94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-120

TAX REDUCTION ACT OF 1975

MARCH 26, 1975.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 2166]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, 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 House recede from its disagreement to the amendment of the Senate 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:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1975".

(b) TABLE OF CONTENTS.—

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SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 10 percent of the amount of his liability for tax for such taxable year.

"(b) MINIMUM PAYMENT.—The amount treated as paid by reason of this section shall not be less than the lesser of—

"(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or

"(2) $100 ($50 in the case of a married individual filing a separate return).

"(c) MAXIMUM PAYMENT.—

"(1) IN GENERAL.—The amount treated as paid by reason of this section shall not exceed $200 ($100 in the case of a married individual filing a separate return).

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The excess (if any) of—

"(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over

"(B) the applicable minimum payment provided by subsection (b),

shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$10,000' for '$20,000' and by substituting '$5,000' for '$10,000'.

"(d) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—

"(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs), and

"(E) section 41 (relating to contributions to candidates for public office), plus

"(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year.

"(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.

"(g) MARITAL STATUS.—The determination of marital status for purposes of this section shall be made under section 143.

"(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED.—In applying section 6611(e) of the Internal Revenue Code of 1954 (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, "60 days" shall be substituted for "45 days" each place it appears in such section 6611(e).

(c) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6428. Refund of 1974 individual income taxes."

SEC. 102. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any payment considered to have been made by any individual by reason of section 6428 of the Internal Revenue Code of 1954 shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

SEC. 201. INCREASE IN LOW INCOME ALLOWANCE.

(a) IN GENERAL.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $1,900 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,600 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $950 in the case of a married individual filing a separate return."

(b) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,350,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,650, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $3,400 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(c) CHANGE IN OPTIONAL TAX TABLES.—Section 3 (relating to optional tax tables) is amended by striking out "$10,000" and by inserting in lieu thereof "$15,000".

SEC. 202. INCREASE IN PERCENTAGE STANDARD DEDUCTION.

(a) INCREASE.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(1) $2,600 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,300 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,300 in the case of a married individual filing a separate return."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,600 ($2,300 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

SEC. 203. TAX CREDIT FOR PERSONAL EXEMPTIONS.

(a) IN GENERAL.—Subpart A of part VI of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. CREDIT FOR PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year $30, multiplied by each exemption for which the taxpayer is entitled for the taxable year under subsection (b) or (e) of section 151.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Credit for personal exemptions.
"Sec. 43. Overpayments of tax."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) section 42 (relating to credit for personal exemptions); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to credit for personal exemptions), exceed".

(4) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

SEC. 204. CREDIT FOR CERTAIN EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 43 as section 44, and by inserting after section 42 the following new section:

"SEC. 43. EARNED INCOME.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(c) DEFINITION.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who, for the taxable year—

"(A) maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual and of a child of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents), and

"(B) is not entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

"(B) For purposes of subparagraph (A)—

"(i) except as provided in clause (ii), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,

"(ii) the earned income of an individual shall be computed without regard to any community property laws,

"(iii) no amount received as a pension or annuity shall be taken into account, and

"(iv) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(d) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

"(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(b) REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.—

(1) Section 6401(b) (relating to excessive credits) is amended—

(A) by inserting "43 (relating to earned income credit)," before "and 667(b)"; and

(B) by striking out "and 39" and inserting in lieu thereof a comma and "39 and 43".

(2) Section 6201(a)(4) (relating to assessment authority) is amended by—

(A) inserting "or 43" after "section 39" in the caption of such section; and

(B) striking out "oil)," and inserting in lieu thereof "oil) or section 43 (relating to earned income),".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 43. Credit for certain earned income.
"Sec. 44. Overpayments of tax."

SEC. 205. WITHHOLDING TAX.

(a) REQUIREMENT OF WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct

and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary or his delegate. The tables so prescribed shall be the same as the tables contained in this subsection as in effect on January 1, 1975, except that the amounts set forth as amounts of income tax to be withheld with respect to wages paid after April 30, 1975, and before January 1, 1976, shall reflect the full calendar year effect for 1975 of the amendments made by section 201, 202, 203, and 204 of the Tax Reduction Act of 1975. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1)."

(b) CONFORMING AMENDMENT.—Section 3402(c)(6) (relating to wage bracket withholding) is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

SEC. 206. INCREASE IN INCOME LIMITATION APPLICABLE TO CHILD AND DEPENDENT CARE DEDUCTION.

Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by striking out "$18,000" each place it appears in subsection (d) and inserting in lieu thereof "$35,000".

SEC. 207. EXTENSION OF PERIOD FOR REPLACING OLD RESIDENCE FOR PURPOSES OF NONRECOGNITION OF GAIN UNDER SECTION 1034.

(a) ONE-YEAR PERIOD INCREASED TO 18 MONTHS.—

(1) Subsections (a), (c)(4), (c)(5), (d), and (h) of section 1034 (relating to nonrecognition of gain on sale or exchange of residence) are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "18 months".

(2) Subsection (c)(5) of section 1034 is amended by striking out "one year" and inserting in lieu thereof "18 months".

(b) 18-MONTH PERIOD FOR CONSTRUCTING NEW RESIDENCE INCREASED TO 2 YEARS.—Subsection (c)(5) of section 1034 is amended by striking out "18 months" and inserting in lieu thereof "2 years".

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE.

(a) ALLOWANCE OF CREDITS.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) may not exceed $2,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) shall apply to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.

"(4) CERTAIN OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the amount of the credit allowed under section (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts allowed to such individuals shall not exceed $2,000 with respect to that residence.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under sections 33, 37, 38, 40, 41, and 42.

"(c) DEFINITIONS.—For purposes of this section—

"(1) NEW PRINCIPAL RESIDENCE.—The term 'new principal residence' means a principal residence (within the meaning of section 1034), the original use of which commences with the taxpayer, and includes, without being limited to, a single family structure, a residential unit in a condominium or cooperative housing project, and a mobile home.

"(2) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the new principal residence on the date of the acquisition thereof.

"(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date on which he acquired it (or, in the case of construction by the taxpayer, on the day on which he first occupied it) as his principal residence, then the tax

imposed under this chapter for the taxable year in which terminates the replacement period under paragraph (2) with respect to the disposition is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases or constructs a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year following the taxable year during which disposition occurs is increased by an amount which bears the same ratio to the amount allowed as a credit for the purchase of the old residence as (A) the adjusted sales price of the old residence (within the meaning of section 1034), reduced (but not below zero) by the taxpayer's cost of purchasing the new residence (within the meaning of such section) bears to (B) the adjusted sales price of the old residence.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36 month period to which reference is made under such paragraph,

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily and involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the other spouse retains the residence as principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(2) SELF-CONSTRUCTED PROPERTY BEGUN BEFORE MARCH 13, 1975.—In the case of property the construction of which was begun by the taxpayer before March 13, 1975, only that portion of the basis of such property properly allocable to construction after March 12, 1975, shall be taken into account in determining the amount of the credit allowable under subsection (a).

"(3) BINDING CONTRACT.—For purposes of this subsection, a contract for the purchase of a residence which is conditioned upon the purchaser's obtaining a loan for the purchase of the residence (including conditions as to the amount or interest rate of such loan) is not considered non-binding on account of that condition.

"(1) IN GENERAL.—The provisions of this section apply to a new principal residence—

"(A) the construction of which began before March 26, 1975,

"(B) which is acquired and occupied by the taxpayers after March 12, 1975, and before January 1, 1977, and

"(C) if not constructed by the taxpayer, which was acquired by the taxpayer under a binding contract entered into by the taxpayer before January 1, 1976.

"(4) CERTIFICATION MUST BE ATTACHED TO RETURN.—This section shall not apply to any residence (other than a residence constructed by the taxpayer) unless there is attached to the return of tax on which the credit is claimed a certification by the seller, in accordance with regulations prescribed by the Secretary or his delegate, that the purchase price is the lowest price at which the residence was ever offered for sale."

(b) SUITS TO RECOVER AMOUNTS OF PRICE INCREASES.—If—

(1) any person certifies under section 44(e)(4) of the Internal Revenue Code of 1954 that the price for which a residence was sold is the lowest price at which the residence was ever offered for sale, and

(2) the price for which the residence was sold exceeded the lowest price at which the residence was ever offered for sale,

such person shall be liable to the purchaser of such residence in an amount equal to three times the amount of such excess. The United States district courts shall have jurisdiction of suits to recover such amounts without regard to any other provision of law. In any suit brought under this subsection in which judgment is entered for the purchaser, he shall also be entitled to recover a reasonable attorney's fee,

(c) DENIAL OF DEDUCTION.—Notwithstanding the provisions of section 162 or 212 of the Internal Revenue Code of 1954, no deduction shall be allowed in computing taxable income for two-thirds of any amount paid or incurred on a judgment entered against any person in a suit brought under subsection (b).

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 44. Credit for purchase of new principal residence.
"Sec. 45. Overpayments of tax.'

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (v), by striking out "; and" at the end of clause (vi) and inserting in lieu thereof ", and", and by inserting after clause (vi) the following new clause:

"(vii) section 44 (relating to credit for purchase of new principal residence); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (E), by striking out "exceed" at the end of subparagraph (F) and inserting in lieu thereof "and", and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 44 (relating to credit for purchase of new principal residence), exceed".

(4) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 42" and inserting in lieu thereof "42, and 44".

SEC. 209. EFFECTIVE DATES.

(a) SECTIONS 201, 202(a), AND 203.—The amendments made by sections 201, 202(a), and 203 shall apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply to taxable years ending after December 31, 1975.

(b) SECTION 204.—The amendments made by section 204 shall apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(c) SECTIONS 202(b) AND 205.—The amendments made by sections 202(b) and 205 shall apply to wages paid after April 30, 1975, and before January 1, 1976.

(d) SECTION 206.—The amendments made by section 206 apply to taxable years beginning after the date of enactment of this Act.

(e) SECTION 207.—The amendments made by section 207 shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) sold or exchanged after December 31, 1974, in taxable years ending after such date.

TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

SEC. 301. INCREASE IN INVESTMENT CREDIT.

(a) INCREASE OF INVESTMENT CREDIT.—Paragraph (1) of section 46 (a) (determining the amount of the investment credit) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) TEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a property described in subparagraph (D), the amount of the credit allowed by section 38 for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

"(B) ELEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a corporation which elects to have the provisions of this subparagraph apply, the amount of the credit allowed by section 38 for the taxable year with respect to property described in subparagraph (D) shall be an amount equal to 11 percent of the qualified investment (as determined under subsections (c) and (d)). An election may not be made to have the provisions of this subparagraph apply for the taxable year unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975. An election by a corporation to have the provisions of this subparagraph apply shall be made at such time, in such form, and in such manner as the Secretary or his delegate may prescribe.

"(C) SEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, the amount of credit allowed by section 38 for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).

