

REVENUE BILL OF 1935

JULY 29 (calendar day, AUGUST 12), 1935.—Ordered to be printed

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

REPORT

[To accompany H. R. 8974]

The Committee on Finance, to whom was referred the bill (H. R. 8974) to provide revenue, equalize taxation, and for other purposes, having had the same under consideration, report favorably thereon with certain amendments and as amended recommend that the bill do pass.

This bill was initiated in the House in response to the message of the President of the United States to Congress dated June 19, 1935. The message of the President was as follows:

To the Congress of the United States:

As the fiscal year draws to its close it becomes our duty to consider the broad question of tax methods and policies. I wish to acknowledge the timely efforts of the Congress to lay the basis through its committees for administrative improvements by careful study of the revenue systems of our own and of other countries. These studies have made it very clear that we need to simplify and clarify our revenue laws.

The Joint Legislative Committee, established by the Revenue Act of 1926, has been particularly helpful to the Treasury Department. The members of that committee have generously consulted with administrative officials, not only on broad questions of policy but on important and difficult tax cases.

On the basis of these studies and of other studies conducted by officials of the Treasury, I am able to make a number of suggestions of important changes in our policy of taxation. These are based on the broad principle that if a government is to be prudent its taxes must produce ample revenues without discouraging enterprise; and if it is to be just it must distribute the burden of taxes equitably. I do not believe that our present system of taxation completely meets this test. Our revenue laws have operated in many ways to the unfair advantage of the few, and they have done little to prevent an unjust concentration of wealth and economic power.

With the enactment of the income-tax law of 1913 the Federal Government began to apply effectively the widely accepted principle that taxes should be

levied in proportion to ability to pay and in proportion to the benefits received. Income was wisely chosen as the measure of benefits and of ability to pay. This was and still is a wholesome guide for national policy. It should be retained as the governing principle of Federal taxation. The use of other forms of taxes is often justifiable, particularly for temporary periods; but taxation according to income is the most effective instrument yet devised to obtain just contribution from those best able to bear it and to avoid placing onerous burdens upon the mass of our people.

The movement toward progressive taxation of wealth and of income has accompanied the growing diversification and interrelation of effort which marks our industrial society. Wealth in the modern world does not come merely from individual effort; it results from a combination of individual effort and of the manifold uses to which the community puts that effort. The individual does not create the product of his industry with his own hands; he utilizes the many processes and forces of mass production to meet the demands of a national and international market.

Therefore, in spite of the great importance in our national life of the efforts and ingenuity of unusual individuals, the people in the mass have inevitably helped to make large fortunes possible. Without mass cooperation great accumulations of wealth would be impossible save by unhealthy speculation. As Andrew Carnegie put it, "Where wealth accrues honorably, the people are always silent partners." Whether it be wealth achieved through the cooperation of the entire community of riches gained by speculation—in either case the ownership of such wealth or riches represents a great public interest and a great ability to pay.

I

My first proposal, in line with this broad policy, has to do with inheritances and gifts. The transmission from generation to generation of vast fortunes by will, inheritance, or gift is not consistent with the ideals and sentiments of the American people.

The desire to provide security for one's self and one's family is natural and wholesome, but it is adequately served by a reasonable inheritance. Great accumulations of wealth cannot be justified on the basis of personal and family security. In the last analysis such accumulations amount to the perpetuation of great and undesirable concentration of control in a relatively few individuals over the employment and welfare of many, many others.

Such inherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our Government.

Creative enterprise is not stimulated by vast inheritances. They bless neither those who bequeath nor those who receive. As long ago as 1907, in a message to Congress, President Theodore Roosevelt urged this wise social policy:

"A heavy progressive tax upon a very large fortune is in no way such a tax upon thrift or industry as a like tax would be on a small fortune. No advantage comes either to the country as a whole or to the individuals inheriting the money by permitting the transmission in their entirety of the enormous fortunes which would be affected by such a tax; and as an incident to its function of revenue raising, such a tax would help to preserve a measurable equality of opportunity for the people of the generations growing to manhood."

A tax upon inherited economic power is a tax upon static wealth, not upon that dynamic wealth which makes for the healthy diffusion of economic good.

Those who argue for the benefits secured to society by great fortunes invested in great businesses should note that such a tax does not affect the essential benefits that remain after the death of the creator of such a business. The mechanism of production that he created remains. The benefits of corporate organization remain. The advantage of pooling many investments in one enterprise remains. Governmental privileges such as patents remain. All that is gone is the initiative, energy, and genius of the creator—and death has taken these away.

I recommend, therefore, that in addition to the present estate taxes, there should be levied an inheritance, succession, and legacy tax in respect to all very large amounts received by any one legatee or beneficiary; and to prevent, so far as

possible, evasions of this tax, I recommend further the imposition of gift taxes suited to this end.

Because of the basis on which this proposed tax is to be levied and also because of the very sound public policy of encouraging a wider distribution of wealth, I strongly urge that the proceeds of this tax should be specifically segregated and applied, as they accrue, to the reduction of the national debt. By so doing we shall progressively lighten the tax burden of the average taxpayer, and, incidentally, assist in our approach to a balanced budget.

II

The disturbing effects upon our national life that come from great inheritances of wealth and power can in the future be reduced, not only through the method I have just described, but through a definite increase in the taxes now levied upon very great individual net incomes.

To illustrate: The application of the principle of a graduated tax now stops at \$1,000,000 of annual income. In other words, while the rate for a man with a \$6,000 income is double the rate for one with a \$4,000 income, a man having a \$5,000,000 annual income pays at the same rate as one whose income is \$1,000,000.

Social unrest and deepening sense of unfairness are dangers to our national life which we must minimize by rigorous methods. People know that vast personal incomes come not only through the effort or ability or luck of those who receive them, but also because of the opportunities for advantage which the Government itself contributes. Therefore the duty rests upon the Government to restrict such incomes by very high taxes.

III

In the modern world, scientific invention and mass production have brought many things within the reach of the average man which in an earlier age were available to few. With large-scale enterprises has come the great corporation drawing its resources from widely diversified activities and from a numerous group of investors. The community has profited in those cases in which large scale production has resulted in substantial economies and lower prices.

The advantages and the protections conferred upon corporations by Government increase in value as the size of the corporation increases. Some of these advantages are granted by the State which conferred a charter upon the corporation, others are granted by other States which, as a matter of grace, allow the corporation to do local business within their borders. But perhaps the most important advantages, such as the carrying on of business between two or more States are derived through the Federal Government—great corporations are protected in a considerable measure from the taxing power and the regulatory power of the States by virtue of the interstate character of their business. As the profit to such a corporation increases, so the value of its advantages and protections increases.

Furthermore, the drain of a depression upon the reserves of business puts a disproportionate strain upon the modestly capitalized small enterprise. Without such small enterprises our competitive economic society would cease. Size begets monopoly. Moreover, in the aggregate these little businesses furnish the indispensable local basis for those Nation-wide markets which alone can insure the success of our mass-production industries. Today our smaller corporations are fighting not only for their own local well-being but for that fairly distributed national prosperity which makes large-scale enterprise possible.

It seems only equitable, therefore, to adjust our tax system in accordance with economic capacity, advantage, and fact. The smaller corporations should not carry burdens beyond their powers; the vast concentrations of capital should be ready to carry burdens commensurate with their powers and their advantages.

We have established the principle of graduated taxation in respect to personal incomes, gifts, and estates. We should apply the same principle to corporations. Today the smallest corporation pays the same rate on its net profits as the corporation which is a thousand times its size.

