
REVENUE BILL

MAY 25, 1928.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H. R. 1]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1) to reduce and equalize taxation, provide revenue, 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 2, 8, 13, 21, 24, 25, 26, 27, 28, 36, 54, 81, 82, 88, 139, 149, 175, 176, 191, 192, 194, 195, 196, 197, 198, 199, and 200.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 5, 6, 7, 11, 12, 14, 16, 17, 18, 19, 20, 22, 23, 29, 30, 31, 32, 34, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 77, 78, 79, 80, 83, 84, 85, 86, 87, 89, 90, 92, 93, 94, 95, 96, 97, 98, 100, 101, 103, 104, 105, 106, 107, 108, 109, 110, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 147, 148, 153, 154, 155, 156, 158, 159, 160, 161, 162, 163, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 177, 178, 179, 180, 181, 182, 183, 184, 185, 188, 189, 193, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 221, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, 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: *Sec. 404. Credit of gift tax and a period; 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:

Omit the matter proposed to be inserted and restore the matter proposed to be stricken out by the Senate amendment and on page 6 of the House bill strike out the sixth line under the heading "Title IV—Administrative provisions" and in lieu thereof insert the following: *Sec. 605. Retroactive regulations* and a period; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, 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:

- Sec. 702. Basis of property upon sale by estate—Retroactive.*
 - Sec. 703. Deduction of estate and inheritance taxes—Retroactive.*
 - Sec. 704. Taxability of trusts as corporations—Retroactive.*
 - Sec. 705. Installment sales—Retroactive.*
 - Sec. 706. Contributions to charity—Retroactive.*
 - Sec. 707. Income tax on sale of vessels built before 1914.*
 - Sec. 708. Definition of the term "motor boat".*
 - Sec. 709. Remission or mitigation of forfeitures.*
 - Sec. 710. Refunds and credits to be referred to Joint Committee.*
 - Sec. 711. Commissioners of Court of Claims.*
 - Sec. 712. Bureau of Internal Revenue—Details to Washington.*
 - Sec. 713. Salaries of collectors of internal revenue.*
 - Sec. 714. Repeals.*
 - Sec. 715. Separability clause.*
 - Sec. 716. Effective date of act and a period.*
- And the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, and on page 224 of the House bill, after line 8, and after the section inserted by Senate amendment 215, insert the following:

Sec. 706.—Contributions to charity—retroactive.—In computing the net income of any individual, other than a nonresident alien, for the taxable year 1923, there shall be allowed as a deduction (subject to the percentage limitation prescribed by section 214(a)(11) of the revenue act of 1921) any contributions or gifts to or for the use of a trust organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, if such individual made during the taxable year

1924 contributions or gifts to the same trust and in the aggregate of substantially the same amount. In no case shall there be allowed as a deduction under this section contributions or gifts to an amount in excess of \$50,000. Any tax paid in respect of such deduction shall, subject to the statutory period of limitation applicable thereto, be credited or refunded.

And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, 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:

(g) *Pension trusts.*—An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under section 165, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made.

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 an amendment as follows:

On page 12 of the Senate engrossed amendments, line 8, strike out the period and insert a semicolon; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows:

On page 14 of the Senate engrossed amendments, at the end of line 14, insert a period and the following:

In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death.

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:

On page 20 of the Senate engrossed amendments, line 17, strike out all after "group" and insert in lieu thereof a period and the

following: *An insurance company subject to the tax imposed by section 201 or 204 shall not be included in the same consolidated return with a corporation subject to the tax imposed by section 13 and a period; 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:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *12 per centum*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

On page 166 of the House bill, line 4, strike out "three" and insert *two*; and on page 178 of the House bill, line 20, strike out "three" and insert *two*; and on page 178 of the House bill, line 25, strike out "three" and insert *two*; and on page 179 of the House bill, line 2, strike out "three" and insert *two*; and on page 180 of the House bill, line 10, strike out "three" and insert *two*; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, and on page 186 of the House bill, line 13, strike out "or" and insert a comma and the following: *credit, or abatement*; and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, and on page 186 of the House bill, line 16, strike out "or" and insert a comma and the following: *credit, or abatement*; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment and on page 186 of the House bill, line 18, strike out "or" and insert a comma and the following: *credit, or abatement*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, 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:

(a) *No refund shall be made of any amount paid by or collected from any manufacturer, producer, or importer in respect of the tax imposed by subdivision (3) of section 600 of the revenue act of 1924, or subdivision (3) of section 900 of the revenue act of 1921 or of the revenue act of 1918, unless either—*

(1) *Pursuant to a judgment of a court in an action duly begun prior to April 30, 1928; or*

(2) *It is established to the satisfaction of the commissioner that such amount was in excess of the amount properly payable upon the sale or lease of an article subject to tax; or that such amount was not collected, directly or indirectly, from the purchaser or lessee, or that such amount, although collected from the purchaser or lessee, was returned to him; or*

(3) *The commissioner certifies to the proper disbursing officer that such manufacturer, producer, or importer has filed with the commissioner, under regulations prescribed by the commissioner with the approval of the Secretary, a bond in such sum and with such sureties as the commissioner deems necessary, conditioned upon the immediate repayment to the United States of such portion of the amount refunded as is not distributed by such manufacturer, producer, or importer within six months after the date of the payment of the refund, to the persons who purchased for purposes of consumption (whether from such manufacturer, producer, importer, or from any other person) the articles*

in respect of which the refund is made, as evidenced by the affidavits (in such form and containing such statements as the commissioner may prescribe) of such purchasers, and that such bond, in the case of a claim allowed after February 28, 1927, was filed before the allowance of the claim by the commissioner.

(b) The second proviso under the heading "Internal revenue" in section 1 of the first deficiency act, fiscal year 1928, and the second proviso of the fourth paragraph under the heading "Internal Revenue Service" in section 1 of the Treasury and Post Office appropriation act for the fiscal year 1929, are repealed and a period.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, 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:

Sec. 442. Tax on steamship tickets.—(a) Subdivision 5 of Schedule A of Title VIII of the revenue act of 1926 is amended to read as follows:

"5. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, Mexico, or Cuba, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5. This subdivision shall not apply to passage tickets costing \$10 or less."

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this act.

