87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2508

REVENUE ACT OF 1962

OCTOBER 1, 1962.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 10650]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 12, 13, 14, 28, 30, 50, 95, 145, 146, 197, 199, 200, and 203.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 6, 7, 8, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 49, 51, 52, 53, 55, 56, 57, 58, 59, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 88, 93, 94, 97, 98, 100, 101, 102, 103, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 160, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 174, 175, 176, 177, 178, 179, 181, 182, 184, 185, 186, 188, 191, 193, and 194, and agree to the same.

Amendment numbered 1:

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

Page 3, line 6, of the Senate engrossed amendments, strike out "date" and insert *date*

Page 4 of the Senate engrossed amendments, strike out lines 27 and 28 and insert:

(b) *Conforming amendment.*
(c) *Clerical amendment.*
(d) *Effective date.*

Page 5 of the Senate engrossed amendments, strike out lines 1 to 24, inclusive, and insert:

Sec. 27. Exclusion from gross income of certain awards made pursuant to evacuation claims of Japanese-American persons.
(a) *In general.*
(b) *Effective date, etc.*
Sec. 28. Deduction for depreciation by tenant-stockholder of cooperative housing corporation.
(a) *Allowance of deduction.*
(b) *Clerical amendment.*
(c) *Effective date.*
Sec. 29. Deduction for income tax purposes of contributions to certain organizations for judicial reform.
Sec. 30. Effective date of amendment to section 1374(b).
Sec. 31. Treaties.

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with amendments as follows:

Page 6, line 13, of the Senate engrossed amendments, strike out "June 30, 1962" and insert *December 31, 1961*

Page 7 of the Senate engrossed amendments, strike out lines 14 to 22, inclusive, and insert:

"(4) *TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 1962.—For purposes of determining the amount of an investment credit carryback that may be added under paragraph (1) for a taxable year beginning before January 1, 1962, and ending after December 31, 1961, the amount of the limitation provided by subsection (a)(2) is the amount which bears the same ratio to such limitation as the number of days in such year after December 31, 1961, bears to the total number of days in such year.*

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows:

Page 9, line 19, of the Senate engrossed amendments, after "is", insert *equal to or*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of Senate numbered 29, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with,*

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *, or, in the case of an item described in subparagraph (A) directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), the portion of such item associated with,*

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *, but the amount determined under this subparagraph shall in no case be greater than the larger of—*

"(i) the amount determined under paragraph (4), or

"(ii) the amount which, when added to the amount determined under subparagraph (A), equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951)

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows:

Page 46, after line 4, of the House engrossed bill insert:

"(5) LIMITATION IN CASE OF CERTAIN DOMESTIC BUILDING AND LOAN ASSOCIATIONS.—If the percentage of the assets of a domestic building and loan association which are not assets described in section 7701(a)(19)(D)(ii) exceeds 36 percent for the taxable year (as determined for purposes of section 7701(a)(19) for such year), the amount determined under paragraph (2), and the amount determined under paragraph (3), shall in each case be the amount (determined without regard to this paragraph but with regard to the limits contained in paragraphs (2), (3), and (1)(B)) reduced by the amount determined under the following table:

If the percentage exceeds—	*but does not exceed—*	*the reduction shall be the following proportion of the amount so determined without regard to this paragraph—*
36 percent	*37 percent*	*1/12*
37 percent	*38 percent*	*1/6*
38 percent	*39 percent*	*1/4*
39 percent	*40 percent*	*1/3*
40 percent	*41 percent*	*5/12*

And the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with amendments as follows:

Page 24, line 15, of the Senate engrossed amendments, strike out the parenthesis at the beginning of the line.

Page 25, line 23, of the Senate engrossed amendments, strike out "(i) and (ii)" and insert *(i), (ii), (iv), and (vi)*

Page 26, line 10, of the Senate engrossed amendments, strike out "(i) and (ii)" and insert *(i), (ii), (iv), and (vi)*

Page 27, after line 6, of the Senate engrossed amendments, insert:

The term 'domestic building and loan association' also includes any association which, for the taxable year, would satisfy the requirements of the first sentence of this paragraph if '41 percent' were substituted for '36 percent' in subparagraph (E). Except in the case of the taxpayer's first taxable year beginning after the date of the enactment of the Revenue Act of 1962, the second sentence of this paragraph shall not apply to an association for the taxable year unless such association (i) was a domestic building and loan association within the meaning of the first sentence of this paragraph for the first taxable year preceding the taxable year, or (ii) was a domestic building and loan association solely by reason of the second sentence of this paragraph for the first taxable year preceding the taxable year (but not for the second preceding taxable year).

And the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with amendments as follows:

Page 27, line 13, of the Senate engrossed amendments, strike out "EXCISE".

Page 27, line 15, of the Senate engrossed amendments, after "ACT", insert *OF 1933*

Page 27, line 16, of the Senate engrossed amendments, after "Act", insert *of 1933*

Page 27, lines 19 and 20, of the Senate engrossed amendments, strike out "EXEMPTION FROM DISCRIMINATORY STATE AND LOCAL TAXATION.—".

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with amendments as follows:

Page 64, line 9, of the House engrossed bill, strike out "6047" and insert *6048*

Page 65, line 13, of the House engrossed bill, strike out "6047" and insert *6048*

Page 67, after line 6, of the House engrossed bill, strike out "6047" and insert *6048*

And the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *$500,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows:

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

"*(f) SPECIAL TRANSITIONAL UNDERWRITING LOSS.—*

"*(1) COMPANIES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to every mutual insurance company which has been subject to the tax imposed by this section (as in effect before the enactment of this subsection) for the 5 taxable years immediately preceding January 1, 1962, and has incurred an underwriting loss for each of such 5 taxable years.*

"*(2) REDUCTION OF STATUTORY UNDERWRITING INCOME.—For purposes of this part, the statutory underwriting income of a company described in paragraph (1) for the taxable year shall be the statutory underwriting income for the taxable year (determined without regard to this subsection) reduced by the amount by which—*

"*(A) the sum of the underwriting losses of such company for the 5 taxable years immediately preceding January 1, 1962, exceeds*

"*(B) the total amount by which the company's statutory underwriting income was reduced by reason of this subsection for prior taxable years.*

"*(3) UNDERWRITING LOSS DEFINED.—For purposes of this subsection, the term 'underwriting loss' means statutory underwriting loss, computed without any deduction under section 824(a) and without any deduction under section 832(c)(11).*

"*(4) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply with respect to any taxable year beginning after December 31, 1962, and before January 1, 1968, for which the taxpayer is subject to the tax imposed by subsection (a).*

And the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *$1,100,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *$1,100,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *$500,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *$1,100,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *arising, either in any one State or within 200 miles of any fixed point selected by the taxpayer,*

And the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows:

Page 85, line 4, of the House engrossed bill, after "insurance", insert *company*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with amendments as follows:

Page 89, line 10, of the House engrossed bill, after "mutual fire", insert *or flood*

Page 89, line 19, of the House engrossed bill, after the period and before the quotation marks, insert *Premiums paid by the subscriber of a mutual flood insurance company referred to in paragraph (3) of section 831(a) shall be treated, for purposes of computing the taxable income of such subscriber, in the same manner as premiums paid by a policyholder to a mutual fire insurance company referred to in such paragraph (3).*

Page 90, line 18, of the House engrossed bill, after "mutual fire", insert *or flood*

And the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with amendments as follows:

Page 62, line 7, of the Senate engrossed amendments, before "is", insert *income*

Page 64, line 24, of the Senate engrossed amendments, after "is", insert *created or*

Page 82, lines 6 and 7, of the Senate engrossed amendments, strike out "(computed without regard to section 931)"

Page 82, lines 14 and 15, of the Senate engrossed amendments, strike out "(computed without regard to section 931)"

Page 100 of the Senate engrossed amendments, strike out the table following line 10 and insert:

"If the effective foreign tax rate is (percentage)—	*The required minimum distribution of earnings and profits is (percentage)—*
Under 10	*90*
10 or over but less than 20	*86*
20 or over but less than 28	*82*
28 or over but less than 34	*75*
34 or over but less than 39	*68*
39 or over but less than 42	*55*
42 or over but less than 44	*40*
44 or over but less than 46	*27*
46 or over but less than 47	*14*
47 or over	*0*

Page 106, line 3, of the Senate engrossed amendments, strike out "total" and insert *consolidated*

Page 106, line 5, of the Senate engrossed amendments, strike out "total" and insert *consolidated*

Page 107, lines 20 and 21, of the Senate engrossed amendments, strike out "is eligible to make" and insert *makes*

And the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

Page 123, line 14, of the Senate engrossed amendments, after "1962" insert a comma; and the Senate agree to the same.

(within the meaning of section 1221) and has been held for more than 6

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with amendments as follows:

Page 130 of the Senate engrossed amendments, beginning with line 8, strike out all through page 131 and insert the following:

"(b) LIMITATION ON TAX APPLICABLE TO INDIVIDUALS.—In the case of an individual, if the stock sold or exchanged is a capital asset (within the meaning of section 1221) and has been held for more than 6 months, the tax attributable to an amount included in gross income as a dividend under subsection (a) shall not be greater than a tax equal to the sum of—

"(1) a pro rata share of the excess of—

"(A) the taxes that would have been paid by the foreign corporation with respect to its income had it been taxed under this chapter as a domestic corporation (but without allowance for deduction of, or credit for, taxes described in subparagraph (B)), for the period or periods the stock sold or exchanged was held by the United States person in taxable years beginning after December 31, 1962, while the foreign corporation was a controlled foreign corporation, adjusted for distributions and amounts previously included in gross income of a United States shareholder under section 951, over

"(B) the income, war profits, or excess profits taxes paid by the foreign corporation with respect to such income; and

"(2) an amount equal to the tax that would result by including in gross income, as gain from the sale or exchange of a capital asset held for more than 6 months, an amount equal to the excess of (A) the amount included in gross income as a dividend under subsection (a), over (B) the amount determined under paragraph (1).

Page 135, lines 9 and 10, of the Senate engrossed amendments, strike out "referred to in subparagraph (B)" and insert *ending on the date of the sale or exchange*

Page 137, line 25, of the Senate engrossed amendments, strike out "(2)".

And the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with amendments as follows:

Page 139 of the Senate engrossed amendments, insert quotation marks after "apply." in line 7 and strike out lines 8 to 14, inclusive; and the Senate agree to the same.

Amendment numbered 173:

That the House recede from its disagreement to the amendment of the Senate numbered 173, and agree to the same with amendments, as follows:

Page 150, line 4, of the Senate engrossed amendments, strike out "6047" and insert *6048*

Page 150, line 6, of the Senate engrossed amendments, strike out "6048" and insert *6049*

Page 154, line 13, of the Senate engrossed amendments strike out "6048(a)(1)" and insert *6049(a)(1)*

Page 155, line 4, of the Senate engrossed amendments, strike out "6048(a)(2)" and insert *6049(a)(2)*

Page 155, line 5, of the Senate engrossed amendments, strike out "6048(a)(3)" and insert *6049(a)(3)*

Page 156, line 5, of the Senate engrossed amendments, strike out "6048(c)" and insert *6049(c)*

Page 156, line 8, of the Senate engrossed amendments, strike out "6048(a)(1)" and insert *6049(a)(1)*

Page 156, line 22, of the Senate engrossed amendments, strike out "6048(a)(1)" and insert *6049(a)(1)*

Page 156, line 25, of the Senate engrossed amendments, strike out "6048(a)(2), or 6048(a)(3)" and insert *6049(a)(2), or 6049(a)(3)*

Page 157, line 19, of the Senate engrossed amendments, strike out "6048" and insert *6049*; and the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment as follows:

Page 159, line 18, of the Senate engrossed amendments, after "person", insert *(as defined in section 7701(a)(30))*

And the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment as follows:

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

"(e) *LIMITATION.*—

"(1) *GENERAL RULE.—Except as provided in paragraph (2), no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).*

"(2) *EXCEPTION.—In the case of liability to file a return under subsection (a) arising on or after January 1, 1963, and before June 1, 1963—*

"(A) *no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations in effect on or before March 1, 1963, and*

"(B) *if the date on which such regulations become effective is later than the day on which such liability arose, any return required by subsection (a) shall (in lieu of the time prescribed by subsection (d)) be filed on or before the 90th day after such date.*

And the Senate agree to the same.

Amendment numbered 187:

That the House recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment as follows:

Page 239, after line 3, of the House engrossed bill, strike out "6038(d)(2)" and insert *6038(d)(1)*; and the Senate agree to the same.

Amendment numbered 189:

That the House recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with amendments as follows:

Page 163, after line 23, of the Senate engrossed amendments, insert:

(b) CONFORMING AMENDMENT.—Section 263(a)(1) (relating to disallowance of deductions for capital expenditures) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(E) expenditures by farmers for clearing land deductible under section 182."

Page 163, line 24, of the Senate engrossed amendments, strike out "(b)" and insert (c)

Page 164, line 4, of the Senate engrossed amendments, strike out "(c)" and insert (d)

And the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment as follows:

Page 165 of the Senate engrossed amendments, strike out lines 4 through 10 and insert:

In any case in which the taxpayer elects to have the provisions of the preceding sentence apply, for purposes of computing the limitation on tax under this part—

"(1) only the same proportion of the amount to which this part applies shall be taken into account for purposes of computing the limitations under section 170(b)(1)(A) and (B) for taxable years before the taxable year in which such amount is received or accrued as (A) the excess of the maximum amount which could, if the taxpayer had made additional contributions described in clause (i), (ii), or (iii) of section 170(b)(1)(A), have been described in clause (1) of the preceding sentence over the amount described in such clause (1), bears to (B) such maximum amount, and

"(2) the portion of the amount of charitable contributions described in the preceding sentence shall not be taken into account in computing the tax for the taxable year in which the amount to which this part applies is received or accrued."

