall be added as part of the*
8 *tax interest at the rate of 1 per centum a month from the*
9 *time when the tax became due until paid. All provisions*
10 *of law (including penalties) applicable in respect of the taxes*
11 *imposed by section 600 of the Revenue Act of 1926 shall,*
12 *in so far as not inconsistent with this section, be applicable*
13 *in respect of the taxes imposed by this section. The Com-*
14 *missioner may extend the time for making the returns and*
15 *paying the taxes imposed by this section, under such rules*
16 *and regulations as he may prescribe with the approval of*
17 *the Secretary, but no such extension shall be for more than*
18 *sixty days.*

19 *(e) Returns required to be filed for the purpose of the*
20 *tax imposed by this section shall be open to inspection in the*
21 *same manner, to the same extent, and subject to the same*
22 *provisions of law, including penalties, as returns made under*
23 *title II of the Revenue Act of 1926.*

24 *(f) For the first year ending June 30 in respect of*
25 *which a tax is imposed by this section upon any corporation,*

1 *the adjusted declared value shall be the value, as declared by*
2 *the corporation in its first return under this section (which*
3 *declaration of value cannot be amended), as of the close of its*
4 *last income-tax taxable year ending at or prior to the close*
5 *of the year for which the tax is imposed by this section (or as*
6 *of the date of organization in the case of a corporation having*
7 *no income-tax taxable year ending at or prior to the close of*
8 *the year for which the tax is imposed by this section). For*
9 *any subsequent year ending June 30, the adjusted declared*
10 *value in the case of a domestic corporation shall be the origi-*
11 *nal declared value plus (1) the cash and fair market value*
12 *of property paid in for stock or shares, (2) paid in surplus*
13 *and contributions to capital, (3) its net income, and (4) the*
14 *amount of the dividend deduction allowable for income tax*
15 *purposes, and minus (A) the value of property distributed*
16 *in liquidation to shareholders, (B) distributions of earnings*
17 *or profits, and (C) the excess of the deductions allowable for*
18 *income tax purposes over its gross income; adjustment being*
19 *made for each income-tax taxable year included in the period*
20 *from the date as of which the original declared value was*
21 *declared to the close of its last income-tax taxable year ending*
22 *at or prior to the close of the year for which the tax is imposed*
23 *by this section. The amount of such adjustment for each*
24 *such year shall be computed (on the basis of a separate*
25 *return) according to the income tax law applicable to such*

1 year. For any subsequent year ending June 30, the adjusted
2 declared value in the case of a foreign corporation shall be the
3 original declared value adjusted (for the same income-tax
4 taxable years as in the case of a domestic corporation), in
5 accordance with regulations prescribed by the Commissioner
6 with the approval of the Secretary, to reflect increases or
7 decreases in the capital employed in the transaction of its
8 business in the United States.

9 SEC. 702. EXCESS-PROFITS TAX.

10 (a) There is hereby imposed upon the net income of
11 every corporation, for each income-tax taxable year ending
12 after the close of the first year in respect of which it is tax-
13 able under section 701, an excess-profits tax equivalent to
14 5 per centum of such portion of its net income for such
15 income-tax taxable year as is in excess of $12\frac{1}{2}$ per centum
16 of the adjusted declared value of its capital stock (or in
17 the case of a foreign corporation the adjusted declared value
18 of capital employed in the transaction of its business in the
19 United States) as of the close of the preceding income-tax
20 taxable year (or as of the date of organization if it had no
21 preceding income-tax taxable year) determined as provided
22 in section 701. If the income-tax taxable year in respect of
23 which the tax under this section is imposed is a period of
24 less than 12 months, such adjusted declared value shall
25 be reduced to an amount which bears the same ratio thereto

1 as the number of months in the period bears to 12 months.
 2 For the purposes of this section the net income shall be the
 3 same as the net income for income tax purposes for the year
 4 in respect of which the tax under this section is imposed.

5 (b) All provisions of law (including penalties) appli-
 6 cable in respect of the taxes imposed by title I of this Act,
 7 shall insofar as not inconsistent with this section, be appli-
 8 cable in respect of the taxes imposed by this section, except
 9 that the provisions of sections 131 and 141 of that title
 10 shall not be applicable.

11 SEC. 703. CAPITAL STOCK TAX AND EXCESS-PROFITS TAX IM-
 12 POSED BY NATIONAL INDUSTRIAL RECOVERY ACT.

13 Sections 217(d) and (e) of the National Industrial
 14 Recovery Act are amended to read as follows:

15 “(d) The capital-stock tax imposed by section 215 shall
 16 not apply to any taxpayer in respect of any year except the
 17 year ending June 30, 1933.