I, therefore, recommend the substitution of a corporation income tax graduated according to the size of corporation income in place of the present uniform corporation income tax of 13½ percent. The rate for smaller corporations might

well be reduced to 10¼ percent, and the rates graduated upward to a rate of 16¼ percent on net income in the case of the largest corporations, with such classifications of business enterprises as the public interest may suggest to the Congress.

Provision should, of course, be made to prevent evasion of such graduated tax on corporate incomes through the device of numerous subsidiaries or affiliates, each of which might technically qualify as a small concern even though all were in fact operated as a single organization. The most effective method of preventing such evasions would be a tax on dividends received by corporations. Bona fide investment trusts that submit to public regulation and perform the function of permitting small investors to obtain the benefit of diversification of risk may well be exempted from this tax.

In addition to these three specific recommendations of changes in our national tax policies, I commend to your study and consideration a number of others. Ultimately we should seek through taxation the simplification of our corporate structures through the elimination of unnecessary holding companies in all lines of business. We should likewise discourage unwieldy and unnecessary corporate surpluses. These complicated and difficult questions cannot adequately be debated in the time remaining in the present session of this Congress.

I renew, however, at this time the recommendations made by my predecessors for the submission and ratification of a constitutional amendment whereby the Federal Government will be permitted to tax the income on subsequently issued State and local securities and likewise for the taxation by State and local governments of future issues of Federal securities.

In my Budget message of January 7, I recommended that the Congress extend the miscellaneous internal revenue taxes which are about to expire and also to maintain the current rates of those taxes which, under the present law, would be reduced. I said then that I considered such taxes necessary to the financing of the Budget for 1936. I am gratified that the Congress is taking action on this recommendation.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, June 19, 1935.

The President recommended three major tax policies: First, an inheritance tax in addition to existing estate taxes with a complementary gift tax; second, increased surtaxes on large incomes; and third, a graduated corporation tax in lieu of the present tax imposed at a uniform rate.

DISCUSSION OF ESSENTIAL DIFFERENCES BETWEEN HOUSE BILL AND FINANCE COMMITTEE BILL

INCREASES IN SURTAX SCHEDULE

The House bill makes increases in the surtax schedule in the case of surtax net incomes of over \$50,000. The graduation reaches a maximum on surtax net incomes of over \$5,000,000, in which case the rate is 75 percent. Your committee recommends increasing the surtaxes only in the case of surtax net incomes of over \$1,000,000. Under existing law graduation ceases with a rate of 59 percent on net incomes in excess of \$1,000,000. The rates proposed start at 60 percent on surtax net incomes between \$1,000,000 and \$1,500,000, and then by suitable graduations, reach a maximum of 75 percent in the case of surtax net incomes of more than \$10,000,000. The exact differences in the surtax schedule under the Finance Committee bill, under the House bill, and under existing law may be seen from the following table:

Comparison of surtax schedules

Surtax net income bracket	Rate percent Finance Committee bill	Total surtax ¹ Finance Committee bill	Rate percent House bill	Total surtax ¹ House bill	Rate percent existing law	Total surtax ¹ existing law
\$50,000 to \$56,000	30	\$9,500	31	\$9,560	30	\$9,500
\$56,000 to \$62,000	33	11,480	35	11,660	33	11,480
\$62,000 to \$68,000	36	13,640	39	14,000	36	13,640
\$68,000 to \$74,000	39	15,980	43	16,580	39	15,980
\$74,000 to \$80,000	42	18,500	47	19,400	42	18,500
\$80,000 to \$90,000	45	23,000	51	24,500	45	23,000
\$90,000 to \$100,000	50	28,000	55	30,000	50	28,000
\$100,000 to \$150,000	52	54,000	58	59,000	52	54,000
\$150,000 to \$200,000	53	80,500	60	89,000	53	80,500
\$200,000 to \$300,000	54	134,500	62-64	152,000	54	134,500
\$300,000 to \$400,000	55	189,500	66	218,000	55	189,500
\$400,000 to \$500,000	56	245,500	68	286,000	56	245,500
\$500,000 to \$750,000	57	388,000	70	461,000	57	388,000
\$750,000 to \$1,000,000	58	533,000	72	641,000	58	533,000
\$1,000,000 to \$1,500,000	60	833,000	73	1,006,000	59	828,000
\$1,500,000 to \$2,000,000	62	1,143,000	73	1,371,000	59	1,123,000
\$2,000,000 to \$3,000,000	65	1,793,000	74	2,111,000	59	1,713,000
\$3,000,000 to \$5,000,000	68	3,153,000	74	3,691,000	59	2,893,000
\$5,000,000 to \$7,000,000	71	4,573,000	75	5,091,000	59	4,073,000
\$7,000,000 to \$10,000,000	74	6,793,000	75	7,341,000	59	5,843,000
Over \$10,000,000	75		75		59	

¹ Represents total surtax on second figure of surtax net income bracket.
² Under House bill, \$200,000 to \$250,000, 62 percent; \$250,000 to \$300,000, 64 percent.

For the purpose of comparing the total income-tax burden (both normal tax and surtax) upon specimen incomes of various amounts, the following table is also submitted:

Comparison of income tax on specimen net incomes under Finance Committee rates, House bill, Revenue Act of 1934, and British income tax—married men, no dependents, all earned income

	Total tax, Finance Committee rates	Total tax, House bill	Total tax, existing law	Total tax, Great Britain ¹
Net income:				
\$1,000	0	0	0	0
\$1,500	0	0	0	\$26.25
\$2,000	0	0	0	67.50
\$2,500	0	0	0	157.50
\$3,000	8	8	8	247.50
\$4,000	44	44	44	427.50
\$5,000	80	80	80	607.50
\$6,000	118	118	118	787.50
\$7,000	172	172	172	967.50
\$8,000	248	248	248	1,170.50
\$10,000	415	415	415	1,620.00
\$12,000	602	602	602	2,180.00
\$14,000	809	809	809	2,760.63
\$16,000	1,044	1,044	1,044	3,389.38
\$18,000	1,299	1,299	1,299	4,069.38
\$20,000	1,589	1,589	1,589	4,729.38
\$25,000	2,489	2,489	2,489	6,679.38
\$30,000	3,569	3,569	3,569	8,766.88
\$40,000	5,979	5,979	5,979	13,216.88
\$50,000	8,869	8,869	8,869	18,216.88
\$60,000	12,239	12,329	12,239	23,491.88
\$70,000	16,104	16,449	16,104	28,766.88
\$80,000	20,494	21,269	20,494	34,179.38
\$100,000	30,594	32,469	30,594	45,279.38
\$150,000	58,544	63,394	58,544	74,404.38
\$200,000	87,019	95,344	87,019	104,904.38
\$300,000	144,994	162,244	144,994	167,279.38
\$500,000	263,944	304,144	263,944	294,779.38
\$1,000,000	571,394	679,044	571,394	613,529.38
\$2,000,000	1,221,294	1,449,019	1,201,394	1,251,029.38
\$5,000,000	3,351,144	3,788,994	3,091,369	3,163,529.38
\$10,000,000	7,190,994	7,738,969	6,241,394	6,351,029.38
\$20,000,000	16,090,969	15,638,969	12,541,394	12,726,029.38

¹ Conversion unit: 1 pound equals \$5.

Your committee believes that the surtax changes which it proposes are more in conformity with the President's message than the House bill in this respect. The President suggested only restricting vast personal incomes by very high taxes.