And the Senate agree to the same.

Amendment numbered 192:

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment as follows:

Page 168, of the Senate engrossed amendments, strike out lines 6 to 11, inclusive, and insert:

(b) UNUSED CONVERSION LOSS DEFINED.—The amount of the unused conversion loss shall be the sum of the part of the net operating loss for each year described in subsection (a) which (without regard to this section) would be carried over to the sixth taxable year following the loss year if section 172(b) of the Internal Revenue Code of 1954 (or, where applicable, section 122(b)(2)(B) of the Internal Revenue Code of 1939) permitted such a carryover.

And the Senate agree to the same.

Amendment numbered 195:

That the House recede from its disagreement to the amendment of the Senate numbered 195, and agree to the same with an amendment as follows:

Page 171, line 19, of the Senate engrossed amendments, strike out "AMERICAN-JAPANESE INDIVIDUALS" and insert ***JAPANESE-AMERICAN PERSONS***; and the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with amendments as follows:

Page 173, line 9, of the Senate engrossed amendments, after "AND", insert ***BUSINESS***

Page 174, after line 2, of the Senate engrossed amendments, insert:

(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 216 and inserting in lieu thereof the following:

"Sec. 216. Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder."

Page 174, line 3, of the Senate engrossed amendments, strike out "(b)" and insert (c)

And the Senate agree to the same.

Amendment numbered 198:

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with an amendment as follows:

Page 177, line 2, of the Senate engrossed amendments, strike out "30" and insert *29*; and the Senate agree to the same.

Amendment numbered 201:

That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment as follows:

Page 181, line 8, of the Senate engrossed amendments, strike out "33" and insert *30*; and the Senate agree to the same.

Amendment numbered 202:

That the House recede from its disagreement to the amendment of the Senate numbered 202, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *31*; and the Senate agree to the same.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
HOWARD H. BAKER,
Managers on the Part of the House.

HARRY F. BYRD,
ROBT. B. KERR,
By R. S. K.
RUSSELL B. LONG,
GEORGE SMATHERS,
By H. F. B.
JOHN J. WILLIAMS,
FRANK CARLSON,
WALLACE BENNETT,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10650) to amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying, or conforming changes: 1, 2, 3, 4, 7, 8, 15, 16, 20, 22, 24, 25, 26, 27, 34, 35, 36, 38, 39, 40, 44, 47, 49, 51, 53, 55, 57, 58, 59, 63, 66, 67, 68, 71, 72, 73, 74, 77, 78, 83, 86, 88, 89, 101, 103, 105, 106, 107, 108, 109, 110, 112, 114, 115, 116, 117, 118, 119, 120, 122, 127, 134, 136, 137, 138, 139, 142, 144, 146, 148, 149, 150, 151, 152, 154, 155, 156, 157, 158, 164, 165, 169, 170, 171, 172, 174, 175, 177, 178, 182, 184, 185, 186, 187, 188, and 202. With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

CREDIT FOR INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY

Amendments Nos. 5 and 23: Under the bill as passed by both the House and the Senate the amount of the investment credit which may be allowed for any taxable year may not exceed so much of the liability for tax for the taxable year as does not exceed $25,000, plus 25 percent of so much of the liability for tax for the taxable year as exceeds $25,000. Under the bill as passed by the House, any unused credit resulting from this limitation was to be carried forward to each of the 5 succeeding taxable years to the extent not taken into account in intervening years. Under Senate amendment No. 5, such unused credit is first carried back to the 3 preceding taxable years and then carried over to the 5 succeeding taxable years. This rule is subject to 3 exceptions: (1) The unused credit may be a carryback only to taxable years ending after June 30, 1962, (2) to the extent that an unused credit arises by reason of a net operating loss carryback, such unused credit is taken into account only as a carryover and not as a carryback from such year, and (3) in the case of a taxable year beginning before July 1, 1962, and ending after June 30, 1962, the limitation on the credit allowable for such year for purposes of the carryback to such year is the amount which bears the same ratio to the limitation otherwise applicable as the number of days in such year after June 30, 1962, bears to the total number of days in such year. The House recedes with amendments conforming the unused credit carryback provisions to the conference action on Senate amendment No. 28 (which

provides that the investment credit is to apply to taxable years ending after December 31, 1961).

Senate amendment No. 23 amends the provisions of the code relating to periods of limitation and interest to conform to the Senate amendments providing for the unused credit carryback. The House recedes.

Amendments Nos. 6 and 9: The bill as passed by the House (sec. 46(c) of the code, as added by the bill) defined the qualified investment for purposes of the investment credit as the aggregate of (1) the applicable percentage of the basis of each new section 38 property placed in service during the taxable year, plus (2) the applicable percentage of the cost of each used section 38 property placed in service during the taxable year. These applicable percentages vary according to the useful life of the property. If any such property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the useful life that was taken into account in computing the investment credit, then the income tax for the taxable year of the disposition is increased (sec. 47 of the code, as added by the bill) by an amount equal to the decrease in credits which would have resulted had the useful life used in determining the credit been the period beginning with the time the property was placed in service and ending with the time it ceased to be section 38 property.

The bill as passed by the Senate retains these rules except in cases where section 38 property is placed in service by the taxpayer to replace property which was stolen or was destroyed or damaged by fire, storm, shipwreck, or other casualty. Under Senate amendment No. 6, the basis (if new property) or cost (if used property) of the replacement section 38 property taken into account in determining qualified investment is required to be reduced by an amount equal to the amount received by the taxpayer as compensation (by insurance or otherwise) for the property destroyed, damaged, or stolen, or by an amount equal to the adjusted basis of such property, whichever is the lesser. This rule is not to apply if the reduction in qualified investment attributable to the substitution required by section 47(a)(1) of the code with respect to the property so destroyed, damaged, or stolen is greater than the reduction required under the new paragraph (4) added to section 46(c) by Senate amendment No. 6.

Senate amendment No. 9 adds a new paragraph (4) to section 47(a) of the code (relating to certain dispositions, etc., of sec. 38 property) to coordinate the provisions of such section 47(a) with the new rules provided under Senate amendment No. 6. In general, the new paragraph (4) of section 47(a) provides that paragraphs (1) and (3) of section 47(a) shall not apply to property which ceases to be section 38 property on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft, if such property is replaced by property to which the new paragraph (4) of section 46(c) (added by Senate amendment No. 6) applies, and if the reduction under that new paragraph is greater than the reduction in qualified investment under paragraph (1) of section 47(a).

The House recedes on Senate amendment No. 6 and recedes with a technical clarifying amendment on Senate amendment No. 9.

Amendment No. 10: This amendment adds a new paragraph (6) to new section 48(a) of the code (defining "section 38 property" for purposes of the investment credit) to provide that livestock is not to be treated as section 38 property. The House recedes.

Amendments Nos. 11, 12, 13, and 14: The bill as passed by the House defined the term "new section 38 property" as section 38 property (1) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1961, or (2) acquired after December 31, 1961, if the original use of such property commences with the taxpayer and commences after such date. In determining qualified investment described in clause (1) of the preceding sentence, only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1961, is to be taken into account. The bill as passed by the House also limited the definition of "used section 38 property" to property acquired by purchase after December 31, 1961. Senate amendments Nos. 11, 12, 13, and 14 changed these dates from December 31, 1961, to June 30, 1962. The Senate recedes.

Amendment No. 17: Under the bill as passed by the House, a person engaged in the business of leasing property would be permitted to elect with respect to any new section 38 property to treat the lessee as having acquired the property. Under Senate amendment No. 17, the lessor is not required to be engaged in the business of leasing property in order to make the election. The House recedes.

Amendments Nos. 18 and 19: Senate amendment No. 19 adds a new subsection (g) to new section 48 of the code (containing definitions and special rules relating to the investment credit). The new subsection requires that for purposes of subtitle A of the code (relating to income tax), other than for purposes of the investment credit, the basis of any section 38 property be reduced by an amount equal to 7 percent of the qualified investment with respect to such property. The new subsection provides, however, that if the tax under chapter 1 of the code is increased, or an adjustment in carrybacks or carryovers is made, under new section 47(a) of the code, the basis of the property is to be increased by an amount equal to the portion of the increase in tax and the portion of the adjustment attributable to such property. The House recedes.

It is the understanding of the conferees on the part of both the House and the Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of the new facilities over their productive lives.

Senate amendment No. 18 provides that if a lessor makes an election to treat the lessee as having acquired the property then, under regulations prescribed by the Secretary of the Treasury or his delegate, the new subsection (g) added by amendment No. 19 is not to apply and the deductions otherwise allowable under section 162 of the code to the lessee for amounts paid to the lessor under the lease are to be adjusted in a manner consistent with the provisions of the new subsection (g). The House recedes.

Amendment No. 21: This amendment adds a new section 2(c) to the bill, adding a new section 181 to part VI of subchapter B of chapter 1 of the code (relating to itemized deductions for individuals and corporations). If after applying the carrybacks and carryovers of any unused investment credit any amount thereof remains unused, this amount is to be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which the unused

amount could have been allowed as a credit. However, if a taxpayer dies or ceases to exist before such first taxable year, the amount described in the preceding sentence (or proper portion thereof) is, under regulations, to be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs. The House recedes.

Amendment No. 28: Under the bill as passed by the House, the amendments made by section 2 (relating to credit for investment in certain depreciable property) were to apply with respect to taxable years ending after December 31, 1961. Under Senate amendment No. 28, the amendments were to apply with respect to taxable years ending after June 30, 1962. The Senate recedes.

DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC., EXPENSES

Amendments Nos. 29, 30, and 31: The bill as passed by both the House and the Senate adds a new section 274 to the code (relating to disallowance of certain entertainment, etc., expenses). Section 274(a)(1) as passed by the House provided that no deduction otherwise allowable under chapter 1 of the code is to be allowed for any item—

> (1) with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, unless the taxpayer establishes that the item was directly related to the active conduct of the taxpayer's trade or business, or
>
> (2) with respect to a facility used in connection with such an activity, unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business,

and such deduction is in no event to exceed the portion of such item directly related to the active conduct of the taxpayer's trade or business.

Senate amendments Nos. 29, 30, and 31 inserted the words "or associated with" after the words "directly related to" each place they appeared in the new section 274(a)(1) as passed by the House.

Under the conference agreement the House recedes on Senate amendment No. 29 with an amendment providing that deductions otherwise allowable under chapter 1 of the code shall not be allowed for any item with respect to an entertainment type activity "unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with," the active conduct of the taxpayer's trade or business. Under the conference agreement, the Senate recedes on amendment No. 30, and the House recedes on amendment No. 31 with an amendment conforming to the action on amendment No. 29.

The rule of the House bill as described in the report of the Committee on Ways and Means is more strict than the "or associated with" rule of the Senate amendment. The rule of the House bill would not allow deduction of expenditures for entertainment occurring under circumstances where there is little or no possibility of conducting business affairs or carrying on negotiations or discussions relating thereto, such as where the group of persons entertained is large or the distractions substantial.

It is the understanding of the conferees, both on the part of the House and the Senate, that the alternative Senate "or associated with" test as described in the report of the Finance Committee would apply to certain entertaining primarily to encourage goodwill where the evidence of business connection is clear, whether or not business is actually transacted or discussed during the entertainment. The conference agreement would permit a deduction for the cost of an entertainment item, even though the item is not directly related to the active conduct of the taxpayer's trade or business, if the item is associated with it, so long as the entertainment activity directly precedes or follows a substantial and bona fide business discussion. The conditions under which an item is "associated with" the active conduct of a trade or business are contained in the report of the Committee on Finance. The deductibility of other items of entertainment expense, as well as items with respect to facilities, would be governed by the rule of the House bill.

Section 274(a) as agreed to by the conferees will allow as a deduction the cost of entertaining connected with what are primarily business meetings. For example, if the taxpayer conducts substantial negotiations with a group of business associates and that evening entertains the group and their wives at a restaurant, theater, concert, or sporting event, such entertainment expenses, if associated with the active conduct of the taxpayer's business, will be deductible even though the purpose of the entertainment is merely to promote goodwill in such business. Moreover, if a group of business associates with whom the taxpayer is conducting business meetings comes from out of town to the taxpayer's place of business to hold substantial business discussions, the entertainment of such business guests by the taxpayer the evening prior to the business discussions will be regarded as directly preceding the business discussions.

Similarly, if in between, or in the evenings after, business meetings at a convention, the taxpayer entertains his business associates or prospective customers attending such meetings (and their wives), such entertainment will be considered as directly preceding or following a business discussion.

Any entertainment which is a part of substantial and bona fide business discussions, where the conduct of business is the principal activity during the combined entertainment and business time spent together by the taxpayer and the person or persons entertained, will be deductible if the expense is associated with the active conduct of the taxpayer's trade or business.

Also, the cost of banquets at meetings of professional and business associations would normally be deductible. As in the above cases, if the expense is associated with the active conduct of a trade or business, it would not be necessary for the person paying for the banquet to attend the banquet himself. For example, a dental equipment supplier would be able to deduct the cost of purchasing a table at a dental association banquet for dentists who are actual or prospective customers for his equipment.

