

**Comparison of the revenue acts of 1932 and 1934 / prepared for
the use of the Committee on Ways and Means, House of Representatives,
by E.W.G. Huffman.**

United States.

Washington, [D.C.] : U.S. G.P.O., 1934.

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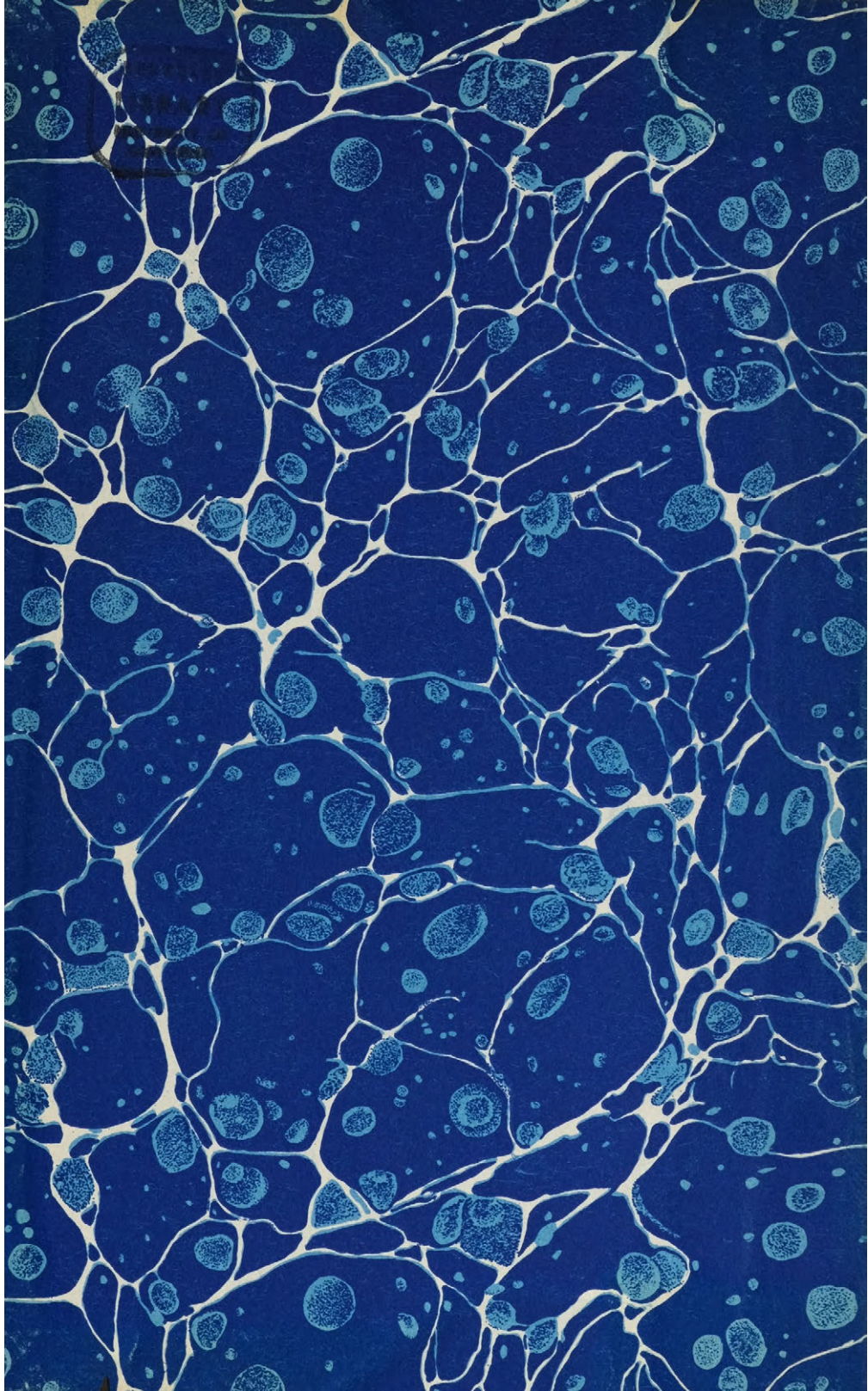
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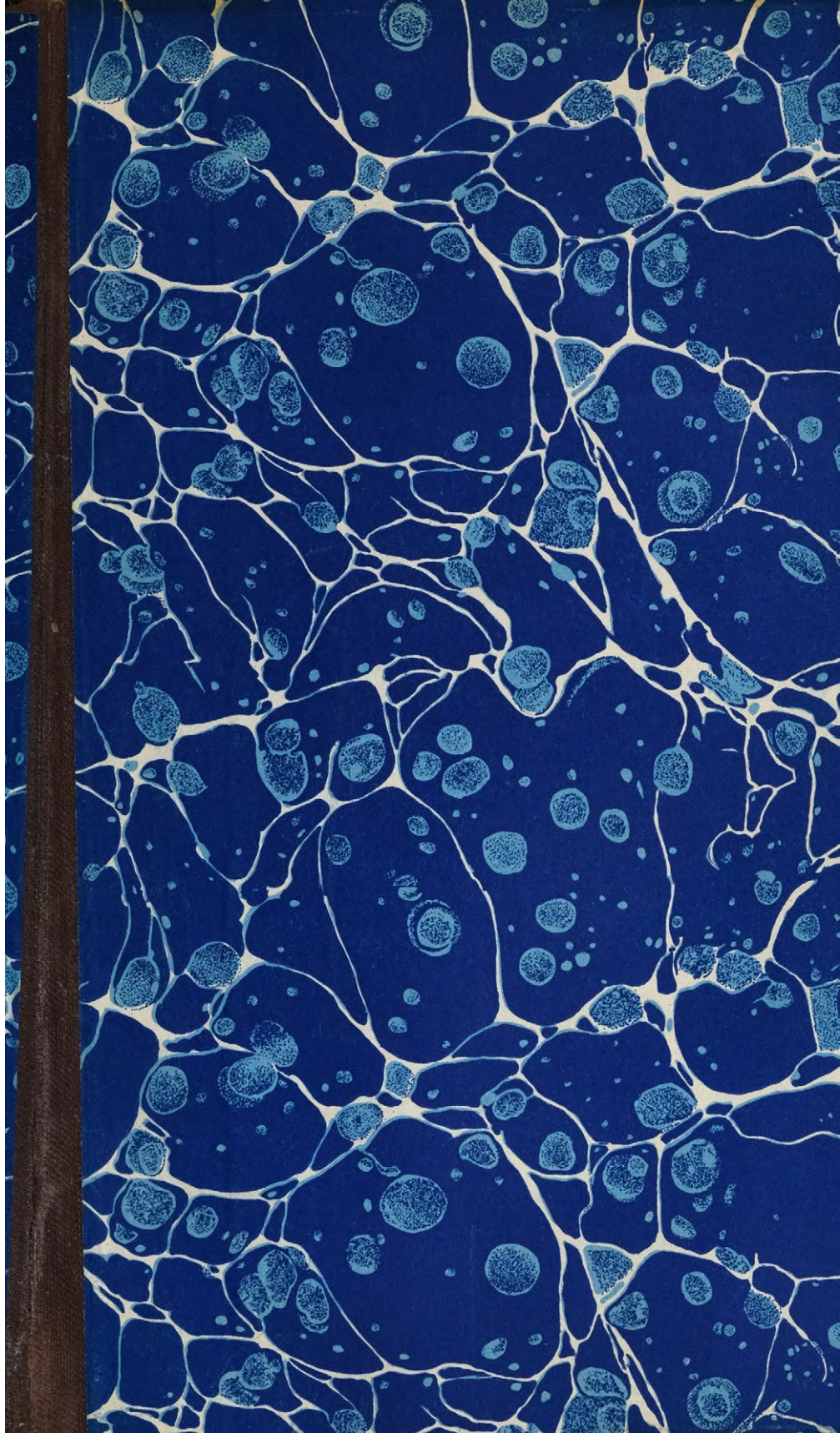
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Documents Dept.