GRADUATED INCOME TAX ON CORPORATIONS

The House bill proposes a graduated tax on the net income of corporations of 13¼ percent on the first \$15,000 of net income and of 14¼ percent on the remainder of the net income over \$15,000. This is proposed in lieu of the existing 13¼-percent flat-rate corporation tax. Your committee believes that this graduation does not substantially conform to the President's views, inasmuch as he suggested that the graduation might well begin at 10¼ percent and end at 16¼ percent. Therefore, a graduated corporation tax is recommended as follows:

12½ percent on the portion of net income not in excess of \$15,000.

14 percent on the portion of net income in excess of \$15,000 and not in excess of \$40,000.

15 percent on the portion of net income in excess of \$40,000 and not in excess of \$100,000.

15½ percent on the portion of net income in excess of \$100,000.

Under this arrangement, corporations with a net income of not more than \$50,000 will pay less tax than at present, and corporations with net incomes in excess of \$50,000 will pay more tax than at present. It is interesting to note that in 1932, out of 82,646 corporations paying income tax, only 3,730, or about 4½ percent, had net incomes of over \$50,000. This phenomena is not confined to the depression year of 1932, for in 1929, out of 186,591 corporations paying income tax, only 8,044, or less than 4½ percent, had net incomes of over \$50,000. On the other hand, this 4½ percent of the corporations paying income tax reported 86 percent of the total net income reported by corporations in 1932, and 88 percent of the total net income reported in 1929.

The President suggested as the most effective method of preventing evasion of a graduated tax on corporations, a tax on dividends received by corporations. Under existing law, dividends received by a corporation from a domestic corporation are allowed as a deduction from gross income in computing net income. Your committee has amended existing law by restricting the deduction to 85 percent of the dividends received from domestic corporations. This has the effect of imposing a tax slightly in excess of 2 percent upon dividends received by a corporation. The amendment applies not only to ordinary corporations but also to all insurance companies other than life.

Your committee recommends retaining the 15¼ percent uniform rate for railroads filing consolidated returns as was provided for in the House bill. This rate still requires a railroad company to pay tax at a higher rate than any other corporation if it has elected to file a consolidated return. Insurance companies and foreign corporations pay the graduated income tax under the Finance Committee bill as is the case with other corporations filing separate returns.

Your committee recommends retaining the provision of the House bill allowing corporations a deduction from income in the case of contributions to religious, charitable, scientific, literary, educational, and similar organizations in an amount not in excess of 5 percent of

the taxpayer's net income, with an amendment extending the provision so as to also permit a deduction in the case of contribution to societies for the prevention of cruelty to children.

CAPITAL STOCK AND EXCESS-PROFITS TAXES

The House bill proposes a revision of the excess-profits tax under existing law by substituting for the flat 5-percent rate certain graduated rates. The excess-profits tax is based on the ratio of the net income of the corporation to the adjusted declared value of the capital stock as provided for under section 701 of the Revenue Act of 1934. The graduated rates proposed under the House bill are as follows:

	Percent
Net incomes not in excess of 8 percent of the adjusted declared value.....	(1)
Portion of net income in excess of 8 percent and not in excess of 12 percent of the adjusted declared value.....	5
Portion of net income in excess of 12 percent and not in excess of 16 percent of the adjusted declared value.....	10
Portion of net income in excess of 16 percent and not in excess of 25 percent of the adjusted declared value.....	15
Portion of net income in excess of 25 percent of the adjusted declared value.....	20

This tax was not specifically mentioned in the message of the President. Your committee is of the opinion that the House provision will operate unfairly against many corporations. In addition to the maximum rate of 20 percent, the House provision requires corporations to determine their excess-profits tax on the basis of the original declared value (as adjusted) determined under the Revenue Act of 1934 with reference to an excess-profits-tax rate of only 5 percent. Your committee provides a complete substitute for the House provision as follows:

(1) The capital-stock-tax rate under existing law for each \$1,000 of the adjusted declared value is increased from \$1 to \$1.50.

(2) A corporation subject to the capital-stock tax is given an opportunity to make a new declaration of its capital-stock-tax value for the first year to which it is subject to the increased capital-stock-tax rate under the bill. This is very important, for the reason that the value declared by the corporation is used as a basis for computing the excess profits, subject to the excess-profits tax.

(3) The changes in existing law made by your committee to the capital-stock-tax provisions are not retroactive, but become effective beginning with the fiscal year ending June 30, 1936.

(4) The rates of the excess profits tax provided for in the House bill have been changed as follows:

	Percent
Net incomes not in excess of 10 percent of the adjusted declared value.....	(1)
Net incomes in excess of 10 percent of the adjusted declared value and not in excess of 15 percent of the adjusted declared value.....	6
Net incomes in excess of 15 percent of the adjusted declared value.....	12

Under the Finance Committee bill the amount of the income tax paid is deductible in arriving at the amount of income subject to the excess-profits tax.

Your committee believes that the changes in the capital-stock tax and excess-profits tax make the House bill more equitable and nevertheless bring in substantial and dependable revenue.

¹ No tax.

ESTATE AND GIFT TAXES

Your committee recommends the substitution of increased rates in the additional estate tax imposed by the Revenue Act of 1932, as amended, in lieu of the new inheritance tax superimposed on the existing estate taxes by the House bill. While it is recognized that the inheritance tax, in a number of respects, is more equitable than the estate tax, nevertheless, the difficulties encountered in designing an inheritance tax even reasonably free from serious administrative difficulties are very numerous. Your committee believes, therefore, that, in view of the short time available for the study of an inheritance tax, it is safer to accomplish the same general purposes by an increase in estate-tax rates.

The estate-tax rates proposed, the total tax on the net estate, and the estate-tax rates under existing law, as well as the total tax on net estates under existing law, is shown in the following table:

Estate tax rates

Net estate (after deduction of exemption)	Proposed		Existing law	
	Rate percent	Total tax ¹	Rate, percent	Total tax ¹
Up to \$10,000.....	2	\$200	1	\$100
\$10,000 to \$20,000.....	4	600	2	300
\$20,000 to \$30,000.....	6	1,200	3	600
\$30,000 to \$40,000.....	8	2,000	4	1,000
\$40,000 to \$50,000.....	10	3,000	5	1,500
\$50,000 to \$70,000.....	12	5,400	7	2,900
\$70,000 to \$100,000.....	14	9,600	9	5,600
\$100,000 to \$200,000.....	17	20,600	12	17,600
\$200,000 to \$400,000.....	20	66,600	16	49,600
\$400,000 to \$600,000.....	23	112,600	19	87,600
\$600,000 to \$800,000.....	26	164,600	22	131,600
\$800,000 to \$1,000,000.....	29	222,600	25	181,600
\$1,000,000 to \$1,500,000.....	32	382,600	28	321,600
\$1,500,000 to \$2,000,000.....	35	557,600	31	476,600
\$2,000,000 to \$2,500,000.....	38	747,600	34	646,600
\$2,500,000 to \$3,000,000.....	41	952,600	37	831,600
\$3,000,000 to \$3,500,000.....	44	1,172,600	40	1,031,600
\$3,500,000 to \$4,000,000.....	47	1,407,600	43	1,246,600
\$4,000,000 to \$4,500,000.....	50	1,657,600	46	1,476,600
\$4,500,000 to \$5,000,000.....	53	1,922,600	48	1,716,600
\$5,000,000 to \$6,000,000.....	56	2,482,600	50	2,216,600
\$6,000,000 to \$7,000,000.....	59	3,072,600	52	2,736,600
\$7,000,000 to \$8,000,000.....	61	3,682,600	54	3,276,600
\$8,000,000 to \$9,000,000.....	63	4,312,600	56	3,836,600
\$9,000,000 to \$10,000,000.....	65	4,962,600	58	4,416,600
\$10,000,000 to \$20,000,000.....	67	11,662,600	60	10,416,600
\$20,000,000 to \$50,000,000.....	69	32,362,600	60	28,416,600
Over \$50,000,000.....	70		60	

Specific exemption (Finance Committee)..... \$40,000
 Specific exemption (present law)..... 50,000

¹ The total tax shown is computed on the second figure in the net estate bracket.