Thus, under the business meal exception contained in proposed section 274(e)(1), and the conference agreement, the cost of providing food and beverages at most business meetings and banquets would be deductible, as well as almost all restaurant and most hotel entertaining. In neither of the situations covered by the conference agreement

nor under the business meal exception is there a requirement that business must actually be discussed in order to get a deduction.

Amendment No. 32: Section 274(b), as added to the code by the bill as passed by both the House and the Senate, provides in effect that no deduction is to be allowed under section 162 or 212 of the code for any expense for gifts to any individual to the extent that the total expenses of the taxpayer for gifts to such individual during the same taxable year exceed $25. For purposes of the new section 274, the term "gift" is defined to mean any item excludable from gross income of the recipient under section 102 of the code which is not excludable from his gross income under any other provision of chapter 1 of the code. Senate amendment No. 32 adds a new provision providing that such term does not include—

(1) an item having a cost to the taxpayer not in excess of $4 on which the name of the taxpayer is clearly and permanently imprinted and which is one of a number of identical items distributed generally by the taxpayer,

(2) a sign, display rack, or other promotional material to be used on the business premises of the recipient, or

(3) an item of tangible personal property having a cost to the taxpayer not in excess of $100 which is awarded to an employee by reason of length of service or for safety achievement.

The House recedes.

Amendment No. 33: This amendment adds a new subsection (c) to the new section 274 added to the code by the bill. The new subsection (c) provides that in the case of any individual who is traveling away from home in pursuit of a trade or business or in pursuit of an activity described in section 212 of the code (relating to expenses for production of income), no deduction is to be allowed under section 162 or 212 for that portion of the expenses of such travel otherwise allowable under such section which, under regulations prescribed by the Secretary of the Treasury or his delegate, is not allocable to such trade or business or to such activity. The new subsection (c) is not to apply to the expenses of any travel away from home which does not exceed 1 week or where the portion of the time away from home which is not attributable to the pursuit of the taxpayer's trade or business or an activity described in section 212 is less than 25 percent of the total time away from home on such travel. The House recedes.

Amendment No. 37: Under subsection (e)(6) of the new section 274 of the code, as added by the bill as passed by the House, section 274(a) (relating to disallowance of entertainment, amusement, or recreation expenses) was not to apply to expenses directly related to business meetings of employees or stockholders. Under Senate amendment No. 37, section 274(a) is not to apply to expenses incurred by a taxpayer which are directly related to business meetings of his employees, stockholders, agents, or directors. Under this provision, the members of a partnership are to be considered as agents. The House recedes.

Amendment No. 41: Section 162 of the code provides that there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including "traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business." Under the bill as passed by the House, the

parenthetical matter quoted in the preceding sentence would be changed to "(including a reasonable allowance for amounts expended for meals and lodging)". Under Senate amendment No. 41, such parenthetical matter would be changed to "(including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances)". The House recedes.

Amendment No. 42: Under the bill as passed by the House, the amendments made by the bill with respect to the disallowance of certain entertainment, etc., expenses were to apply with respect to taxable years ending after June 30, 1962, but only in respect of periods after such date. Under Senate amendment No. 42, the amendments are to apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date. The House recedes.

AMOUNT OF DISTRIBUTION WHERE CERTAIN FOREIGN CORPORATIONS DISTRIBUTE PROPERTY IN KIND

Amendment No. 43: Subsection (d) of section 5 of the bill as passed by the House would amend section 902(a) of the code (relating to credit for foreign taxes) to provide that for purposes of section 902 (a) and (b) the amount of any distribution in property other than money is to be determined under section 301(b)(1)(B) of the code. Under section 301(b)(1)(B) the amount of a distribution of property to a corporate shareholder is the lesser of (1) the fair market value of such property, or (2) the adjusted basis of such property (in the hands of the distributing corporation immediately before the distribution). Senate amendment No. 43 strikes out subsection (d) of section 5 of the bill. The House recedes.

AMENDMENT TO SECTION 482 OF THE INTERNAL REVENUE CODE

Amendment No. 45: Section 6 of the bill as passed by the House amended section 482 of the code (relating to allocation of income and deductions among taxpayers) by designating the existing text as subsection (a) and by adding a new subsection (b) to provide special rules for allocating taxable income, arising from sales of tangible property within a related group which includes a foreign organization, among the members of the group. The allocation was to be made by the Secretary of the Treasury or his delegate by taking into consideration that portion of the factors listed in the bill which is attributable to the United States and that portion which is not attributable to the United States. The bill also permitted consideration of other factors (including special risks, if any, of the market in which the property is sold). If the taxpayer established to the satisfaction of the Secretary or his delegate that an alternative method of allocation clearly reflects the income of each member of the group with respect to the property in question, the alternative method was required to be used.

Senate amendment No. 45 strikes out section 6 of the bill as passed by the House.

The House recedes. The conferees on the part of both the House and the Senate believe that the objectives of section 6 of the bill as passed by the House can be accomplished by amendment of the regulations under present section 482. Section 482 already contains broad authority to the Secretary of the Treasury or his delegate to allocate

income and deductions. It it believed that the Treasury should explore the possibility of developing and promulgating regulations under this authority which would provide additional guidelines and formulas for the allocation of income and deductions in cases involving foreign income.

DISTRIBUTIONS OF FOREIGN PERSONAL HOLDING COMPANY INCOME

Amendment No. 46: Section 7 of the bill as passed by the House amended section 552(a) of the code to substitute a 20-percent gross income requirement for the requirement now contained in the definition of a foreign personal holding company that more than 60 percent (or 50 percent in certain cases) of its gross income consist of foreign personal holding company income. Such section 7 also amended the definition of "undistributed foreign personal holding company income" contained in section 556(a) of the code to mean taxable income (adjusted as provided by existing law) if the foreign personal holding company income exceeds 80 percent of the company's gross income, and to mean a proportionate part of such taxable income if the foreign personal holding company income does not exceed 80 percent of its gross income.

Senate amendment No. 46 strikes out section 7 of the bill as passed by the House. The House recedes.

MUTUAL SAVINGS BANKS, ETC.

Amendment No. 48: The bill as passed by both the House and the Senate amends section 593 of the code to provide rules relating to reserves for losses on loans by mutual savings institutions listed in the bill. Subsection (b)(1) of the amended section 593 prescribes the method for determining the reasonable addition for the taxable year to the reserve for bad debts under section 166(c) of the code and also specifies the reserves to which such additions are to be made. Such reasonable addition is the sum of two amounts—(1) the amount determined under section 166(c) to be the reasonable addition to the reserve for losses on nonqualifying loans, plus (2) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans (but the amount so determined by the taxpayer is not to exceed the amount determined under pars. (2), (3), or (4) of sec. 593(b), whichever amount is the largest). Senate amendment No. 48 adds a further limitation providing that the amount of the addition for a taxable year to the reserve for losses on qualifying real property loans, when added to the amount of the addition to the reserve for losses on nonqualifying loans, shall in no case be greater than the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951). The House recedes with a substitute for the Senate amendment which provides, in effect, that the 12-percent ceiling is not to apply in the case of a taxpayer using the experience method for the taxable year.

Amendments Nos. 50 and 52: Under section 593(b)(2) of the code as amended by the bill as passed by the House, the amount of the

reasonable addition to the reserve for losses on qualifying real property loans for a taxable year was limited to the excess of an amount equal to 60 percent of the taxable income for such year over the amount determined under section 166(c) to be a reasonable addition to the reserve for losses on nonqualifying loans. For purposes of this method, taxable income is determined without regard to any deduction for any additions to the reserves for bad debts, and also by excluding from gross income any amount included therein by reason of subsection (f) (relating to the treatment of certain distributions of property to stockholders by a domestic building and loan association).

Senate amendment No. 50 provided that, in the case of a domestic building and loan association having capital stock with respect to which any distribution of property is not allowable as a deduction under section 591 (relating to dividends paid on deposits), an amount equal to 50 percent of the taxable income is substituted for the 60 percent provided by the bill as passed by the House. The Senate recedes.

Senate amendment No 52 provides that the amount of the addition determined under section 593(b)(2) is not to exceed the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time. The House recedes.

Amendment No. 54: Under section 593(b)(3) of the code as amended by the bill as passed by the House, the amount of the reasonable addition to the reserve for losses on qualifying real property loans for a taxable year was limited to an amount equal to the amount necessary to increase the balance (as of the close of the taxable year) of such reserve to 3 percent of such loans outstanding at such time. Senate amendment No. 54 permits the balance of the reserve for losses on qualifying real property loans to be increased to a larger amount in the case of a mutual savings institution which is a new company and which does not have capital stock with respect to which distributions of property are not allowable as a deduction under section 591 of the code. This larger amount is the sum of two amounts: (1) 3 percent of qualifying real property loans outstanding at the close of the taxable year, plus (2) an amount equal to 2 percent of so much of such loans as does not exceed $4,000,000, reduced (but not below zero) by the amount, if any, of the balance (as of the close of such year) of the taxpayer's supplemental reserve for losses on loans. A taxpayer is a "new company" for any taxable year only if such taxable year begins not more than 10 years after the first day on which it (or any predecessor) was authorized to do business as a mutual savings institution described in section 593(a) of the code.

The House recedes with an amendment. Under the conference action the text of section 593(b)(3) of the code is the same as it is under Senate amendment numbered 54. In addition, under the conference action the new section 593(b)(5) of the code provides that in the case of certain domestic building and loan associations there will be a reduction in the amount determined under paragraph (2) (60 percent of taxable income method) and paragraph (3) (percentage of real property loans method) of section 593(b). For purposes of computing this reduction, the amount determined under paragraph (2), and the amount determined under paragraph (3), shall in each case be the amount determined without regard to the new section 593(b)(5), but with regard to the 12-percent ceiling added by Senate amendment

numbered 48 and, in the case of the amount determined under paragraph (2), the 6-percent ceiling added by Senate amendment numbered 52. The reduction provided by the new section 593(b)(5) will apply only in the case of a domestic building and loan association which qualifies as such for the taxable year solely by reason of the second sentence of section 7701(a)(19) (see the discussion of Senate amendment numbered 60), which changes the 36-percent requirement of subparagraph (E) of the first sentence of section 7701(a)(19) to a 41-percent requirement. The reduction varies from one-twelfth to five-twelfths, depending on the number of percentage points (and fractions thereof) by which the association fails to satisfy the 36-percent requirement.

Amendment No. 56: Section 593(c) of the code, as amended by the bill as passed by the House provides for the allocation of pre-1963 reserves (that is, the net amount, determined as of December 31, 1962, accumulated in the reserve for bad debts for taxable years beginning after December 31, 1951)—

(1) first, to the reserve for losses on nonqualifying loans, to the extent such reserve is not increased above the amount which would be a reasonable addition under section 166(c) of the code for a period in which such loans increased from zero to the amount outstanding at the close of 1962,

(2) second, to the reserve for losses on qualifying real property loans, to the extent such reserve is not increased above the amount equal to 3 percent of the loans outstanding at the close of 1962 or, if larger, the amount which would be a reasonable addition under section 166(c) of the code for a period in which such loans increased from zero to the amount outstanding at the close of 1962, and

(3) then to a supplemental reserve for losses on loans.

Senate amendment No. 56 adds a new paragraph (5) to section 593(c) providing, in effect, that if the pre-1963 reserves are insufficient to bring the balance of the reserve for qualifying real property loans up to the amount referred to in paragraph (2) above then the term "pre-1963 reserves" includes so much of the surplus, undivided profits, and bad debt reserves (determined as of Dec. 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, as is necessary to bring the balance of the reserve for qualifying real property loans up to the amount referred to in paragraph (2) above. This rule is to apply only for the purpose of determining reasonable additions under the amended section 593 to such reserve, and for such purpose the amount so allocated is to be treated as remaining in such reserve. The House recedes.

Amendment No. 60: Section 7701(a)(19) of the code defines the term "domestic building and loan association" as a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all of the business of which is confined to making loans to members.

The bill as passed by the House amended section 7701(a)(19) to provide that the term "domestic building and loan association" means any domestic building and loan association, domestic savings and loan association, and Federal savings and loan association which met each of two requirements. The first requirement was that the association be either (i) an insured institution within the meaning of section 401(a) of the National Housing Act, or (ii) subject by law to supervision and

examination by State or Federal authority having supervision over such associations. The second requirement was that substantially all of the business of the association must consist of accepting savings and investing the proceeds in (i) loans secured by an interest in real property which is, or from the proceeds of the loan will become, residential real property, and (ii) other loans to the extent they would be authorized to be made by a Federal savings and loan association under section 5(c) of the Home Owners' Loan Act of 1933.

Senate amendment No. 60 adopts without change the first requirement of the bill as passed by the House, but replaces the second requirement with six new requirements:

(1) Substantially all of the business of the association must consist of acquiring the savings of the public and investing in loans described in paragraph (2) below.

(2) At least 90 percent of the amount of the total assets (determined as of the close of the taxable year) of the association must consist of (i) cash, (ii) obligations of the United States, a State, or a political subdivision of a State, stock or obligations of a corporation which is an instrumentality of one of those governmental units, and certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposit or share accounts of member associations, (iii) loans secured by an interest in real property and loans made for the improvement of real property, (iv) loans secured by a deposit or share of a member, (v) property acquired through the liquidation of defaulted loans described in clause (iii) of this paragraph, and (vi) property used by the association in the conduct of the business described in paragraph (1) above.