"(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—

"(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1977."

"(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1977, and placed in service by the taxpayer before January 1, 1977, and

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1977."

(b) PUBLIC UTILITY PROPERTY.—

(1) DETERMINATION OF QUALIFIED INVESTMENT.—Subparagraph (A) of section 46(c)(3) (relating to determination of qualified investment in the case of public utility property) is amended to read as follows:

"(A) To the extent that subsection (a)(1)(C) applies to property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1).".

(2) INCREASE IN 50-PERCENT LIMITATION.—Section 46(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

(A) IN GENERAL.—If, for a taxable year ending after calendar year 1974 and before calendar year 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1975 or 1976	50
1977	40
1978	30
1979	20
1980	10

"(D) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(3) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—Section 46(f), as redesignated by section 302(a) of this Act (relating to limitation in case of certain regulated companies), is amended by adding at the end thereof the following new paragraph:

"(8) PROHIBITION OF IMMEDIATE FLOWTHROUGH.—An election made under paragraph (3) shall apply only to the amount of the credit allowable under section 38 with respect to public utility property (within the meaning of subsection (a)(6)(D)) determined as if the Tax Reduction Act of 1975 had not been enacted. Any taxpayer who had timely made an election under paragraph (3) may, at his own option and without regard to any requirement imposed by an agency described in subsection (c)(3)(B), elect within 90 days after the date of the enactment of the Tax Reduction Act of 1975 (in such manner as the Secretary or his delegate shall prescribe) to have the provisions of paragraph (3) apply with respect to the amount of the credit allowable under section 38 with respect to such property which is in excess of the amount determined under the preceding sentence. If such taxpayer does not make such an election, paragraph (1) or (2) (whichever paragraph is applicable without regard to this paragraph) shall apply to such excess credit, except that if neither paragraph (1) nor (2) is applicable (without regard to this paragraph), paragraph (1) shall apply unless the taxpayer elects (in such manner as the Secretary or his delegate shall prescribe) within 90 days after the date of the enactment of the Tax Reduction Act of 1975 to have the provisions of paragraph (2) apply. The provisions of this paragraph shall not be applied to disallow such excess credit before the first final determination which is inconsistent with such requirements is made, determined in the same manner as under paragraph (4)."

(4) EFFECTIVE DATES.—The amendment made by paragraph (1) of this subsection shall apply to property placed in service after January 21, 1975, in taxable years ending after January 21, 1975. The amendments made by paragraphs (2) and (3) shall apply to taxable years ending after December 31, 1974.

(c) INCREASE FROM $50,000 TO $100,000 OF DOLLAR LIMITATION ON USED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of subsection 48(c) (relating to dollar limitation in case of used section 38 property) is amended—

(A) by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply only to taxable years beginning after December 31, 1974, and before January 1, 1977.

(d) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING 11-PERCENT CREDIT.—In order to meet the requirements of this subsection—

(1) A corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

(A) is a stock bonus plan, a stock bonus and a money purchase pension plan, or a profit-sharing plan,

(B) is designed to invest primarily in employer securities, and

(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(1)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.

(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from the service, death, or disability.

(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(7) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) stock transferred under paragraph (6) and allocated to the account of any participant under paragraph (3) and

dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract).

(B) no amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) the plan must meet the requirements of sections 410 and 415 of such Code.

(8) If the amount of the credit determined under section 46(a)(1)(B) of the Internal Revenue Code of 1954, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the original plan agreement.

(9) For purposes of this subsection, the term—

(A) "employer securities" means common stock issued by the employer or a corporation which is in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954) with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and

(B) "value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.

(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.

(11) If the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(1)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be

collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.

(12) Notwithstanding any provisions of the Internal Revenue Code of 1954 to the contrary, no deduction shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.

SEC. 302. ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN 2 YEARS.

(a) GENERAL RULE.—Section 46 (relating to amount of credit) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED PROGRESS EXPENDITURES.—

"(1) IN GENERAL.—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'progress expenditure property' means any property which is being constructed by or for the taxpayer and which—

"(i) has a normal construction period of two years or more, and

"(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expendi-

tures' means the amount which, for purposes of this subpart, is, properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the lesser of—

"(i) the amount paid during the taxable year to another person for the construction of such property, or

"(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that portion of such construction which is completed during such taxable year.

"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (3).—For purposes of paragraph (3)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWINGS DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.

"(C) CERTAIN UNUSED EXPENDITURES CARRIED OVER.—In the case of non-self-constructed property, if for the taxable year—

"(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or

"(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise

by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"*(E) No qualified progress expenditures for certain prior periods.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later, before the first day of the first taxable year to which an election under this subsection applies).*

"*(F) No qualified progress expenditures for property for year it is placed in service, etc.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—*

"*(i) the taxable year in which the property is placed in service, or*

"*(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property,*

or for any taxable year thereafter.

"*(5) Other definitions.—For purposes of this subsection—*

"*(A) Self-constructed property.—The term 'self-constructed property' means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.*

"*(B) Non-self-constructed property.—The term 'non-self-constructed property' means property which is not self-constructed property.*

"*(C) Construction, etc.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.*

"*(D) Only construction of section 38 property to be taken into account.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.*

"*(6) Election.—An election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.*

"*(7) Transitional rules.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—*

"*(A) the applicable percentage of the full amount determined under the following table:*

"For a taxable year beginning in:	*The applicable percentage is:*
1974 or 1975	*20*
1976	*40*
1977	*60*
1978	*80*
1979	*100;*

plus

"*(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.*

For purposes of this paragraph, the term 'full amount', when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 46(c).—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"*(4) COORDINATION WITH SUBSECTION (d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 47(a)(3)(C), by the lessee) as qualified investment with respect to such property under subsection (d), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3).*"

(2) DISPOSITION, ETC.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"*(3) PROPERTY CEASES TO BE PROGRESS EXPENDITURE PROPERTY.—*

"*(A) IN GENERAL.—If during any taxable year any property taken into account in determining qualified investment under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.*

"*(B) CERTAIN EXCESS CREDIT RECAPTURED.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year in which the property is placed in service.*

"*(C) CERTAIN SALES AND LEASEBACKS.—Under regulations prescribed by the Secretary or his delegate, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall not be treated as a cessation described in subparagraph (A) to*

the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property is not less than the qualified progress expenditures properly taken into account by the lessee with respect to such property.

"*(D) Coordination with paragraph (1).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recaptured before such cessation were allowable for the taxable year the property was placed in service.*"

(c) Clerical Amendments.—

(1) Paragraph (4) of section 47(a) (as redesignated by subsection (b)(2)(A) of this section) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (3)".

(2) Paragraphs (5) and (6)(B) of section 47(a) are each amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

(3) Paragraphs (1) and (2) of section 48(d) are each amended by striking out "section 46(d)(1)" and inserting in lieu thereof "section 46(e)(1)".

(4) Subsection (f) of section 50B is amended by striking out "section 46(d)" and inserting in lieu thereof "section 46(e)".

SEC. 303. CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION.

(a) Tax Rates.—Section 11(b) (relating to corporate normal tax) is amended to read as follows:

"*(b) Normal Tax.—The normal tax is equal to—*

"*(1) in the case of a taxable year ending before January 1, 1975, or after December 31, 1975, 22 percent of the taxable income, and*

"*(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the sum of—*

"*(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus*

"*(B) 22 percent of so much of the taxable income as exceeds $25,000.*".

(b) Surtax Exemption.—Section 11(d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(c) Technical and Conforming Amendments.—

(1) Paragraph (1) of section 1561(a) (as in effect for taxable years beginning after December 31, 1974) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000". In applying subsection (b)(2) of section 11, the first $25,000 of taxable income and the second $25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated.

(2) *Paragraph (7) of section 12 (relating to cross references for tax on corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".*

(3) *Section 962(c) (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".*

SEC. 304. INCREASE IN MINIMUM ACCUMULATED EARNINGS CREDIT FROM $100,000 TO $150,000.

(a) INCREASE.—Paragraphs (2) and (3) of section 535(c) (relating to accumulated earnings credit) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

(b) CONFORMING AMENDMENTS.—Sections 243(b)(3)(C)(i) (relating to qualifying dividends for purposes of the dividends received deduction), 1551(a) (relating to disallowance of surtax exemption and accumulated earnings credit) and 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

SEC. 305. EFFECTIVE DATES.

(a) SECTION 302.—The amendments made by section 302 shall apply to taxable years ending after December 31, 1974.

(b) SECTION 303.—

(1) IN GENERAL.—The amendments made by section 303 shall apply to taxable years ending after December 31, 1974. The amendments made by subsections (b) and (c) of such section shall cease to apply for taxable years ending after December 31, 1975.

(2) CHANGES TREATED AS CHANGES IN TAX RATE.—Section 21 (relating to change in rates during taxable year) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) shall be treated as a change in a rate of tax."

(c) SECTION 304.—The amendments made by section 304 apply to taxable years beginning after December 31, 1974.

TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES

SEC. 401. FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE TAX CREDIT.

(a) IN GENERAL.—

(1) Section 50A (a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000."

(2) Section 50A (c) (2) (A) (relating to amount of credit) is amended—

(A) by striking out "or " at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "or", and

(C) by inserting at the end thereof the following new clause:

"(iv) a termination of employment of an individual with respect to whom Federal welfare recipient employment incentive expenses (as described in section 50B (a) (2)) are taken into account under subsection (a)."

(3) Section 50B (a) (relating to definitions; special rules) is amended to read as follows:

"(a) WORK INCENTIVE PROGRAM EXPENSES.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'work incentive program expenses' means the sum of—

"(A) the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

"(i) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

"(ii) not having displaced any individual from employment, plus

"(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year.

"(2) DEFINITION.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer before July 1, 1976, by an eligible employee.

"(3) EXCLUSION.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph 1(A)."

(4) Section 50B(c) is amended—

(A) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)(A)", and

(B) by striking out "subsection (a)" in paragraph (4) and inserting in lieu thereof "subsection (a)(1)(A)".

(5) Section 50B is amended by redesignating subsection (g) as (h) and by inserting immediately after subsection (f) the following new subsection:

"(g) ELIGIBLE EMPLOYEE.—

"(1) ELIGIBLE EMPLOYEE.—For purposes of subsection (a)(1)(B), the term 'eligible employee' means an individual—

"(A) who has been certified by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer,

"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

"(C) who has not displaced any other individual from employment by the taxpayer, and

"(D) who is not a migrant worker.

The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

"(2) MIGRANT WORKER.—For purposes of paragraph (1), the term 'migrant worker' means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time."

(b) EFFECTIVE DATE.—The amendments made by this section with respect to federal welfare recipient employment incentive expenses shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

SEC. 402. TIME WHEN CONTRIBUTIONS DEEMED MADE TO CERTAIN PENSION PLANS.