COMPARISON OF THE REVENUE ACTS OF 1932 AND 1934

PREPARED FOR THE USE OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

By
E. W. G. HUFFMAN
Clerk to the Committee



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

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1934

DOCUMENTS
DEPT.

EXPLANATORY NOTE.—This compilation is designed to set forth a comparison of the text of the Revenue Act of 1934 with the text of the Revenue Act of 1932, as amended to May 10, 1934, thus including as a part of the 1932 act the amendments made to that act by the National Industrial Recovery Act, approved June 16, 1933, and by the act entitled "An act to extend the gasoline tax for 1 year, to modify postage rates on mail matter, and for other purposes", approved June 16, 1933.

Titles I and IA (the income tax) of the 1934 act did not amend, or repeal and reenact, title I of the 1932 act. This print shows only the differences between the provisions of such titles in the two acts. In those titles, and in that part of the Table of Contents relating to them, roman type indicates the matter which is identical in both acts, and the differences between them are shown by stricken-through type, which indicates matter in the 1932 act, as amended, not contained in the 1934 act, and by italic type, which indicates matter in the 1934 act not contained in the 1932 act, as amended. Subsequent titles of the 1932 act, as amended, are, to some extent, amended by the 1934 act. In those titles, and in that part of the Table of Contents relating to them, roman type indicates matter in the 1932 act, as amended, not amended by the 1934 act, and stricken-through and italic type indicate amendments to the 1932 act, as amended, made by the 1934 act. Footnotes have been appended to these sections to aid in the understanding of the amendments thus made. Italic type also indicates new matter in the 1934 act which is not amendatory of other laws.

In cases in which legislation prior to the 1932 act has been amended by the 1934 act a comparative print of the legislation prior to and after its amendment is also provided.

The numerical sequence of the sections of the Revenue Act of 1932 has been followed. Cross-references under various sections furnish the page numbers upon which sections with corresponding numbers can be found.

(III)

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REVENUE ACT OF 1932 (PUBLIC No. 154, 72D CON-
GRESS [H.R. 10236])

APPROVED JUNE 6, 1932, 5 P.M.

REVENUE ACT OF 1934 (PUBLIC No. 216, 73D CON-
GRESS [H.R. 7835])

APPROVED MAY 10, 1934, 11:40 A.M.

AN ACT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following Table of Contents, may be cited as the "Revenue Act of ~~1932~~ 1934":

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TITLE I—INCOME TAX

SUBTITLE A—INTRODUCTORY PROVISIONS

SEC. 1. APPLICATION OF TITLE.

The provisions of this title shall apply only to the taxable year ~~1932~~ and succeeding taxable years *beginning after December 31, 1933*. Income, war-profits, and excess-profits taxes for taxable years ~~preceding the taxable year 1932~~ *beginning prior to January 1, 1934*, shall not be affected by the provisions of this title, but shall remain subject to the applicable provisions of prior revenue Acts, except as such provisions are modified by Title ~~IX~~ *III* of this Act or by legislation enacted subsequent to this Act.

SEC. 2. CROSS REFERENCES.

The cross references in this title to other portions of the title, where the word “see” is used, are made only for convenience, and shall be given no legal effect.

SEC. 3. CLASSIFICATION OF PROVISIONS.

The provisions of this title are herein classified and designated as—

Subtitle A—Introductory provisions,

Subtitle B—General provisions, divided into Parts and sections,

Subtitle C—Supplemental provisions, divided into Supplements and sections.

SEC. 4. SPECIAL CLASSES OF TAXPAYERS.

The application of the General Provisions and of Supplements A to D, inclusive, to each of the following special classes of taxpayers, shall be subject to the exceptions and additional provisions found in the Supplement applicable to such class, as follows:

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

- (b) Members of partnerships,—Supplement F.
- (c) Insurance companies,—Supplement G.
- (d) Nonresident alien individuals,—Supplement H.
- (e) Foreign corporations,—Supplement I.
- (f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States,—Supplement J.
- (g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States,—Supplement J.
- (h) China Trade Act corporations,—Supplement K.

SUBTITLE B—GENERAL PROVISIONS

Part I—Rates of Tax

SEC. 11. NORMAL TAX ON INDIVIDUALS.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax equal to the sum of the following:

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

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

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

SEC. 12. SURTAX ON INDIVIDUALS.

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

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

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

Upon a surtax net income of \$4,000 there shall be no surtax; upon surtax net incomes in excess of \$4,000 and not in excess of \$6,000, 4 per centum of such excess.

Upon a net income of \$6,000 there shall be no surtax; upon \$80 upon surtax net incomes of \$6,000; and upon surtax net incomes in excess of \$6,000 and not in excess of \$10,000 \$8,000 ± 5 per centum of such excess.

\$180 upon surtax net incomes of \$8,000; and upon surtax net incomes in excess of \$8,000 and not in excess of \$10,000, 6 per centum in addition of such excess.

\$40 \$300 upon surtax net incomes of \$10,000; and upon surtax net incomes in excess of \$10,000 and not in excess of \$12,000, 2 7 per centum in addition of such excess.

\$80 \$440 upon surtax net incomes of \$12,000; and upon surtax net incomes in excess of \$12,000 and not in excess of \$14,000, 3 8 per centum in addition of such excess.

\$140 \$600 upon surtax net incomes of \$14,000; and upon surtax net incomes in excess of \$14,000 and not in excess of \$16,000, 4 9 per centum in addition of such excess.

\$220 \$780 upon surtax net incomes of \$16,000; and upon surtax net incomes in excess of \$16,000 and not in excess of \$18,000, 5 11 per centum in addition of such excess.

\$320 \$1,000 upon surtax net incomes of \$18,000; and upon surtax net incomes in excess of \$18,000 and not in excess of \$20,000, 6 13 per centum in addition of such excess.

\$440 *\$1,260 upon surtax net incomes of \$20,000; and upon surtax net incomes in excess of \$20,000 and not in excess of \$22,000, 8 15 per centum in addition of such excess.*

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

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

\$1,560 *upon surtax net incomes of \$22,000; and upon surtax net incomes in excess of \$22,000 and not in excess of \$26,000, 17 per centum in addition of such excess.*

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

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

\$1,440 *upon net incomes of \$30,000; and upon net incomes in excess of \$30,000 and not in excess of \$32,000, 13 per centum in addition of such excess.*

\$2,240 *upon surtax net incomes of \$26,000; and upon surtax net incomes in excess of \$26,000 and not in excess of \$32,000, 19 per centum in addition of such excess.*

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

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

\$3,380 *upon surtax net incomes of \$32,000; and upon surtax net incomes in excess of \$32,000 and not in excess of \$38,000, 21 per centum in addition of such excess.*

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

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

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

\$4,640 upon surtax net incomes of \$38,000; and upon surtax net incomes in excess of \$38,000 and not in excess of \$44,000, 24 per centum in addition of such excess.

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

\$4,100 upon net incomes of \$46,000; and upon net incomes in excess of \$46,000 and not in excess of \$48,000, 21 per centum in addition of such excess.

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

\$6,080 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$50,000, 27 per centum in addition of such excess.

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

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

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

\$7,700 upon surtax net incomes of \$50,000; and upon surtax net incomes in excess of \$50,000 and not in excess of \$56,000, 30 per centum in addition of such excess.

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

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

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

\$9,500 upon *surtax* net incomes of \$56,000; and upon *surtax* net incomes in excess of \$56,000 and not in excess of \$62,000, 33 per centum in addition of such excess.

\$8,020 upon net incomes of \$62,000; and upon net incomes in excess of \$62,000 and not in excess of \$64,000, 29 per centum in addition of such excess.

\$8,600 upon net incomes of \$64,000; and upon net incomes in excess of \$64,000 and not in excess of \$66,000, 30 per centum in addition of such excess.

\$9,200 upon net incomes of \$66,000; and upon net incomes in excess of \$66,000 and not in excess of \$68,000, 31 per centum in addition of such excess.