(3) Of the assets taken into account as assets constituting the 90 percent of total assets, at least 80 percent of such 90 percent must consist of (i) assets of the types described in clauses (i) and (ii) of paragraph (2) above, and (ii) loans secured by an interest in real property which is, or from the proceeds of the loan will become, residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this paragraph.

(4) Of the assets taken into account as assets constituting the 90 percent of total assets, at least 60 percent of such 90 percent must consist of (i) assets of the types described in clauses (i) and (ii) of paragraph (2) above, and (ii) loans secured by an interest in real property which is, or from the proceeds of the loan will become, residential real property containing four or fewer family units or real property used primarily for church purposes, loans made for the improvement of residential real property containing four or fewer family units or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this paragraph.

(5) Not more than 18 percent of the amount of the total assets (determined as of the close of the taxable year) of the association may consist of assets other than those referred to in paragraph (3) above, and not more than 36 percent of the amount of such total assets may consist of assets other than those referred to in paragraph (4) above.

(6) Except for property described in paragraph (2) above, not more than 3 percent of the total assets of the association may consist of stock of any corporation.

Senate amendment No. 60 also provides that, at the election of the association, the percentages specified in paragraph (2) through (6) above shall be applied on the basis of the average assets outstanding during the taxable year, rather than at the close of the taxable year, as computed under regulations prescribed by the Secretary of the Treasury or his delegate.

The House recedes with amendments. Under the conference action, loans secured by a deposit or share of a member, and property used by the association in the conduct of its savings and loan business, are in effect to be taken into account (1) in the same manner as loans on residential real property for purposes of section 7701(a)(19)(D)(i); and (2) in the same manner as loans on residential real property for four or fewer family units for purposes of section 7701(a)(19)(D)(ii).

Under the conference action, a second sentence and a third sentence are added to section 7701(a)(19). The new second sentence provides that the term "domestic building and loan association" also includes any association which would satisfy the requirements of the first sentence if "41 percent" were substituted for "36 percent" in subparagraph (E) of the first sentence. The new third sentence provides in effect that, except in the case of the association's first taxable year (whenever occurring in the case of a new association) beginning after the date of the enactment of the bill, the modification of the 36-percent requirement is to be available to it for a taxable year only if—

(1) it met the requirements of the first sentence of section 7701(a)(19) for the immediately preceding taxable year, or

(2) it qualified as a domestic building and loan association for the immediately preceding taxable year solely by reason of the second sentence of section 7701(a)(19) and (if the taxable year is the third or any succeeding taxable year of the association beginning after the date of the enactment of the bill) it met the requirements of the first sentence of section 7701(a)(19) for the second preceding taxable year.

Amendment No. 61: The bill as passed by the House repealed the exemption of Federal savings and loan associations from the taxes imposed by sections 4251 and 4261 of the code (relating, respectively, to the excise tax on communications and the excise tax on the transportation of persons). Senate amendment No. 61 amends section 5(h) of the Home Owners' Loan Act of 1933 (12 U.S.C., sec. 1464(h)) so as to eliminate entirely the exemptions from Federal taxes which that section now provides in the case of Federal savings and loan associations.

Under section 4382(a)(2) of the code, capital stock and certificates of indebtedness issued by domestic building and loan associations and cooperative banks are exempt from the documentary stamp taxes imposed by chapter 34 of the code. Senate amendment No. 61 amends section 4382(a)(2) so as to eliminate this exemption insofar as it extends (i) to all certificates of indebtedness issued by a domestic building and loan association or cooperative bank, and (ii) to shares or certificates of stock issued by such a domestic building and loan association or cooperative bank, to the extent that such shares or certificates of stock do not represent deposits or withdrawable accounts.

The House recedes with clerical and clarifying amendments.

Amendment No. 62: This Senate amendment adds a new provision to the bill as passed by the House which would amend section 591 of the code (relating to the deduction for dividends paid on deposits by mutual savings banks, cooperative banks, and domestic building and loan associations) so as to make clear that a deduction will be allowable under section 591 for (1) interest paid or credited to the accounts of depositors or holders of accounts on their deposits or withdrawable accounts by mutual savings banks, cooperative banks, and domestic building and loan associations, and (2) dividends and interest described in section 591 paid by a savings institution chartered and supervised as a savings and loan or similar association under Federal or State law. The House recedes.

Amendment No. 64: Under the bill as passed by the House, the change in the definition of the term "domestic building and loan association" would have taken effect on the enactment of the bill. Senate amendment No. 64 adds a new provision under which the new definition will apply to taxable years beginning after the date of the enactment of the bill. The House recedes.

Amendment No. 65: The bill as passed by the House provided an effective date of July 1, 1962, for the termination of the exemption of domestic building and loan associations from the excise taxes on communications and transportation of persons. Senate amendment No. 65 provides an effective date of January 1, 1963, for the termination, resulting from Senate amendment No. 61 of exemptions from Federal taxes. The House recedes.

DISTRIBUTIONS BY FOREIGN TRUSTS

Amendment No. 69: The bill as passed by the House defined the term "foreign trust created by a United States person" (for purposes of the provisions of the bill relating to distributions by foreign trusts) as, in general, a foreign trust to which money or property has been transferred directly or indirectly by a United States person, or under the will of a decedent who at the date of his death was a United States citizen or resident. Senate amendment No. 69 provides that such term means that portion of a foreign trust attributable to money or property transferred directly or indirectly by such a person or under the will of such a decedent. The House recedes with clerical amendments.

Amendment No. 70: Under the bill as passed by the House, the amendments to subchapter J of chapter 1 of the code with respect to distributions by foreign trusts were to apply with respect to distributions made in taxable years of trusts beginning after the date of the enactment of the bill. Senate amendment No. 70 provides that these amendments are to apply with respect to distributions made after December 31, 1962. The House recedes.

MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE, MARINE, AND CERTAIN FIRE OR FLOOD INSURANCE COMPANIES)

Amendments Nos. 75 and 76: These are amendments to conform, in the case of insurance companies subject to tax under part II of subchapter L of chapter 1 of the code, the normal tax rates on mutual insurance company taxable income and on taxable investment income to the action taken by the Congress in the Tax Rate Extension Act of 1962. The House recedes.

Amendments Nos. 79, 80, 81, 82, and 102: Under existing law and under the bill as passed by the House, mutual insurance companies other than life or marine are exempt from income tax if the gross amount received from specified items does not exceed $75,000. Under the bill as passed by the House, if this gross amount is over $75,000 but less than $125,000, the alternative tax imposed by the new section 821(c)(1) of the code on small companies is proportionately reduced. Under Senate amendment No. 102, a mutual insurance company other than life or marine is exempt from income tax if the gross amount does not exceed $150,000. Senate amendments Nos. 79, 80, 81, and 82 provide for a proportionate decrease in the alternative tax if the gross amount is over $150,000 but less than $250,000. The House recedes.

Amendments Nos. 84 and 85: Under the bill as passed by the House, the alternative tax for certain small companies provided by the new section 821(c) of the code applied for a taxable year only if the gross amount referred to in section 821(c)(3) for the taxable year exceeded $75,000 but did not exceed $300,000. Under Senate amendments Nos. 84 and 85 the $75,000 and $300,000 amounts are changed to $150,000 and $600,000, respectively. The House recedes on Senate amendment No. 84. The House recedes on Senate amendment No. 85 with an amendment changing the $600,000 amount provided by the Senate amendment to $500,000.

Amendment No. 87: This amendment adds a new subsection (f) to section 821 of the code and provides a special transitional underwriting loss deduction for taxable years beginning after 1962 and before 1968 for mutual insurance companies which were subject to the tax imposed by existing section 821 for the 6 taxable years immediately preceding 1963 and which incurred an underwriting loss for at least 5 of such 6 years. The mutual insurance company taxable income with respect to such a company is reduced each year by the amount by which (1) the sum of the underwriting losses of such company for such 6 years, reduced by the underwriting gain for such years, exceeds (2) the total amount by which mutual insurance company taxable income was reduced under the new subsection (f) for prior taxable years. The House recedes with a substitute under which (1) the new subsection (f) applies only in the case of a company which has been subject to the tax imposed by section 821 for each of the 5 taxable years immediately preceding 1962, and has incurred an underwriting loss for each of such 5 taxable years, and (2) such losses are to be used as an offset only to statutory underwriting income.

Amendments Nos. 90, 91, and 92: Section 823(c) of the code, as added by the bill as passed by the House, provided a special deduction (not to exceed $6,000 in amount) in determining the statutory underwriting income or loss for the taxable year if the gross amount received from the items specified in section 823(c) does not equal or exceed $900,000. Under Senate amendments Nos. 90, 91, and 92 this special deduction decreases to zero when the gross amount equals $1,200,000. The House recedes with an amendment under which the deduction decreases to zero when the gross amount equals $1,100,000.

Amendments Nos. 93, 94, 95, and 96: Under the bill as passed by the House, paragraph (1) of the new section 824(a) added to the code (relating to deduction to provide protection against losses) provides

that in determining the statutory underwriting income or loss for any taxable year there is to be allowed as a deduction the sum of—

(1) an amount equal to 1 percent of the losses incurred during the taxable year, plus

(2) an amount equal to 25 percent of the underwriting gain for the taxable year, plus

(3) if the concentrated windstorm, etc., premium percentage (as defined in the bill) for the taxable year exceeds 50 percent, an amount determined by applying so much of such percentage as exceeds 50 percent to the underwriting gain for the taxable year.

Under the bill as passed by the House, paragraph (2) of the new section 824(a) defines the term "concentrated windstorm, etc., premium percentage" as the percentage obtained by dividing (A) premiums earned on insurance contracts during the taxable year, to the extent attributable to insuring against losses arising in any one State, from windstorm, hail, flood, earthquake, or similar hazards, by (B) premiums earned on insurance contracts during the taxable year.

Senate amendments Nos. 93 and 94 increase the scope of the coverage of paragraph (3) above and increase the amount of the deduction by striking out the references to 50 percent and inserting in lieu thereof 40 percent. The House recedes.

Senate amendment No. 96 changes the definition of "concentrated windstorm, etc., premium percentage" to permit the percentage to be determined by reference to premiums attributable to insuring against losses arising (1) in any one State, (2) if the taxpayer so elects, within 200 miles of any fixed point selected by the taxpayer, or (3) if the taxpayer so elects, within 400 miles of any fixed point selected by the taxpayer. Senate amendment No. 95 provides that, in the case of a taxpayer making the election described in clause (3) of the preceding sentence, the amount of the deduction allowable by reason of section 824(a)(1)(C) is to be one-half of the amount it would be but for this amendment. The House recedes on Senate amendment No. 96 with an amendment under which the percentage is to be determined by reference to premiums attributable to losses arising either (1) in any one State, or (2) within 200 miles of any fixed point selected by the taxpayer. The Senate recedes on Senate amendment No. 95.

Amendments Nos. 97, 98, and 99: Subsection (d) of the new section 824 of the code, as added by the bill, sets forth the amounts which are to be subtracted from the protection against loss account. These amounts are taken into account for purposes of determining mutual insurance company taxable income.

Under the bill as passed by the House, the first subtraction from the account was to be made for so much of the statutory underwriting loss as was generated either by the deduction for dividends to policyholders or by the deduction provided in section 824(a) for protection against losses. Thus, under the bill as passed by the House, any underwriting loss attributable to policy dividends could not be applied against taxable investment income unless the balance in the protection against loss account had first been reduced to zero.

The effect of Senate amendments Nos. 97, 98, and 99 is to permit any portion of the statutory underwriting loss attributable to the deduction for dividends to policyholders to be first applied against

taxable investment income. The House recedes on Senate amendments Nos. 97 and 98, and recedes on Senate amendment No. 99 with a clerical amendment.

Amendment No. 100: New section 826 of the code, as added by the bill, in effect permits a mutual insurance company which is an interinsurer or reciprocal underwriter to elect to combine certain income of its attorney-in-fact with its own underwriting income. If the company so elects, it is credited with so much of the tax paid by the attorney-in-fact as is attributable to such income of the attorney-in-fact. Under the bill as passed by the House, subsection (d) of section 826 provided, in effect, that the protection against loss deduction of the reciprocal making the election and the addition to its protection against loss account were to be computed without regard to the election. Senate amendment No. 100 strikes out this provision, thus permitting the protection against loss deduction, and the amount added to the protection against loss account, to reflect amounts attributable to such income of the attorney-in-fact. The amendment inserts a new subsection (d) providing, in effect, that no part of the amount added to the protection against loss account by reason of the election by the reciprocal may remain in the account (and thus be subject to tax deferral) for more than 5 years. The House recedes.

Amendment No. 104: Under this amendment (and Senate amendment No. 74) mutual flood insurance companies are to be taxed under part III of subchapter L of chapter 1 of the code (which imposes a tax on certain marine and mutual fire insurance companies and on certain stock insurance companies which are not life insurance companies).

The House recedes with technical conforming amendments making it clear that the taxation of these mutual flood insurance companies (and of their subscribers or policyholders) is to be the same as the present tax treatment of so-called factory mutuals (and of their policyholders).