And the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *or the Undersecretary* and a comma; 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:

On page 37 of the Senate engrossed amendments, lines 7 and 8, strike out "Extinguishment of liability by bar of statute of limitations" and insert *Effect of expiration of period of limitation*; 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:

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

Sec. 611. Collections stayed by claim in abatement.—If any internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) was, within the period of limitation properly applicable thereto,

assessed prior to June 2, 1924, and if a claim in abatement was filed, with or without bond, and if the collection of any part thereof was stayed, then the payment of such part (made before or within one year after the enactment of this Act) shall not be considered as an overpayment under the provisions of section 607, relating to payments made after the expiration of the period of limitation on assessment and collection.

And the Senate agree to the same.

Amendment numbered 214:

That the House recede from its disagreement to the amendment of the Senate numbered 214, and agree to the same with an amendment as follows:

On page 41 of the Senate engrossed amendments, line 21, after "taxable" insert (*whether distributed or not*); and the Senate agree to the same.

Amendment numbered 215:

That the House recede from its disagreement to the amendment of the Senate numbered 215, and agree to the same with an amendment as follows:

On page 42 of the Senate engrossed amendments, line 11, strike out "a return or an amended" and insert *an original*; and the Senate agree to the same.

Amendment numbered 216:

That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment as follows:

On page 44 of the Senate engrossed amendments, line 4, after the period, insert *The basis of any such new ship shall be reduced by the amount of the gain from such sale exempt from taxation under this paragraph* and a period; and the Senate agree to the same.

Amendment numbered 217:

That the House recede from its disagreement to the amendment of the Senate numbered 217, 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:

Sec. 708. Definition of the term "motor boat".—The term "motor boat", when used in the act of September 21, 1922, includes a yacht or pleasure boat, regardless of length or tonnage, whether sail, steam, or motor propelled, owned by a resident of the United States or brought into the United States for sale or charter to a resident thereof, whether or not such yacht or boat is brought into the United States under its own power, but does not include a yacht or boat used or intended to be used in trade or commerce, nor a yacht or boat built, or for the building of which a contract was entered into, prior to December 1, 1927.

And the Senate agree to the same.

Amendment numbered 218:

That the House recede from its disagreement to the amendment of the Senate numbered 218, and agree to the same with an amendment as follows:

On page 44 of the Senate engrossed amendments, line 17, strike out "Penalties" and insert *Forfeitures*; and the Senate agree to the same.

Amendment numbered 219:

That the House recede from its disagreement to the amendment of the Senate numbered 219, and agree to the same with an amendment as follows:

On page 45 of the Senate engrossed amendments, line 2, strike out "709" and insert 710; and the Senate agree to the same.

Amendment numbered 220:

That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment as follows:

On page 45 of the Senate engrossed amendments, line 18, strike out "710" and insert 711; and the Senate agree to the same.

Amendment numbered 222:

That the House recede from its disagreement to the amendment of the Senate numbered 222, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 712; and the Senate agree to the same.

Amendment numbered 223:

That the House recede from its disagreement to the amendment of the Senate numbered 223, and agree to the same with an amendment as follows:

On page 46 of the Senate engrossed amendments, line 6, strike out "712" and insert 713; and the Senate agree to the same.

Amendment numbered 224:

That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 714; and the Senate agree to the same.

Amendment numbered 225:

That the House recede from its disagreement to the amendment of the Senate numbered 225, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 715; and the Senate agree to the same.

Amendment numbered 226:

That the House recede from its disagreement to the amendment of the Senate numbered 226, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 716; and the Senate agree to the same.

W. C. HAWLEY,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
JNO. N. GARNER,
J. W. COLLIER,

Managers on the part of the House.

REED SMOOT,
GEO. P. MCLEAN,
DAVID A. REED,
PETER G. GERRY,
PAT HARRISON,

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. 1) to reduce and equalize taxation, provide revenue, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment makes a clerical change; and the House recedes.

Amendment No. 2: This amendment makes a clerical change; and the Senate recedes.

Amendment No. 3: This amendment makes a clerical change; and the House recedes.

Amendment No. 4: This amendment makes a clerical change; and the House recedes with an amendment making a further clerical change.

Amendments Nos. 5, 6, and 7: These amendments make clerical changes; and the House recedes.

Amendment No. 8: This amendment makes a clerical change; and the Senate recedes.

Amendments Nos. 9 and 10: These amendments make clerical changes; and the House recedes with amendments making further clerical changes.

Amendments Nos. 11 and 12: The House bill made the income tax title of the new bill applicable to the taxable year 1927 and succeeding taxable years and provided that income and excess-profits taxes for taxable years preceding the taxable year 1927 should remain subject to prior revenue acts except as expressly modified by the new act. This covered not only provisions as to rates but the administrative provisions as well. Senate amendments 11 and 12 provide that the new income tax title shall begin with the taxable year 1928 instead of the taxable year 1927. The House recedes. This action on the part of the conferees necessitates that the House also recede on a number of other amendments of the Senate carrying out this same purpose, which are noted below under their respective numbers.

Amendment No. 13: The House bill made no change in the surtax rates of the existing law. The Senate amendment adjusts surtax rates on incomes in excess of \$20,000, the reduction aggregating \$25,000,000; and the Senate recedes.

Amendment No. 14: This amendment makes a clerical change; and the House recedes.

Amendment No. 15: The House bill reduced the corporation rate from $13\frac{1}{2}$ per cent to $11\frac{1}{2}$ per cent. The Senate amendment reduced the rate to $12\frac{1}{2}$ per cent. The House recedes with an amendment fixing the rate at 12 per cent.

Amendment No. 16: The House bill provided that corporations with net incomes of not more than \$15,000 in excess of the credits provided in section 26 should be subject to a graduated tax of from

5 per cent to 9 per cent. The Senate amendment strikes out this provision; and the House recedes.

Amendments Nos. 17, 18, 19, and 20: These amendments make clerical changes; and the House recedes.

Amendment No. 21: The House bill omitted the provision in prior revenue acts purporting to tax the salaries of the President, of the judges of the Supreme and inferior courts of the United States, and of all other officers and employees of the United States, Alaska, Hawaii, etc., on the ground that in so far as this compensation can be taxed under the Constitution it is covered in the general definition of income. The Senate amendment in terms makes the salary of the President of the United States taking office after the enactment of the new act taxable; and the Senate recedes.