\$11,480 upon *surtax* net incomes of \$62,000; and upon *surtax* net incomes in excess of \$62,000 and not in excess of \$68,000, 36 per centum in addition of such excess.

\$9,820 upon net incomes of \$68,000; and upon net incomes in excess of \$68,000 and not in excess of \$70,000, 32 per centum in addition of such excess.

\$10,460 upon net incomes of \$70,000; and upon net incomes in excess of \$70,000 and not in excess of \$72,000, 33 per centum in addition of such excess.

\$11,120 upon net incomes of \$72,000; and upon net incomes in excess of \$72,000 and not in excess of \$74,000, 34 per centum in addition of such excess.

\$13,640 upon *surtax* net incomes of \$68,000; and upon *surtax* net incomes in excess of \$68,000 and not in excess of \$74,000, 39 per centum in addition of such excess.

\$11,800 upon net incomes of \$74,000; and upon net incomes in excess of \$74,000 and not in excess of \$76,000, 35 per centum in addition of such excess.

\$12,500 upon net incomes of \$76,000; and upon net incomes in excess of \$76,000 and not in excess of \$78,000, 36 per centum in addition of such excess.

\$13,220 upon net incomes of \$78,000; and upon net incomes in excess of \$78,000 and not in excess of \$80,000, 37 per centum in addition of such excess.

\$15,980 upon surtax net incomes of \$74,000; and upon surtax net incomes in excess of \$74,000 and not in excess of \$80,000, 42 per centum in addition of such excess.

\$13,960 upon net incomes of \$80,000; and upon net incomes in excess of \$80,000 and not in excess of \$82,000, 38 per centum in addition of such excess.

\$14,720 upon net incomes of \$82,000; and upon net incomes in excess of \$82,000 and not in excess of \$84,000, 39 per centum in addition of such excess.

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

\$16,300 upon net incomes of \$86,000; and upon net incomes in excess of \$86,000 and not in excess of \$88,000, 41 per centum in addition of such excess.

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

\$18,500 upon surtax net incomes of \$80,000; and upon surtax net incomes in excess of \$80,000 and not in excess of \$90,000, 45 per centum in addition of such excess.

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

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

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

~~\$20,600~~ upon net incomes of \$96,000; and upon net incomes in excess of \$96,000 and not in excess of \$98,000, 46 per centum in addition of such excess.

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

~~\$23,000~~ upon *surtax* net incomes of \$90,000; and upon *surtax* net incomes in excess of \$90,000 and not in excess of \$100,000, 50 per centum in addition of such excess.

~~\$22,460~~ \$28,000 upon *surtax* net incomes of \$100,000; and upon *surtax* net incomes in excess of \$100,000 and not in excess of \$150,000, 48 52 per centum in addition of such excess.

~~\$46,460~~ \$54,000 upon *surtax* net incomes of \$150,000; and upon *surtax* net incomes in excess of \$150,000 and not in excess of \$200,000, 49 53 per centum in addition of such excess.

~~\$70,960~~ \$80,500 upon *surtax* net incomes of \$200,000; and upon *surtax* net incomes in excess of \$200,000 and not in excess of \$300,000, 50 54 per centum in addition of such excess.

~~\$120,960~~ \$134,500 upon *surtax* net incomes of \$300,000; and upon *surtax* net incomes in excess of \$300,000 and not in excess of \$400,000, 51 55 per centum in addition of such excess.

~~\$171,960~~ \$189,500 upon *surtax* net incomes of \$400,000; and upon *surtax* net incomes in excess of \$400,000 and not in excess of \$500,000, 52 56 per centum in addition of such excess.

~~\$223,960~~ \$245,500 upon *surtax* net incomes of \$500,000; and upon *surtax* net incomes in excess of \$500,000 and not in excess of \$750,000, 53 57 per centum in addition of such excess.

~~\$356,460~~ \$388,000 upon *surtax* net incomes of \$750,000; and upon *surtax* net incomes in excess of

\$750,000 and not in excess of \$1,000,000, ~~54~~ 58 per centum in addition of such excess.

~~\$491,460~~ \$533,000 upon *surtax* net incomes of \$1,000,000; and upon *surtax* net incomes in excess of \$1,000,000, ~~55~~ 59 per centum in addition of such excess.

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

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

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

(d) ~~EVASION AVOIDANCE OF SURTAXES BY INCORPORATION.~~—For ~~tax~~ *surtax* on corporations which accumulate surplus to evade *avoid* *surtax* on stockholders, see section ~~104~~ 102.

SEC. 13. TAX ON CORPORATIONS.

(a) ~~RATE OF TAX.~~—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation, a tax of $13\frac{3}{4}$ per centum of the amount of the net income in excess of the credit against net income provided in section 26.

(b) ~~EXEMPT CORPORATIONS.~~—For corporations exempt from tax, see section ~~103~~ 101.

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

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

NOTE.—Section 214 of the National Industrial Recovery Act substituted the phrase "internal-revenue tax" for the word "tax" appearing in this subsection of the 1932 act.

SEC. 14. TAXABLE PERIOD EMBRACING YEARS WITH DIFFERENT LAWS.

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

Part II—Computation of Net Income

SEC. 21. NET INCOME.

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

SEC. 22. GROSS INCOME.

(a) GENERAL DEFINITION.—“Gross income” includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after the date of the enactment of this Act June 6, 1932, the compensation received as such shall be included in gross income; and all Acts fixing the compensation of such Presidents and judges are hereby amended accordingly.

(b) EXCLUSIONS FROM GROSS INCOME.—The following items shall not be included in gross income and shall be exempt from taxation under this title:

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

(2) ANNUITIES, ETC.—Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts *and other than amounts received as annuities*) under a life ~~insurance~~, ~~endowment, or annuity insurance or endowment contract~~, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. *Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this title or prior income tax laws in respect of such annuity equals the aggregate premiums or consideration paid for such annuity.* In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) GIFTS, BEQUESTS, AND DEVISES.—The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income) ;

(4) TAX-FREE INTEREST.—Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) securities issued under the provisions of the Federal Farm Loan Act, or under the provisions of such Act as amended obligations of a corporation organized under Act of Congress, if such corporation is an instrumen-

tality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations ~~or securities~~ enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations ~~and securities~~ owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit) *and in the case of obligations of a corporation organized under Act of Congress*, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt ~~to the taxpayer~~ from the taxes imposed by this title;

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

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

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

Earned income from sources without the United States;

Salaries of certain Territorial employees;

The income of foreign governments;

Income of States, municipalities, and other political subdivisions;

Receipts of shipowners' mutual protection and indemnity associations;

Dividends from China Trade Act corporations.

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

(d) **DISTRIBUTIONS BY CORPORATIONS.**—Distributions by corporations shall be taxable to the shareholders as provided in section 115.

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

(f) **GROSS INCOME FROM SOURCES WITHIN AND WITHOUT UNITED STATES.**—For computation of gross income from sources within and without the United States, see section 119.

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

(a) **EXPENSES.**—All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(b) **INTEREST.**—All interest paid or accrued within the taxable year on indebtedness, except ~~(1)~~ on indebtedness incurred or continued to purchase or carry obligations ~~or securities~~ (other than obligations of the United States

issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this title, ~~or (2) on indebtedness incurred or continued in connection with the purchasing or carrying of an annuity.~~

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

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

(2) income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of section 131 (relating to credit for taxes of foreign countries and possessions of the United States); and

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

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

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

(d) TAXES OF SHAREHOLDER PAID BY CORPORATION.—The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

(e) LOSSES BY INDIVIDUALS.—Subject to the limitations provided in subsection (r) of this section, in the

case of an individual, losses sustained during the taxable year and not compensated for by insurance or otherwise—

(1) if incurred in trade or business; or

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

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

(f) **LOSSES BY CORPORATIONS.**—~~Subject to the limitations provided in subsection (r) of this section, in~~ In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.