DOMESTIC CORPORATIONS RECEIVING DIVIDENDS FROM FOREIGN CORPORATIONS

Amendments Nos. 111 and 113: These amendments deal with (1) the method to be used for determining the amount of foreign income tax deemed to have been paid by domestic corporations with respect to dividends received from foreign corporations for purposes of the allowance of a foreign tax credit under section 902 of the code, and (2) the amount to be treated as received as a dividend by reason of the tax so deemed paid. Under the bill as passed by the House, the entire amount of foreign income tax of the foreign corporation was to be taken into account in determining the foreign income tax deemed to be paid by the domestic corporation, and (under new sec. 78) an amount equal to the taxes deemed paid was required to be included in income as a dividend. Senate amendment No. 111 would (A) retain existing law with respect to dividends paid by a foreign corporation out of accumulated profits of a year for which it is a "less developed country corporation," and (B) provide, with respect to all other dividends paid by a foreign corporation, the same rules as were provided by the bill as passed by the House. Under Senate amendment No. 113, the new section 78 is amended to exclude from the application of the new section 78 dividends referred to in clause (A) above. The House recedes on Senate amendments Nos. 111 and 113.

SEPARATE LIMITATION ON FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN INTEREST INCOME

Amendment No. 121: Section 904 of the code provides a per-country limitation on the amount of the foreign tax credit or (at the election of the taxpayer) an overall limitation may be applied. Senate amendment No. 121 adds a new section to the bill to provide a separate limitation on the foreign tax credit with respect to certain interest income. Under the amendment, (1) the foreign tax credit limitations are to be applied separately with respect to (A) certain interest income, and (B) income other than such interest income, and (2) the overall limitation is not to apply to such interest income. The interest income referred to is any interest other than—

(A) interest derived from any transaction which is directly related to the active conduct of a trade or business in a foreign country or a possession of the United States,

(B) interest derived in the conduct of a banking, financing, or similar business,

(C) interest received from a corporation in which the taxpayer owns at least 10 percent of the voting stock, and

(D) interest received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or a possession of the United States or as the result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

The amendment requires the Secretary of the Treasury or his delegate by regulations to prescribe the manner of applying foreign tax credit carrybacks and carryovers where the taxpayer elects the overall limitation as to other income and provides transitional rules (1) for foreign tax credit carrybacks from years to which the new provisions apply to years to which they do not apply, and (2) for foreign tax credit carryovers from years to which the new provisions do not apply to years to which they do apply. The new provisions are to apply with respect to taxable years beginning after the date of the enactment of the bill, but only with respect to interest resulting from transactions consummated after April 2, 1962. The House recedes.

EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES

Amendment No. 123: This amendment adds a new paragraph (6) to section 911(c) of the code as contained in the bill as passed by the House. Section 911(c) contains special rules for determining the amount of earned income from sources without the United States which is excludable from gross income. The new paragraph (6) provides that a statement by an individual who has earned income from sources within a foreign country to the authorities of that country that he is not a resident of that country, if he is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings, shall be conclusive evidence with respect to such earnings that he is not a bona fide resident of that country for purposes of section 911(a)(1). The House recedes.

Amendment No. 124: This amendment adds a new paragraph (7) to section 911(c) of the code as contained in the bill as passed by the

House. Under the new paragraph (7), if an individual who qualifies as a bona fide resident of a foreign country receives compensation from sources without the United States (except from the United States or any agency thereof) in the form of the right to use property or facilities, the $20,000 or $35,000 limitation applicable with respect to such individual (A) for a taxable year ending in 1963, is to be increased by an amount equal to the amount of such compensation so received during such taxable year; (B) for a taxable year ending in 1964, is to be increased by an amount equal to two-thirds of such compensation so received during such taxable year; and (C) for a taxable year ending in 1965, is to be increased by an amount equal to one-third of such compensation so received during such taxable year. The House recedes.

Amendment No. 125: The bill as passed by the House provided that the amendment made to section 911 of the code was to apply to taxable years ending after December 31, 1962, but only with respect to amounts received after December 31, 1962, which were attributable either to (A) services performed after December 31, 1962, or (B) services performed on or before December 31, 1962, but only if on March 12, 1962, there existed no right (whether forfeitable or nonforfeitable) to receive such amounts. Senate amendment No. 125 provides that the amendment made to section 911 of the code will apply to taxable years ending after September 4, 1962, but only with respect to (1) amounts received after March 12, 1962, which are attributable to services performed after December 31, 1962, or (2) amounts received after December 31, 1962, which are attributable to services performed on or before December 31, 1962, unless on March 12, 1962, there existed a right (whether forfeitable or nonforfeitable) to receive such amounts. The House recedes.

CONTROLLED FOREIGN CORPORATIONS

Amendment No. 126: The bill as passed by the House added a new subpart F to part III of subchapter N of chapter 1 of the code (relating to income from sources without the United States). The new subpart F (relating to controlled foreign corporations) provided rules under which a United States person who owns stock in a controlled foreign corporation would be required to include in his gross income a pro rata share of certain portions of the controlled foreign corporation's income. Senate amendment No. 126 struck out these provisions of the bill as passed by the House and inserted new text in the nature of a substitute which adds a new subpart F (relating to controlled foreign corporations) and a new subpart G (relating to export trade corporations). Under the conference agreement, the House recedes with amendments, which, except as discussed below in paragraph (m) relating to receipt of minimum distributions, are either technical or clerical. The more important differences between the bill as passed by the House and the Senate amendment as agreed to in conference are explained below.

(a) *Amounts included in gross income.*—The bill as passed by both the House and the Senate provides, in general, that a U.S. person who owns, or is considered to own, 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a controlled foreign corporation is required to include in his gross income his pro rata share of (1) the subpart F income of the foreign corporation, (2)

previously excluded subpart F income withdrawn from investment in less developed countries, and (3) the increase in earnings of the foreign corporation invested in certain property ("nonqualified property" in the bill as passed by the House, and limited to "United States property" in the Senate amendment). Under the bill as passed by the House, this provision applied if the foreign corporation was a controlled foreign corporation on any one day of the taxable year. Senate amendment No. 126 requires that the foreign corporation be a controlled foreign corporation for an uninterrupted period of 30 days or more during its taxable year. The bill as passed by both the House and the Senate defines U.S. persons to mean, in general, citizens or residents of the United States, domestic partnerships and corporations, and any estate or trust (other than a foreign estate or trust). However, Senate amendment No. 126, in cases relating to certain corporations organized in the Commonwealth of Puerto Rico or possessions of the United States, excludes from the definition of U.S. persons certain individual citizens of the United States who are bona fide residents in the Commonwealth of Puerto Rico or the possession of the United States in which the corporation is created or organized.

(b) *Subpart F income.*—

(1) *Amounts included.*—The bill as passed by both the House and the Senate included within the term "subpart F income" the foreign base company income of a controlled foreign corporation and the income of a controlled foreign corporation derived from the insurance of U.S. risks. The bill as passed by the House also included in the subpart F income of a controlled foreign corporation income of such corporation derived from U.S. patents, copyrights, and exclusive formulas and processes if such properties were substantially developed, created, or produced in the United States or were acquired from a related U.S. person. Senate amendment No. 126 does not include such income in subpart F income. However, see amendment No. 161 for a provision that gain on the sale or exchange of such property to a foreign corporation controlled by the transferor is to be taxable as ordinary income.

(2) *Limitations on subpart F income.*—The bill as passed by both the House and Senate provided that the subpart F income of a controlled foreign corporation could not exceed the earnings and profits for the taxable year. Senate amendment No. 126 provides that, for purposes of this limitation, the earnings and profits for any taxable year is to be reduced by deficits in earnings and profits for taxable years of the controlled foreign corporation beginning after December 31, 1962 (and certain deficits in earnings and profits for taxable years beginning after December 31, 1959, and before January 1, 1963) and, under regulations prescribed by the Secretary of the Treasury or his delegate, by deficits in earnings and profits of other corporations in a chain of ownership which includes the controlled foreign corporation.

(c) *Income derived from insurance of U.S. risks.*—The bill as passed by both the House and the Senate provides that subpart F income includes income of a controlled foreign corporation derived from the insurance or reinsurance of property in the United States or of lives or health of residents of the United States. However, under Senate amendment No. 126 this provision applies only if the premiums or other consideration received or accrued in respect of such insurance or reinsurance by a controlled foreign corporation represents more than 5 percent of total premiums and other consideration.

(d) *Foreign base company income.*—The bill as passed by both the House and the Senate provides that the term "foreign base company income" means the sum of the foreign personal holding company income (discussed in paragraph (e) below) and the foreign base company sales income (discussed in paragraph (f) below) of a controlled foreign corporation. Senate amendment No. 126 also includes foreign base company services income (discussed in paragraph (g) below) within the defined term.

(e) *Foreign personal holding company income.*—The bill as passed by both the House and the Senate provides that subpart F income of a foreign corporation includes foreign personal holding company income, with certain modifications. The bill as passed by the House provided for an exclusion in the case of personal holding company income of certain banks. The Senate amendment provides for an exclusion from personal holding company income of: (i) rents and royalties derived from the active conduct of a trade or business, if received from an unrelated person; (ii) dividends, interest, and certain gains derived in the conduct of a banking, financing, or similar business, or derived by an insurance company on investments of unearned premiums or certain reserves, if received from an unrelated person; (iii) dividends and interest received from related persons if such persons are organized, and have a substantial part of their assets, within the country of incorporation of the controlled foreign corporation; (iv) interest received in the conduct of a banking, financing, or similar business from a related person also engaged in the conduct of a banking, financing, or similar business, if the businesses of both the recipient and payor are predominantly with unrelated persons; and (v) rents, royalties, and similar amounts received from a related person for the use of, or the privilege of using, property within the country of incorporation of the controlled foreign corporation.

(f) *Foreign base company sales income.*—The bill as passed by both the House and the Senate provides that subpart F income of a controlled foreign corporation includes income, whether in the form of profits, commissions, fees, or otherwise, derived by a controlled foreign corporation in connection with the purchase of property from a related person, or sale of property to a related person, when the property sold was neither manufactured in, nor sold for use, consumption, or disposition in, the country in which the controlled foreign corporation is organized. The Senate amendment provides that foreign branches of a controlled foreign corporation shall, under certain circumstances, be treated as wholly owned subsidiary corporations for purposes of determining the foreign base company sales income of the controlled foreign corporation, and treats foreign base company sales income of the branch as foreign base company sales income of the controlled foreign corporation.

The bill as passed by the House provided for a reduction of foreign base company sales income by an amount equal to the increase in qualified investments in less developed countries. Moreover, the bill as passed by the House provided that foreign base company sales income would be includible in subpart F income only if such income amounted to at least 20 percent of gross income (not including other foreign base company income). Senate amendment No. 126 contains neither provision. However, see the discussion below under paragraph (h) relating to exclusions from foreign base company income.

(g) *Foreign base company services income.*—Senate amendment No. 126 provides that subpart F income of a controlled foreign corporation includes income, whether in the form of compensation, commissions, fees, or otherwise, derived by a controlled foreign corporation in connection with the performance of technical, managerial, engineering, or like services if such services are performed for a related person and are performed outside the country of incorporation of the controlled foreign corporation, and if such income is not related to certain selling activities. The bill as passed by the House did not contain any similar provision.

(h) *Exclusions from foreign base company income.*—The bill as passed by the House provided that no part of the gross income of a controlled foreign corporation would be treated as foreign base company income if such income was less than 20 percent of gross income, and that the entire gross income of such a corporation would be treated as foreign base company income if such income exceeded 80 percent of gross income. Senate amendment No. 126 changes these percentages to 30 percent and 70 percent, respectively. The bill as passed by the House also provided, in general, that foreign base company income was to be reduced by an amount equal to the increased investment in certain less developed country properties, including stock of a foreign corporation engaged in business almost wholly within less developed countries if substantially all the property of such corporation was ordinary and necessary for the active conduct of such trade or business. Senate amendment No. 126 provides that foreign base company income does not include dividends and interest received from qualified investments in less developed countries, and net gain from the sale or exchange of such investments to the extent such dividends, interest, and gains do not exceed the increased investment of a controlled foreign corporation, for the taxable year, in qualified investments in less developed countries. The Senate amendment also provides that foreign base company income does not include income of a controlled foreign corporation derived from the use of any aircraft or vessel in foreign commerce, or from services directly related to such use.

(i) *Withdrawal of previously excluded subpart F income from qualified investments.*—As noted in paragraph (h) above, Senate amendment No. 126 provides that dividends, interest, and gains derived from qualified investments in less developed countries are excluded from foreign base company income to the extent of the increased investment for the taxable year, in qualified investments in less developed countries. Amounts once excluded from foreign base company income under this provision are, however, included in gross income of U.S. shareholders when there is a decrease in qualified investments in less developed countries.

(1) *Qualified investments in less developed countries.*—The Senate amendment defines the term "qualified investments in less developed countries" to mean (A) stock of a less developed country corporation, but only if the controlled foreign corporation which makes the investment owns 10 percent or more of the stock of such corporation, (B) an obligation of a less developed country corporation which at the time acquired by the controlled foreign corporation has a maturity of 1 year or more, but only if the controlled foreign corporation which makes the investment owns 10 percent or more of the stock of such corporation, and (C) obligations of a less developed country. How-

ever, if any such investment is disposed of within 6 months after the date of its acquisition, it is not to be treated as a qualified investment.