Amendment No. 22: The House bill allowed the owner of a cooperative apartment to deduct the amount of his payments to the cooperative corporation representing his share of the interest and taxes paid by the corporation. This amendment and amendments 34 and 39 strike out these provisions; and the House recedes.

Amendment No. 23: This amendment makes a clerical change; and the House recedes.

Amendment No. 24: This amendment makes a clerical change; and the Senate recedes.

Amendment No. 25: This amendment makes a clerical change; and the Senate recedes.

Amendments Nos. 26, 27, and 28: The Senate amendments are intended primarily to permit doctors and other professional men to deduct their expenses in attending meetings of their organizations. These expenses usually are not deductible under the existing law, and the effect of the amendment was to authorize nonbusiness deductions. The Senate recedes.

Amendment No. 29: The effect of this amendment is to permit the deduction of taxes assessed against local benefits of a kind tending to increase the value of the property assessed in so far as such taxes are properly allocable to maintenance or interest charges, the question arising principally in connection with taxes levied by certain drainage districts; and the House recedes.

Amendment No. 30: Under existing law difficulty has been experienced in determining and allowing the deduction for depreciation in cases where property is held by one person for life with remainder to another person; and the deduction, in the case of property held in trust, is allowable only to the trustee. The Senate amendment provides that a life tenant, for the purpose of this deduction, shall be considered as the absolute owner; so that he will be entitled to the deduction during his life, and that thereafter the deduction, if any, will be allowed to the remainder man. In the case of property held in trust, the allowable deduction is to be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the will, deed, or other instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income which is allocable to the trustee and the beneficiaries, respectively. For example, if the trust instrument provides that the income of the trust computed without regard to depreciation shall be distributed to a named beneficiary, such beneficiary will be entitled to the depreciation allowance to the exclusion of the trustee, while if the

instrument provides that the trustee in determining the distributable income shall first make due allowance for keeping the trust corpus intact by retaining a reasonable amount of the current income for that purpose, the allowable deduction will be granted in full to the trustee. The bill contains similar provisions as to the deduction for depletion. The Senate amendment provides for an equitable apportionment of the deduction in these cases; and the House recedes.

Amendments Nos. 31 and 32: The purpose and effect of these amendments, which relate to the deduction for depletion in the case of property held by one person and the remainder to another person and in the case of property held in trust, is similar in effect to amendment numbered 30; and the House recedes.

Amendment No. 33: This amendment extends the provisions of the bill relating to deductions for charitable contributions or gifts to trusts, to cases arising under the revenue act of 1921. The House recedes with an amendment defining narrowly the circumstances under which such deduction shall be allowed retroactively, so that it will apply only to the case for the relief of which the amendment was intended.

Amendment No. 34: The purpose of this amendment, which relates to the deductions granted to owners of cooperative apartments, is explained in connection with amendment numbered 22; and the House recedes.

Amendment No. 35: The Senate amendment provided that an employer who had established a pension reserve could transfer the reserve to a pension trust, of the type exempt under section 165 of the bill, and would be permitted to deduct the amounts so transferred, the deduction to be prorated over a period of years equivalent to the time during which the reserve was accumulated. There are two other classes of cases which should be provided for: (1) The creation of a pension trust by an employer who has had a pension plan in existence, but who has been paying the pensions out of current income, for example, without the establishment of a pension reserve; and (2) the employer who creates a pension trust and adopts for the first time a pension plan. Upon the creation of a pension trust, the payments of the employer, in any of the above cases, consist of contributions covering the pension liability accruing during the year (which are allowed as a deduction under section 23 (a) of the new law, assuming the reasonableness of the contribution) and payments made during the year, for example, on account of the pension liability which would have accrued during prior years had the plan been in existence, or to build up reserves in order to place the plan upon a basis which is actuarially sound. The House recedes with an amendment permitting the spread of the payments of the latter type above described over a period of 10 years.

Amendment No. 36: This amendment proposes to allow as a deduction from income all expenses paid or incurred in contesting liability for any tax, Federal, State, municipal, or otherwise; and the Senate recedes.

Amendment No. 37: This is a clerical amendment which is necessary in connection with amendments numbered 30, 31, and 32; and the House recedes.

Amendment No. 38: This amendment makes a clerical change; and the House recedes.

Amendment No. 39: This amendment, which relates to additional deductions to owners of cooperative apartments, is discussed above with amendment numbered 22; and the House recedes.

Amendment No. 40: This amendment increases from \$20,000 to \$30,000 the maximum amount which can be considered as earned net income, for the purpose of the earned income credit. The House recedes.

Amendment No. 41: This amendment makes a clerical change; and the House recedes.

Amendments Nos. 42, 43, and 44: These amendments were made necessary by the action of the Senate (by amendments 11 and 12) in making the new income tax title first apply to 1928, instead of 1927; as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendments Nos. 45, 46, and 47: These amendments make clerical changes; and the House recedes.

Amendments Nos. 48, 49, and 50: These amendments were made necessary by the action of the Senate (by amendments 11 and 12) in making the new income tax title first apply to 1928, instead of 1927; as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendments Nos. 51, 52, and 53: These amendments make clerical changes; and the House recedes.

Amendment No. 54: The House bill retained the provisions of the present law (sec. 257 of the revenue act of 1926) relating to the examination and inspection of income-tax returns. The Senate amendment permits the examination and inspection of such returns under the same rules and regulations as govern the examination of public documents generally; and the Senate recedes.

Amendments Nos. 55, 56, 57, and 58: These amendments make clerical changes; and the House recedes.

Amendment No. 59: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928, instead of 1927 as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 60: This amendment makes a clerical change; and the House recedes.

Amendment No. 61: The Senate amendment exempts corporations organized by an exempt farmers' cooperative marketing or purchasing association or the members thereof for the purpose of financing the ordinary crop operations of such members or other producers and operated in conjunction with the cooperative marketing or purchasing association. The House recedes with a clerical amendment.

Amendments Nos. 62, 63, 64, 65, and 66: These amendments make clerical changes; and the House recedes.

Amendment No. 67: This amendment introduces into the law a new kind of exempt organization, namely, teachers' retirement fund associations of a purely local character. The exemption is conditioned on the association complying with two conditions: First, that except for payment of retirement benefits, no part of the net earnings shall inure to the benefit of any private shareholder or individual and, second, the income of the association must consist exclusively of

receipts from public taxation, assessments against the teaching salaries of members and income from investments; and the House recedes.