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

~~(g)~~ (h) **BASIS FOR DETERMINING LOSS.**—The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), shall be the adjusted basis provided in section 113 (b) for determining the ~~gain or~~ loss from the sale or other disposition of property.

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

NOTE.—Section 218(a) of the National Industrial Recovery Act repealed section 23(i) of the 1932 act, effective as of January 1, 1933. Section 23(i) of the 1932 act read as follows:

(i) **NET LOSSES.**—The special deduction for net losses of a prior year, to the extent provided in section 117.

(j) **CAPITAL LOSSES.**—*Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 117(d).*

~~(j)~~ (k) **BAD DEBTS.**—Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts) ; and when satisfied that a debt is recoverable only in part, the Commissioner may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

~~(k)~~ (l) **DEPRECIATION.**—A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

~~(l)~~ (m) **DEPLETION.**—In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and

shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. (For percentage depletion *allowable under this subsection*, see section 114 (b), (3) and (4).)

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

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

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

(2) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation*;

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

(4) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) a fraternal society, order, or association, operating under the lodge system, but only if such contribu-

tions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals; to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. (For unlimited deduction if contributions and gifts exceed 90 per centum of the net income, see section 120.)

~~(o) FUTURE EXPENSES IN CASE OF CASUAL SALES OF REAL PROPERTY.~~—In the case of a casual sale or other casual disposition of real property by an individual, a reasonable allowance for future expense liabilities, incurred under the provisions of the contract under which such sale or other disposition was made, under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, including the giving of a bond, with such sureties and in such sum (not less than the estimated tax liability computed without the benefit of this subsection) as the Commissioner may require, conditioned upon the payment (notwithstanding any statute of limitations) of the tax, computed without the benefit of this subsection, in respect of any amounts allowed as a deduction under this subsection and not actually expended in carrying out the provisions of such contract.

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

(1) from a domestic corporation which is subject to taxation under this title, or
dividends from a domestic corporation which is subject to taxation under this title.

(2) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the

close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 119.

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

(q) **PENSION TRUSTS.**—An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under section 165, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made. Any deduction allowable under section 23 (q) of the Revenue Act of 1928 or the Revenue Act of 1932 which under such section was apportioned to any taxable year subsequent to the taxable year 1931 shall beginning after December 31, 1933, shall be allowed as a deduction in the years to which so apportioned to the extent allowable under such section if it had remained in force with respect to such year.

(r) **LIMITATION ON STOCK LOSSES.**—

(1) Losses from sales or exchanges of stocks and bonds (as defined in subsection (t) of this section) which are not capital assets (as defined in section 101)

shall be allowed only to the extent of the gains from such sales or exchanges (including gains which may be derived by a taxpayer from the retirement of his own obligations).

NOTE.—Section 218(b) of the National Industrial Recovery Act repealed section 23(r) (2) of the 1932 act, effective as of January 1, 1933. Section 23(r) (2) of the 1932 act read as follows:

(2) Losses disallowed as a deduction by paragraph (1), computed without regard to any losses sustained during the preceding taxable year, shall, to an amount not in excess of the taxpayer's net income for the taxable year, be considered for the purposes of this title as losses sustained in the succeeding taxable year from sales or exchanges of stocks or bonds which are not capital assets.

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

NOTE.—Section 218(c) of the National Industrial Recovery Act struck out of this paragraph the following words which appeared following the word "Territory": "nor to persons carrying on the banking business (where the receipt of deposits constitutes a major part of such business) in respect of transactions in the ordinary course of such banking business." This amendment was made effective as of January 1, 1933.

(s) ~~SAME~~ ~~SHORT SALES.~~ For the purposes of this title, gains or losses (A) from short sales of stocks and bonds, or (B) attributable to privileges or options to buy or sell such stocks and bonds, or (C) from sales or exchanges of such privileges or options, shall be considered as gains or losses from sales or exchanges of stocks or bonds which are not capital assets.

(t) ~~DEFINITION OF STOCKS AND BONDS.~~ As used in subsections (r) and (s), the term "stocks and bonds" means (1) shares of stock in any corporation, or (2) rights to subscribe for or to receive such shares, or (3) bonds, debentures, notes, or certificates or other evidences of indebtedness, issued by any corporation (other than a government or political subdivision thereof), with interest coupons or in registered form, or (4) certificates of

profit, or of interest in property or accumulations, in any investment trust or similar organization holding or dealing in any of the instruments mentioned or described in this subsection, regardless of whether or not such investment trust or similar organization constitutes a corporation within the meaning of this Act.

SEC. 24. ITEMS NOT DEDUCTIBLE.

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

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

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

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

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title; or

(6) Loss from sales or exchanges of property, directly or indirectly, (A) between members of a family, or (B) except in the case of distributions in liquidation, between an individual and a corporation in which such individual owns, directly or indirectly, more than 50 per centum in value of the outstanding stock. For the purpose of this paragraph— (C) an individual shall be considered as owning the stock owned, directly or indirectly, by his family; and (D) the family of an individual shall

include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(b) **HOLDERS OF LIFE OR TERMINABLE INTEREST.**—Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this Act (except the deductions provided for in subsections ~~(k)~~ (l) and ~~(l)~~ (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

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

SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

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

(a) **DIVIDENDS.**—The amount received as dividends—

(1) from a domestic corporation which is subject to taxation under this title; or

(2) from a foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from

sources within the United States as determined under the provisions of section 119.

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

(b) **INTEREST ON UNITED STATES OBLIGATIONS.**—The amount received as interest upon obligations of the United States which is included in gross income under section 22.

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

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

(e) **CHANGE OF STATUS.**—If the status of the taxpayer, in so far as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

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

(1) **DIVIDENDS.**—The amount received as dividends from a domestic corporation which is subject to taxation under this title. The credit allowed by this paragraph shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(2) **INTEREST ON UNITED STATES OBLIGATIONS.**—The amount received as interest upon obligations of the United States which is included in gross income under section 22.

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

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

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

(A) "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount not included in gross income, nor that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earn-

ings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.

(B) "Earned income deductions" means such deductions as are allowed by section 23 for the purpose of computing net income, and are properly allocable to or chargeable against earned income.

(C) "Earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than \$3,000, his entire net income shall be considered to be earned net income, and if his net income is more than \$3,000, his earned net income shall not be considered to be less than \$3,000. In no case shall the earned net income be considered to be more than \$14,000.

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

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

(2) CREDIT FOR DEPENDENTS.—\$400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if

such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

(3) CHANGE OF STATUS.—If the status of the taxpayer, insofar as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC. 26. CREDITS OF CORPORATION AGAINST NET INCOME.

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

Part III—Credits Against Tax

SEC. 31. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

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

SEC. 32. TAXES WITHHELD AT SOURCE.

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

SEC. 33. ERRONEOUS PAYMENTS CREDIT FOR OVERPAYMENTS.

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

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

Part IV—Accounting Periods and Methods of Accounting

SEC. 41. GENERAL RULE.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 48 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. (For use of inventories, see section 22 (c).)

SEC. 42. PERIOD IN WHICH ITEMS OF GROSS INCOME INCLUDED.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under section 41, any such amounts are to be properly accounted for as of a different period. *In the case of the death of a taxpayer there shall be included in computing net income for the taxable period in which*

falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

SEC. 43. PERIOD FOR WHICH DEDUCTIONS AND CREDITS TAKEN.

The deductions and credits provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period. *In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.*

SEC. 44. INSTALLMENT BASIS.

(a) **DEALERS IN PERSONAL PROPERTY.**—Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) **SALES OF REALTY AND CASUAL SALES OF PERSONALTY.**—In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding \$1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed ~~40 per centum of the selling price~~ *30 per centum of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to*

January 1, 1934, the percentage of the selling price prescribed in the law applicable to such year), the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this section. As used in this section the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

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

(d) **GAIN OR LOSS UPON DISPOSITION OF INSTALLMENT OBLIGATIONS.**—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. *Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.* The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the Commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such

sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

SEC. 45. ALLOCATION OF INCOME AND DEDUCTIONS.