Your committee recommends, in addition to the rate increases shown, a reduction in the amount of specific exemption allowed for the purposes of the estate tax from \$50,000 to \$40,000.

Under existing law, the estate-tax rates are graduated from 1 percent on estates up to \$10,000 to 60 percent on the amount of net estates in excess of \$10,000,000. Under the proposed plan, the rates will start at 2 percent on net estates not in excess of \$10,000 and increase by suitable brackets to 70 percent in the case of estates of over \$50,000,000.

It is difficult to compare the combined estate-tax burden under the Finance Committee bill and the combined estate and inheritance-tax burden under the House bill. This is because the inheritance tax varies according to the number of beneficiaries sharing in the estate. However, in order to show the proposed estate-tax burden, the present estate-tax burden, and the estate and inheritance-tax burden under the House bill, as well as the estate-tax burden in Great Britain, the following table is submitted under the assumption that the entire estate passes to a son of the decedent:

Comparison of estate taxes

Net estate (before exemption)	Proposed estate tax (Finance Committee)	Present estate tax	Estate plus proposed inheritance tax (House bill) ¹	Great Britain estate tax
\$40,000.....				\$1,600
\$50,000.....	\$200			2,000
\$60,000.....	600	\$100	\$496	3,000
\$70,000.....	1,200	300	1,476	4,200
\$100,000.....	4,200	1,600	6,860	8,000
\$150,000.....	11,300	5,600	20,080	18,000
\$200,000.....	19,800	11,600	36,416	24,000
\$300,000.....	38,600	25,600	74,032	48,000
\$400,000.....	58,600	41,600	115,888	72,000
\$500,000.....	80,400	59,100	159,788	95,000
\$600,000.....	103,400	78,100	207,584	120,000
\$800,000.....	154,200	120,600	306,784	192,000
\$1,000,000.....	211,000	169,100	413,060	240,000
\$2,000,000.....	543,600	461,100	1,007,816	600,000
\$5,000,000.....	1,901,400	1,692,600	3,148,344	1,900,000
\$10,000,000.....	4,936,600	4,387,600	7,219,136	4,500,000
\$50,000,000.....	32,335,000	28,386,600	42,970,750	25,000,000
\$100,000,000.....	67,334,600	58,386,600	87,970,750	50,000,000

Present specific exemption.....	\$50,000
Proposed specific exemption (Finance Committee).....	40,000
Proposed specific exemption (House bill).....	50,000

¹ Computed on basis that entire estate passes to a son of the decedent. This is the maximum combined tax under House bill. Average tax will be much less where there is more than 1 beneficiary.

It will be noted in the above table that the total burden appears greater under the House bill than under the Finance Committee rates. However, the Finance Committee proposal will produce almost as much revenue as the House bill. This is because the figures shown are for the maximum case. On the average, estates are split up into about three parts. When this happens, the combined estate tax and inheritance tax revenue under the House bill will be much reduced.

The existing estate tax law is amended by a provision permitting the deduction of the shrinkage in value which may occur between the date of death and a date 1 year after death. If such shrinkage is allowed it is confined to the shrinkage which can be shown to exist by taking the difference between the aggregate value of all assets on the date of death and the aggregate value of all assets 1 year after death. If assets are sold or exchanged by the executor between the date of death and 1 year after death, then the value on the date of sale or exchange shall be used in lieu of the value 1 year after death. This provision is equitable in its effects and will prevent in practically all cases the danger of complete confiscation of estates due to a sudden decline in market values. In order to give an opportunity to take advantage of this provision, the due date of the tax is extended for a

period of 3 months, that is from 1 year after death to 15 months after death.

The House bill proposes a gift tax on donees in addition to the existing gift tax on donors. The purpose of this gift tax was to protect the revenue from the inheritance tax included in the House bill. Inasmuch as the inheritance tax has been eliminated in the Finance Committee bill, it is unnecessary to retain this gift tax on donees. However, since it is proposed to increase existing estate-tax rates, it is necessary to recommend the increase in existing gift-tax rates on donors. It is proposed to retain the 25-percent differential between estate-tax rates and gift-tax rates as is the case with the existing estate tax and gift tax.

The gift-tax rates proposed, the proposed total tax on net gifts, the existing gift-tax rates, and the total existing tax on net gifts are shown in the following table:

Gift tax rates

Net gift bracket	Finance Committee bill		Existing law	
	Rate	Total tax ¹	Rate	Total tax ¹
	<i>Percent</i>		<i>Percent</i>	
Up to \$10,000.....	1½	\$150	(²)	\$75
\$10,000 to \$20,000.....	3	450	1½	225
\$20,000 to \$30,000.....	4½	900	2½	450
\$30,000 to \$40,000.....	6	1,500	3	750
\$40,000 to \$50,000.....	7½	2,250	3¾	1,125
\$50,000 to \$70,000.....	9	4,050	5¼	2,175
\$70,000 to \$100,000.....	10½	7,200	6¾	4,200
\$100,000 to \$200,000.....	12¾	19,950	9	13,200
\$200,000 to \$400,000.....	15	49,950	12	37,200
\$400,000 to \$600,000.....	17¾	84,450	14¾	65,700
\$600,000 to \$800,000.....	19½	123,450	16½	98,700
\$800,000 to \$1,000,000.....	21¾	166,950	18¾	136,200
\$1,000,000 to \$1,500,000.....	24	286,950	21	241,200
\$1,500,000 to \$2,000,000.....	26¾	418,200	23¾	357,450
\$2,000,000 to \$2,500,000.....	28½	560,700	25½	484,950
\$2,500,000 to \$3,000,000.....	30¾	714,450	27¾	623,700
\$3,000,000 to \$3,500,000.....	33	879,450	30	773,700
\$3,500,000 to \$4,000,000.....	35¾	1,055,700	32¾	934,950
\$4,000,000 to \$4,500,000.....	37½	1,243,200	34½	1,107,450
\$4,500,000 to \$5,000,000.....	39¾	1,441,950	36	1,287,450
\$5,000,000 to \$6,000,000.....	42	1,861,950	37½	1,662,450
\$6,000,000 to \$7,000,000.....	44¾	2,304,450	39	2,052,450
\$7,000,000 to \$8,000,000.....	45¾	2,761,950	40½	2,457,450
\$8,000,000 to \$9,000,000.....	47¾	3,234,450	42	2,877,450
\$9,000,000 to \$10,000,000.....	48¾	3,721,950	43¾	3,312,450
\$10,000,000 to \$20,000,000.....	50¾	8,746,950	45	7,789,950
\$20,000,000 to \$50,000,000.....	51¾	24,271,950	45	30,289,950
Over \$50,000,000.....	52¾		45	

¹ Computed on second figure in net gift bracket.

² Three-fourths of 1 percent.