Section 1017 of the Employee Retirement Income Security Act of 1974 (relating to effective dates for funding, etc., provisions of that Act) is amended—

(1) in subsection (b) by striking out "(c) through (h)," and inserting in lieu thereof "(c) through (i),"; and

(2) by adding at the end thereof the following new subsection:

"(i) CONTRIBUTIONS TO H.R. 10 PLANS.—Notwithstanding subsections (b) and (c)(2), in the case of a plan in existence on January 1, 1974, the amendment made by section 1013(c)(2) of this Act shall apply, with respect to a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, for plan years beginning after December 31, 1974, but only if the employer (within the meaning of section 401(c)(4) of such Code) elects in such manner and at such time as the Secretary of the Treasury or his delegate shall by regulations prescribe, to have such amendment so apply. Any election made under this subsection, once made, shall be irrevocable."

TITLE V—PERCENTAGE DEPLETION

SEC. 501. LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL AND GAS.

(a) IN GENERAL.—Part I of subchapter I of chapter 1 (relating to natural resources) is amended by inserting after section 613 the following new section:

"SEC. 613A. LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613.

"(b) EXEMPTION FOR CERTAIN DOMESTIC GAS WELLS.—

"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) regulated natural gas,

"(B) natural gas sold under a fixed contract, and

"(C) any geothermal deposit in the United States or in a possession of the United States which is determined to be a gas well within the meaning of section 613(b)(1)(A),

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.

"(B) REGULATED NATURAL GAS.—The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, before July 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in

liability of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(*c*) EXEMPTION FOR INDEPENDENT PRODUCERS AND ROYALTY OWNERS.—

"(*1*) IN GENERAL.—*Except as provided in subsection* (*d*), *the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to*—

"(*A*) *so much of the taxpayer's average daily production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity; and*

"(*B*) *so much of the taxpayer's average daily production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity;*

and the applicable percentage (*determined in accordance with the table contained in paragraph* (*5*)) *shall be deemed to be specified in subsection* (*b*) *of section 613 for purposes of subsection* (*a*) *of that section.*

"(*2*) AVERAGE DAILY PRODUCTION.—*For purposes of paragraph* (*1*)—

"(*A*) *the taxpaper's average daily production of domestic crude oil or natural gas for any taxable year, shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and*

"(*B*) *in the case of a taxpayer holding a partial interest in the production from any property* (*including an interest held in a partnership*) *such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.*

In applying this paragraph, there shall not be taken into account any production of crude oil or natural gas resulting from secondary or tertiary processes (*as defined in regulations prescribed by the Secretary or his delegate*).

(*b*) *applies.*

"(*3*) DEPLETABLE OIL QUANTITY.—

"(*A*) IN GENERAL.—*For purposes of paragraph* (*1*), *the taxpayer's depletable oil quantity shall be equal to*—

"(*i*) *the tentative quantity determined under the table contained in subparagraph* (*B*), *reduced* (*but not below zero*) *by*

"(*ii*) *the taxpayer's average daily secondary or tertiary production for the taxable year.*

"(B) PHASE-OUT TABLE.—For purposes of subparagraph (A)—

"In the case of production during the calendar year:

	The tentative quantity in barrels is
1975	2,000
1976	1,800
1977	1,600
1978	1,400
1979	1,200
1980 and thereafter	1,000

"(4) DAILY DEPLETABLE NATURAL GAS QUANTITY.—For purposes of paragraph (1), the depletable natural gas quantity of any taxpayer for any taxable year shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have this paragraph apply. The taxpayer's depletable oil quantity for any calendar year shall be reduced by the number of barrels with respect to which an election under this paragraph applies. Such election shall be made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

"(5) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"In the case of production during the calendar year:	The applicable percentage is:
1975	22
1976	22
1977	22
1978	22
1979	22
1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

"(6) OIL AND NATURAL GAS RESULTING FROM SECONDARY OR TERTIARY PROCESSES.—

"(A) IN GENERAL.—Except as provided in subsection (d), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(i) so much of the taxpayer's average daily secondary or tertiary production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined with regard to paragraph (3)(A)(ii); and

"(ii) so much of the taxpayer's average daily secondary or tertiary production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii));

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(B) AVERAGE DAILY SECONDARY OR TERTIARY PRODUCTION.—*For purposes of this subsection—*

"(i) *the taxpayer's average daily secondary or tertiary production of domestic crude oil or natural gas for any taxable year shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, resulting from secondary or tertiary processes during the taxable year by the number of days in such taxable year, and*

"(ii) *in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.*

"(C) TERMINATION.—*This paragraph shall not apply after December 31, 1983.*

"(7) SPECIAL RULES.—

"(A) PRODUCTION OF CRUDE OIL IN EXCESS OF DEPLETABLE OIL QUANTITY.—*If the taxpayer's average daily production of domestic crude oil exceeds his depletable oil quantity, the allowance under paragraph (1)(A) with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which could have been allowable under section 613(a) for all of the taxpayer's oil produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6), as the case may be as his depletable oil quantity bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.*

"(B) PRODUCTION OF NATURAL GAS IN EXCESS OF DEPLETABLE NATURAL GAS QUANTITY.—*If the taxpayer's average daily production of domestic natural gas exceeds his depletable natural gas quantity, the allowance under paragraph (1)(B) with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayers natural gas produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6) as the case may be) as the amount of his depletable natural gas quantity in cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the taxpayer for such year.*

"(C) TAXABLE INCOME FROM THE PROPERTY.—If both oil and gas are produced from the property during the taxable year, for purposes of subparagraphs (A) and (B) the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall be allocated between the oil production and the gas production in proportion to the gross income during the taxable year from each.

"(D) PARTNERSHIPS.—In the case of a partnership, the depletion allowance in the case of oil and gas wells to which this subsection applies shall be computed separately by the partners and not by the partnership.

"(E) SECONDARY OR TERTIARY PRODUCTION.—If the taxpayer has production from secondary or tertiary recovery processes during the taxable year, this paragraph (under regulations prescribed by the Secretary or his delegate) shall be applied separately with respect to such production.

"(8) BUSINESSES UNDER COMMON CONTROL; MEMBERS OF THE SAME FAMILY.—

"(A) Component members of controlled group treated as one taxpayer.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) Aggregation of business entities under common control.—If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.

"(C) Allocation among members of the same family.—In the case of individuals who are members of the same family, the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.

"(D) Definition and special rules.—For purposes of this paragraph—

"(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children,

"(iii) the family of an individual includes only his spouse and minor children, and

"(*iv*) *each 6,000 cubic feet of domestic natural gas shall be treated as 1 barrel of domestic crude oil.*

"(*9*) TRANSFER OF OIL OR GAS PROPERTY.—

"(*A*) *In the case of a transfer (including the subleasing of a lease) after December 31, 1974 of an interest (including an interest in a partnership or trust) in any proven oil or gas property, paragraph (1) shall not apply to the transferee (or sublessee) with respect to production of crude oil or natural gas attributable to such interest, and such production shall not be taken into account for any computation by the transferee (or sublessee) under this subsection. A property shall be treated as a proven oil or gas property if at the time of the transfer the principal value of the property has been demonstrated by prospecting or exploration or discovery work.*

"(*B*) *Subparagraph (A) shall not apply in the case of—*

"(*i*) *a transfer of property at death, or*

"(*ii*) *the transfer in an exchange to which section 351 applies if following the exchange the tentative quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee.*

"(*10*) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—*In applying this subsection to a taxable year which is not a calendar year, each portion of such taxable year which occurs during a single calendar year shall be treated as if it were a short taxable year.*

"(*11*) CERTAIN PRODUCTION NOT TAKEN INTO ACCOUNT.—*In applying this subsection, there shall not be taken into account the production of natural gas with respect to which subsection (b) applies.*

"(*d*) LIMITATIONS ON APPLICATIONS OF SUBSECTION (*c*).—

"(*1*) *Limitation based on taxable income.—The deduction for the taxable year attributable to the application of subsection (c) shall not exceed 65 percent of the taxpayer's taxable income for the year computed without regard to—*

"(*A*) *depletion with respect to production of oil and gas subject to the provisions of subsection (c),*

"(*B*) *any net operating loss carryback to the taxable year under section 172, and*

"(*C*) *any capital loss carryback to the taxable year under section 1212.*

If an amount is disallowed as a deduction for the taxable year by reason of application of the preceding sentence, the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for the following taxable year, subject to the application of the preceding sentence to such taxable year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction on the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties under subsection (c).

"(2) RETAILERS EXCLUDED.—Subsection (c) shall not apply in the case of any taxpayer who directly, or through a related person, sells oil or natural gas, or any product derived from oil or natural gas—

"(A) through any retail outlet operated by the taxpayer or a related person, or

"(B) to any person—

"(i) obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

"(ii) given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

"(3) RELATED PERSON.—For purposes of this subsection, a person is a related person with respect to the taxpayer if a significant ownership interest in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person. For purposes of the preceding sentence, the term 'significant ownership interest' means—

"(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

"(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

"(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

"(4) CERTAIN REFINERS EXCLUDED. If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year the refinery runs of the taxpayer and such person exceed 50,000 barrels.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) BARREL.—The term 'barrel' means 42 United States gallons."

(b) TECHNICAL AMENDMENTS.—

(1) Section 613(d) (relating to percentage depletion) is amended to read as follows:

"(d) DENIAL OF PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.—Except as provided in section 613A, in the case of any oil or gas well, the allowance for depletion shall be computed without reference to this section."

(2) *Section 613(b) is amended—*

(A) *by striking out subparagraph (A) of paragraph (1) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively,*

(B) *by striking out "(1)(C)" each place it appears in paragraphs (3), (4), and (7) and inserting in lieu thereof "(1)(B)", and*

(C) *by amending the last sentence of paragraph (7)—*

(i) *by striking out "or" at the end of clause (A),*

(ii) *by striking out the period at the end of clause (B) and inserting in lieu thereof "; or", and*

(iii) *by adding at the end thereof the following new clause:*

"(C) *oil and gas wells.*"

(3) *Section 703(a)(2) (relating to deductions not allowable to a partnership) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu ", and", and by adding at the end thereof the following new subparagraph:*

"(G) *the deduction for depletion under section 611 with respect to oil and gas production subject to the provisions of section 613A(c).*"

(c) EFFECTIVE DATES.—*The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.*

TITLE VI—TAXATION OF FOREIGN OIL AND GAS AND OTHER FOREIGN INCOME

SEC. 601. LIMITATIONS ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is amended by adding at the end thereof the following new section:

"SEC. 907. SPECIAL RULES IN CASE OF FOREIGN OIL AND GAS INCOME

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is—

"(A) in taxable years ending in 1975, 110 percent of,

"(B) in taxable years ending in 1976, 105 percent of, and

"(C) in taxable years ending after 1976, 2 percentage points above,

the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income.

With respect to foreign oil related income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by section 904(a)(1) shall not apply.