In any case of two or more ~~trades or organizations~~, *trades, or businesses* (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such ~~trades or organizations~~, *trades, or businesses*, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such ~~trades or organizations~~, *trades, or businesses*.

SEC. 46. CHANGE OF ACCOUNTING PERIOD.

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

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

(a) RETURNS FOR SHORT PERIOD RESULTING FROM CHANGE OF ACCOUNTING PERIOD.—If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and

the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) **INCOME COMPUTED ON BASIS OF SHORT PERIOD.**—Where a separate return is made under subsection (a) on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(c) **INCOME PLACED ON ANNUAL BASIS.**—If a separate return is made under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of twelve months.

(d) **CAPITAL NET GAINS AND LOSSES—EARNED INCOME.**—The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subsections (b) and (c) (relating to computing income on the basis of a short period, and placing such income on an annual basis) to cases where the taxpayer makes a separate return under subsection (a) on account of a change in the accounting period, and it appears that for the period for which the return is so

made he has ~~derived a capital net gain, or sustained a capital net loss, or received earned income.~~

(e) **REDUCTION OF CREDITS AGAINST NET INCOME.**—In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to twelve months.

(f) **CLOSING OF TAXABLE YEAR IN CASE OF JEOPARDY.**—For closing of taxable year in case of jeopardy, see section 146.

SEC. 48. DEFINITIONS.

When used in this title—

(a) **TAXABLE YEAR.**—“Taxable year” means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Part. “Taxable year” includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made. ~~The first taxable year, to be called the taxable year 1932, shall be the calendar year 1932 or any fiscal year ending during the calendar year 1932.~~

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

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

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

Part V—Returns and Payment of Tax

SEC. 51. INDIVIDUAL RETURNS.

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

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

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

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

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

(1) Each shall make such a return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

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

(d) **FIDUCIARIES.**—For returns to be made by fiduciaries, see section 142.

SEC. 52. CORPORATION RETURNS.

(a) **REQUIREMENT.**—Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to

by the president, vice president, or other principal officer and by the ~~treasurer or assistant treasurer~~ *treasurer, assistant treasurer, or chief accounting officer*. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

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

SEC. 53. TIME AND PLACE FOR FILING RETURNS.

(a) TIME FOR FILING.—

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

(2) EXTENSION OF TIME.—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) TO WHOM RETURN MADE.—

(1) INDIVIDUALS.—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

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

SEC. 54. RECORDS AND SPECIAL RETURNS.

(a) **BY TAXPAYER.**—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

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

(c) **INFORMATION AT THE SOURCE.**—For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 147 to 150.

SEC. 55. PUBLICITY OF RETURNS.

Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act after the date of the enactment of the National Industrial Recovery Act, shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

NOTE.—Section 218(h) of the National Industrial Recovery Act added the matter appearing after "1926" in this section of the 1932 act.

(a) *Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.*

(b) *Every person required to file an income return shall file with his return, upon a form prescribed by the Commissioner, a correct statement of the following items shown upon the return: (1) name and address, (2) total gross income, (3) total deductions, (4) net income, (5) total credits against net income for purposes of normal tax, and (6) tax payable. In case of any failure to file with the return the statement required by this subsection, the collector shall prepare it from the return, and \$5 shall be added to the tax. The amount so added to the tax shall be collected at the same time and in the same manner as amounts added under section 291. Such statements or copies thereof shall as soon as practicable be made available to public examination and inspection in such manner as the Commissioner, with the approval of the Secretary, may determine, in the office of the collector with which they are filed, for a period of not less than three years from the date they are required to be filed.*

SEC. 56. PAYMENT OF TAX.

(a) **TIME OF PAYMENT.**—The total amount of tax imposed by this title shall be paid on the fifteenth day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the third month following the close of the fiscal year.

(b) **INSTALLMENT PAYMENTS.**—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for

the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

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

(d) **VOLUNTARY ADVANCE PAYMENT.**—A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) **ADVANCE PAYMENT IN CASE OF JEOPARDY.**—For advance payment in case of jeopardy, see section 146.

(f) **TAX WITHHELD AT SOURCE.**—For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called “tax-free covenant bonds”, see sections 143 and 144.

(g) **FRACTIONAL PARTS OF CENT.**—In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) **RECEIPTS.**—Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt *therefor*; ~~stating the amount paid and the particular account for which such payment was made; and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if~~

requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipt shall be sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated; but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

SEC. 57. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 58. ADDITIONS TO TAX AND PENALTIES.

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

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

SEC. 59. ADMINISTRATIVE PROCEEDINGS.

For administrative proceedings in respect of the nonpayment or overpayment of a tax imposed by this title, see as follows:

(a) Supplement L, relating to assessment and collection of deficiencies.

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

(c) Supplement N, relating to claims against transferees and fiduciaries.

(d) Supplement O, relating to overpayments.

Part VI—Miscellaneous Provisions

SEC. 61. LAWS MADE APPLICABLE.

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

SEC. 62. RULES AND REGULATIONS.

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

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

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

SEC. 64. SHORT TITLE.

This title may be cited as the “Income Tax Act of ~~1932 1934~~.”

SEC. 65. EFFECTIVE DATE OF TITLE.

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

SUBTITLE C—SUPPLEMENTAL PROVISIONS

Supplement A—Rates of Tax

[Supplementary to Subtitle B, Part I]

SEC. 101. CAPITAL NET GAINS AND LOSSES.

~~(a) TAX IN CASE OF CAPITAL NET GAIN.—In the case of any taxpayer, other than a corporation, who for any taxable year derives a capital net gain (as hereinafter~~

defined in this section); there shall, at the election of the taxpayer, be levied, collected, and paid, in lieu of all other taxes imposed by this title, a tax determined as follows: A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner as if this section had not been enacted and the total tax shall be this amount plus $12\frac{1}{2}$ per centum of the capital net gain.

(b) **TAX IN CASE OF CAPITAL NET LOSS.**—In the case of any taxpayer, other than a corporation, who for any taxable year sustains a capital net loss (as hereinafter defined in this section); there shall be levied, collected, and paid, in lieu of all other taxes imposed by this title, a tax determined as follows: a partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner as if this section had not been enacted; and the total tax shall be this amount minus $12\frac{1}{2}$ per centum of the capital net loss; but in no case shall the tax of a taxpayer who has sustained a capital net loss be less than the tax computed without regard to the provisions of this section.

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

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

(2) “Capital loss” means deductible loss resulting from the sale or exchange of capital assets.

(3) “Capital deductions” means such deductions as are allowed by section 23 for the purpose of computing net income, and are properly allocable to or chargeable against capital assets sold or exchanged during the taxable year.

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

(5) “Capital net gain” means the excess of the total amount of capital gain over the sum of (A) the capital deductions and capital losses, plus (B) the amount, if any, by which the ordinary deductions ex-

ceed the gross income computed without including capital gains.

(6) "Capital net loss" means the excess of the sum of the capital losses plus the capital deductions over the total amount of capital gain.

(7) "Ordinary net income" means the net income, computed in accordance with the provisions of this title, after excluding all items of capital gain, capital loss, and capital deductions.

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

(A) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(B) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(C) In determining the period for which the taxpayer has held stock or securities received upon a dis-

tribution where no gain is recognized to the distributee under the provisions of section 112 (g) of this Act or the Revenue Act of 1928, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

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

(d) **COLLECTION AND PAYMENT OF TAX.**—The total tax determined under subsection (a) or (b) shall be collected and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title.

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

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

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

SEC. 103 101. EXEMPTIONS FROM TAX ON CORPORATIONS.

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

(1) Labor, agricultural, or horticultural organizations;

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

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;*

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

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

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

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

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association be-

cause it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. *Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;*

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the

consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

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

~~(15) Federal land banks, national farm loan associations, and Federal intermediate credit banks, as provided in the Federal Farm Loan Act, as amended;~~

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private share-

holder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

SEC. 104. ACCUMULATION OF SURPLUS TO EVADE INTERNAL-REVENUE TAXES.