Amendments Nos. 68, 69, and 70: The House bill provided for a special tax on "personal holding companies" in order to discourage the retention by such companies of excessively large accumulations of surplus for the purpose of avoiding surtaxes on their members. The Senate amendments strike out the provisions of the House bill and restore the present law (section 220 of the revenue act of 1926); and the House recedes, the effect being to restore the existing law on the subject.

Amendments Nos. 72, 77, 78, 79, and 80: The House bill eliminated the provisions of existing law relative to corporate distributions of earnings and profits accumulated, or increase in value of property, prior to March 1, 1913. These amendments restore the provisions of the existing law; and the House recedes.

Amendment No. 71: This amendment makes a clerical change; and the House recedes.

Amendments Nos. 73, 74, and 75: The purpose of these amendments is to clarify and establish the law with respect to the basis of property acquired by transfer in trust other than a transfer in trust by bequest or devise, by gift on or before December 31, 1920, by the exercise of a power of appointment, by transmission at death, and by transfer in contemplation of or intended to take effect at or after death.

Section 113(a)(3) is amended (No. 73) by striking out the last sentence of the House bill, with the effect of including within the paragraph transfers in trust made after December 31, 1920, even if made in contemplation of death or to take effect in possession or enjoyment at or after death. The basis provided in such cases is the basis the property would have in the hands of the grantor, adjusted for gain or loss recognized to the grantor when the transfer was made; and the House recedes.

Section 113(a)(4) is amended (No. 74) so as to provide that the basis in the case of property passing under a power of appointment, regardless of the time of acquisition, shall be the fair market value on the date of acquisition, which is the rule of the existing law; and the House recedes.

Section 113(a)(5) is amended (No. 75) so as to provide that in the case of specific bequest of personalty or a general or specific devise of realty or the transmission of realty by intestacy the basis shall be the fair market value of the property at the time of the death of the decedent. In these cases it may be said, as a matter of substance, that the property for all practical purposes vests in the beneficiary immediately upon the decedent's death, and therefore the value at the date of death is a proper basis for the determination of gain or loss to the beneficiary. The same rule is applied to real and personal property transmitted by the decedent where the sale is made by the executor. In all other cases the basis is the fair market value of the property at the time of the distribution to the taxpayer. The latter rule would obtain, for example, in the case of personal property not transmitted to the beneficiary by specific bequest, but by general bequest or by intestacy. It would also apply in cases where the executor purchases property and distributes it to the beneficiary; and the House recedes, with the following amendment:

A special rule is provided in section 113 (a) (5) by which to determine the basis of property transferred in trust with the right reserved to the grantor at all times prior to his death to revoke the trust where the sale or other disposition of property occurs after the death of the grantor. This rule includes sales or other dispositions by the trustee and also by a beneficiary of the trust. In view of the complete right of revocation in such cases on the part of the grantor at all times between the date of creation of the trust and his death, it is proper to view the property for all practical purposes as belonging to the grantor rather than the beneficiaries and to treat the property as vesting in the beneficiaries according to the terms of the trust instrument, not at the date of creation of the trust, but rather on the date of the grantor's death, for the purpose of determining gain or loss on sale or other disposition of the property after the grantor's death by the trustee or by a beneficiary. Accordingly, it is provided that the basis of such property in the hands of the persons entitled thereto by the terms of the trust instrument after the grantor's death shall be the same as if the trust instrument had been a will executed on the date of his death. Thus property acquired by virtue of revocable trusts of the kind described is treated, for all practical purposes, the same as though it had been transmitted by the grantor by will at his death.

Amendment No. 76: The House bill delegated to the commissioner, with the approval of the Secretary, power to prescribe regulations legislative in character for the determination of the basis, after the period of affiliation, of property acquired by a corporation during the period of affiliation from an affiliated corporation. In the restoration of the privilege to file consolidated returns it was necessary to cover property required in 1929 or thereafter, and the Senate amendment provides that in such case the basis shall be determined in accordance with the legislative regulations prescribed under the consolidated-return provisions; and the House recedes.

Amendments Nos. 77, 78, 79, and 80: These amendments are above discussed in connection with amendment numbered 72; and the House recedes.

Amendment No. 81: The House bill provided for the exemption of the compensation of any individual employed by Alaska or Hawaii or any political subdivision thereof as a teacher in any educational institution. The Senate amendment extends the exemption to all officers or employees of any State or Territory or political subdivision thereof, whether or not engaged in a governmental function, and of any corporation 95 per cent of the stock of which is owned or controlled by a State, Territory, or political subdivision (such as public-utility corporations). The amendment extends the exemption accorded by the Constitution (see *Stone, J.*, in *Metcalf & Eddy v. Mitchell*, 269 U. S. 514, and cases there cited); and the Senate recedes.

Amendment No. 82: Under existing law and the House bill a State, Territory, political subdivision, or the District of Columbia which may be entitled to the proceeds from the operation of a public utility is entitled to a refund of that portion of the income tax paid by the public utility which is attributable to the income accruing directly to such State, Territory, political subdivision, or the District of Columbia, but only in cases where the contract under which the utility is

operated was entered into prior to September 8, 1916. The Senate amendment extends the exemption to all such cases regardless of the date of the contract, thus extending the constitutional exemption; and the Senate recedes.

Amendment No. 83: This amendment deals with the situation (illustrated by the case of the St. Charles River Bridge) where a State or political subdivision, pursuant to a contract to which it is not a party, is to acquire a bridge and payment therefor in whole or in part is to be made from the earnings from the bridge. So much of the tax on the net income as is attributable to the earnings which but for the tax would accrue to or for the benefit of the State or political subdivision shall be refunded to the State or political subdivision. No refund is to be made unless the entire amount of the refund is applied toward the purchase price of the bridge. The House recedes.

Amendments Nos. 84 and 85: These amendments make clerical changes; and the House recedes.

Amendments Nos. 86 and 87: These amendments were made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928 instead of 1927, as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 88: This amendment provides for allocating the income from the operation of bridges between the United States and contiguous foreign countries in accordance with an agreement to be entered into between the President of the United States and the proper authorities of such foreign country. The allocation can be made in proper cases under the existing law; and the Senate recedes.