"(c) FOREIGN INCOME DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term 'foreign oil and gas extraction income' means the taxable income derived from sources without the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or

"(B) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A).

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(B) the processing of such minerals into their primary products,

"(C) the transportation of such minerals or primary products,

"(D) the distribution or sale of such minerals or primary products, or

"(E) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), (C), or (D).

"(3) DIVIDENDS, INTEREST, PARTNERSHIP DISTRIBUTION, ETC.—The term 'foreign oil and gas extraction income' and the term 'foreign oil related income' include—

"(A) dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) dividends from a domestic corporation which are treated under section 861(a)(2)(A) as income from sources without the United States,

"(C) amounts with respect to which taxes are deemed paid under section 960(a), and

"(D) the taxpayer's distributive share of the income of partnerships.

to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be; except that interest described in subparagraph (A) and dividends described in subparagraph (B) shall not be taken into account in computing foreign oil and gas extraction income but shall be taken into account in computing foreign oil-related income.

"(4) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items—

"(A) shall not be taken into account in computing foreign oil and gas extraction income for such year, but

"(B) shall be taken into account in computing foreign oil related income for such year.

"(d) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is dis-

posed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"*(e) TRANSITIONAL RULES.—*

"*(f) RECAPTURE OF FOREIGN OIL RELATED LOSS.—*

(1) GENERAL RULE.—For purposes of this subpart, in the case of any taxpayer who sustains a foreign oil related loss for any taxable year—

"*(A) that portion of the foreign oil related income for each succeeding taxable year which is equal to the lesser of—*

"*(i) the amount of such loss (to the extent not used under this paragraph in prior years), or*

"*(ii) 50 percent of the foreign oil related income for such succeeding taxable year,*

shall be treated as income from sources within the United States (and not as income from sources without the United States), and

"*(B) the amount of the income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) to a foreign country for such succeeding taxable year with respect to foreign oil related income shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the total foreign oil related income for such succeeding taxable year.*

For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, foreign oil related income shall be determined without regard to this subsection.

"*(2) FOREIGN OIL RELATED LOSS DEFINED.—For purposes of this subsection, the term 'foreign oil related loss' means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—*

"*(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and*

"*(B) any—*

"*(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or*

"*(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,*

to the extent such loss is not compensated for by insurance or otherwise.

"(3) DISPOSITIONS.—

"(A) IN GENERAL.—For purposes of this chapter, if property used in a trade or business described in subparagraph (A), (B), (C), or (D) of subsection (c)(2) is disposed of during any taxable year—

"(i) the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized foreign oil related income in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the foreign oil related losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

"(B) DISPOSITION DEFINED.—For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.

"(1) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1974.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1975, to any taxable year ending after December 31, 1974—

"(A) subsection (a) of this section shall be deemed to have been in effect for such prior taxable year and for all taxable years thereafter, and

"(B) the carryover from such prior year shall be divided (effective as of the first day of the first taxable year ending after December 31, 1974) into—

"(i) a foreign oil related carryover, and

"(ii) another carryover,

on the basis of the proportionate share of the foreign oil related income, or the other taxable income, as the case may be, of the total taxable income taken into account in computing the amount of such carryover.

"(2) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1975.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1976, to any taxable year ending after December 31 1975, if the per-country limitation provided by section 904(a)(1) applied to such prior taxable year and to the taxpayer's last taxable year ending before January 1, 1976, then in the case of any foreign oil related carryover—

"(A) the first sentence of section 904(e)(2) shall not apply, but

"(B) *such amount may not exceed the amount which could have been used in such succeeding taxable year if the per-country limitation continued to apply.*

(b) CERTAIN PAYMENTS NOT TO BE CONSIDERED AS TAXES.—*Section 901 is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:*

"(C) EXCEPTIONS.—*Notwithstanding subparagraph (B), the term 'disposition' does not include—*

"(i) *a disposition of property which is not a material factor in the realization of income by the taxpayer, or*

"(ii) *a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).*

"(g) WESTERN HEMISPHERE TRADE CORPORATIONS WHICH ARE MEMBERS OF AN AFFILIATED GROUP.—*If a Western Hemisphere trade corporation is a member of an affiliated group for the taxable year, then in applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this section and section 1503(b)) be taken into account for purposes of section 901 shall be reduced by the greater of—*

"(1) *the reduction with respect to such taxes provided by subsection (a) of this section, or*

"(2) *the reduction determined under section 1503(b) by applying section 1503(b) separately with respect to such taxes, but not by both such reductions.*"

"(f) CERTAIN PAYMENTS FOR OIL OR GAS NOT CONSIDERED AS TAXES.—*Notwithstanding subsection (b) and sections 102 and 960, the amount of any income, or profits, and excess profits taxes paid or accrued during the taxable year to any foreign country in connection with the purchase and sale of oil or gas extracted in such country is not to be considered as tax for purposes of section 275(a) and this section if—*

"(1) *the taxpayer has no economic interest in the oil or gas to which section 611(a) applies, and*

"(2) *either such purchase or sale is at a price which differs from the fair market value for such oil or gas at the time of such purchase or sale.*"

(c) CLERICAL AMENDMENT.—*The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:*

"Sec. 907. Special rules in case of foreign oil and gas income."

(d) EFFECTIVE DATES.—*The amendments made by this section shall apply to taxable years ending after December 31, 1974; except that—*

(1) *the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1975, and*

(2) *the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1975.*

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISIONS.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included."

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 963.

(B) Subparagraph (A)(i) of section 951(a)(1) (relating to general rule for amounts included in gross income of United States shareholders) is amended by striking out "except as provided in section 963,".

(b) LIMITATION ON DEFINITION OF FOREIGN BASE COMPANY SALES INCOME.—Paragraph (1) of section 954(d) (relating to definition of foreign base company sales income) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, personal property does not include agricultural commodities which are not grown in the United States in commercially marketable quantities."

(c) REPEAL OF EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME FOR REINVESTMENT IN LESS DEVELOPED COUNTRIES.—

(1) REPEAL OF SECTION 954(b)(1).—Paragraph (1) of subsection (b) of section 954 (relating to exclusions and special rules regarding foreign base company income) is hereby repealed.

(2) REPEAL OF SECTION 954(f).—Subsection (f) of section 954 (relating to increase in qualified investments in less developed countries) is hereby repealed.

(3) AMENDMENT OF SECTION 951(a)(1)(A)(ii).—Clause (ii) of section 951(a)(1)(A) is amended by striking out "(determined under section 955(a)(3))" and inserting in lieu thereof "(determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975)".

(4) REPEAL OF SECTION 951(a)(3).—Paragraph (3) of section 951(a) (relating to limitation on pro rata share of previously excluded subpart F income withdrawn from investment) is hereby repealed.

(5) Repeal of Section 955.—Section 955 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.

(6) Less developed country corporation defined.—Subsection (d) of section 902 is amended to read as follows:

"*(d) Less Developed Country Corporation Defined.—For purposes of this section, the term 'less developed country corporation' means—*

"*(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of paragraph (3) or (4), and*

"*(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of paragraph (3), and—*

"*(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of paragraph (3)(A), and*

"*(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in paragraph (3)(B).*

A foreign corporation which is a less developed country corporation for its first taxable year beginning after December 31, 1962, shall, for purposes of this section, be treated as having been a less developed country corporation for each of its taxable years beginning before January 1, 1963.

"*(3) The term 'less developed country corporation' means a foreign corporation which during the taxable year is engaged in the active conduct of one or more trades or businesses and—*

"*(A) 80 percent or more of the gross income of which for the taxable year is derived from sources within less developed countries; and*

"*(B) 80 percent or more in value of the assets of which on each day of the taxable year consists of—*

"*(i) property used in such trades or businesses and located in less developed countries,*

"*(ii) money, and deposits with persons carrying on the banking business,*

"*(iii) stock, and obligations which, at the time of their acquisition, have a maturity of one year or more, of any other less developed country corporation,*

"*(iv) an obligation of a less developed country,*

"*(v) an investment which is required because of restrictions imposed by a less developed country, and*

"*(vi) property described in section 956(b)(2).*

For purposes of subparagraph (A), the determination as to whether income is derived from sources within less developed countries shall be made under regulations prescribed by the Secretary or his delegate.

"*(4) The term 'less developed country corporation' also means a foreign corporation—*

(A) 80 percent or more of the gross income of which for the taxable year consists of—

"(i) gross income derived from, or in connection with, the using (or hiring or leasing for use) in foreign commerce of aircraft or vessels registered under the laws of a less developed country, or from, or in connection with, the performance of services directly related to use of such aircraft or vessels, or from the sale or exchange of such aircraft or vessels, and

"(ii) dividends and interest received from foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which are owned by the foreign corporation, and gain from the sale or exchange of stock or obligations of foreign corporations which are such less developed country corporations, and

"(B) 80 percent or more of the assets of which on each day of the taxable year consists of (i) assets used, or held for use, for or in connection with the production of income described in subparagraph (A), and (ii) property described in section 956(b)(2).

"(5) The term 'less developed country' means (in respect to any foreign corporation) any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this section. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country. No designation shall be made under this paragraph with respect to—

Australia
Austria
Belgium
Canada
Denmark
France
Germany (Federal Republic)
Hong Kong
Italy
Japan
Liechtenstein
Luxembourg
Monaco
Netherlands
New Zealand
Norway
Union of South Africa
San Marino
Sweden
Switzerland
United Kingdom

After the President has designated any foreign country or any possession of the United States as an economically less developed country for purposes of this section, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order under the first sentence of this paragraph which has the effect of terminating such designation) unless, at least 30 days prior to such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation. Any

designation in effect on March 26, 1975, under section 955(c)(3) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as made under this paragraph."

(7) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 955.

(d) SHIPPING PROFITS OF CONTROLLED FOREIGN CORPORATION TO BE TAXED CURRENTLY EXCEPT TO EXTENT REINVESTED IN SHIPPING OPERATIONS—

(1) SHIPPING PROFITS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

(A) Section 954(a) (relating to foreign base company income) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) the foreign base company shipping income for the taxable year (determined under subsection (f) and reduced as provided in subsection (b)(5))."

(B) Paragraph (2) of section 954(b) is amended to read as follows:

"(2) EXCLUSION FOR REINVESTED SHIPPING INCOME.—For purposes of subsection (a), foreign base company income does not include foreign base company shipping income to the extent that the amount of such income does not exceed the increase for the taxable year in qualified investments in foreign base company shipping operations of the controlled foreign corporation (as determined under subsection (g))."

(C) Subparagraphs (A) and (B) of section 954(b)(3) are each amended by striking out "paragraphs (1) and (5)" and inserting in lieu thereof "paragraphs (2) and (5)".

(D) Subparagraph (B) of section 954(b)(3) is amended by striking out "paragraphs (1), (2)," and inserting in lieu thereof "paragraph (2).".