SEC. 102. SURTAX ON CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS.

(a) If any corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of any internal-revenue tax upon its shareholders through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, there shall be levied, collected, and paid for each taxable year upon the net income of such corporation a tax equal to 50 per centum of the amount thereof, which shall be in addition to the tax imposed by section 13 and shall be computed, collected, and paid upon the same basis and in the same manner and subject to the same provisions of law, including penalties, as that tax.

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

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

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

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

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

(c) *DEFINITION OF "ADJUSTED NET INCOME".*—*As used in this section, the term "adjusted net income" means the net income computed without the allowance of the dividend deduction otherwise allowable, but diminished by the amount of dividends paid during the taxable year.*

(d) *PAYMENT OF SURTAX ON PRO RATA SHARES.*—The tax imposed by this section shall not apply if all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire ~~distributive~~ *pro rata* shares, whether distributed or not, of the ~~net income~~ *"adjusted net income"* of the corporation for such year. Any amount so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of the earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his ~~distributive~~ *pro rata* share, be exempt from tax in the amount of the share so included.

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

NOTE.—Section 214 of the National Industrial Recovery Act substituted the phrase "any internal-revenue tax" for the phrase "the surtax", and the phrase "internal-revenue taxes" for the word "surtaxes", appearing in this section of the 1932 act.

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

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 11, 12, 13, 201(b), and 204(a) shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by section 11, 12, 13, 201(b), or 204(a), as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 per centum of the net income of the taxpayer. Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

**SEC. 105. TAXABLE PERIOD EMBRACING YEARS WITH
DIFFERENT LAWS.**

If it is necessary to compute the tax for a period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then the tax under this title for the period ending during the second calendar year shall be in the sum

of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Supplement B—Computation of Net Income

[Supplementary to Subtitle B, Part II]

SEC. 111. DETERMINATION OF AMOUNT OF, AND RECOGNITION OF, GAIN OR LOSS.

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

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

(c) RECOGNITION OF GAIN OR LOSS.—In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 112.

(d) INSTALLMENT SALES.—Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

SEC. 112. RECOGNITION OF GAIN OR LOSS.

(a) **GENERAL RULE.**—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as herein-after provided in this section.

(b) **EXCHANGES SOLELY IN KIND.**—

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

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

(3) **STOCK FOR STOCK ON REORGANIZATION.**—No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

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

(5) **TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.**—No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such

corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

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

(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

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

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of re-

organization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

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

(f) **INVOLUNTARY CONVERSIONS.**—If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) **DISTRIBUTION OF STOCK ON REORGANIZATION.**—If there is distributed, in pursuance of a plan of reorganization, to a shareholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorgani-

zation, without the surrender by such shareholder of stock or securities in such a corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized.

~~(h)~~ SAME—EFFECT ON FUTURE DISTRIBUTIONS.—

The distribution, in pursuance of a plan of reorganization, by or on behalf of a corporation a party to the reorganization, of its stock or securities or stock or securities in a corporation a party to the reorganization, if no gain to the distributee from the receipt of such stock or securities was recognized by law, shall not be considered a distribution of earnings or profits within the meaning of section 115(b) for the purpose of determining the taxability of subsequent distributions by the corporation.

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

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

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of an acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another

~~corporation~~ a reorganization resulting from the acquisition by one corporation of stock or properties of another.

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

~~(k)~~ (i) FOREIGN CORPORATIONS.—In determining the extent to which gain shall be recognized in the case of any of the exchanges ~~or distributions~~ (made after the date of the enactment of this Act) described in subsection (b) (3), (4), or (5), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d) ~~or (g)~~, a foreign corporation shall not be considered as a corporation unless, prior to such exchange ~~or distribution~~, it has been established to the satisfaction of the Commissioner that such exchange ~~or distribution~~ is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

SEC. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS.

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

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

(2) GIFTS AFTER DECEMBER 31, 1920.—If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, *except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower.* If the facts necessary to de-

termine such basis the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) TRANSFER IN TRUST AFTER DECEMBER 31, 1920.—If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

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

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

from the decedent, the basis in the hands of the estate shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired either by will or by intestacy, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer. *If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition.* In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. *For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise.*

(6) TAX-FREE EXCHANGES GENERALLY.—If the property was ~~acquired~~ *acquired, after February 28, 1913*, upon an exchange described in section 112 (b) to (e), inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 112 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for

the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) TRANSFERS TO CORPORATION WHERE CONTROL OF PROPERTY REMAINS IN SAME PERSONS.—If the property was acquired after December 31, 1917, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

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

(A) by the issuance of its stock or securities in connection with a transaction described in section 112 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

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

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the

transferor upon such transfer under the law applicable to the year in which the transfer was made.

~~(9)~~ **TAX-FREE DISTRIBUTIONS.**—If the property consists of stock or securities distributed after December 31, 1923, to a taxpayer in connection with a transaction described in section 112 (g), the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, between such stock and the stock or securities distributed.

~~(10)~~ **(9) INVOLUNTARY CONVERSION.**—If the property was acquired *acquired, after February 28, 1913*, as the result of a compulsory or involuntary conversion described in section 112 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

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

~~(12)~~ (11) **PROPERTY ACQUIRED DURING AFFILIATION.**—In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain or loss was not recognized. For the purposes of this paragraph, the term “period of affiliation” means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this Act or the Revenue Act of 1928 *or the Revenue Act of 1932*, shall be determined in accordance with regulations prescribed under section 141 (b) of this Act or the Revenue Act of 1928 *or the Revenue Act of 1932*. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this Act or the Revenue Act of 1928 *or the Revenue Act of 1932*, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 (b) of this Act or the Revenue Act of 1928 *or the Revenue Act of 1932*, applicable to such period.

(12) **BASIS ESTABLISHED BY REVENUE ACT OF 1932.**—*If the property was acquired, after February 28, 1913, in any taxable year beginning prior to Janu-*

ary 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932 was prescribed by section 113(a) (6), (7), or (9) of such Act, then for the purposes of this Act the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

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

~~(13)~~ (14) *PROPERTY ACQUIRED BEFORE MARCH 1, 1913*.—In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

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

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

(A) for expenditures, receipts, losses, or other items, properly chargeable to capital account, includ-

ing taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this Act or prior income tax laws. Where for any taxable year prior to the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(C) in respect of any period prior to March 1, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(D) in the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921).

(2) **SUBSTITUTED BASIS.**—The term “substituted basis” as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior

income tax law, providing that the basis shall be determined—

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

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

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.

(a) BASIS FOR DEPRECIATION.—The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain or loss upon the sale or other disposition of such property.

(b) BASIS FOR DEPLETION.—

(1) GENERAL RULE.—The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain or loss upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection.

(2) DISCOVERY VALUE IN CASE OF MINES.—In the case of mines (other than metal, coal or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within

thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance *under section 23(m)* based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance *under section 23(m)* be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) **PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.**—In the case of oil and gas wells the allowance for depletion *under section 23(m)* shall be $27\frac{1}{2}$ per centum of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance *under section 23(m)* be less than it would be if computed without reference to this paragraph.