18 “(e) The excess-profits tax imposed by section 216 shall
 19 not apply to any taxpayer in respect of any taxable year
 20 ending after June 30, 1931.”

NOTE.—Section 217 of the National Industrial Recovery Act will
 after the above amendment, read as follows:

SEC. 217. (a) The President shall proclaim the date of—

(1) the close of the first fiscal year ending June 30 of any
 year after the year 1933, during which the total receipts of the
 United States (excluding public-debt receipts) exceed its total
 expenditures (excluding public-debt expenditures other than those
 chargeable against such receipts), or

(2) the repeal of the eighteenth amendment to the Constitution, whichever is the earlier.

(b) Effective as of the 1st day of the calendar year following the date so proclaimed section 617(a) of the Revenue Act of 1932, as amended, is amended by striking out "1½ cents" and inserting in lieu thereof "1 cent".

(c) The tax on dividends imposed by section 213 shall not apply to any dividends declared on or after the 1st day of the calendar year following the date so proclaimed.

(d) The capital-stock tax imposed by section 215 shall not apply to any taxpayer in respect of any year beginning on or after the 1st day of July following the date so proclaimed except the year ending June 30, 1933.

(e) The excess-profits tax imposed by section 216 shall not apply to any taxpayer in respect of any taxable year after its taxable year during which the date so proclaimed occurs ending after June 30, 1934.

1 TITLE VI—GENERAL PROVISIONS

2 SEC. ~~414~~ 801. DEFINITIONS.

3 (a) When used in this Act—

4 (1) The term "person" means an individual,
5 a trust or estate, a partnership, or a corporation.

6 (2) The term "corporation" includes associa-
7 tions, joint-stock companies, and insurance companies.

8 (3) The term "partnership" includes a syndi-
9 cate, group, pool, joint venture, or other unincorpo-
10 rated organization, through or by means of which any
11 business, financial operation, or venture is carried on,
12 and which is not, within the meaning of this Act, a
13 trust or estate or a corporation; and the term "part-
14 ner" includes a member in such a syndicate, group,
15 pool, joint venture, or organization.

16 (4) The term "domestic" when applied to a
17 corporation or partnership means created or organized

1 in the United States or under the law of the United
2 States or of any State or Territory.

3 (5) The term "foreign" when applied to a cor-
4 poration or partnership means a corporation or part-
5 nership which is not domestic.

6 (6) The term "fiduciary" means a guardian,
7 trustee, executor, administrator, receiver, conservator,
8 or any person acting in any fiduciary capacity for any
9 person.

10 (7) The term "withholding agent" means any
11 person required to deduct and withhold any tax under
12 the provisions of section 143 or 144.

13 (8) The term "stock" includes the share in an
14 association, joint-stock company, or insurance com-
15 pany.

16 (9) The term "shareholder" includes a member
17 in an association, joint-stock company, or insurance
18 company.

19 (10) The term "United States" when used in a
20 geographical sense includes only the States, the Terri-
21 tories of Alaska and Hawaii, and the District of
22 Columbia.

23 (11) The term "Secretary" means the Secretary
24 of the Treasury.

1 (12) The term "Commissioner" means the Com-
2 missioner of Internal Revenue.

3 (13) The term "collector" means collector of
4 internal revenue.

5 (14) The term "taxpayer" means any person
6 subject to a tax imposed by this Act.

7 (b) The terms "includes" and "including" when
8 used in a definition contained in this Act shall not be deemed
9 to exclude other things otherwise within the meaning of
10 the term defined.

11 SEC. 442 302. SEPARABILITY CLAUSE.

12 If any provision of this Act, or the application thereof
13 to any person or circumstances, is held invalid, the remainder
14 of the Act, and the application of such provisions to other
15 persons or circumstances, shall not be affected thereby.

16 SEC. 443 303. EFFECTIVE DATE OF ACT.

17 Except as otherwise provided, this Act shall take effect
18 upon its enactment.



COMMITTEE PRINT

REVENUE ACT OF 1934

COMPARATIVE PRINT

Showing Changes from Existing Law Made by the
Bill as Reported by Senate Finance Committee

73^d CONGRESS }
2^d Session }

H. R. 7835

AN ACT

To provide revenue, equalize taxation, and for
other purposes.

FEBRUARY 20 (calendar day, FEBRUARY 22), 1934
Read twice and referred to the Committee on Finance