EFFECTIVE DATE OF PROVISIONS

It is proposed that the increased surtaxes shall take effect with taxable years beginning after December 31, 1935. This is the same effective date as recommended by the House bill in connection with this provision. The same is true in connection with the graduated income tax on corporations and with the reduced deduction allowed on domestic dividends received by corporations.

The increased capital-stock tax takes effect for capital-stock-tax returns filed for the year ending June 30, 1936. The increased excess-profits tax takes effect for income tax taxable years ending after June 30, 1936.

The increased estate-tax rates are effective on estates of decedents dying after the date of enactment of this act. The increased gift-tax rates apply to gifts made after December 31, 1935.

MISCELLANEOUS PROVISIONS

DECLARATORY JUDGMENTS AS TO TAXES

Your committee has added an amendment making it clear that the Federal Declaratory Judgments Act of June 14, 1934, has no application to Federal taxes. The application of the Declaratory Judgments Act to taxes would constitute a radical departure from the long-continued policy of Congress (as expressed in Rev. Stat. 3224 and other provisions) with respect to the determination, assessment, and collection of Federal taxes. Your committee believes that the orderly and prompt determination and collection of Federal taxes should not be interfered with by a procedure designed to facilitate the settlement of private controversies, and that existing procedure both in the Board of Tax Appeals and the courts affords ample remedies for the correction of tax errors.

PERSONAL HOLDING COMPANIES

Your committee proposes the following amendments to section 351 of the Revenue Act of 1934, relating to personal holding companies.

(1) Under existing law, the rate of tax on personal holding companies is as follows:

- (1) 30 per centum of the amount of the undistributed adjusted net income not in excess of \$100,000; plus
- (2) 40 per centum of the amount thereof in excess of \$100,000.

To conform to the increase in surtax rates made by the bill, your committee has provided the following rates in lieu of the rates of existing law:

- (1) 20 per centum of the amount of the undistributed adjusted net income not in excess of \$2,000; plus
- (2) 30 per centum of the amount thereof in excess of \$2,000 and not in excess of \$100,000; plus
- (3) 40 per centum of the amount thereof in excess of \$100,000 and not in excess of \$500,000; plus
- (4) 50 per centum of the amount thereof in excess of \$500,000 and not in excess of \$1,000,000; plus
- (5) 60 per centum of the amount thereof in excess of \$1,000,000.

Some relief is afforded to the small corporation whose undistributed adjusted net income is not in excess of \$2,000 so that the tax imposed by this section will not be entirely disproportionate to the tax which the individual shareholders would be required to pay in case all of the profit of the corporation is distributed.

(2) Under existing law, a parent corporation which owns substantially all of the stock of one or more subsidiary operating companies may be classified as a personal holding company and subject to the surtaxes imposed by section 351, even though the combined gross income of the parent and its subsidiary corporations is not derived from royalties, dividends, interest, and annuities. This is due to the fact that the gross income of the parent corporation is computed without regard to the gross income of the operating subsidiary com-

panies. To correct this situation, your committee has amended existing law by providing that the gross incomes of an affiliated group of corporations shall be combined for the purpose of determining whether the common parent corporation is a personal holding company. If 80 percent of the combined gross income of the group is not derived from royalties, dividends, interest, annuities, etc., then the common parent corporation is not to be treated as a personal holding company. An affiliated group of corporations for the purpose of this amendment is a defined term and is taken from the definition which is applied in the case of the consolidated return.

(3) Section 351 (b) (2) (C) of existing law is amended to permit a deduction of the amount of a distribution out of the earnings and profits of the taxable year, even though as a result of an existing deficit the distribution is not a dividend as defined in section 115.

CHINA TRADE ACT CORPORATIONS

Your committee provides special relief for China Trade Act corporations in the case of both the capital-stock tax and the excess-profits tax. This relief is in the form of a credit which is similar in principle to the credit now allowed such corporations for the purpose of the income tax. The reason for allowing these credits is to put China Trade Act corporations (which are corporations organized under the laws of the District of Columbia for transacting business in China and are subject to supervision by the Department of Commerce) on an equal competitive basis with corporations of foreign countries doing business in China.

FAILURE TO FILE RETURNS ON TIME

Under existing law, if a return of an internal-revenue tax is not filed at the time prescribed therefor, 25 percent of the tax is added to the tax, whether the delay in filing the return is 1 day or a longer period. Your committee believes that this penalty is too severe in the case of a few days' delay in filing returns. Section 406 of the bill provides for an addition to the tax, in lieu of such 25-percent addition, in cases where the time fixed for filing the return is subsequent to the passage of the bill, of 5 percent of the tax if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days during which the failure continues, not to exceed 25 percent in the aggregate.

AMENDMENTS TO MANUFACTURERS' EXCISE TAX PROVISIONS

Your committee has made the following amendments to the Revenue Act of 1932 with respect to the manufacturers' excise taxes:

(1) Section 620 (3) of the Revenue Act of 1932, as amended, is amended to permit the tax-free sale of any article taxable under title IV of the Revenue Act of 1932 sold by the manufacturer or producer to or for the exclusive use of the United States, any State, Territory of the United States, political subdivision thereof, or the District of Columbia. At the present time sales to (or for resale by the manufacturer's vendee to) States or political subdivisions are exempt only in cases where the articles sold are to be used in connection with an

essential governmental function. The amendment exempts all sales to States or political subdivisions for exclusive use by them regardless of whether or not the articles are to be used for an essential governmental function, and permits more than one dealer in the chain of sales. This eliminates the administrative difficulty of determining whether activities of a State or political subdivision are of a proprietary or governmental character. So far as sales for the use of the United States are concerned, there appears to be no compelling reason for requiring the taxability of such sales, since the collection of the tax merely results in taking money from one department of the Federal Government and paying it over to another, and it also seems equitable to exempt sales for the use of the territories and possessions.

(2) The amendment to section 621 (a) of the Revenue Act of 1932 will permit a refund or credit of the tax paid by any manufacturer or producer on his sale of an article if such article is eventually resold through one or more vendees to the United States, any State, Territory of the United States, political subdivision thereof, or the District of Columbia. A credit or refund is also provided if an article is ultimately used, or resold for use, as fuel supplies, etc., of certain vessels. Similar amendments allow refunds when certain articles subject to the gasoline tax are ultimately used, or resold for use, for non-motor-fuel purposes and where lubricating oils are used, or resold for use, for nonlubricating purposes. All these refunds are allowed to the manufacturer for the benefit of the vendor to the user. These refunds apply to cases where sales could be made tax free by the manufacturer if he knew the ultimate use to be made of the articles.

(3) Another amendment allows interest on refunds of overpayments of the manufacturers' sales taxes at the rate of 6 percent per annum. Such interest is allowed on refunds of other overpayments of internal-revenue taxes.

INTEREST ON DELINQUENT TAXES

Your committee has provided that the rate of interest on any internal-revenue tax, or customs duty, not paid when due, shall be at the rate of 6 percent per annum. This has the merit of making all interest provisions with reference to deficiencies and delinquencies of internal-revenue taxes uniform as far as the rate of interest is concerned. Under existing law, interest is assessed on deficiencies of income, excess profits, estate, and gift taxes at the rate of 6 percent per annum and the deficiency, with interest thereon to date of assessment, is not subject to interest at 1 percent per month until 10 days (30 days in the case of estate taxes) after notice and demand, whereas the interest on overdue miscellaneous excise taxes is 1 percent per month from the due date of the tax. Under this amendment the rate will be uniformly 6 percent before and after notice and demand. This amendment merely changes the rate and does not provide for interest in any cases where interest does not now accrue.