(2) *Less developed country corporations.*—Senate amendment No. 126 defines the term "less developed country corporation" to mean a foreign corporation engaged in the active conduct of a trade or business if (A) such corporation derives 80 percent or more of its gross income from sources within less developed countries, and (B) 80 percent or more of the assets of such corporation consists of (i) property located in less developed countries if used in an active trade or business, (ii) stock of any other less developed country corporation, (iii) obligations of less developed country corporations which at the time of their acquisition have a maturity of 1 year or more, (iv) obligations of a less developed country, and (v) certain other investments, including certain permissible investments in the United States. The Senate amendment also provides that the term "less developed country corporation" includes a foreign corporation (1) which, in general, derives 80 percent or more of its gross income (A) from the use in foreign commerce of aircraft or vessels registered under the laws of a less developed country, (B) from the performance of services directly related to such aircraft or vessels, (C) from the sale or exchange of such aircraft or vessels, and (D) from dividends and interest received from other less developed country corporations (within the meaning of this sentence) in which the recipient owns 10 percent or more of the voting stock, and from gain from the sale or exchange of stock or obligations of such other less developed country corporations, and (2) 80 percent or more of the assets of which consists of assets used in connection with the production of income described in (1) above, and of certain permissible investments in the United States.

(j) *Increase in investments in certain property.*—The bill as passed by the House provided for the inclusion in gross income of U.S. shareholders of earnings and profits of a controlled foreign corporation invested in nonqualified property to the extent of a shareholder's pro rata share of the increase in such investments for the taxable year. As defined in the bill as passed by the House, nonqualified property meant (1) property located in the United States, with certain exceptions, but including stock in a domestic corporation or an obligation of a U.S. person, and (2) property other than property ordinary and necessary for the active conduct of a trade or business (or for a substantially similar trade or business) carried on by the controlled foreign corporation outside the United States, if (A) the business had been carried on since December 31, 1962, or for a 5-year period ending at the close of the preceding taxable year, or (B) the business was carried on almost wholly within less developed countries. Senate amendment No. 126 includes only the first category of nonqualified property defined in the Senate amendment as "United States property".

(k) *Controlled foreign corporations.*—The bill as passed by the House provided that a foreign corporation would be considered a controlled foreign corporation if more than 50 percent of the total combined voting power of all classes of its stock entitled to vote was owned by U.S. persons on any day during the taxable year of such corporation. Under Senate amendment No. 126, a foreign corporation is a controlled foreign corporation only if U.S. shareholders (defined as a U.S. person who owns, with the application of special rules of ownership continued in the Senate amendment, 10 percent or more of the stock

of a foreign corporation) on any day during the taxable year of such corporation owned more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation. Senate amendment No. 126 also provides that a corporation organized in the Commonwealth of Puerto Rico or a possession of the United States is excluded from the term "controlled foreign corporation" if the corporation is primarily engaged in the active conduct of specified trades or businesses in the Commonwealth of Puerto Rico or a possession of the United States and derives its income from specified sources.

(l) *Individuals subject to tax at corporate rates.*—Senate amendment No. 126 provides that a U.S. shareholder who is an individual may elect to limit his U.S. tax liability with respect to amounts which are includible in his gross income under the new subpart F by using the rates provided by section 11 of the code applicable in the case of a domestic corporation, and by applying the provisions of section 960 (relating to foreign tax credit). A U.S. shareholder who makes an election under this provision must, in the year of actual distribution of an amount previously taxed under subpart F, include an amount in gross income equal to the amount distributed reduced by U.S. tax previously paid with respect to such amount.

(m) *Receipt of minimum distributions.*—Senate amendment No. 126 provides that if a given percentage of the earnings and profits of a controlled foreign corporation is distributed, a domestic corporate shareholder may elect to exclude from its gross income its share of the amount of subpart F income of such controlled foreign corporation. A domestic corporate shareholder may elect to apply the minimum distribution provision on the basis of (1) any controlled foreign corporation in which it owns stock directly, (2) controlled foreign corporations in a chain of ownership, or (3) all controlled foreign corporations. In the case of an election with respect to all controlled foreign corporations, the domestic corporation may also elect (A) to exclude, under certain circumstances, less developed country corporations, and (B) to treat its foreign branches as controlled foreign corporations, for purposes of this provision. The required minimum distribution decreases as the effective foreign tax rate increases, with the result that the sum of the amount of foreign tax paid by the foreign corporations, and the U.S. tax paid by the shareholders on distributions of current earnings and profits of such corporations, produces an overall effective tax on current foreign profits equal to approximately 90 percent of the tax that would have been paid had the foreign corporations been taxable as domestic corporations. Under the conference agreement, a new table of minimum distributions, which permits less variation from this 90-percent requirement, is substituted for the table contained in Senate amendment No. 126. Under Senate amendment No. 126, an affiliated group of corporations eligible to file a consolidated return under section 1501 of the code could elect to be treated as a single corporation for purposes of applying the minimum distribution provision. Under the conference agreement, this election may be made only if the affiliated group actually files such a consolidated return for the taxable year.

(n) *Export trade corporations.*—Senate amendment No. 126, which adds a new subpart G to part III of subchapter N of chapter 1 of the code, provides that the subpart F income of a controlled foreign corporation which is an export trade corporation shall be reduced by the export trade income of such corporation which constitutes foreign

base company income. In general, this provision applies to controlled foreign corporations which derive more than 75 percent of their gross income from (1) the sale of property produced in the United States to unrelated persons for use outside the United States, (2) the performance of certain services outside the United States for unrelated persons, (3) the use of export property by unrelated persons, and (4) the receipt of interest on obligations which qualify as export trade assets. However, the amount of export trade income which reduces subpart F income is limited to the lesser of (1) an amount equal to 1½ times certain export promotion expenses of the controlled foreign corporation, or (2) an amount equal to 10 percent of the gross receipts of such corporation from the transactions described above. In addition, the amount of export trade income which reduces subpart F income can in no event exceed an overall limitation based on the increase in investments in export trade assets.

(o) *Miscellaneous.*—The committee of conference was informed by the Treasury Department of the policy it plans to follow in the granting of rulings under section 367 of the Internal Revenue Code of 1954 in situations in which taxpayers seek to reorganize, during a reasonable period after the enactment of the bill, their foreign corporate structures in response to the enactment of section 12 of the bill as agreed to in conference.

The Treasury Department, for purposes of section 367, will not treat a transaction involving the reorganization of foreign corporate structures as being in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes solely by reason of the fact that a principal purpose of the reorganization is to terminate a method of operation which would result in tax to U.S. shareholders under the provisions of section 12 of the bill. In such cases a favorable ruling under section 367 will generally not be denied by the Treasury Department in transactions in which earnings and profits of foreign corporations are carried over to other foreign corporations under circumstances in which there will be no reduction of the U.S. taxes (and foreign taxes) that would be payable on the eventual remittance of such earnings and profits to U.S. shareholders.

Under present administrative rules, where corporate shareholders are involved the Treasury Department generally does not issue rulings under section 367 which permit the tax-free remittance to the United States of earnings and profits of foreign corporations. However, under existing practice a ruling permitting a tax-free exchange is generally given subject to a condition that an appropriate amount be included in the income of the domestic shareholder (thus negating the existence of a principal purpose to avoid U.S. tax). Such rulings will continue to be given even though a principal purpose of the transaction is (1) to terminate the activities of a foreign corporation which would result in tax to U.S. shareholders under the provisions of section 12 of the bill, and (2) to carry on such activities in the future through a domestic corporation.

The conferees recognize that the problems in this area are complex and that particular aspects of the policy as explained above may require qualification and refinement as experience is gained in applying it to particular situations.

The conferees on the part of the Senate called attention to the colloquy in the Senate with respect to the amendment offered in the Senate relating to corporations engaged in producing or selling books

or other media of communications, etc. (see pp. 17511–17513 of the daily Congressional Record for Sept. 5, 1962). The conferees were advised that the substance of this amendment was not within the jurisdiction of the conference committee. However, the conferees have requested the Treasury Department to study this matter and report back next year to the Committees on Ways and Means and Finance.

GAIN FROM DISPOSITIONS OF CERTAIN DEPRECIABLE PROPERTY

Amendments Nos. 128, 129, 130, and 131: The bill as passed by both the House and the Senate adds a new section 1245 to the code. In general, the new section provides for the treatment as ordinary income of the gain from the disposition of certain depreciable property to the extent of depreciation deductions (taken in periods specified in the bill) which are reflected in the adjusted basis of the property.

Under the bill as passed by the House, the new section 1245 applied to property disposed of after the date of the enactment of the bill and to the extent of adjustments for depreciation and certain amortization for taxable years beginning after December 31, 1961. Under Senate amendment No. 128, the new section applies to property disposed of during a taxable year beginning after December 31, 1962. Under Senate amendments Nos. 129, 130, and 131, the adjustments taken into account are those attributable to periods after December 31, 1961. The House recedes.

Amendment No. 132: The bill as passed by both the House and the Senate amends section 167 of the code to permit a taxpayer to elect to change his method of depreciation in respect of section 1245 property from any declining balance or sum of the years-digits method to the straight line method. Under the bill as passed by the House, the election was required to be made within the period after the date of the enactment of the bill prescribed by the Secretary of the Treasury or his delegate. Under Senate amendment No. 132, the election must be made by the taxpayer on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after December 31, 1962. The House recedes.

Amendment No. 133: This amendment adds a new provision to the bill inserting a new sentence after the second sentence of section 613(a) of the code, relating to the general rule for computing percentage depletion. The new sentence, which does not affect the computation of the gross income from the property under the first sentence of section 613(a), provides that the allowable deductions taken into account with respect to expenses of mining in computing the taxable income from the property shall, for purposes of the 50-percent limitation contained in the second sentence of section 613(a), be decreased by an amount equal to so much of any gain which (1) is treated under new section 1245 of the code (relating to gain from disposition of certain depreciable property) as ordinary income, and (2) is properly allocable to the property. The House recedes.

Amendment No. 135: Under the bill as passed by the House, the amendments made by the bill relating to gain from dispositions of certain depreciable property (new sec. 1245), including the election to change the method of depreciation with respect to section 1245 property, the amount taken into account as salvage value, and the special rule for charitable contributions of section 1245 property, were to apply to taxable years beginning after December 31, 1961,

and ending after the date of the enactment of the bill. Under Senate amendment No. 135, the amendments (except the amendments with respect to salvage value, which take effect as provided by the bill as passed by the House) are to apply to taxable years beginning after December 31, 1962. The House recedes.

FOREIGN INVESTMENT COMPANIES

Amendments Nos. 140 and 141: The bill as passed by both the House and the Senate adds a new section 1246 to the code, relating to gain on foreign investment company stock.

Under the bill as passed by the House, a foreign investment company was defined as any foreign corporation which met one of two alternative tests. Under Senate amendment No. 140, either of these two tests must be met for any taxable year beginning after December 31, 1962. One test is registration under the Investment Company Act of 1940 either as a management company or as a unit investment trust. The second test (which must be met at a time when more than 50 percent of either the voting power or total value of the stock is held by U.S. persons) under the House bill was that the foreign corporation must be engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities (within the meaning of section 3(a)(1) of the Investment Company Act of 1940). Senate amendment No. 141, in effect, excludes from the second test certain foreign corporations such as brokers, banks, and small loan companies. The House recedes on Senate amendments Nos. 140 and 141.

Amendment No. 143: Subsection (e)(1) of section 1246 added to the code by the bill provides that the basis of stock of a foreign investment company acquired from a decedent dying after December 31, 1962, is to be reduced by the amount of the decedent's ratable share of earnings and profits. Under the bill as passed by the House, the ratable share was of the accumulated earnings and profits of the company. Under Senate amendment No. 143, the ratable share is of the earnings and profits accumulated after December 31, 1962. The House recedes.

Amendment No. 145: This amendment adds a new subsection (g) to the new section 1246 of the code. The new subsection (g) provides that if a registered foreign investment company has made an election (under the new sec. 1247 added by the bill) to distribute income currently with respect to taxable years beginning after December 31, 1962, then section 367 of the code is not to apply in respect of such foreign investment company if the company is a party to a reorganization in which all of its properties are acquired before January 1, 1964, by a domestic corporation which is a regulated investment company under section 851 for its first taxable year ending after the reorganization. The committee of conference was informed by the Treasury Department that the proposed new subsection was not needed in view of the administrative practices under section 367 of the code, and might therefore imply that such practices are erroneous. The Senate recedes.

Amendment No. 147: New section 1247 added to the code by the bill provides that new section 1246 of the code (treating gain on sale or exchange of foreign investment company stock as ordinary income) is not to apply to the qualified shareholders of a registered foreign investment company if the company elects on or before December

31, 1962, with respect to each taxable year beginning after such date, to distribute 90 percent or more of its taxable income currently and to designate in a written notice to its shareholders the pro rata amount of the excess of the net long-term capital gain over the net short-term capital loss and the portion thereof which is being distributed. Under the bill as passed by the House, the notice must be mailed before the expiration of 30 days after the close of the taxable year. Under Senate amendment No. 147, the notice must be mailed before the expiration of 45 days after the close of the taxable year. The House recedes.

Amendment No. 153: This amendment strikes out subsection (d) of the new section 1247 added to the code by the bill and inserts subsections (d), (e), (f), and (g).

Under the Senate amendment the new subsection (d) requires each qualified shareholder of a foreign investment company with respect to which an election under section 1247 is in effect to compute his long-term capital gains by including his pro rata share of the distributed portion of the company's excess of net long-term capital gain over net short-term capital loss and his pro rata share of the undistributed portion of such excess. Subsection (e) is the same as subsection (d) as passed by the House in requiring proper adjustment in the earnings and profits of the company and in the adjusted basis of stock of such company held by such shareholder to reflect such shareholder's inclusion in gross income of undistributed capital gains, but also requires proper adjustment in a qualified shareholder's ratable share of the company's earnings and profits.