Amendments Nos. 89 and 90: These amendments were made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928 instead of 1927, as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 91: The House bill made no provision for the filing by affiliated corporations of a consolidated return after the taxable year 1928. The Senate amendment permits the filing of a consolidated return by an affiliated group providing the affiliated group consents to regulations issued by the commissioner prior to the making of the return relating to the computation of the consolidated net income of the group and of the net income of the members of the group after the period of affiliation.

Among the regulations which it is expected that the commissioner will prescribe are: (1) The extent to which gain or loss shall be recognized upon the sale by a member of the affiliated group of stock issued by any other member of the affiliated group or upon the dissolution (whether partial or complete) of a member of the group; (2) the basis of property (including property included in an inventory) acquired, during the period of affiliation, by a member of the affiliated group, including the basis of such property after such period of affiliation; (3) the extent to which and the manner in which net losses sustained by a corporation before it became a member of the group shall be deducted in the consolidated return; and the extent to which and the manner in which net losses sustained during the period for which the consolidated return is filed shall be deducted in

any taxable year after the affiliation is terminated in whole or in part; (4) the extent to which and the manner in which gain or loss is to be recognized, upon the withdrawal of one or more corporations from the group, by reason of transactions occurring during the period of affiliation; and (5) that the corporations filing the consolidated return must designate one of their members as the agent for the group, in order that all notices may be mailed to the agent, deficiencies collected, refunds made, interest computed, and proceedings before the Board of Tax Appeals conducted as though the agent were the taxpayer.

The House recedes with a clarifying amendment to subdivision (e) of the Senate amendment providing specifically that an insurance company subject to the tax imposed by section 201 or 204 shall not be included in the same consolidated return with a corporation subject to the tax imposed by section 13.

Amendment No. 92: This amendment makes a clerical change; and the House recedes.

Amendment No. 93: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928, instead of 1927 as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 94: This amendment makes a clerical change; and the House recedes.

Amendment No. 95: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928, instead of 1927 as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 96: This amendment makes a clerical change; and the House recedes.

Amendment No. 97: The House bill provided that a fiduciary required to make a return under the income-tax title should be subject to all the provisions of that title which apply to individuals. The Senate amendment subjects the fiduciary to all the provisions of law applying to individuals; and the House recedes.

Amendment No. 98: This amendment makes a clerical change; and the House recedes.

Amendment No. 99: The House bill provides that withholding at the source in the case of interest payments on tax-free covenant bonds to a foreign corporation where the liability assumed by the obligor does not exceed 2 per cent of the interest, shall be at the rate of $11\frac{1}{2}$ per cent. The Senate amendment fixes the rate at $12\frac{1}{2}$ per cent and the House recedes with an amendment by which the rate is fixed at 12 per cent.

Amendments Nos. 100 and 101: These amendments make clerical changes; and the House recedes.

Amendment No. 102: The House bill provides for withholding at the source in the case of foreign corporations at the rate of $11\frac{1}{2}$ per cent. The Senate amendment fixes the rate at $12\frac{1}{2}$ per cent. The House recedes with an amendment fixing the rate at 12 per cent.

Amendments Nos. 103 to 110, inclusive: These amendments make clerical changes; and the House recedes.

Amendments Nos. 111, 112, 113, and 114: In accordance with Senate amendment 15, these amendments change the rates in the case of insurance companies from $11\frac{1}{2}$ to $12\frac{1}{2}$ per cent; and the House recedes with an amendment making the rates 12 per cent.

Amendments Nos. 115, 116, 117, and 118: In the case of an insurance company (other than a life or mutual) under existing law and under the House bill the gain or loss from the sale or other disposition of property (including securities) is not recognized. The effect of these amendments is to recognize such gains and losses; and the House recedes.

Amendments Nos. 119 to 120, inclusive: These amendments make clerical changes; and the House recedes.

Amendment No. 130: The House bill requires that the amount of all income taxes imposed for 1928 and subsequent years shall be assessed within three years after the return was filed and provides that no court proceeding without assessment may be begun after the expiration of such period. The Senate amendment reduces the period to two years. The House recedes with an amendment which establishes a like period for the filing of claims for refund or credit of income taxes for 1928 and subsequent years.

Amendments Nos. 131, 132, 133, and 134: The House bill provided that waivers filed after the expiration of the period of limitation, in the case of income taxes imposed by the new law, should be valid. The Senate amendments eliminate this provision; and the House recedes.

Amendment No. 135: This amendment makes a clerical change; and the House recedes.

Amendment No. 136: The House bill permitted the assessment of the liability of a transferee of a transferee within one year after the expiration of the period of limitation for assessment against the preceding transferee. The Senate amendment provides that the aggregate period of limitation can not exceed three years from the date of the expiration of the period of limitation for assessment against the taxpayer; and the House recedes.

Amendment No. 137: This amendment makes a clerical change; and the House recedes.

Amendment No. 138: The effect of the Senate amendment is to restore as of January 1, 1926 (the effective date of its repeal) section 322 of the revenue act of 1924, which provided that where the amount of a gift is required to be included in the gross estate of the decedent the estate should be credited with the amount of the gift tax; and the House recedes.

Amendment No. 139: The purpose of this amendment is to modify the definition of the term "deficiency" for the purpose of permitting an appeal to the Board of Tax Appeals in cases where a disputed item arises in a taxable year in which the rate of tax has been retroactively lowered. Under existing law the right to contest the disputed item exists by way of a claim and suit for refund unless the difference in the tax caused by the retroactive reduction is abated; and the Senate recedes.

Amendments Nos. 140 and 141: The House bill increased the exemption from the tax on admission and dues from 75 cents to \$1.

The Senate amendment increases the exemption to \$3; and the House recedes.

Amendment No. 142: The existing law imposes, in the case of theater tickets, etc., sold by brokers, a tax of 5 per cent of the broker's charge if it does not exceed 50 cents, and a tax of 50 per cent if it does exceed 50 cents. The Senate amendment fixes the dividing line at 75 cents instead of 50 cents; and the House recedes.

Amendment No. 143: This amendment makes a clerical change; and the House recedes.

Amendments Nos. 144, 145, and 146: The House bill reduced the dues tax from 10 per cent to 5 per cent of the amount paid as dues or members' fees to any social, athletic, or sporting club where the dues or fees exceed \$10 a year or paid as initiation fees if the fees amount to more than \$10 or if the dues or members' fees, not including initiation fees, exceed \$10 per year. The Senate amendments restore the rate to 10 per cent and increase the amount payable as dues or membership fees, without the imposition of the tax, from \$10 to \$25; and the House recedes.