PRODUCTS OF COCONUT OIL, ETC.

Section 402, proposed by your committee, provides for a new tax to complement the existing taxes on the processing of coconut oil, palm oil, and certain other vegetable oils, and on the importation of

certain fish and marine-animal oils. The new tax applies with respect to articles manufactured or produced wholly or in chief value from any one or more of these oils, when such articles are brought into the United States as defined in the bill. The tax thus applies to imports from the Philippines and other possessions. The tax will be computed on the amount of the specified oils from which the articles are produced at the rates provided in the existing taxes.

Imported fatty acids, soaps, and other manufactures of the specified oils will thus pay a tax equivalent to that borne by corresponding domestic products. Taxes collected on the basis of coconut oil produced from Philippine copra are to be turned over to the Philippine treasury, in the same manner as under the existing processing tax. The tax is subject to the same administrative and drawback provisions as the existing tax on imported fish and marine-animal oils.

SPECIAL EXCISE TAX ON CARRYING ON LIQUOR BUSINESS

Section 403 of the bill terminates as of June 30, 1935, the special excise tax of \$1,000 a year imposed by section 701 of the Revenue Act of 1926 on every person carrying on the business of a brewer, distiller, liquor dealer, or manufacturer of stills, contrary to State law.

ADDITIONAL REVENUE

Substantial revenue will be brought in under both the Finance Committee and the House bills. There is no substantial difference in the total revenue expected as can be shown by the following estimate:

Estimate of additional revenue

[For a full year of operation]

Source	Finance committee bill	House bill
Surtax increases.....	\$4,000,000	\$45,000,000
Graduated corporation tax.....	60,000,000	15,000,000
Capital-stock tax.....	55,000,000	0
Excess-profits tax.....	10,000,000	100,000,000
Inheritance tax.....	0	86,000,000
Estate tax increase.....	80,000,000	0
Gift tax.....	21,000,000	24,000,000
Intercompany dividends.....	39,000,000	0
Total.....	269,000,000	270,000,000
Corporation deduction for charitable gifts.....	15,000,000	15,000,000
Net total additional revenue.....	254,000,000	255,000,000

Thus it can be seen that under the Finance Committee bill practically the same total revenue will be secured as under the House bill. Considerable differences occur, however, in respect to the revenue derived from the various sources from which the revenue is derived.

REVENUE BILL OF 1935

JULY 29 (calendar day, AUGUST 14), 1935.—Ordered to be printed

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

MINORITY VIEWS

[To accompany H. R. 8974]

We are unable to agree with the views of the majority of the Committee on Finance. We object strenuously to every provision in the bill as it passed the House, to each amendment proposing the imposition of taxes recommended by the majority of this committee, and to the enactment of any bill at the present time.

SUMMARY OF OBJECTIONS

Before attempting a detailed discussion of our position, we summarize our objections as follows:

(1) The bill is not a revenue measure for the following reasons:

(a) The only argument advanced in support of the bill is that "the President wants it."

(b) The bill is avowedly based solely upon "share-the-wealth" and "social control" fantasies; and the raising of revenues, if any revenue will be raised, is admittedly incidental.

(c) The enactment of the bill is directly contrary to the President's recommendations in his annual budget; and no budget estimates have been submitted upon which a revenue measure may appropriately be based.

(d) There is a demand for speed—yet no revenues can conceivably result during the calendar year 1935; only in insignificant amounts, under the most optimistic estimates, during the fiscal year 1936; inconsequential revenues (accepting the estimates as accurate) will be produced in the fiscal year 1937; and the proposed taxes can become wholly effective, from a revenue point of view, only in the fiscal year 1938.

(2) The proposed bill violates every sound principle of taxation.

(3) The majority party, both in the House of Representatives and as represented on this committee, evidence an utter disregard for obvious inequities and patent absurdities.

SUBSTITUTE RECOMMENDATIONS

We submit the following recommendations:

- (1) Adjourn Congress immediately.
- (2) Leave business alone. Substantial progress toward industrial recovery and normal business activities and economic conditions is being made, notwithstanding constant, continuous hampering and interference resulting from the unsound and untested experiments imposed by the present administration. A removal of the obstacles and a cessation of the threats are all that is now necessary. Healthy business conditions will do more to restore revenues and relieve unemployment than all the fanciful theories advocated by the President and his advisers.
- (3) Eliminate extravagance and waste in Government expenditures and let us have a Budget showing a sincere and sound program for restoring a balance between expenditures and receipts. Our present revenue laws, already imposing unconscionably high taxes, will in all likelihood produce sufficient revenues.
- (4) If additional revenues are required, give adequate opportunity for studying the operation of the present laws, the distribution of existing tax burdens, the relation between taxpaying ability and the innumerable other measures exacting tremendous sums from our citizens, including particularly producers and consumers.
- (5) If additional revenues are required, enact a comprehensive and sound revenue measure based upon the foregoing studies and surveys and upon actual facts.

THE TITLE OF THE BILL

The bill is entitled:

A bill to provide revenue, equalize taxation, and for other purposes.

We believe that the following title would more adequately and accurately describe the measure:

A bill to confiscate property; to discourage business and prevent its expansion; to destroy incentive and discriminate against ability, brain, ambition, and enterprise; to create greater inequalities in the inequitable distribution of existing tax burdens; to promote unemployment and to obstruct recovery; to jeopardize the financial position of the Government; and for other improper purposes.

A bill bearing the above-suggested title may quite properly originate, and may be expected to originate, in the White House. The constitutional provision that all bills for raising revenue must originate in the House of Representatives would have no application. Accordingly, the bill should state on its face confirmation of the fact that it originated in the White House, without the advice, consent, or approval of anyone familiar with the principles of taxation, and has been rubber-stamped by an unwilling but docile Democratic Party in Congress.

BUDGET ESTIMATES

A bill to raise revenue is invariably and necessarily based upon Budget estimates. These estimates show the anticipated revenues, the expected expenditures, and the amount of additional revenues probably necessary to bring about a balance. Even in the stress of the war period, there was no departure from this basic and common-

sense policy. Preceding the present bill and during the period of its consideration, however, we find no estimates, no suggested substitute principle upon which a revenue measure may be planned and based, and no attempted justification for embarking upon a "hit-or-miss" or perhaps a "hit-and-run" policy.

THE RAISING OF REVENUES

It would seem axiomatic that a revenue bill should produce revenues for the Government. However, no estimates were transmitted to the Congress in the President's message. Government experts subsequently estimated that the President's proposals would raise a maximum of \$100,000,000. Certainly no one believes that this amount has any relation to the revenue requirements of the Government. Accepting as accurate the estimated \$270,000,000 of additional revenues for the bill as it passed the House of Representatives, we find no attempt to justify the collection of this amount. To the contrary, it seems to be admitted that this amount is both insignificant and ineffective when viewed from the point of view of a proper budget. Again, even this estimated amount seems to be quite accidental. The House of Representatives did not set out to raise either this amount or any specified amount. Rather, they seemed to have approved certain proposed principles and then to have estimated the amount which might incidentally come into the Treasury.

It is estimated that the bill as reported by the Committee on Finance will increase existing revenues by \$254,000,000 "for a full year of operation." We are not told the basis for these estimates. We do not know whether they assume a continuity of existing business conditions, a betterment of them, or a possible retrogression. Nor are we told when the increased revenues may be expected. Obviously, nothing is expected for either the calendar year 1935 or the fiscal year 1936. The proposals can produce no revenues until the fiscal year 1937; and certainly they cannot become fully effective until the fiscal year 1938, at least. We can conceive of no possible justification for the enactment of this bill at this time, under these circumstances.