(E) Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company services income" and inserting in lieu thereof "the foreign base company services income, and the foreign base company shipping income".

(F) Section 954(b) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR FOREIGN BASE COMPANY SHIPPING INCOME.—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection)—

"(A) shall not be considered foreign base company income of such corporation under any other paragraph of subsection (a) and

"(B) if distributed through a chain of ownership described under section 958(a), shall not be included in foreign base company income of another controlled foreign corporation in such chain."

(G) *Section 954 is amended by adding at the end thereof the following new subsections:*

"(f) FOREIGN BASE COMPANY SHIPPING INCOME.—*For purposes of subsection (a)(4), the term 'foreign base company shipping income' means income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or from, or in connection with, the performance of services directly related to the use of any such aircraft, or vessel, or from the sale, exchange, or other disposition of any such aircraft or vessel. Such term includes, but is not limited to—*

"(1) *dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902, and gain from the sale, exchange, or other disposition of stock or obligations of such a foreign corporation to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income, and*

"(2) *that portion of the distributive share of the income of a partnership attributable to foreign base company shipping income.*

"(g) INCREASE IN QUALIFIED INVESTMENTS IN FOREIGN BASE COMPANY SHIPPING OPERATIONS.—*For purposes of subsection (b)(2), the increase for any taxable year in qualified investments in foreign base company shipping operations of any controlled foreign corporation is the amount by which—*

"(1) *the qualified investments in foreign base company shipping operations (as defined in section 955(b)) of the controlled foreign corporation at the close of the taxable year, exceed*

"(2) *the qualified investments in foreign base company shipping operations (as so defined) of the controlled foreign corporation at the close of the preceding taxable year.*"

(2) AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

(A) *Subparagraph (A) of section 951(a)(1) is amended by striking out "and" at the end of clause (i), by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clause:*

"(iii) *his pro rata share (determined under section 955(a)(3)) of the corporation's previously excluded subpart F income withdrawn from foreign base company shipping operations for such year; and* ".

(B) *Section 951(a) is amended by inserting after paragraph (2) the following new paragraph:*

"(3) LIMITATION ON PRO RATA SHARE OF PREVIOUSLY EXCLUDED SUBPART F INCOME WITHDRAWN FROM INVESTMENT.—*For purposes of paragraph (1)(A)(iii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in foreign base company shipping operations shall not exceed an amount—*

"(A) *which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as*

"(B) *the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.*"

(3) WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT.—

(A) Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 954 the following new section:

"SEC. 955. WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT.

"(a) GENERAL RULES.—

"(1) AMOUNT WITHDRAWN.—*For purposes of this subpart, the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is an amount equal to the decrease in the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation for such year, but only to the extent that the amount of such decrease does not exceed an amount equal to—*

"(A) *the sum of the amounts excluded under section 954 (b) (2) from the foreign base company income of such corporation for all prior taxable years, reduced by*

"(B) *the sum of the amounts of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations of such corporation determined under this subsection for all prior taxable years.*

"(2) DECREASE IN QUALIFIED INVESTMENTS.—*For purposes of paragraph (1), the amount of the decrease in qualified investments in foreign base company shipping operations of any controlled foreign corporation for any taxable year is the amount by which—*

"(A) *the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the preceding taxable year, exceeds*

"(B) *the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the taxable year,*

to the extent that the amount of such decrease does not exceed the sum of the earnings and profits for the taxable year and the earnings and profits accumulated for prior taxable years beginning after December 31, 1975, and the amount of previously excluded subpart F income invested in less developed country corporations described in section 955(c) (2) (as in effect before the enactment of the Tax Reduction Act of 1975) to the extent attributable to earnings and profits accumulated for taxable years beginning after December 31, 1962. For purposes of this paragraph, if qualified investments in foreign base company shipping operations are disposed of by the controlled foreign corporation during the taxable year, the amount of the decrease in qualified investments in foreign base company shipping operations of such controlled foreign corporation for such year shall be reduced by an amount equal to the amount (if any) by which the losses on such disposi-

tions during such year exceed the gains on such dispositions during such year.

"*(3) PRO RATA SHARE OF AMOUNT WITHDRAWN.—In the case of any United States shareholder, the pro rata share of the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is his pro rata share of the amount determined under paragraph (1).*

"*(b) QUALIFIED INVESTMENTS IN FOREIGN BASE COMPANY SHIPPING OPERATIONS.—*

"*(1) IN GENERAL.—For purposes of this subpart, the term 'qualified investments in foreign base company shipping operations' means investments in—*

"*(A) any aircraft or vessel used in foreign commerce, and*

"*(B) other assets which are used in connection with the performance of services directly related to the use of any such aircraft or vessel.*

Such term includes, but is not limited to, investments by a controlled foreign corporation in stock or obligations of another controlled foreign corporation which is a related person (within the meaning of section 954(d)(3)) and which holds assets described in the preceding sentence, but only to the extent that such assets are so used.

"*(2) QUALIFIED INVESTMENTS BY RELATED PERSONS.—For purposes of determining the amount of qualified investments in foreign base company shipping operations, an investment (or a decrease in investment) in such operations by one or more controlled foreign corporations may, under regulations prescribed by the Secretary or his delegate, be treated as an investment (or a decrease in investment) by another corporation which is a controlled foreign corporation and is a related person (as defined in section 954(d)(3)) with respect to the corporation actually making or withdrawing the investment.*

"*(3) SPECIAL RULE.—For purposes of this subpart, a United States shareholder of a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, elect to make the determinations under subsection (a)(2) of this section and under subsection (g) of section 954 as of the close of the years following the years referred to in such subsections, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.*

"*(4) AMOUNT ATTRIBUTABLE TO PROPERTY.—The amount taken into account under this subpart with respect to any property described in paragraph (1) shall be its adjusted basis, reduced by any liability to which such property is subject.*

"(5) INCOME EXCLUDED UNDER PRIOR LAW.—Amounts invested in less developed country corporations described in section 955 (c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as qualified investments in foreign base company shipping operations and shall not be treated as investments in less developed countries for purposes of section 951 (a)(1)(A)(ii)."

(B) The table of sections of subpart F of part III of subchapter N of chapter 1 is amended by inserting after the item relating to section 954 the following new item:

"Sec. 955. Withdrawal of previously excluded subpart F income from qualified investment."

(e) EXCLUSION FROM FOREIGN BASE COMPANY INCOME WHERE FOREIGN BASE COMPANY INCOME IS LESS THAN 10 PERCENT OF GROSS INCOME.—Paragraph (3) of section 954(b) is amended by striking out "30 percent" each place it appears and inserting in lieu thereof "10 percent".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

SEC. 603. DENIAL OF DISC BENEFITS WITH RESPECT TO ENERGY RESOURCES AND OTHER PRODUCTS.

(a) AMENDMENT OF SECTION 993 (c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 611, or

"(D) products the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy).

Subparagraph (C) shall not apply to any commodity or product at least 50 percent of the fair market value of which is attributable to manufacturing or processing, except that subparagraph (C) shall apply to any primary product from oil, gas, coal, or uranium. For purposes of the preceding sentence, the term 'processing' does not include extracting or handling, packing, packaging, grading, storing, or transporting."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

SEC. 604. TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS.

(a) AMENDMENT TO 1954 CODE.—

(1) IN GENERAL.—Clause (x) of section 48(a)(2)(B) (relating to property used outside the United States) is amended by striking out "territorial waters" and inserting in lieu thereof "territorial waters within the northern portion of the Western Hemisphere".

(2) DEFINITION.—Subparagraph (B) of section 48(a)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (x), the term 'northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.

(2) BINDING CONTRACT.—The amendments made by subsection (a) shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was on April 1, 1974, and at all times thereafter, binding on the taxpayer.

(3) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1954, only if a party to such contract retains a right to use the property under a long-term lease.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. CERTAIN UNEMPLOYMENT COMPENSATION.

(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."

(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. Notwithstanding any provision of the Emergency Unemployment Compensation Act of 1974, if any such State shall fail or refuse, within a reasonable time after the date of the enactment of this Act, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement.

SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGAMS.

(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled (without regard to sections 202(j)(1) and 223(b) of title II of the

Social Security Act and without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974) to—

(1) a monthly insurance benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; except that, (A) such $50 payment shall be made only to individuals who were paid a benefit for March 1975 in a check issued no later than August 31, 1975; (B) no such $50 payment shall be made to any individual who is not a resident of the United States (as defined in section 210(i) of the Social Security Act); and (C) if an individual is entitled under two or more of the programs referred to in clauses (1), (2), and (3), such individual shall be entitled to receive only one such $50 payment. For purposes of this subsection, the term "resident" means an individual whose address of record for check payment purposes is located within the United States.

(b) RECIPIENT IDENTIFICATION.—The Secretary of Health, Education, and Welfare and the Railroad Retirement Board shall provide the Secretary of the Treasury with such information and data as may be needed to enable the Secretary of the Treasury to ascertain which individuals are entitled to the payment authorized under subsection (a).

(c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any State (or local) welfare program for any calendar quarter commencing after the date of enactment of this Act.

(d) APPROPRIATIONS AUTHORIZATION.—There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

(e) PAYMENT NOT TO BE CONSIDERED INCOME.—Payments made under this section shall not be considered as gross income for purposes of the Internal Revenue Code of 1954.

And the Senate agree to the same.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for personal exemptions and a credit

for certain earned income, to increase the investment credit and the surtax exemption, to reduce percentage depletion for oil and gas, and for other purposes."

And the Senate agree to the same.

AL ULLMAN,
JAMES A. BURKE,
DAN ROSTENKOWSKI,
PHIL LANDRUM,
CHARLES A. VANIK,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
VANCE HARTKE,
ABRAHAM RIBICOFF,
W. D. HATHAWAY,
FLOYD K. HASKELL,
ROBERT DOLE,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the 2 Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, submit the following joint statement to the House and the Senate an explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Refund of 1974 Individual Income Taxes

House bill.—The House bill provides for a refund of 1974 tax liability to be made in one installment beginning in May, 1975. The amount of the refund is to be 10 percent of tax liability up to a maximum refund of $200. Each taxpayer is to receive a refund of at least $100 (or the full amount of his or her actual tax liability if it is less than $100). The refund is to be phased down from the maximum of $200 to $100 as the taxpayer's adjusted gross income rises from $20,000 to $30,000.

Senate amendment.—The Senate amendment provides for a similar refund of 1974 tax liability except that the amount of the refund will be equal to 12 percent of tax liability up to a maximum refund of $240 with a minimum of $120 (or the full amount of the taxpayer's tax liability if it is less than $120).

Conference substitute.—The conference substitute provides for the same refund of 1974 tax liability as in the House bill.

Refunds Disregarded in the Administration of Federal Programs and Federally Assisted Programs

House bill.—The House bill provides that 1974 income tax refunds under section 101 of the bill are not to be considered income or resources for purposes of determining who is eligible to receive benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or Federally assisted program.