Amendment No. 147: This amendment makes a clerical change; and the House recedes.

Amendment No. 148: The House bill repealed the automobile tax and provided for a refund of one-half the tax paid in case of automobiles sold by the manufacturer (for example) to the dealer (including also a chassis manufacturer, for example, who has purchased a body and a tax upon the sale has been paid) and held by him on the date of the repeal of the tax. The Senate amendment provides for refund (or if the tax has not been paid, for the abatement) of the full amount of tax in such cases; and the House recedes.

Amendment No. 149: The House bill provided that the refund of the tax on automobiles held by a dealer on the date of the enactment of the act could be applied as a credit against the tax shown by subsequent returns of the manufacturer. The Senate amendment strikes out this provision; and the Senate recedes.

Amendments Nos. 150, 151, 152: These amendments make clerical changes; and the House recedes with amendments making further clerical changes.

Amendments Nos. 153 and 154: These amendments made the changes necessary on account of the repeal of the automobile tax, in the provisions relating to the refund of taxes paid by purchasers after the repeal of the tax, under the conditions prescribed in the House bill (sec. 423); and the House recedes.

Amendments Nos. 155 and 156: These amendments make clerical changes; and the House recedes.

Amendment No. 157: The House bill prohibited refunds of automobile accessories taxes, except in the following cases: (1) Pursuant to a judgment of a court in an action begun prior to the date of the enactment of the deficiency act of 1927; or (2) unless the amount was an ordinary overpayment of the amount due upon the sale of an article actually subject to the tax; or (3) if the manufacturer had collected the amount of the tax from the purchaser, he had refunded such amount to the purchaser; or (4) unless the manufacturer to whom the refund is to be made filed a bond conditioned upon the return of any part of the refund which he has not been able to pass back to the consumer.

The Senate amendment struck out the provisions of the House bill and denied refunds except in the following cases: (1) Pursuant to a judgment of a court in an action begun prior to February 28, 1928; or (2) it is established to the satisfaction of the commissioner that the amount to be refunded was not added separately on the invoice to the purchaser, or, if so added, had been returned to the purchaser; or (3) a bond was given, similar to the requirement of the House bill.

The House recedes with an amendment denying refunds except in the following cases: (1) Pursuant to a judgment of a court in an action duly begun prior to April 30, 1928; or (2) unless the amount was an ordinary overpayment of the amount due upon the sale of an article actually subject to the tax; or (3) the amount was not collected, directly or indirectly, from the purchaser or if collected has been returned to him prior to the making of the refund; or (4) a bond is given upon the conditions described above.

Amendment No. 159: This amendment permits cigars to be packed in boxes of 20; and the House recedes.

Amendment No. 159: The House bill increases the excise tax on the use of foreign-built boats to five times the rate imposed by existing law. The Senate amendment eliminates this provision and repeals entirely the tax imposed by existing law, substituting therefor a definition (sec. 707, amendment 217) applicable to paragraph 370 of the tariff act of 1922, under which the tariff duty will be imposed upon yachts and boats of the kind now subject to the excise tax; and the House recedes on amendment 159 and recedes with an amendment on amendment 217.

Amendment No. 160: Under existing law and the House bill the narcotics tax imposed on retail dealers is \$6 a year. The Senate amendment reduces the tax to \$3 a year; and the House recedes.

Amendment No. 161: This amendment exempts from the stamp tax imposed by section 801 of the revenue act of 1926, stocks, bonds, and other certificates of indebtedness issued by certain cooperative farmer or fruit growers' associations; and the House recedes.

Amendment No. 162: The House bill repeals the stamp tax imposed by subdivision 4 of Schedule A of Title VIII of the revenue act of 1926 on sale of produce on exchanges. The Senate amendment restores this tax; and the House recedes.

Amendment No. 163: The House bill reduces the stamp tax, imposed by subdivision 3 of Schedule A of Title VIII of the revenue act of 1926 on sales or transfers of capital stock from 2 cents on each \$100 of face value or fraction thereof to 1 cent. The Senate amendment restores the existing law; and the House recedes.

Amendment No. 164: The Senate amendment exempts from tax steamship tickets for transportation to Cuba, as in the case of transportation to Canada and Mexico; and the House recedes with a clerical amendment prescribing the effective date of the amendment.

Amendment No. 165: The House bill requires postmasters in all cities of more than 50,000 inhabitants to have for sale a suitable quantity of revenue stamps. The Senate amendment requires this to be done in cities of over 25,000 inhabitants; and the House recedes.

Amendments Nos. 166 and 167: The Senate amendments provide for the reduction to the prewar level of the rates of tax upon wines containing more than 21 per cent and not more than 24 per cent of absolute alcohol; and the House recedes.

Amendment No. 168: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income tax title first apply to 1928, instead of 1927, as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendment No. 169: This amendment makes a clerical change; and the House recedes.

Amendments Nos. 170, 171, 172, and 173: These amendments, which relate to the validity of waivers executed after the expiration of the period of limitation intended to be waived, are similar to amendments Nos. 131, 132, 133, and 134 above. The House bill made such waivers effective even though executed after the expiration of such period. The Senate amendment confines the provisions to waivers executed before the expiration of the period; and the House recedes.

Amendment No. 174: This amendment makes valid and effective any waiver executed after the expiration of the period of limitation, notwithstanding the effect of amendments Nos. 170 to 173, inclusive, if entered into after the enactment of this act and before January 1, 1929. The amendment also provides that the above amendments to section 278 of the revenue act of 1926 shall not be construed as in any manner affecting the validity of waivers made prior to the enactment of this act; and the House recedes.

Amendments Nos. 175 and 176: The Senate amendments provide for the reopening of the statute of limitations upon the filing of claims for refund in cases where the taxpayer prior to January 1, 1928, filed the waiver upon the assessment of taxes for the taxable years 1917, 1918, 1919, 1920, and 1921; and the Senate recedes.

Amendment No. 177: The Senate amendment makes it clear that the division of the Board of Tax Appeals must make a determination upon the proceeding assigned to it; and the House recedes.