(4) **PERCENTAGE DEPLETION FOR COAL AND METAL MINES AND SULPHUR.**—The allowance for depletion *under section 23(m)* shall be, in the case of coal mines, 5 per centum, in the case of metal mines,

15 per centum, and, in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance for the taxable year 1932 or 1933 be less than it would be if computed without reference to this paragraph. A taxpayer making return for the taxable year 1933 shall state in such return, as to each property (or, if he first makes return in respect of a property for any taxable year after the taxable year 1933, then in such first return), whether he elects to have the depletion allowance for such property for succeeding taxable years computed with or without reference to percentage depletion. The depletion allowance in respect of such property for all succeeding taxable years shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for succeeding taxable years shall be computed without reference to percentage depletion. During the period for which property acquired after December 31, 1933, is held by the taxpayer—

(A) if the basis of the property in the hands of the taxpayer is, under section 113 (a), determined by reference to the basis in the hands of the transferor, donor, or grantor, then the depletion allowance in respect of the property shall be computed with or without reference to percentage depletion, according to the method of computation which would have been applicable if the transferor, donor, or grantor had continued to hold the property, or

(B) if the basis of the property is, under section 113 (a), determined by reference to the basis of other

property previously held by the taxpayer, then the depletion allowance in respect of the property shall be computed with or without reference to percentage depletion, according to the method of computation which would have been applicable in respect of the property previously held if the taxpayer had continued to hold such property.

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

SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

(a) **DEFINITION OF DIVIDEND.**—The term “dividend” when used in this title (except in section 203 (a) (4) and section ~~208 (e) (1)~~ 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913.

(b) **SOURCE OF DISTRIBUTIONS.**—For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently

accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the *adjusted* basis of the stock provided in section 113.

(c) DISTRIBUTIONS IN LIQUIDATION.—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. *Despite the provisions of section 117(a), 100 per centum of the gain so recognized shall be taken into account in computing net income.* In the case of amounts distributed (*whether before January 1, 1934, or on or after such date*) in partial liquidation (other than a distribution within the provisions of ~~section 112(h)~~ *subsection (h) of this section* of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subsection (b) of this section for the purpose of determining the taxability of subsequent distributions by the corporation.

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

(e) **DISTRIBUTIONS BY PERSONAL SERVICE CORPORATIONS.**—Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921, shall be exempt from tax to the distributees.

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

(g) **REDEMPTION OF STOCK.**—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(h) **DISTRIBUTION OF STOCK ON REORGANIZATION—EFFECT ON FUTURE DISTRIBUTIONS.**—*The distribution before January 1, 1934, in pursuance of a plan of reorganization, by or on behalf of a corporation a party to the reorganization, of its stock or securities or stock or securities in a corporation a party to the reorganization, if no gain to the distributee from the receipt of such stock or securities was recognized by law, shall not be considered a distribution of earnings or profits within the meaning of this section for the purpose of determining the taxability of subsequent distributions by the corporation. As used in this subsection, the terms "reorganization" and "party to the reorganization" shall have the meanings assigned to such terms in section 112 of the Revenue Act of 1932.*

~~(h)~~ (i) **DEFINITION OF PARTIAL LIQUIDATION.**—As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in

complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

SEC. 116. EXCLUSIONS FROM GROSS INCOME.

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

(a) **EARNED INCOME FROM SOURCES WITHOUT UNITED STATES.**—In the case of an individual citizen of the United States, a bona fide nonresident of the United States for more than six months during the taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts *would* constitute earned income *as defined in section 25(a) if received from sources within the United States*; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection. ~~As used in this subsection the term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.~~

(b) **TEACHERS IN ALASKA AND HAWAII.**—In the case of an individual employed by Alaska or Hawaii or any

political subdivision thereof as a teacher in any educational institution, the compensation received as such. This subsection shall not exempt compensation paid directly or indirectly by the Government of the United States. Subsection (b) of section 5 of the Act entitled "An Act to provide a government for the Territory of Hawaii", approved April 30, 1900, as amended by the Act entitled "An Act to amend section 5 of the Act entitled 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900", approved April 12, 1930 [U.S.C., Sup. V, title 48, sec. 495 (b)], is repealed as of January 1, 1932.

(c) **INCOME OF FOREIGN GOVERNMENTS.**—The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States.

(d) **INCOME OF STATES, MUNICIPALITIES, ETC.**—Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

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

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this

title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

(2) If by the terms of such contract no part of the proceeds from the operation of the public utility for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

(e) **BRIDGES TO BE ACQUIRED BY STATE OR POLITICAL SUBDIVISION.**—Whenever any State or political subdivision thereof, in pursuance of a contract to which it is not a party entered into before the enactment of the Revenue Act of 1928, is to acquire a bridge—

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such bridge prior to any division of such proceeds, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of or would be

applied for the benefit of such State or political subdivision, then a tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State or political subdivision (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of or would be applied for the benefit of such State or political subdivision, bears to the amount of the net income from the operation of such bridge for such taxable year. No such refund shall be made unless the entire amount of the refund is to be applied in part payment for the acquisition of such bridge.

(2) If by the terms of such contract no part of the proceeds from the operation of the bridge for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of or be applied for the benefit of such State or political subdivision, then the tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title.

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

(g) SHIPOWNERS' PROTECTION AND INDEMNITY ASSOCIATIONS.—The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall

be subject as other persons to the tax upon their net income from interest, dividends, and rents.

NOTE.—Section 218(a) of the National Industrial Recovery Act repealed section 117 of the 1932 act, effective as of January 1, 1933. Section 117 of the 1932 act read as follows:

SEC. 117. NET LOSSES.

(a) DEFINITION OF "NET LOSS."—As used in this section the term "net loss" means the excess of the deductions allowed by this title over the gross income, with the following exceptions and limitations:

(1) NON-BUSINESS DEDUCTIONS.—Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall be allowed only to the extent of the amount of the gross income not derived from such trade or business;

(2) CAPITAL LOSSES.—In the case of a taxpayer other than a corporation, deductions for capital losses otherwise allowed by law shall be allowed only to the extent of the capital gains;

(3) DEPLETION.—The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value, or to percentage depletion under section 114(b) (3) or (4);

(4) DIVIDENDS.—The deduction provided for in section 23(p) of amounts received as dividends shall not be allowed;

(5) INTEREST.—There shall be included in computing gross income the amount of interest received free from tax under this title, decreased by the amount of interest paid or accrued which is not allowed as a deduction by section 23(b);

(6) NET LOSS NOT TO PRODUCE NET LOSS.—In computing the net loss for any taxable year a net loss for a prior year shall not be allowed as a deduction.

(b) NET LOSS AS A DEDUCTION.—If, for any taxable year, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding taxable year (hereinafter in this section called "second year"); the deduction in all cases to be made under regulations prescribed by the Commissioner with the approval of the Secretary.

(c) CAPITAL NET GAIN IN SECOND YEAR.—If in the second year the taxpayer (other than a corporation) has a capital net gain, the deduction allowed by subsection (b) of this section shall first be applied as a deduction in computing the ordinary net income for such year. If the deduction is in excess of the ordinary net income (computed without such deduction) the amount of such excess shall then be applied against the capital net gain for such year.

(d) NET LOSSES FOR 1930 OR 1931.—If for the taxable year 1930 a taxpayer sustained a net loss within the provisions of the Revenue Act of 1928, the amount of such net loss shall not be allowed as a deduction in computing net income under this title. If for the taxable year 1931 a taxpayer sustained a net loss within the provi-

sions of the Revenue Act of 1928, the amount of such net loss shall be allowed as a deduction in computing net income for the taxable year 1932 to the same extent and in the same manner as a net loss sustained for one taxable year is, under this Act, allowed as a deduction for the succeeding taxable year.

(e) **FISCAL YEAR RETURNS.**—If a taxpayer makes return for a period beginning in one calendar year (hereinafter in this subsection called "first calendar year") and ending in the following calendar year (hereinafter in this subsection called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then his net loss for the period ending during the second calendar year shall be the sum of: (1) The same proportion of a net loss for the entire period, determined under the law applicable to the first calendar year, which the portion of such period falling within such calendar year is of the entire period; and (2) the same proportion of a net loss for the entire period, determined under the law applicable to the second calendar year, which the portion of such period falling within such calendar year is of the entire period.

SEC. 117. CAPITAL GAINS AND LOSSES.