Senate amendment.—The Senate amendment is identical to the House provision.

Conference substitute.—The conference substitute is the same as the House bill and Senate amendment.

Reduction in Individual Income Taxes

(Increase In Low-Income Allowance and Standard Deduction; Personal Exemption Credit)

House bill.—The bill raises the minimum standard deduction ("low-income allowance") to $1,900 for single persons and to $2,500 for joint

returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,500 for single persons and $3,000 for joint returns. These increases under the House bill are effective only for the 1975 tax year.

Senate amendment.—Instead of the increase in the low-income allowance and the percentage standard deduction provided by the House bill, the Senate amendment provides a $200 optional tax credit for each personal exemption deduction to which a taxpayer is entitled in lieu of the $750 deduction and a reduction of 1 percentage point in the tax rates applicable to the first $4,000 of taxable income. The $200 optional tax credit is for the 1975 tax year, and the rate reduction is for 1975 and 1976 tax years.

The amendment provides that taxpayers are to compute their tax by using either the $750 exemption deduction of present law or the tax credit of $200 per exemption provided by the amendment depending on which alternative results in a lower tax liability. The amendment also provides that any overstatement of tax liability resulting from incorrectly choosing the personal exemption deduction instead of the credit (or vice versa) will be treated by the Internal Revenue Service as a mathematical error. The Internal Revenue Service will automatically check the computation made on each return and will refund (or credit) any excess amounts paid resulting from the overstatement of tax liability. Under the amendment the personal exemption tax credit is to apply on a 1 year basis for a taxable year beginning in 1975 only.

In addition to the optional tax credit for personal exemptions, the Senate amendment provides a 1 percentage point reduction in the tax rates applicable to the first $4,000 of taxable income in the case of joint returns. In the case of single persons and married individuals filing separate returns, there are 5 brackets for the first $4,000 of taxable income (3 brackets in the case of heads of households). The amendment also reduces each of these brackets by 1 percentage point.

Conference substitute.—The conference substitute raises the minimum standard deduction to $1,600 for single persons and to $1,900 for joint returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,300 for single persons and $2,600 for joint returns. This is to be effective for 1975.

In addition, the conference substitute provides for a tax credit, in addition to the personal exemption, of $30 for each taxpayer, spouse, and dependent. The credit is effective for 1975.

Earned Income Tax Credit

House bill.—The bill provides for a refundable credit of 5 percent of earned income up to a maximum of $200. The credit is to be phased out from the maximum $200 to zero as earned income (or adjusted gross income, if greater) increases from $4,000 to $6,000. The earned income credit applies only for 1975.

Senate amendment.—The Senate amendment provides a tax credit of 10 percent of earned income up to a maximum of $400. The amount of the credit is to be phased out from the maximum amount down to zero as the earned income (or adjusted gross income, if greater) increases from $4,000 to $8,000. Only individuals who maintain a house-

hold in the United States for themselves and for 1 or more dependent children are eligible to claim the credit under the Senate amendment. As in the House bill, the Senate amendment applies only to taxable years beginning in 1975.

Conference substitute.—The conference substitute adopts the Senate version of the earned income credit. The language in the Senate amendment with reference to the income being taken into account for welfare purposes, however, is not included as the conferees intend that the language applicable under present law is not changed.

Change in Withholding Rates

House bill.—The bill provides a new annual percentage withholding table, which reflects the increases in the low income allowance, the percentage standard deduction, and the provision for an earned income credit provided in the House bill. The Internal Revenue Service is required to calculate withholding tables for other periods and for wage bracket withholding.

Senate amendment.—The Senate amendment requires the Secretary of the Treasury to prescribe new withholding tables which reflect the $200 personal exemption tax credit provided by the Senate amendment, the reduction in income tax rates provided by the Senate amendment, and the earned income credit as modified by the Senate amendment. The changes in the withholding tables are to take effect, as in the House bill, on May 1, 1975.

Conference substitute.—The conference substitute requires the Secretary to prescribe new withholding tables which reflect the temporary increases in the minimum standard deduction and the percentage standard deduction, the earned income credit, and the additional tax credit provided in the conference substitute. The changes in the withholding tables are to take effect on May 1, 1975.

Deduction of Certain Expenses Necessary for Gainful Employment (Childcare Deduction)

House bill.—The House bill does not contain this provision.

Senate amendment.—The Senate amendment removes the present limits on deductible expenditures (maximum of $4,800 per year) and the income phaseout (the $4,800 maximum phased out $1 for each $2 of adjusted gross income in excess of $18,000 for the husband and wife). It changes the deduction from an itemized deduction (deductible from adjusted gross income) to a "business deduction" (deductible from gross income in determining AGI). Payments to related persons are also made deductible, if the transaction is made in an "arms-length" fashion (pursuant to Treasury regulations).

The Senate amendment also provides for an optional tax credit for 50 percent of the allowable child care expenses, up to a maximum credit of $50 per month ($25 in the case of a married person filing a separate tax return). The changes in the Senate amendment are effective for taxable years beginning after the date of enactment.

Conference substitute.—The conference substitute provides for an increase in the maximum adjusted gross income level from $18,000 to $35,000, before the phaseout begins. This change is effective for taxable years beginning after date of enactment.

Extension of Period for Replacing Old Residence for Purposes of Nonrecognition of Gain Under Section 1034

House bill.—No provision.

Senate amendment.—The Senate amendment provides an extension of the time period in which a taxpayer may purchase a subsequent principal residence and thereby defer gain, from one year to 18 months (before or after sale). The amendment also extends the period in which the taxpayer may construct a subsequent residence from 18 months to 24 months (if construction begins within 18 months after the sale of the former residence). The extension is effective for sales of residences after December 31, 1973.

Conference substitute.—The conference substitute follows the Senate amendment except that it makes the provision effective for sales of residences after December 31, 1974.

Tax Credit for Home Purchases

House bill.—No provision.

Senate amendment.—The Senate amendment provides a tax credit for the purchase or construction by an individual taxpayer of a new principal residence. Under the amendment, the definition of a new principal residence includes, but is not limited to, a single family structure, a unit in a condominium or cooperative housing project, and a mobile home. The rate of the credit is equal to 5 percent of the taxpayer's basis in the new residence and the amount of the credit is limited to a maximum of $2,000.

Generally, to be eligible for the credit, the taxpayer must have acquired the home as his principal place of residence after March 12, 1975, and before January 1, 1976. However, the credit will apply to binding contracts entered into before January 1, 1976, if settlement and occupancy occur before January 1, 1977.

Conference substitute.—The conference substitute follows the Senate amendment on the 5-percent credit and $2,000 maximum, except that it allows a credit only with respect to a new principal residence that was constructed or was under construction before March 26, 1975. In addition, to be eligible for the credit the taxpayer must attach to his income tax return a certification by the seller that the purchase price paid by the buyer is the lowest price at which the new residence was ever offered for sale. Both civil and criminal penalties will be imposed for false certification.

Increase in Investment Credit

House bill.—The House bill provides for an increase in the investment credit rate for all taxpayers (including public utilities) to 10 percent from 7 percent (4 percent in the case of certain public utility property). The additional credit for public utilities is limited to $100 million for any one taxpayer. The House provision modifies the limitation on the amount of tax liability that may be offset by the investment tax credit for a year in the case of most public utility property (which under present law is entitled to only a 4 percent investment credit). The percentage limit for public utility property is to be increased from

the general 50 percent limit to 100 percent of the income tax liability for 1975 and 1976. In each of the next five taxable years, the increase for public utilities is to be reduced by 10 percentage points until 1981, and thereafter, at which time the 50 percent limitation again is effective. Additionally, the House provision increases from $50,000 to $75,000 the amount of use property which can qualify for the investment credit for any 1 year.

The 10 percent investment credit rate is to be available for property acquired and placed in service after January 21, 1975, and before January 1, 1976. It is also to be available for property placed in service in 1976 if the property was acquired pursuant to an order placed before January 1, 1976. In addition, in the case of property constructed, reconstructed, or erected by the taxpayer, the 10 percent investment credit rate is to be available for property completed by the taxpayer after January 21, 1975, but only to the extent of the portion of the value actually attributable to construction, etc., by the taxpayer after January 21, 1975, and before January 1, 1976. The provisions increasing the amount of used property which can qualify for the investment credit apply to taxable years beginning in 1975. The provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

Senate amendment.—The Senate amendment provides that, if certain requirements are met, a 12 percent investment credit is to be available with respect to property acquired and placed in service after January 21, 1975, and before January 1, 1977. Similarly, in the case of property constructed, reconstructed, or erected by the taxpayer, the 12 percent credit is also to be available with respect to property completed by the taxpayer after January 21, 1975, to the extent of the part of the basis of the property properly attributable to construction, etc., after January 21, 1975, and before January 1, 1977.

In cases where the property on which a taxpayer may claim an investment credit (qualified investment in property) for a year exceeds $10,000,000, the 12 percent rate is to be available only if the taxpayer establishes or maintains an employee stock ownership plan. To be eligible for the 12 percent rate in this case, a corporation will be required to contribute to the plan for the taxable year common stock or securities convertible into common stock (or cash for the acquisition of such stock or securities) of the employer in an amount equal to one-half of the additional 2 percentage points increase above the permanent 10 percent rate (i.e., one-twelfth of the total allowable investment credit in this case). If these requirements are not satisfied, the taxpayer will be eligible only for the 10 percent investment credit which the committee provision adopts as a permanent increase in the investment tax credit rate. However, the 12 percent rate will be available without regard to the requirement for an employee stock ownership plan if the qualified investment property of the taxpayer for the taxable year is less than $10,000,000.

The Senate provision puts no limit on the amount of the increase in the investment credit which will be allowed to a public utility. Additionally, the Senate provision adopts the temporary increase in the 50 percent limitation on the amount of tax liability that may be

offset by the investment credit with the modification that such increase shall be available for taxable years ending in 1975 rather than for taxable years beginning in 1975.

The Senate provision also provides that the additional credit provided for a public utility by reason of the rate increase or the increase in the limitation based on tax liability is generally not to be available if the additional credit is used to reduce the rate base, unless the credit is then restored to the rate base at least as fast as ratably over the useful life of the property. The additional credit is generally not to be allowed if it is flowed through to income as a reduction in cost faster than ratably over the useful life of the property to which the increased credit applies. This rule with respect to the additional credit is to apply with respect to property used predominately in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services, gas through a local distribution system, telephone service, domestic telegraph service, or other domestic communication service, if the rates for furnishing or sale are regulated by a governmental body.

If the governmental regulatory agency requires ratable flow through to income, it cannot require any adjustment to the rate base; if the agency requires adjustments to the rate base, it cannot require flow through to income.