Amendments Nos. 178 and 179: The Senate amendment eliminates certain superfluous language of the House bill; and the House recedes.

Amendment No. 180: This amendment writes into the law a provision now carried in the appropriations acts permitting the board to renew contracts for reporting hearings; and the House recedes.

Amendment No. 181: The House bill provided that the rules of practice and procedure (other than rules of evidence) promulgated by the board under the authority of the statute should have the same force and effect as Federal equity rules. Since it is clear, under the statute, that the rules of the board have the force and effect of law, the Senate eliminates this provision as unnecessary; and the House recedes.

Amendment No. 182: Under existing law the burden of proof in proceedings before the board is on the petitioner even as to issues of fraud. The Senate amendment places upon the Government the burden of proving fraud whenever an issue of fraud is involved; and the House recedes.

Amendment No. 183: The House bill provided that no decision of the board should be modified or reversed because of its failure to consider evidence not adduced before it in evidence. The existing law is clear that the board need not consider evidence not properly placed before it and that it need not conduct independent investigate-

tions of the facts of cases pending on its docket. In view of this, the Senate eliminated the House provisions; and the House recedes.

Amendment No. 184: The House bill provided that the commissioner might proceed to enforce the liability of a taxpayer against a transferee of his property either by appropriate proceedings before the Board of Tax Appeals or by instituting suit against such transferee in the courts. The proceedings under section 280 of the present law have proved so effective in preventing the evasion of taxes and in the collection of taxes properly due that the Senate amendment strikes out the section giving the commissioner the right to proceed in court against the transferee; and the House recedes.

Amendment No. 185: Section 1108 (a) of the revenue act of 1926 permits the commissioner to apply a new regulation or Treasury decision without retroactive effect when the new regulation or Treasury decision is not immediately occasioned by a court decision.

This desirable policy has been extended by the Senate amendment so as to include all regulations and Treasury decisions whether or not occasioned by a court decision. It is hoped that this provision will prevent the constant reopening of cases on account of changes in regulations or Treasury decisions, and it is believed that sound administration properly places upon the Government the responsibility and burden of interpreting the law and of prescribing regulations upon which the taxpayers may rely; and the House recedes.

Amendment No. 186: The existing law, the House bill, and the Senate bill contain provisions permitting the execution of final agreements by the Government and taxpayer relating to the tax liability of any particular year or years. The House bill provides that such an agreement may be approved by the Secretary. The Senate amendment permits approval by the Secretary, the Undersecretary, or an Assistant Secretary. The House recedes with an amendment limiting the approval to the Secretary or the Undersecretary.

Amendment No. 187: This is a clerical amendment in the nature of a rephrasing and simplification of the provisions of the House bill which do not, however, operate to change the legal effect. The House recedes with an amendment which modifies slightly the title of the section.

Amendment No. 188: The House bill provides that if a refund is made after the expiration of the period of limitation within which the taxpayer may bring suit for such refund, the repayment shall be considered to be an overpayment unless suit was duly begun by the taxpayer. The Senate amendment permits the period for filing suit to be extended upon the execution of an agreement between the taxpayer and the commissioner agreeing to an extension pending a final decision in one or more cases named in the agreement. If the suit is favorable to the taxpayer, the case may be reopened and the refund allowed, of course, without the necessity of suit; and the House recedes.

Amendment No. 189: The House bill permits the Government to recover erroneous refunds (excluding refunds which are erroneous under sec. 608) by suit begun within two years after the making of such refund. The Senate amendment makes it certain that this limitation does not apply to suits begun prior to May 1, 1928; and the House recedes.

Amendment No. 190: The House bill (sec. 611) provided that in cases in which a tax was assessed within the period of limitation upon

assessments and thereafter (whether before or after the expiration of such period) a claim in abatement was filed, with or without a bond, and if proceedings for the collection of the tax were not promptly instituted (as would have been the case had the claim in abatement not been filed), then (1) if any part of the amount covered by the claim in abatement was thereafter paid, such amount should not be refunded, solely because of the fact that it was paid after the running of the statute, and (2) in cases where the amount was not paid, it could be collected by distraint or proceedings in court begun within one year after the enactment of the new law. The Senate amendment struck out this section; and the House recedes with an amendment retaining the prohibition upon refunds, as above described, and eliminating the authority for collection.

Amendments Nos. 191 and 192: These amendments make clerical changes; and the Senate recedes.

Amendment No. 193: This amendment makes it clear that the provisions of the section relating to liens for taxes are applicable to all liens in respect of any internal revenue tax whether or not the lien is imposed by that section; and the House recedes.

Amendments Nos. 194 to 199, inclusive: These amendments make clerical changes; and the Senate recedes.

Amendment No. 200: The House bill made no change in the provisions of existing law (sec. 1107 of the revenue act of 1926) prohibiting a review by the General Accounting Office of decisions of the commissioner under the internal revenue laws. The Senate amendment provides that all claims, refunds, etc., allowed by the commissioner in excess of \$10,000 shall be audited by the General Accounting Office. The audit now accorded by the Bureau of Internal Revenue is entirely adequate to protect the interests of the Government, and there is no necessity for the Senate amendment; and the Senate recedes, thus leaving section 1107 applicable.

Amendment No. 201: This amendment makes a clerical change; and the House recedes.

Amendment No. 202: The House bill makes provision for the salaries of the legislative counsel and the special assistant to the Secretary of the Treasury. Inasmuch as these provisions have become law, the Senate has eliminated them; and the House recedes.

Amendment No. 203: This amendment makes a clerical change; and the House recedes.

Amendment No. 204: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income-tax title first apply to 1928, instead of 1927, as in the House bill. The House recedes, in accordance with the action of the conferees on Senate amendments 11 and 12.

Amendments Nos. 205, 206, and 207: The House bill validated the regulations in force prior to the decision in the McKinney case, providing that the basis for computing gain or loss should be the value of the property at the time of the death of the decedent, in the case of a sale, by the executor, of property acquired from the decedent, if the estate indicated its acquiescence in such regulations by failure to file a claim for refund or credit prior to the enactment of the new law. The Senate amendment also validates the regulations promulgated after the McKinney case, and providing that the basis should be the value of the property at the time of the death of the decedent, and

gives to the estate the opportunity to exercise its option to acquiesce in the regulations at any time prior to the expiration of the period of limitation for filing a claim for refund or credit; and the House recedes.