THE DEMAND FOR SPEED

The insistence upon speed finds no support in the production of proposed revenues. As we have pointed out, not one single cent can come into the Treasury during the present calendar year. And very little will be received—again accepting the estimates as accurate—during the fiscal year 1936.

A thorough study of revenue requirements, of existing tax burdens, and of the effect of proposed new taxes has always preceded the preparation of our revenue measures. Exhaustive, reliable, and necessary studies and surveys of possible sources of revenues and of proposed expenditures should be available to the Congress. But an intelligent consideration will require time and thought.

The conclusion is both inescapable and indisputable. The President does not even trust the judgment of the responsible members of his own party if that judgment is founded upon intelligent and adequate consideration.

DISTRIBUTION OF TAX BURDENS

The committee first agreed to impose income taxes upon our large group of citizens earning small incomes in order to broaden substantially our existing income-tax base. We agree that this is the only effective means of obtaining substantially greater revenues from an income tax—assuming that our national income does not increase. This proposal has been opposed, however, upon the ground that the individuals falling within the suggested income brackets are already contributing, indirectly, more than their fair share to the cost of our Government.

We strongly advocate the imposition of income taxes in the light of, and commensurate with, other tax burdens. But we are here asked to “legislate in the dark.” We prefer to impose taxes in accordance with facts. We suggest a thorough survey in order that those facts may be accurately ascertained and in order that our revenue laws may be framed wisely, intelligently, and fairly.

COMPARATIVE OUTLINE OF BILL

The bill as reported by this committee proposes the following:

(1) An increase in individual surtax rates on net incomes in excess of \$1,000,000—as recommended by the President.

(2) A graduated tax on corporations, ranging from 12½ to 15½ percent—substantially as recommended by the President.

(3) The deduction of charitable contributions by corporations—notwithstanding the strenuous opposition of the President.

(4) A tax upon intercompany dividends—recommended by the President solely as an unsound protection against the imaginary evasion of the unsound graduated corporation tax, and quite unnecessary and unjustifiable even for the purposes for which intended.

(5) A proposed increase of 50 percent in the existing capital-stock tax—apparently in an attempt to make the bill look like a revenue bill. The President did not recommend the increase, and the Secretary of the Treasury refused to advise this committee as to the attitude of the administration.

(6) An excess-profits tax upon corporations, with rates as high as 12 percent. Again, the President recommended no such tax and, again, the Secretary of the Treasury refused to commit the administration.

(7) Increased estate taxes, in addition to the estate taxes imposed by the Revenue Act of 1926, beginning with estates of \$10,000 and ranging upward to 70 percent upon estates in excess of \$50,000,000—in lieu of the hybrid, ill-conceived, and impossible inheritance tax recommended by the President.

(8) Increased gift taxes, commensurate with increased estate taxes—in line with the policy advocated by the President.

Eliminating the provisions not recommended by the President, the committee bill is estimated to yield \$104,000,000 for the first year of its effective operation—probably the fiscal year 1938.

THE PROPOSED SURTAXES

There were 46 individuals who reported net incomes in excess of \$1,000,000 for 1933. The President has singled them out. It is possible that he had their names reported to him. It is probable

that he hopes that his proposed taxes, in 1936 and subsequent years, will hit a few of them who may have dared incur his personal displeasure.

The President and the Treasury justify the proposed taxes purely as methods for controlling the size of incomes for "social purposes." We believe that a most dangerous precedent is established when the taxing power is used for purposes other than the raising of revenue. Even those who might agree with the so-called "social purpose" advocated by the President may some day find themselves opposing the policies advocated by others, to be made effective through the use of the taxing power. They may even find themselves in disagreement with others who think that "bigness" does not begin at \$1,000,000 but perchance begins at \$10,000.

We strenuously oppose the introduction of political and demagogic policies into our tax structure.

THE GRADUATED TAX ON CORPORATIONS

We oppose the proposed graduated tax upon the incomes of corporations for the following reasons:

- (1) It disregards ability to pay and it disregards benefits received.
- (2) It disregards the amount of capital used in the production of the income, as well as the nature of that capital.
- (3) It discriminates against soundly financed enterprises and in favor of those which are unsoundly financed.
- (4) It disregards the number of stockholders in a corporation and their relative abilities to contribute to the support of the Government.
- (5) It discriminates against the small investor in the large corporation and in favor of the large investor in the small corporation; and against all investments in large corporations in favor of investments in smaller corporations.

In the testimony before the Committee on Ways and Means, the following outstanding authorities upon taxation are quoted as opposed to a graduated tax upon corporate incomes: Dr. H. J. Millis, of the University of Chicago, formerly president of the American Economic Association; Prof. E. R. A. Seligman, a former president of the American Economic Association and of the National Tax Association; Prof. C. C. Blehn, of the University of California, a former president of the American Economic Association; Alfred E. Holcomb, former president of the National Tax Association; and Henry F. Long, commissioner of corporations and taxation of the State of Massachusetts, and president of the National Tax Association.

Senator William Gibbs McAdoo, when he was Secretary of the Treasury during the war, expressed the following views which are strikingly appropriate:

Any graduated tax upon corporations is indefensible in theory, for corporations are only aggregations of individuals, and by such a tax the numerous small stockholders of a great corporation may be taxed at a higher rate than the very wealthy large stockholders of a relatively small corporation.

Although not quoted in the current hearings, we appropriately add the opposition to a graduated tax on corporations frequently expressed by the late Dr. Thomas S. Adams, recognized as the leading tax economist of the country for more than a quarter of a century, and who served for many years preceding his untimely death as special adviser to the Treasury and to the committees of Congress.

THE INCREASE IN CAPITAL-STOCK TAX

The bill as reported by the committee increases the existing capital-stock tax from \$1 to \$1.50 per \$1,000—an increase of 50 percent. The highest capital-stock tax rate imposed by this Government, even under the exigencies of the war period, was \$1 per \$1,000. The present capital-stock tax (including the supplementary so-called “excess-profits tax”) is yielding approximately \$95,000,000 a year.

The capital-stock tax is payable whether or not the corporation is operating at a profit. It is capable of producing the present revenues without undue hardship. Any increase in the rates will accentuate the unfairness of the tax.

It is estimated that approximately \$50,000,000 will be collected in additional revenues under the increased capital stock tax and the excess-profits tax rates. Assuming that the necessity for raising this revenue were clearly established at the present time, we question seriously the wisdom of attempting to obtain it in this manner.

We endorse unqualifiedly the provisions of the bill permitting a new declaration of value. We do not approve the proposed adjustments to this declaration of value for the second and each subsequent year. Assuming that the proposed adjustments themselves are logical and fair—and we regret that they are not—they are adjustments to a purely fictitious figure. The result must be arbitrary. We recommend annual declarations of value, for each year during which the capital-stock tax remains in effect.

THE PROPOSED EXCESS-PROFITS TAX

A reasonable excess-profits tax, as a device to enforce the payment of a reasonable capital-stock tax, is effective and acceptable. The present bill, however, proposes to adopt an excess-profits tax as a direct revenue producer. The tax is to be imposed at 6 percent if a corporation's net income exceeds 10 percent of its adjusted declared value; and at 12 percent upon so much of its net income as exceeds 15 percent of its adjusted declared value.