A special election is provided to permit the immediate flow through of the additional credit without the consequence of disallowance in certain cases. This election is to be available only with respect to property where the benefits of accelerated depreciation are flowed through to customers. The election must be made by the taxpayer within 90 days after the date of enactment of the bill. In this case the taxpayer must make the election at its own option and without regard to any requirement imposed by a regulatory agency.

If a regulatory agency requires the flowing through of a company's additional investment credit at a rate faster than permitted, or insists upon a greater rate base adjustment than is permitted, the additional investment credit is to be disallowed, but only after a final determination (made after enactment of this provision) is put into effect. The rules provided under present law with respect to determinations made by a regulatory body on the finality of its orders will apply to the flow through provision. Lastly, the Senate provision repeals the limitation on the amount of used property which may be included as qualified investment for the purposes of the investment credit with respect to used property acquired by the taxpayer after January 21, 1975.

Conference substitute.—The conference substitute provides for a 10-percent investment credit for all taxpayers (including public utilities) for property acquired and placed in service after January 21, 1975, and before January 1, 1977. In the case of property acquired after December 31, 1976, the 7-percent investment credit (or 4 percent for public utility property) provided under present law is to apply (even if ordered by the taxpayer before 1977). In the case of constructed property, the 10-percent credit is to apply to the portion of the basis attributable to construction occurring after January 21, 1975, and before January 1, 1977.

In the case of a corporate taxpayer, a taxpayer may elect an 11-percent credit with respect to qualified investment for the period beginning January 22, 1975, and ending December 31, 1976, if an amount equal to one percent of the qualified investment is contributed to an employee stock ownership plan.

The rules governing such employee stock ownership plans are substantially the same as in the Senate amendment. However, under the conference substitute the entire contribution is to be transferred to the plan at one time, and not over 10 years. Also, participants are to be immediately vested in the full amount of such contributions, as soon as the contributions are allocated to their accounts. Additionally, distributions of such contributions cannot occur for 7 years (or may occur upon death or disability).

The conference substitute is the same as the Senate amendment which deleted the $100 million limitation on the increase in the investment credit attributable to the rate change that could be claimed by any one public utility.

With respect to the increase in the 50 percent of tax limitation for public utility property, the conference substitute is the same as the Senate amendment.

With respect to the treatment of the increased credit for utility rate-making purposes, the conference substitute is the same as the Senate amendment but for technical changes which would make new elections by a public utility unnecessary if ratable flowthrough, or ratable rate base restoration treatment already applied to a utility under present law.

With respect to the limitation on qualified investment in used property, the conference substitute provides an increase to $100,000 from $50,000 for taxable years beginning after December 31, 1974, and before January 1, 1977. Thereafter, the $50,000 limitation under present law is to apply.

Allowance of Investment Credit Where Construction of Property Will Take More Than Two Years

House bill.—Section 302 of the House bill provides that in the case of long lead time property, that is, property that requires at least 2 years to construct, the investment tax credit is to be available to the extent that progress payments are made during the construction period (rather than being allowed in the later year when the property is ultimately placed in service). During the first 5 years this provision is in effect, a transitional rule provides for a phase-in of the new system at the rate of 20 percent a year. The temporary 10 percent rate for the investment credit is to be available for qualified progress expenditures made in the period after January 21, 1975, and before January 1, 1976. In general, the provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

Senate amendment.—The Senate amendment adopts the House provision for progress payments without change.

Conference substitute.—The conference substitute is the same as the House bill and Senate amendment.

Increase in Corporate Surtax Exemption and Change in Corporate Tax Rates

House bill.—Section 303 of the House bill provides for an increase in the corporate surtax exemption from $25,000 to $50,000 for the period which is calendar year 1975.

Senate amendment.—The Senate amendment adopts the House provision with respect to the increase in the corporate surtax exemption without change. Additionally, the Senate provision reduces the normal tax by 4 percentage points (from 22 percent to 18 percent) while at the same time increasing the surtax by 4 percentage points (from 26 percent to 30 percent). The increase in the corporate surtax exemption and the reduction in the corporate rates are effective for taxable years ending after December 31, 1974. They are to apply, however, only for 1 year and are to cease to apply for taxable years ending after December 31, 1975.

Conference substitute.—The Conference substitute is the same as the House bill and the Senate amendment with regard to the increase in the corporate surtax exemption from $25,000 to $50,000 for 1975 only. In addition, the conference substitute provides a reduction for 1975 in the corporate normal tax rate from 22 percent to 20 percent on the first $25,000 of net income (with the 22 percent rate applicable to the second $25,000 of net income).

Increase in Minimum Accumulated Earnings Credit From $100,000 to $150,000

House bill.—No comparable provision in the House bill.

Senate amendment.—The Senate amendment provides for an increase of the accumulated earnings credit from $100,000 to $150,000. Thus, a corporation may accumulate as much as $150,000 of earnings before its retained earnings may be subject to the accumulated earnings tax. The amendments relating to the increase in the minimum accumulated earnings credit apply to taxable years beginning after December 31, 1974.

Conference substitute.—The conference substitute is the same as the Senate amendment.

Election To Substitute Net Operating Loss Carryback Years for Carryforward Years

House bill.—The House bill does not have this provision.

Senate amendment.—The Senate amendment allows taxpayers generally an election to convert carryover periods for which they are presently eligible into additional carryback years for net operating losses incurred for taxable years 1975 and 1976. (Present law provides generally for a 3-year carryback and a 5-year carryforward for net operating losses incurred by business taxpayer.)

In addition, the Senate amendment provides that, where a corporation would receive a tax benefit under this change of more than $10 million, 25 percent of such tax benefit from the first year of the extended loss carryback is to be placed in an employee stock ownership plan over a 10-year period. A corporation could also put up to 50

percent of this amount (of the 25 percent) into a supplemental unemployment benefit plan if transferred within one year from the time of election.

Conference substitute.—The conference substitute does not contain this provision.

Federal Welfare Recipients Employment Incentive Credit

House bill.—No provision.

Senate amendment.—The State amendment makes the 20-percent credit of the present law WIN credit available also with respect to wages paid to certain AFDC recipients. The AFDC recipient must have been continuously receiving such financial assistance during the 90-day period immediately preceding the date on which the individual is hired by the employer, and the AFDC recipient must have been employed by the taxpayer for a period in excess of 30 consecutive days on a full-time basis before the credit is allowable. The credit is not allowable for any person who has displaced an individual from employment nor for a migrant worker. For nonbusiness employers, there is a limit of $1,000 per individual so employed each year.

The provision is effective for hirings after the date of enactment and for services rendered to the employer before July 1, 1976.

Conference substitute.—The conference substitute follows the Senate amendment.

Time for Making Contributions to "H.R. 10" Plans

House bill.—No provision.

Senate amendment.—The Senate amendment added a provision under which, as to 1974 and subsequent years, a contribution to a pension, profit-sharing, etc., plan would be treated for deduction purposes as being made for a given year even though it was not in fact made until after the end of that year, but only if the contribution was in fact made by the time for filing the tax return for that year (including extensions of time for filing). This amendment would apply only to contributions for plans of self-employed people (so-called "H.R. 10" plans) and only if the employer elects to have this rule apply.

Under present law (the 1974 pension act), this rule is to apply as to 1976 and subsequent years for existing plans, both H.R. 10 plans and corporate plans.

Conference substitute.—Under the conference substitute, the rule of the Senate amendment is to apply for 1975 and subsequent years (but not for 1974).

Repeal of Excise Tax on Motor Vehicles

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the present 10-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of trucks and buses, truck trailers and semi-trailers, and highway tractors used in combination with trailers and semi-trailers. The Senate amendment also repeals the 8-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of

truck and bus-related parts and accessories. The Senate amendment also provides for floor stock refunds and refunds for certain consumer purchases.

Conference substitute.—The conference substitute does not include the Senate amendment.

While the Conference Committee is quite aware of the depressed condition existing in the truck manufacturing and marketing industry, it felt that the repeal of these excise taxes should more properly be considered in conjunction with the Public Works Committees, at a later date when Congress considers the Federal Highway Act and the Highway Trust Fund of which these taxes are a part.

Tax Credit for Qualified Insulation and Solar Energy Equipment Expenditure

House bill.—No provision.

Senate amendment.—The Senate amendment provides a tax credit for qualified insulation expenditures for new and used residences and commercial buildings of 40 percent of the first $500 and 20 percent of any excess expenditures. In addition, a tax credit is allowed for qualified solar energy equipment expenditures for new and used residences and commercial buildings of 40 percent on the first $1,000 of expenditures and 20 percent of any excess up to $2,000. For new residences, the credit is available only to the extent the qualified original insulation materials exceed the minimum HUD standards; this limitation does not apply to storm windows, storm doors and solar heating and cooling equipment.

Under the Senate amendment, unused credits may be carried back to any year for which this provision is in effect and carried over 4 years. The provision is effective during taxable years beginning after December 31, 1974, and ending before January 1, 1980.

Conference substitute.—The conference substitute does not contain this provision. The conferees decided to defer consideration of this because incentives for insulation and solar energy equipment expenditures are being considered in the Ways and Means Committee energy bill.

Tax Exemption for Homeowner's Associations, Etc.

House bill.—The House bill does not contain this provision.

Senate amendment.—The Senate amendment provides that a homeowner's association, etc., may be exempt from taxation if it is organized and operated exclusively for the operation, management, preservation, maintenance and repair of (1) the residential units owned by its members or (2) the common areas or facilities owned by the association or its members. The provision is effective for taxable years beginning after December 31, 1973.

Conference substitute.—The conference substitute does not contain this provision. The conferees deferred consideration of this provision believing it appropriate to consider it in tax reform legislation.

PERCENTAGE DEPLETION FOR OIL AND GAS

House bill.—The House bill repeals percentage depletion generally for oil or gas produced on or after January 1, 1975. Depletion is continued for natural gas sold under a fixed price contract in effect February 1, 1975, which does not permit price adjustment after that date to reflect repeal of depletion. Depletion is also continued until July 1, 1976, for gas sold in interstate commerce if no price adjustment is permitted after February 1, 1975, to reflect repeal of depletion.

For geothermal steam, present law is unaffected, so that if steam is ultimately held by the courts to be a gas entitled to a 22-percent rate of depletion, this treatment will be continued.

Senate amendment.—Under the Senate amendment, the deduction for percentage depletion is generally eliminated with respect to oil and gas produced on or after January 1, 1975, with certain exceptions. These include the exceptions provided under the House bill. In addition, the Senate amendment retains percentage depletion at 22 percent on a permanent basis for the small independent producer to the extent that his average daily production of oil does not exceed 2,000 barrels a day, or his average daily production of natural gas does not exceed 12,000,000 cubic feet. Where the independent producer has both oil and natural gas production, the exemption must be allocated between the two types of production.

In determining how much of a taxpayer's total production for the year will be entitled to the 22-percent rate, his total production for the year is averaged over the entire taxable year to arrive at an average daily figure, regardless of when the production might actually have occurred.