Amendment No. 208: This amendment was made necessary by the action of the Senate (by amendments 11 and 12) in making the new income tax title first apply to 1928 instead of 1927, as in the House bill. The House recedes, in accordance with the action of the conferees, on Senate amendments 11 and 12.

Amendment No. 209: This amendment makes a clerical change; and the House recedes.

Amendment No. 210: The House bill contained retroactive provisions removing the uncertainty of the present law as to the deductibility, in computing net income, of amounts paid as estate, inheritance, succession, or legacy taxes, and validated the deductions claimed in the return of the taxpayer, and provided for the case where the deduction was claimed by both the estate and the beneficiary and the case where neither claimed it. The Senate amendment adopts the provisions of the House bill and extends them to cases where the deduction was claimed by a claim in abatement, and in order to make it certain that the deduction will be allowed either to the estate or to the beneficiary in any event, the Senate amendment allows the deduction to the estate if the beneficiary is barred from filing a claim for refund by the statute of limitations, and vice versa. This provision does not permit the filing of a claim for refund, however, if the period of limitation has expired; and the House recedes.

Amendments Nos. 211, 212, and 213: These amendments make clerical changes; and the House recedes.

Amendment No. 214: Under existing law there is considerable confusion as to the proper distinction to be drawn between a trust and an association, particularly certain so-called real estate trusts. While it is not deemed advisable at this time to write into the statutes a more explicit definition of a trust and an association, it was desirable by the Senate to make specific provision retroactively to make definite and certain the tax liability in the past of these organizations. The House recedes with a clarifying amendment, making it certain that the amounts will be taxable to the beneficiaries whether or not such amounts are actually distributed, and whether or not such amounts are distributable, to the beneficiaries.

Amendment No. 215: The House bill contained no provision of retroactive application to taxpayers changing from the accrual to the installment basis for reporting income for tax purposes. The 1919 regulations of the Treasury prescribed in such cases the so-called double-tax rule. The 1920 regulations, however, abandoned this rule. In 1925 the Board of Tax Appeals held the 1920 regulations invalid, upon the ground that they did not accurately reflect the income of the taxpayer during the transition period. Section 1208 of the revenue act of 1926 was a compromise provision writing into the law for the first time a statutory recognition of the installment basis, and adopting the double-tax rule of the 1919 regulations. In order to relieve taxpayers who have not yet paid the deficiencies resulting from the application of the double-tax rule (in accordance with section 1208) the Senate amendment provides that in such cases the amount of the deficiency will be computed in accordance with

the single-tax rule; and, inasmuch as the financial status of taxpayers who have already paid an amount sufficient to cover their tax liability when computed in accordance with the double-tax rule, will not be jeopardized, the Senate amendment provides that the double-tax rule shall be applied in computing the right to a refund or credit. The Senate amendment was made applicable to any taxpayer who filed an original return or an amended return prior to the effective date of the revenue act of 1926, and the taxable year 1924 or any prior taxable year.

The House recedes with an amendment denying relief to a taxpayer who, for example, in 1922, filed an amended return for 1918, 1919, and 1920, shifting from the accrual to the installment basis. This taxpayer, however, will be granted relief for the year in which he filed an original return and for the years following.

Amendment No. 216: Section 23 of the merchant marine act, 1920, provided that for a 10-year period beginning in that year no tax should be imposed under the revenue act of 1918 on account of gain derived from the sale by a citizen of the United States of a vessel documented under the laws of the United States and built prior to January 1, 1914, if the proceeds were used for the acquisition of any ship built in American shipyards. The revenue act of 1918 was not in effect for any year after the year 1920. The Senate amends the merchant marine act so as to make the deduction available under revenue acts subsequent to the revenue act of 1918. The House recedes with an amendment which prescribes the basis for gain or loss on the new ship.

Amendment No. 217: This amendment is explained in connection with amendment No. 159, and the House recedes with an amendment making a change in the section number and clarifying the provisions of the section.

Amendment No. 218: There is no provision of law for the administrative remission or mitigation of forfeitures under the internal revenues laws. The Senate amendment adopts the provisions of existing law applicable to the administrative remission or mitigation of forfeitures under the customs laws and makes them applicable to forfeitures under the internal revenue laws; and the House recedes with an amendment making a change in section numbers.

Amendment No. 219: This amendment provides that refunds and credits in excess of \$75,000 made after the enactment of this act shall be referred to the Joint Committee on Internal Revenue Taxation and that such refund or credit shall not be made until after the expiration of 30 days from the date of such reference, and also provides that a report to Congress shall be made annually by such committee of such refunds and credits; and the House recedes.

Amendment No. 220: Under the present law the salaries of the commissioners appointed to assist the judges of the Court of Claims are fixed at \$5,000 a year. The Senate amendment increases this to \$7,500 a year; and the House recedes with an amendment making a clerical change.

Amendment No. 221: The House bill, in order to build up the personnel necessary for the efficient administration of the internal revenue laws, authorized the Secretary to fix the compensation, without regard to the provisions of the classification act, of 23 assistants to the general counsel and 26 employees in the Bureau of Internal Revenue at salaries not in excess of \$7,500 and of 50 employees

in the Bureau of Internal Revenue at salaries not in excess of \$6,000 a year. Upon the assurance that at least 15 assistants to the general counsel and at least 15 administrative and technical employees in the Bureau of Internal Revenue would be so classified, under the amendments to the classification act made by the Smoot-Welch bill, in a grade the maximum salary of which is \$7,500 a year, and that 50 employees of the bureau would be classified in a grade the maximum salary of which is \$6,000 a year, the House has receded from its disagreement to the amendment of the Senate eliminating this section. It is also understood that the section was eliminated by the Senate upon the assurances above described.

Amendment No. 222: This amendment makes a clerical change; and the House recedes with an amendment making a further clerical change.

Amendment No. 223: The present law provides that the salaries of collectors of internal revenue may be fixed under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, but the salary shall not be in excess of \$6,000. The Senate amendment makes the maximum salary \$7,500; and the House recedes with an amendment making a change in section number.

Amendments Nos. 224, 225, and 226: These amendments make clerical changes; and the House recedes with amendments making further clerical changes.

W. C. HAWLEY,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
JNO. N. GARNER,
J. W. COLLIER,

Managers on the Part of the House.