We agree with the opinions of substantially everyone who has considered an excess-profits tax—including Senator McAdoo, Senator Glass, and Secretary Houston, during their terms as Secretaries of the Treasury. We also agree with the views expressed by Treasury representatives during the hearings upon the current bill that an excess-profits tax necessarily discriminates against small corporations with fluctuating incomes and in favor of larger corporations with more stable incomes.

Under the bill as reported by the committee, a corporation with fluctuating income will pay an extraordinary high tax in the years of success and obtain no offsetting advantages as a result of losses or low incomes in other years. The committee bill even proposes to impose an excess-profits tax upon the entire income of a corporation which has struggled for years with losses, as a result of which its adjusted declared value is reduced, for example, to zero—and then subsequently fights its way into the production of income. If the committee or the Congress would care to give reasonable consideration to the proposed adjustments—which are identical with the provisions in the 1934 act, and their effect consequently should be

known—they would ascertain that the adjustments accomplish precisely the opposite effect usually sought in an excess-profits tax: The tax is reduced annually as incomes of previous years increase the "adjusted declared value"; while the tax is increased excessively and unreasonably upon those corporations which, for a period of time, operate at a loss. Again, we recommend an annual declaration of value as a basis for the excess-profits tax.

We also urge the adoption of our former net loss provisions, for both income- and excess-profits-tax purposes. The proposed excess-profits tax merely emphasizes the unfairness of using an arbitrary period of 1 year for measuring capacity to pay. England permits the carrying forward of losses for 6 years. We suggest the carrying forward of losses for 2 years, upon the same basis as existed under our revenue laws from 1918-32.

DEDUCTION OF CHARITABLE CONTRIBUTIONS

We commend those who assisted, over the strenuous opposition of the President, in the adoption of the amendment permitting the deduction by corporations, subject to reasonable limitations, of contributions for charitable purposes.

In considering the policy of the pending measure, it is also appropriate to point out in this connection that corporations engaged in manufacturing, in addition to their charitable contributions, have, during the period of depression, maintained a pay roll in excess of \$5,000,000,000 more than was required in the needs of the business. Doubtless other corporations have similarly contributed a correspondingly huge amount to their employees in order to ease the terrific hardships of the depression. The total far exceeds the stupendous, unprecedented appropriations available for uncontrolled use by the President. The policies already adopted or advocated or threatened by the administration, including those embodied in the present bill, are obviously intended to prevent the accumulation of adequate resources with which to meet possible future contingencies. Can it be that the administration visions, in the return of healthy and normal business conditions, a repeal of the dictatorial powers granted to him and a threat to his individual control of unprecedented sums of money?

THE TAX UPON INTERCOMPANY DIVIDENDS

The bill as reported by the committee proposes to tax, at income- and excess-profits tax rates, 15 percent of the dividends received from other corporations, notwithstanding the fact that the funds used to pay the dividends have already been taxed.

There is no justification for such a tax. The only justification suggested is contained in the President's recommendations—namely, that such a tax is necessary to prevent evasion of the graduated tax on corporate incomes. In our opinion, the unsoundness of a corporate dividend tax merely accentuates the unsoundness of the graduated corporate income tax. An admittedly unsound provision is recommended to prevent the evasion of an admittedly unsound tax.

A corporation is merely a group of individuals. The income of a corporation is in effect the income of the group of individuals owning it. Were it not for constitutional provisions and for administrative

difficulties in collection, we should abandon a tax upon corporate incomes and tax, in lieu thereof, the individual stockholders upon their proportionate share of the corporation's income, whether or not distributed. Neither of these justifications of the present corporate tax will justify the duplicate, triplicate, and quadruplicate taxation of a stockholder's income prior to its distribution to him, necessarily resulting from the proposed tax upon corporate dividends. The Treasury frankly admits that under this provision the same income may be taxed 10 or 12 times.

The inadequacy and unsoundness of the multiple taxation upon corporate earnings used to pay dividends has been recognized by the Congress for almost 20 years. The principle embodied in substantially all of our revenue laws should not now be abandoned.

Furthermore, even the necessity advanced by the President for the proposed tax is unreal and nonexistent. Corporate enterprises cannot evade a graduated tax "through the device of numerous subsidiaries or affiliates." Business necessity and convenience, financial requirements, existing corporate obligations, and existing corporate organizations will effectually prevent the formation of subsidiaries and the division of income among them. These considerations far outweigh the slight possible savings in the graduated tax.

In addition, we point out that the committee fails to adopt the President's recommendation—obviously a sound and necessary one if his proposed dividend tax is to be enacted—that—

Bona fide investment trusts that submit to public regulation and perform the function of permitting small investors to obtain the benefit of diversification of risk may well be exempted from this tax.

THE INCREASE IN ESTATE-TAX RATES

The President recommended an inheritance tax, to be imposed on top of our existing two estate taxes—and, of course, in addition to the estate and inheritance taxes of the various States. The inheritance tax contained in the bill as it passed the House of Representatives, it is conceded, will result in confiscation—in many instances more than 100 percent of the estate will be claimed by the Federal Government—and this must be the result desired by the President.

However, it is now generally admitted that the proposed inheritance tax as passed by the House must be abandoned. It required an hour for one witness before our committee merely to point out a few of the innumerable incongruities, inconsistencies, impossibilities, omissions, and monstrosities of the inheritance-tax provisions.

We suggest that the effect upon business, upon possible expansion and new enterprise, upon the production of wealth, and upon unemployment, are more vital considerations than the so-called "social purposes" supposed to be produced.

DEDUCTION FOR SHRINKAGE IN VALUE OF ESTATES

Section 202 of the bill as reported by the committee adopts the salutary principle that a deduction should be allowed in computing estate-tax liabilities for the shrinkage in value of the assets of the estate after the death of the decedent—usually an unavoidable and serious loss.

The committee, however, proposes to allow the deduction only for depreciation in assets during the first year following the death of the decedent. We believe this period should be extended to at least 3 years, and we were of the opinion that the Treasury approved this extension.

We also point out that this provision is to apply only to the estates of decedents who die after the enactment of the pending bill. We see no necessity for so limiting its application. As a practical matter, we recognize that the unlimited retroactive application of the provision is impossible. Accordingly, we recommend that the provision apply to the estates of decedents who have died since January 1, 1932. We see no conceivable justification for denying the benefits of this provision, for example, to estates which are bearing the extraordinarily high estate tax liabilities imposed by the Revenue Acts of 1932 and 1934.

DECLARATORY JUDGMENTS

On June 14, 1934, the Federal declaratory judgment law was enacted. Section 405 of the bill as reported by the committee proposes to prevent the application of the declaratory judgment law to Federal taxes.

Income- and estate-tax liabilities may now be determined, prior to the payment of any asserted deficiency, by the Board of Tax Appeals, an impartial tribunal composed primarily of experts, which for many years has heard and decided controversies between the Government and taxpayers upon the merits and judicially.

However, no similar method is available for determining additional liabilities for miscellaneous internal-revenue taxes proposed by the Bureau of Internal Revenue—unless it is the declaratory judgment law. A few courts have decided, and, we think properly, that the declaratory judgment law permits a determination of liabilities for these taxes. We believe that any doubt should be removed and that the declaratory judgment law should be specifically amended to make it applicable to all taxes not within the jurisdiction of the Board of Tax Appeals. As an alternative, we recommend that the Board of Tax Appeals be given jurisdiction to determine liabilities for all miscellaneous internal-revenue taxes prior to payment of asserted additional taxes.

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