Where the producer has a partial interest in mineral property, his production from that property, for purposes of the exemption, will be proportional to his interest. For example, an individual owning a 10-percent interest in property with 2,000 barrels of average daily production will be treated as having used 200 barrels of his exemption in connection with that property.

If the taxpayer's average daily production exceeds 2,000 barrels (or 12,000,000 cubic feet of gas) the Senate amendment requires that the small production exemption be allocated among all of the properties in which the taxpayer has an interest. The allocation is made by totaling the production from all properties and allocating to each property the same proportion of the small production exemption as that property's total production bears to the taxpayer's total production from all properties.

Under the amendment, the 2,000 barrel (12,000,000 cubic feet) exemption is to be allocated (a) among the corporations which are members of the same controlled group of corporations (as defined in sec. 1563(a), but with a 50 percent common control test); among corporation trusts and estates if 50 percent of the beneficial interest is owned by the same or related persons; and (c) among the taxpayer and his spouse and minor children.

The small producer exemption is not to be available, under the Senate amendment, with respect to any oil or gas property trans-

ferred after December 31, 1974, if the principal value of the property has been demonstrated before the transfer, except in the case of a transfer by reason of death, or a transfer pursuant to a section 351 transaction.

Also, the small producer exemption is only to be available in the case of the independent oil or gas producer. The exemption is not available to any producer owning or controlling a retail outlet for the sale of oil or natural gas or petroleum products, or for a producer who refines more than 50,000 barrels of oil on any one day of the taxable year.

The deduction resulting from the small producer exemption may not exceed 50 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks). Percentage depletion which may not be used as a result of this limitation may be carried forward on an unlimited basis and used in a succeeding year (subject to the 50 percent limitation applicable to that year).

In addition, the deduction resulting from the small producer exemption is to be available, under the Senate amendment, only to the extent of the taxpayer's qualified plowback investment for the year (as well as any qualified plowback investment which was unused in the preceding year). The plowback requirement does not apply, under the amendment, to percentage depletion attributable to a royalty interest.

Conference substitute.—The conference substitute follows the Senate amendment in providing a small producer exemption from the repeal of percentage depletion for oil and gas. Initially the exemption ("depletable oil quantity") is 2,000 barrels of average daily production (or 12,000,000 cubic feet of natural gas). However, the exemption is to be phased down gradually, but not eliminated, so as to minimize the impact of the reduction on small independent producers.

Under the substitute, the exemption is to be reduced 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day will be reached. The depletion rate for oil and gas covered under the small producer exemption will also be phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. However, under the substitute, a taxpayer will be permitted to take percentage depletion, at a 22 percent rate, on all production resulting from secondary or tertiary recovery methods until 1984 (but not in excess of 1,000 barrels per day).

The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks).

Also, under the substitute, there is to be no plowback requirement in connection with percentage depletion under the small producer exemption.

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

Conference substitute.—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. The substitute limits the amount of payments in the form of foreign taxes on foreign oil extraction income which will be treated as creditable taxes to 52.8 percent of taxable income from foreign oil extraction in taxable years ending in 1975, 50.4 percent of such taxable income in 1976, and 50 percent of such taxable income in subsequent taxable years. Any taxes paid in excess of that amount are to be disregarded and not allowed as a deduction. Any excess credits within the respective percentage limitations are to be allowed to offset U.S. tax only against foreign oil-related income.

Also, any payments to a foreign country in connection with the purchase and sale of oil or gas extracted in that country are not to be considered as a tax if the taxpayer has no economic interest in the oil or gas to which section 611(a) of the code applies and either such purchase or such sale is made at a price other than the fair market price of such oil or gas at the time of such purchase or sale. The market price is to be determined without regard to any tax liabilities to the country of extraction to which the oil or gas is subject upon purchase. This provision, of course, is not to apply to fees or other types of income from the provision of services which relate to the extraction of oil or gas for another person. Any payments not allowed as taxes under this provision are to be allowed as deductions.

In addition, the conferees agreed that beginning in 1976 the per country limitation on creditable foreign taxes is not to apply to foreign oil-related income. Instead, the amount of creditable taxes with respect to such income is to be calculated under the overall limitation. The conferees believe that this change should be considered significant in judging requests to revoke consolidated return elections.

The conferees also agreed that beginning in 1975 any losses with respect to foreign oil-related income should be recaptured against future oil-related income by limiting the foreign tax credits available with respect to such future income.

The conference substitute is to apply to taxable years ending after date of enactment.

TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

House bill.—No provision.

Senate amendment.—The Senate amendment provides that U.S. persons holding a one-percent or greater interest in foreign corpora-

tions are to be taxed currently on their proportionate share of the income from those corporations in cases where more than 50 percent of the stock of the corporations is controlled by U.S. persons.

Conference substitute.—The conference substitute provides for a number of specific measures which substantially expand the extent to which foreign subsidiaries of U.S. corporations are subject to current U.S. taxation on tax haven types of income under the so-called subpart F rules of the Code.

The conferees expressed their belief that the foreign tax provisions of present law relating to the deferral of foreign income should be further reviewed at the earliest possible date. The conferees indicated that this review should include an examination of the adequacy of existing provisions dealing with the disclosure and reporting of income (and related deductions) of foreign subsidiaries of U.S. corporations.

The conference substitute repeals the minimum distribution exception to the subpart F rules which, under present law, permits a deferral of U.S. taxation on tax haven types of income in cases where the foreign corporation (or various combinations of foreign-related corporations) distributes certain minimum dividends to their U.S. shareholders. The effect of repealing this exception is to tax currently all income of foreign subsidiaries of U.S. corporations which is deemed to be tax haven income under the existing so-called subpart F rules of the Code. An exception to this provision was made for agricultural commodities not produced in commercially marketable quantities in the United States. Under the exception, these commodities grown (or raised) abroad are to be excluded from foreign base company sales income.

The conference agreement also repeals the exception from the subpart F rules which presently permits a deferral of taxation in cases in which the tax haven income is reinvested in less-developed countries.

In addition, the conference agreement repeals the rule of present law which permits a deferral of U.S. tax for shipping income received by a foreign subsidiary of a U.S. corporation. However, deferral of tax is to be continued to the extent that the profits of these corporations are reinvested in shipping operations.

Finally, the conferees agreed to modify the present rule in the subpart F provisions which permits corporations having less than 30 percent of their gross income in the form of tax haven income to avoid the current taxation provisions of subpart F. The conference substitute provides that such tax haven income will be taxed currently under the subpart F rules in any case where it equals or exceeds 10 percent of gross income.

These provisions are to apply to taxable years beginning after December 31, 1975.

Elimination of Domestic International Sales Corporation Treatment for Certain Natural Resources and Energy Products

House bill.—No provision.

Senate amendment.—The Senate amendment denies the benefits provided for domestic international sales corporations (DISC's) for the export of natural resources and energy products (i.e., products

for which an allowance for cost depletion is provided) and for products subject to export control under section 4(b) of the Export Administration Act of 1969. The provision applies to sales made after March 18, 1975.

Conference substitute.—The conference substitute follows the Senate amendment.

Investment Tax Credit on Foreign Drilling Rigs

House bill.—No provision.

Senate amendment.—The Senate amendment denies the investment tax credit for foreign situs drilling rigs used outside of the northern half of the Western Hemisphere. The provision applies to property placed in service after March 18, 1975, unless such property is covered by a binding contract which was in effect on April 1, 1974.

Conference substitute.—The conference substitute follows the Senate amendment.

Extension of Unemployment Compensation Act of 1974

House bill.—No provision.

Senate amendment.—The Senate amendment extends the benefits of the Emergency Unemployment Compensation Act of 1974 for an additional 13 weeks to those who have exhausted 52 weeks of benefits. This is available only for the period ending June 30, 1975. The provision states that the Secretary of Labor shall, at the earliest practicable date after the enactment, propose to each State with which he has in effect an agreement under section 102 of the 1974 Act a modification of such agreement designed to cause payments of emergency compensation as provided in the Senate amendment.

Conference substitute.—The conference substitute follows the Senate amendment.

Special Payments to People Receiving Benefits Under Social Security, Railroad Retirement, or Supplemental Security Income Programs

House bill.—No provision.

Senate amendment.—The Senate amendment added a provision to the bill, under which a one-time special payment of $100 is to be made by the Secretary of the Treasury to each individual who, for March, 1975, was entitled to monthly insurance benefits under title II of the Social Security Act, to monthly pension or annuity benefits under the Railroad Retirement Acts, or to supplemental security income benefits. An individual could receive only one such $100 special payment, even though he was entitled, for March, 1975, to benefits under 2 or more of the above-mentioned programs.

The Secretary of Health, Education, and Welfare and the Railroad Retirement Board are to provide the Treasury with such data and information as may be necessary to determine who is entitled to these special payments.

Receipt of the special payment by an individual is not to affect his eligibility for, or the amount of, the aid or assistance which he or his

family would otherwise be entitled to receive under a welfare-type program. Federal financial participation in any State (or local) welfare-type program is to cease if that program violates the "disregard" requirement described in the preceding sentence.

Conference substitute.—The conference substitute generally follows the Senate amendment, except that the amount of the special payment is to be $50 per qualified recipient. In addition, the conference substitute restricts it to residents of the United States who have applied for benefits under one of the three programs prior to April 1, 1975, and who actually receive a benefit for the month of March 1975 which is paid by August 31, 1975. The conference agreement includes the requirement that these payments be disregarded in determining eligibility under other programs and clarifies their non-taxable nature for income tax purposes.

The conferees emphasize that these payments are not social security benefits in any sense but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebates which the bill provides to those who are working. These payments, therefore, should be clearly identifiable as Treasury Department payments and not be included in or confused with social security benefit checks.

Dyeing of Certain Heating Oil

House bill.—No provision.

Senate amendment.—The Senate amendment requires that certain heating fuel oil be colored with an oil soluble dye, so that such non-taxed fuel oil may be distinguishable from taxable diesel fuel oil for highway use. The Administrator of the Federal Energy Administration is to determine the appropriate soluble dye and the point of the petroleum distribution system to add the dye; and he may enter the premises (during business hours) to inspect for violations. Violators are to be subject to a fine of not more than $25,000, or imprisonment of not more than 5 years, or both.

The provision is to be effective on the date of enactment.

Conference substitute.—The conference substitute does not contain this provision. The conferees deferred consideration of this because the subject would be reviewed during the Ways and Means Committee consideration of the energy bill.

Al Ullman,
James A. Burke,
Dan Rostenkowski,
Phil Landrum,
Charles A. Vanik,
Managers on the Part of the House.

Russell B. Long,
Herman Talmadge,
Vance Hartke,
Abraham Ribicoff,
W. D. Hathaway,
Floyd K. Haskell,
Robert Dole,
Managers on the Part of the Senate.

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