Subsections (f), (g), and (h) are new provisions relating to the election by a foreign investment company with respect to foreign taxes. Under subsection (f), a foreign investment company which has elected to distribute income currently and more than 50 percent of the value of whose total assets at the close of the taxable year consists of stock or securities in foreign corporations may elect (for such taxable year and for purposes of complying with its election to distribute 90 percent or more of its taxable income) to compute its taxable income without any deduction for income, etc., taxes paid to foreign countries or possessions of the United States and to treat the amount of such taxes as distributed to its shareholders. If the election is made each qualified shareholder of the company is required (1) to include in gross income and treat as paid by him his proportionate share of such taxes, and (2) for purposes of the foreign tax credit, to treat such share of taxes as having been paid to the country in which the company is incorporated and to treat as gross income from sources within such country such share of taxes and any dividend paid to him by the company. Subsection (g) provides for notice to the shareholders of their proportionate share of the taxes to be taken into account as provided in subsection (f). Subsection (h) provides that the election and notice are to be made in such manner as the Secretary of the Treasury or his delegate may prescribe by regulations. The House recedes.

GAIN FROM CERTAIN SALES OR EXCHANGES OF STOCK IN CERTAIN FOREIGN CORPORATIONS

Amendments Nos. 159 and 160: The bill as passed by the House added a new section 1248 to the code which provided, in general, that (1) if a U.S. person owned, or was considered to have owned, 10 per-

cent or more of the voting stock of a foreign corporation on the date he sells or exchanges stock in such corporation, or during the 5-year period ending on such date, and (2) the foreign corporation was a controlled foreign corporation on the date of the sale or exchange or during the 5-year period ending on such date, then (1) gain recognized on the sale or exchange, other than in redemption or liquidation of such stock, would, to the extent of the earnings and profits of the corporation attributable to the stock sold or exchanged, be considered gain from the sale of property which is not a capital asset, and (2) gain recognized on a distribution in redemption or liquidation of such corporation would, to the extent of the earnings and profits of the corporation attributable to the stock exchanged, be treated as a dividend. The new section 1248 provided for the reduction in the earnings and profits of a foreign corporation by amounts included in gross income of a U.S. person as subpart F income or as amounts invested in nonqualified property, but only to the extent such amounts did not result in an exclusion from gross income. The bill did not apply to distributions in redemption of stock to pay death taxes, consideration received in an exchange to which section 356 applied, or to amounts includible in gross income under any other provision of the code as a dividend, gain from the sale of an asset which is not a capital asset, or gain from the sale of an asset held for not more than 6 months.

Senate amendment No. 159 provides that (*a*) if a U.S. person sells or exchanges stock in a foreign corporation (including distributions in redemption or liquidation), and (*b*) such person owns, or is considered to own, 10 percent or more of the voting stock of such corporation at any time during the 5-year period ending on the date of sale or exchange on a date when such corporation was a controlled foreign corporation, then the gain shall be includible in the gross income of such U.S. person as a dividend, to the extent of the earnings and profits of the foreign corporation accumulated (1) in taxable years of the corporation beginning after December 31, 1962, (2) while the stock sold or exchanged was held by the U.S. person, and (3) while the foreign corporation was a controlled foreign corporation.

Senate amendment No. 159 provides that earnings and profits of a foreign corporation are to be determined according to rules substantially similar to those applicable to domestic corporations, except that the earnings and profits are to be reduced with respect to a U.S. person by amounts included in gross income under section 951, gain realized from the sale or exchange of property in pursuance of a plan of complete liquidation, income derived from sources within the United States of a foreign corporation engaged in trade or business within the United States, amounts included in gross income of a qualified shareholder of a foreign investment company, and, in some cases, by earnings and profits accumulated while the foreign corporation was a less developed country corporation.

Under Senate amendment No. 159, the earnings and profits of a foreign corporation whose stock is sold or exchanged is, under certain circumstances, deemed to include earnings and profits of foreign corporations in a chain of corporations. The Senate amendment also provides that if a domestic corporation was formed or availed of principally for the holding, directly or indirectly, of stock of one or more foreign corporations, the sale or exchange of the stock of the domestic corporation will be treated as a sale or exchange of the stock of the foreign corporation or corporations held by the domestic corporation.

The new section 1248, as amended by Senate amendment No. 159, provides a limitation on the tax imposed on an individual who is a U.S. person by reason of the application of the new section. In general, the tax so imposed is not to exceed the greater of (1) his pro rata share of the taxes which would have been imposed if the foreign corporation had been a domestic corporation during the period he held the stock sold or exchanged, or (2) the taxes which would have been imposed if the amounts to which the section applies had been received as dividends in the years in which earned by the foreign corporation. With respect to Senate amendment No. 159, the House recedes with amendments which (1) eliminate the second limitation described in the preceding sentence, and (2) make clerical and conforming changes.

Under the bill as passed by the House, the new section 1248 applied to sales or exchanges after the date of the enactment of the bill. Senate amendment No. 160 provides that the new section shall apply to sales or exchanges after December 31, 1962. The House recedes.

SALES AND EXCHANGES OF PATENTS, ETC., TO CERTAIN FOREIGN CORPORATIONS

Amendment No. 161: Senate amendment No. 161 adds a new section to the bill which adds a new section 1249 to the code, relating to gain of a U.S. person from the sale or exchange after December 31, 1962, of a patent, invention, model, or design (whether or not patented), copyright, secret formula or process, or similar property right to a foreign corporation which such person controls (within the meaning of the new sec. 1249). If such gain would (but for the new section) be gain from the sale or exchange of a capital asset or of property described in section 1231, then such gain is to be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Under subsection (c) of the new section 1249, the new section would not apply, however, to gain realized from the sale or exchange for stock or contribution to capital of such property where it is established to the satisfaction of the Secretary of the Treasury or his delegate that the principal purpose of the transfer is to enable the foreign corporation to use the property in its own manufacturing operations. The new section 1249 applies to taxable years beginning after December 31, 1962.

Under the conference agreement, the House recedes with an amendment striking out subsection (c) of the new section 1249. With the deletion of subsection (c), the new section 1249 provides ordinary income treatment for all taxable sales or exchanges of patents (and other property covered by the provision) by a domestic corporation to a foreign corporation which it controls. The new section 1249 would not apply to nontaxable transactions such as those sales or exchanges to which (as the result of a ruling under sec. 367) section 351 of the code applies. Neither the enactment of section 1249 nor the deletion of the exception in subsection (c) is intended to have any implications with respect to the application of section 367 of the code to such nontaxable transactions.

The conferees requested the Treasury Department to study and report back on the proper tax treatment of the transfer of patents, etc., to foreign subsidiaries which use such property in their own manufacturing operations.

TAX TREATMENT OF COOPERATIVES AND PATRONS

Amendments Nos. 162, 163, 166, 167, and 168: The bill as passed by the House provides that, in computing the taxable income of a cooperative organization, certain distributions paid to patrons in the form of qualified written notices of allocation are to be treated as deductions from the cooperative's gross income. The recipients of such qualified written notices of allocation are required to include the stated dollar amount of such allocations in their gross income when received. A written notice of allocation is qualified only if (1) it is payable in cash within 90 days at the option of the patron, or (2) the patron has consented to include the stated dollar amount of this written notice of allocation in his gross income. Senate amendment No. 163 contains a further requirement which provides that a written notice of allocation is not a qualified one unless 20 percent or more of the distribution of which it is a part is paid in money or by qualified check.

The bill as passed by the House provides two methods by which a patron may consent to the inclusion in his gross income of the stated dollar amount of qualified written notices of allocation not redeemable in cash within the period provided in the bill. Senate amendments Nos. 162 and 166 provide a third method by which such consent may be made. Under this third method a patron may consent by endorsing and cashing (within the time prescribed by the amendment) a qualified check which is paid as a part of the same distribution as the written notice of allocation. Under Senate amendment No. 167, a qualified check is defined as a check (or other instrument redeemable in money) on which there is a clearly imprinted statement that the endorsement and cashing of the check (or other instrument) constitutes the consent of the payee to include in his gross income, as provided in the Federal income tax laws, the stated dollar amount of the written notice of allocation which is a part of the patronage dividend or payment of which such qualified check is also a part. Under Senate amendment No. 168, if a qualified check is not cashed on or before the 90th day after the close of the payment period for the taxable year with respect to which it is paid, such check becomes a nonqualified written notice of allocation. The House recedes on amendments Nos. 162, 163, 166, 167, and 168.

WITHHOLDING OF INCOME TAX AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS; REPORTING OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND PAYMENTS OF $10 OR MORE DURING A YEAR

Amendment No. 173: Section 19 of the bill as passed by the House added to the Internal Revenue Code of 1954 provisions requiring the withholding of income tax at source on certain interest, dividend, and patronage dividend payments. The tax was to be withheld at the rate of 20 percent and was to apply to payments of interest, dividends, and patronage dividends as those terms were defined for withholding purposes. In addition, the bill as passed by the House provided for exemptions from withholding, quarterly refunds, and special credits. The tax withheld was to be allowed as a credit against the income tax of the recipients of the payments to the extent it had not been previously refunded to them or credited against other tax due from them.

Amendment No. 173 strikes out the provisions of section 19 of the bill as passed by the House and, in lieu thereof, adds to the Internal

Revenue Code of 1954 provisions requiring persons who make payments of dividends, patronage dividends, or interest (within the meaning of such terms as defined in the Senate amendment) aggregating $10 or more to any other person in a calendar year to file an information return with the Secretary of the Treasury or his delegate with respect to such payments. The Senate amendment adds provisions requiring that payors of dividends, patronage dividends, and interest (as those terms are defined by the amendment) furnish to the recipients of these amounts annual statements showing the amounts paid to them as reported on the information returns filed with the Internal Revenue Service. New penalty provisions are provided by the Senate amendment for failure to file information returns with respect to payments of dividends, patronage dividends, or interest, and for failure to furnish to a recipient of such payments an annual statement of such payments.

The House recedes with clerical amendments. As a part of the agreement to the Senate amendment, the House and Senate conferees have requested the Treasury Department to make annual reports to the Committees on Ways and Means and Finance on the improvement in the reporting on tax returns of dividends, interest, and patronage dividends as a result of the Senate amendment, with the view that this matter will be reconsidered by the Committees on Ways and Means and Finance if it is determined that there has not been sufficient improvement in the reporting of such income.

INFORMATION WITH RESPECT TO CERTAIN FOREIGN ENTITIES

Amendment No. 176: Section 6038(b) of the code, as contained in the bill as passed by both the House and the Senate, provides for a reduction in foreign tax credit for each failure to furnish information with respect to a foreign corporation controlled by a U.S. person. Senate amendment No. 176 provides that such reduction is not to exceed whichever of the following amounts is greater: (A) $10,000, or (B) the income of the foreign corporation for its annual accounting period with respect to which the failure occurs. The House recedes.

Amendment No. 179: Section 6038(d)(1) of the code as contained in the bill as passed by the House provided that, in applying the constructive ownership rules of section 318(a) of the code for purposes of determining control under section 6038 of the code, the rule which requires ownership of 50 percent of the stock of a corporation before stock owned by such corporation is attributed to its stockholders was to apply without regard to the 50-percent limitation. Senate amendment No. 179 substitutes a 10-percent limitation for the 50-percent limitation. Senate amendment No. 179 also provides that the rules of section 318(a)(2) of the code that stock owned by a partner or a beneficiary of an estate or trust will be considered as owned by the partnership, estate, or trust, are not to be applied so as to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person, nor will a corporation be considered as owning stock owned by or for a 50 percent or more stockholder where the effect is to consider a U.S. person as owning stock which is owned by a person who is not a U.S. person. The House recedes.

Amendments Nos. 180 and 181: Section 6046 (a) and (b) of the code, as amended by the bill as passed by the House, required each U.S. citizen or resident who (on or after January 1, 1963) was or becomes an officer or director of a foreign corporation and each U.S. person who (on or after January 1, 1963) was or becomes an owner of 5 per-

cent or more in value of the stock of such a corporation to file an information return setting forth such information as the Secretary of the Treasury or his delegate prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws. Under Senate amendment No. 180, such an officer or director is required to file an information return only if 5 percent or more in value of the stock of the foreign corporation is owned by a U.S. person. Under Senate amendment No. 181, in the case of an officer or director of the foreign corporation, the information required is limited to furnishing the names and addresses of the U.S. persons who own 5 percent or more in value of the stock of such corporation. The House recedes on amendment No. 180 with a technical amendment. The House recedes on amendment No. 181.

Amendment No. 183: This amendment adds a new subsection (e) to section 6046 of the code. Under the new subsection, no information is to be required to be furnished under section 6046 with respect to any foreign corporation (1) if the liability of the U.S. citizen, resident, or person to file a return under section 6046(a) arises on or after January 1, 1963, and before March 1, 1963, unless such information is required to be furnished under regulations which have been in effect since January 1, 1963 (but only if such regulations were prescribed before December 1, 1962), or (2) if the liability of the U.S. citizen, resident, or person to file a return under section 6046(a) arises on or after March 1, 1963, unless such information is required to be furnished under regulations which have been in effect for at least 90 days.

Under the conference agreement, the House recedes with an amendment substituting a new subsection (e). Under the conference agreement, in the case of liability to file a return under section 6046 of the code arising on or after January 1, 1963, and before June 1, 1963—

(A) no information is to be required to be furnished under section 6046 with respect to any foreign corporation unless such information was required to be furnished under regulations in effect on or before March 1, 1963, and

(B) if the date on which such regulations become effective is later than the day on which such liability arises, any return required by section 6046(a) is required (in lieu of the time prescribed by sec. 6046(d)) to be filed on or before the 90th day after such date.

In the case of liability to file a return under section 6046(a) arising on or after June 1, 1963, no information is to be required to be furnished under section 6046 with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the U.S. citizen, resident, or person becomes liable to file a return required under section 6046(a).

EXPENDITURES BY FARMERS FOR CLEARING LAND

Amendment No. 189: This amendment adds a new section to the bill, adding a new section 182 to part VI of subchapter B of chapter 1 of the code (relating to itemized deductions for individuals and corporations). The new section 182 permits farmers to elect to treat as deductible expenses, rather than as nondeductible expenditures for capital improvements to property, expenditures for the clearing of land (including a reasonable allowance for depreciation with respect to depreciable property used in the clearing of land) if such expenditures are for the purpose of making the land suitable for use in farming

The term "clearing of land" includes the eradication of trees, stumps, and brush, the treatment or moving of earth, and the diversion of streams and watercourses. The new section 182 limits the deduction for expenditures for the clearing of land for any taxable year to $5,000 or to 25 percent of the taxable income derived from farming during the taxable year, whichever amount is the lesser. The new section applies to taxable years beginning after December 31, 1962. The House recedes with clerical and conforming amendments.

CHARITABLE CONTRIBUTIONS MADE FROM INCOME ATTRIBUTABLE TO SEVERAL TAXABLE YEARS

Amendment No. 190: This amendment adds a new section to the bill, adding a new subsection (e) to section 1307 of the code, relating to rules applicable to part I of subchapter Q of chapter 1 of such code (which relates to income attributable to several taxable years).

When income attributable to several taxable years is received or accrued in a particular taxable year, part I of subchapter Q provides, under certain circumstances, that the tax attributable thereto for the taxable year in which it is received or accrued is, in general, not to be greater than the aggregate increases in taxes which would have resulted if the amount had been included in the taxpayer's income, on an allocated basis, over the period specified in the applicable section of such part I.

New subsection (e) provides that an individual who receives or accrues in a taxable year an amount to which part I of subchapter Q applies may elect (in such manner and at such time as the Secretary of the Treasury or his delegate prescribes by regulations) to apply the provisions of subsection (e) in computing his tax liability under such part. If the taxpayer so elects, the amount received or accrued shall be reduced, for the purposes of computing his tax liability under such part I with respect to such amount, by an amount (1) which bears the same ratio to the amount of his allowable charitable deduction for the taxable year in which the amount was received or accrued (computed without regard to pt. I of subch. Q) as (2) the amount received or accrued during the taxable year to which part I applies bears to the adjusted gross income for such year (computed without regard to pt. I of subch. Q).

New subsection (e) further provides that no portion of the amount received or accrued to which part I of subchapter Q applies shall (for purposes of computing the limitation on tax under such part) be taken into account for purposes of computing the limitation under section 170(b)(1) of the code for the taxable year in which the amount to which such part applies is received or accrued.

The House recedes with an amendment which is technical and clarifying in nature and is a substitute for the provision described in the preceding paragraph.

EFFECTIVE DATE OF SECTION 1371(c) OF THE INTERNAL REVENUE CODE OF 1954

Amendment No. 191: The Senate amendment adds a new section to the bill as passed by the House which provides that section 1371(c) of the code (relating to the determination of the number of shareholders of a small business corporation where stock is owned by a husband and wife) is, subject to the provisions for filing of election and consents described below, to apply to taxable years beginning

after December 31, 1957, and before January 1, 1960. Under existing law, section 1371(c), which was added to the code by section 2(a) of Public Law 86-376 (approved September 23, 1959), applies only to taxable years beginning after December 31, 1959. The Senate amendment provides a 1-year period within which an otherwise qualifying small business corporation may make a special election to have the earlier effective date of section 1371(c) apply. For the special election to be valid, a corporation must have previously filed a timely election to have its income taxed directly to its shareholders, and each person who is a shareholder at the time of the special election (as well as each person who was a shareholder for any taxable year beginning after December 31, 1957, and ending before the date on which the special election is made) must give his consent. The amendment also provides that where a special election (and the requisite consents) has been made, the statute of limitations for assessing additional tax against the corporation or the shareholders attributable to the earlier effective date of section 1371(c) (and the statute of limitations for allowing a credit or refund of any overpayment of tax by the corporation or its shareholders attributable to the earlier effective date of section 1371(c)) is to remain open, or be opened, for 1 year following the date of the election. The House recedes.

CERTAIN LOSSES SUSTAINED IN CONVERTING FROM STREET RAILWAY TO BUS OPERATIONS

Amendment No. 192: The Senate amendment adds a new section to the bill as passed by the House which provides that in the case of net operating losses incurred in the calendar years 1953 and 1954 principally as the result of conversion from street railway to bus operations, an additional 5 years, beginning with 1960, is to be allowed for the carryover of such losses. The Senate amendment applies only for years in which the taxpayer is engaged in the furnishing or sale of transportation (as defined in sec. 1503(c)(1)(A) of the 1954 code). The House recedes with a technical amendment.

PENSION PLAN OF LOCAL UNION NO. 435, INTERNATIONAL HOD CARRIERS' BUILDING AND COMMON LABORERS' UNION OF AMERICA

Amendment No. 193: The Senate amendment adds a new section to the bill as passed by the House which provides that the pension plan of Local Union No. 435 of the International Hod Carriers' Building and Common Laborers' Union of America, which was negotiated to take effect May 1, 1960, pursuant to an agreement between such union and the Building Trades Employers Association of Rochester, N.Y., shall be held and considered to have been a qualified trust under section 401(a) of the code, and to have been exempt from taxation under section 501(a) of the code, for the period beginning May 1, 1960, and ending April 20, 1961, but only if it is shown to the satisfaction of the Secretary of the Treasury or his delegate that the trust has not in this period been operated in a manner which would jeopardize the interests of its beneficiaries. The House recedes.

CONTINUATION OF A PARTNERSHIP YEAR FOR SURVIVING PARTNER IN A TWO-MAN PARTNERSHIP WHERE ONE DIES

Amendment No. 194: The Senate amendment adds a new section to the bill as passed by the House which amends section 188 of the

Internal Revenue Code of 1939 (relating to different taxable years of partner and partnership) to provide that for purposes of chapter 1 of the 1939 code, if the surviving partner so elects within 1 year after the date of enactment of this bill, the death of one of the partners of a partnership consisting of two members shall not result in the termination of the partnership or in the closing of the taxable year of the partnership with respect to the surviving partner prior to the time the partnership year would have closed if neither partner had died or disposed of his interest. The amendment is to apply to taxable years of a partnership beginning after December 31, 1946, to which the Internal Revenue Code of 1939 applies. The amendment further provides that if refund or credit of any overpayment resulting from the application of such amendment was prevented on the date of the enactment of the bill, or at any time within 1 year from such date by the operation of any law or rule of law (other than those relating to closing agreements and compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within 1 year after the date of enactment of the bill. No interest is to be allowed or paid on any overpayment resulting from the application of the amendment. The House recedes.

EXCLUSION FROM GROSS INCOME OF CERTAIN AWARDS MADE PURSUANT TO EVACUATION CLAIMS OF JAPANESE-AMERICANS

Amendment No. 195: This amendment, which adds a new section to the bill, provides that awards received under the Japanese-American Evacuation Claims Act, as amended in 1951 and 1956 (50 U.S.C. App., secs. 1981–1987), are not to be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1939 or 1954. This treatment is to apply with respect to taxable years ending after July 2, 1948.

Any refund or credit of an overpayment of Federal income tax (including interest, additions to the tax, additional amounts, and penalties) resulting from this provision which is barred on the date of the enactment of this bill, or within 1 year from such date, by any law or rule of law may, nevertheless, be made, without interest, if a claim for such refund or credit is filed within 1 year after the date of enactment of the bill. In the case of any claim described in the preceding sentence, the amount to be refunded or credited as an overpayment is not to be diminished by any credit or setoff based on any item other than the amount of the award.

The House recedes with technical amendments.

DEDUCTION FOR BUSINESS DEPRECIATION BY TENANT-STOCKHOLDER OF COOPERATIVE HOUSING CORPORATION

Amendment No. 196: This amendment adds a new section to the bill, adding a new subsection (c) to section 216 of the code (relating to amounts representing taxes and interest paid to a cooperative housing corporation).

The new subsection (c) provides that so much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary of the Treasury or his delegate, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent that such proprietary lease or right of tenancy is used by such

tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The amendment is effective with respect to taxable years beginning after December 31, 1961. The House recedes with clerical amendments.

EXCLUSION FROM GROSS INCOME OF GAIN FROM SALE OF RESIDENCE BY INDIVIDUAL AGE 65 OR OVER

Amendment No. 197: This amendment added a new section to the bill, adding a new section 121 to part III of subchapter B of chapter 1 of the code (relating to items specifically excluded from gross income). The new section 121, applicable only in the case of individuals, provided that gross income does not include gain from the sale, exchange, or involuntary conversion (within the meaning of sec. 121(e)) after December 31, 1962, of property used by the taxpayer as his principal residence, if (1) the taxpayer had attained the age of 65 years before the sale, exchange, or involuntary conversion, and (2) the property had been used by the taxpayer as his principal residence for a period of not less than 5 years at the time of its sale, exchange, or involuntary conversion. The Senate recedes.

DEDUCTION FOR INCOME TAX PURPOSES OF CONTRIBUTIONS TO CERTAIN ORGANIZATIONS FOR JUDICIAL REFORM

Amendment No. 198: This amendment, which adds a new section to the bill, provides that a contribution or gift made after December 31, 1961, with respect to a referendum occurring during the calendar year 1962, shall be deductible as a charitable contribution under section 170 of the code if made to, or for the use of, an organization created and operated exclusively to consider proposals for the reorganization of the judicial branch of any State or local government and to provide information, make recommendations, and seek public support or opposition to such proposals. For contributions or gifts to be eligible for this treatment, no part of the net earnings of the organization may inure to the benefit of any private shareholder or individual and the organization must not participate in any political campaign in behalf of, or in opposition to, any candidate for public office. The House recedes with a clerical amendment.

AMENDMENT TO SOCIAL SECURITY ACT RELATING TO STATEMENT OF FINANCIAL STATUS OF CLAIMANTS FOR MEDICAL ASSISTANCE FOR THE AGED

Amendment No. 199: This amendment added to the bill a new section, amending section 2(a) of the Social Security Act so as to permit a State to provide in its State plan under title I of such act that any written statement required of a claimant for medical assistance for the aged under that title shall be presumed by the State agency administering the plan to be factually correct for purposes of determining eligibility for such assistance insofar as the statement relates to the claimant's financial status. The Senate recedes.

FOREIGN SUBSIDIARIES MANUFACTURING PRODUCTS ABROAD FOR SALE IN THE UNITED STATES

Amendment No. 200: Senate amendment No. 200 added a new section to the bill to provide that foreign corporations to which the

proposed new section, section 885 of the code, applies are deemed to be engaged in trade or business within the United States, and their gross income from sources within the United States is deemed to be not less than their gross income from the sale of competitive articles sold for ultimate use, consumption, or disposition in the United States. The new section applied to a foreign corporation if at any time during the taxable year one or more domestic corporations own, directly or through one or more other corporations, 10 percent or more of the outstanding stock of the foreign corporation, and if for such taxable year the foreign corporation derives 10 percent or more of its gross income from the sale of competitive articles sold for ultimate use, consumption, or disposition in the United States. For such purpose a competitive article is any article mined, processed, or manufactured outside the United States for a foreign corporation which is the same as or similar to any article mined, processed, or manufactured in the United States (or formerly mined, processed, or manufactured in the United States) by any domestic corporation described in the preceding sentence with respect to the foreign corporation, or by any subsidiary of such domestic corporation. The new provision applied to taxable years beginning after December 31, 1962. The Senate recedes.

EFFECTIVE DATE OF AMENDMENT TO SECTION 1374(b) OF INTERNAL REVENUE CODE OF 1954

Amendment No. 201: The Senate amendment adds a new section to the bill as passed by the House which makes the amendment to section 1374(b) of the code, which was added by section 2(b) of Public Law 86-376 (approved Sept. 23, 1959), effective on September 2, 1958. Under existing law, the amendment to section 1374(b), which permits the deduction of a deceased shareholder's pro rata share of the net operating loss of an electing small business corporation incurred in the year in which he dies, is effective only with respect to taxpayers who die after September 23, 1959. The House recedes with a clerical amendment.

TREATIES

Amendment No. 203: The bill as passed by the House provided that section 7852(d) of the code, relating to treaty obligations, was not to apply in respect of any amendment made by the Revenue Act of 1962. Senate amendment No. 203 provides that no provision of the Revenue Act of 1962 will apply in any case where its application would be contrary to any treaty obligation of the United States.

The Senate recedes. In this connection, the Treasury Department informed the committee of conference that it is its view that there are no conflicts between provisions of the bill and provisions of tax treaties, with one minor exception relating to the real estate clause of the Greek Estate Tax Treaty which the Treasury will seek to have renegotiated before July 1, 1964.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
EUGENE J. KEOGH,
JOHN W. BYRNES,
HOWARD H. BAKER,
Managers on the Part of the House.

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