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

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

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

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

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

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

(b) **DEFINITION OF CAPITAL ASSETS.**—*For the purposes of this title, "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the*

taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(c) DETERMINATION OF PERIOD FOR WHICH HELD.—For the purpose of subsection (a)—

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112(g) of the Revenue Act of 1928 or the Revenue Act of 1932, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this Act or section 118 of the Revenue Act of 1928 or the Revenue Act of 1932, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(d) *LIMITATION ON CAPITAL LOSSES.*—Losses from sales or exchanges of capital assets shall be allowed only to the extent of \$2,000 plus the gains from such sales or exchanges. If a bank or trust company incorporated under the laws of the United States or of any State or Territory, a substantial part of whose business is the receipt of deposits, sells any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, any loss resulting from such sale (except such portion of the loss as does not exceed the amount, if any, by which the adjusted basis of such instrument exceeds the par or face value thereof) shall not be subject to the foregoing limitation and shall not be included in determining the applicability of such limitation to other losses.

(e) *GAINS AND LOSSES FROM SHORT SALES, ETC.*—For the purpose of this title—

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

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

(f) *RETIREMENT OF BONDS, ETC.*—For the purposes of this title, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

SEC. 118. LOSS FROM WASH SALES OF STOCK OR SECURITIES.

(a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock

or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 23 (e) (2) ; nor shall such deduction be allowed under section 23 (f) unless the claim is made by a corporation, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business.

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

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 119. INCOME FROM SOURCES WITHIN UNITED STATES.

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

(1) INTEREST.—Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

(A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or

(B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 per centum of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable, or

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

(2) **DIVIDENDS.**—The amount received as dividends—

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

(B) from a foreign corporation unless less than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as de-

terminated under the provisions of this section; *but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States;*

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

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

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

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

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

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

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

(2) Dividends other than those derived from sources within the United States as provided in subsection (a) (2) of this section;

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

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and

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

(d) **NET INCOME FROM SOURCES WITHOUT UNITED STATES.**—From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) **INCOME FROM SOURCES PARTLY WITHIN AND PARTLY WITHOUT UNITED STATES.**—Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations prescribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net

income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses, or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits, and income from—

(1) transportation or other services rendered partly within and partly without the United States, or

(2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States,

shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits, and income derived from the purchase of personal property within the United States and its sale within a possession of the United States or from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States.

(f) DEFINITIONS.—As used in this section the words “sale” or “sold” include “exchange” or “exchanged”; and the word “produced” includes “created”, “fabricated”, “manufactured”, “extracted”, “processed”, “cured”, or “aged”.

SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE AND OTHER CONTRIBUTIONS.

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in section ~~23(n)~~ 23(o) plus the amount of income, war-profits, or excess-profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of section ~~23(n)~~ 23(o), then the 15 per centum limit imposed by such section shall not be applicable.

Supplement C—Credits Against Tax

[Supplementary to Subtitle B, Part III]

SEC. 131. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

(a) ALLOWANCE OF CREDIT.—If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this title shall be credited with:

(1) CITIZEN AND DOMESTIC CORPORATION.—In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

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

(3) ALIEN RESIDENT OF UNITED STATES.—In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) **PARTNERSHIPS AND ESTATES.**—In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

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

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

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

(c) **ADJUSTMENTS ON PAYMENT OF ACCRUED TAXES.**—If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner, who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment

by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(d) **YEAR IN WHICH CREDIT TAKEN.**—The credits provided for in this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subsection (c) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

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

(f) **TAXES OF FOREIGN SUBSIDIARY.**—For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends ~~(not deductible under section 23(p))~~ in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such

foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the amount of tax deemed to have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first sixty days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than one year, the word "year" as used in this subsection shall be construed to mean such accounting period.

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

(1) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its gross income from sources within a possession of the United States;

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

SEC. 132. PAYMENTS UNDER 1928 ACT.

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

Supplement D—Returns and Payment of Tax

[Supplementary to Subtitle B, Part V]

SEC. 141. CONSOLIDATED RETURNS OF RAILROAD CORPORATIONS.

(a) **PRIVILEGE TO FILE CONSOLIDATED RETURNS.**—An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all the corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to all the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1928 1932 insofar as not inconsistent with this Act) prescribed prior to the making of such return; and the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) **REGULATIONS.**—The Commissioner, with the approval of the Secretary, shall prescribe such regulations

as he may deem necessary in order that the tax liability of ~~an~~ *any* affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be determined, computed, assessed, collected, and adjusted in such manner as clearly to reflect the income and to prevent avoidance of tax liability.

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

NOTE.—Section 218(e) of the National Industrial Recovery Act added to the 1932 act so much of this subsection as relates to an additional rate of tax of 1 percent for the taxable years 1934 and 1935. The amendment was made effective as of January 1, 1933.

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

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

(2) The common parent corporation owns directly at least 95 per centum of the stock of at least one of the other corporations; and

(3) *Each of the corporations is either (A) a corporation whose principal business is that of a common carrier by railroad or (B) a corporation the assets of which consist principally of stock in such corporations and which does not itself operate a business other than that of a common carrier by railroad. For the purpose of determining whether the principal business of a corporation is that of a common carrier by railroad, if a common carrier by railroad has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such railroad properties shall be considered as the business of a common carrier by railroad.*

As used in this subsection (except in paragraph (3)) the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

~~(e) A consolidated return shall be made only for the domestic corporations within the affiliated group. An insurance company subject to the tax imposed by section 201 or 204 shall not be included in the same consolidated return with a corporation subject to the tax imposed by section 13, and an insurance company subject to the tax imposed by section 201 shall not be included in the same consolidated return with an insurance company subject to the tax imposed by section 204.~~

(e) *FOREIGN CORPORATIONS.*—A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of this section.

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

(g) *CORPORATIONS DERIVING INCOME FROM POSSESSIONS OF UNITED STATES.*—For the purposes of this

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

(h) **SUBSIDIARY FORMED TO COMPLY WITH FOREIGN LAW.**—In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this title as a domestic corporation.

(i) **SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.**—If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

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

SEC. 142. FIDUCIARY RETURNS.

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

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

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

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

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

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

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

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

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

SEC. 143. WITHHOLDING OF TAX AT SOURCE.

(a) **TAX-FREE COVENANT BONDS.**—

(1) **REQUIREMENT OF WITHHOLDING.**—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, *issued before January 1, 1934*, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest

without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per centum of the interest, then the deduction and withholding shall be at the following rates: (A) ~~8 per centum~~ *4 per centum* in the case of a nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) $13\frac{3}{4}$ per centum in the case of such a foreign corporation, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of ~~8 per centum~~ *4 per centum*.

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

(3) INCOME OF OBLIGOR AND OBLIGEE.—The obligor shall not be allowed a deduction for the payment

of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) **NONRESIDENT ALIENS.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (other than income received as dividends of the class allowed as a credit by section 25(a)) shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section ~~215~~ 214) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to ~~8 per centum~~ 4 per centum thereof: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

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

any person for the amount of any payments made in accordance with the provisions of this section.

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

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

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

~~(g) Notwithstanding the provisions of subsections (a) and (b), the deduction and withholding for any period prior to the date of the enactment of this Act shall be at the rates of 12 per centum and 5 per centum in lieu of the rates of 13 $\frac{3}{4}$ per centum and 8 per centum prescribed in such subsections.~~

SEC. 144. PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to ~~12 per centum thereof in respect of all payments of income made before the enactment of this Act, and equal to 13 $\frac{3}{4}$ per centum~~

thereof in respect of all payments of income made after the enactment of this Act $13\frac{3}{4}$ per centum, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

SEC. 145. PENALTIES.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

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

SEC. 146. CLOSING BY COMMISSIONER OF TAXABLE YEAR.

(a) **TAX IN JEOPARDY.**—If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(b) **SECURITY FOR PAYMENT.**—A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits,

or excess-profits taxes due from him under any Act of Congress.

(c) **SAME—EXEMPTION FROM SECTION.**—If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(d) **CITIZENS.**—In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

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

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

SEC. 147. INFORMATION AT SOURCE.

(a) **PAYMENTS OF \$1,000 OR MORE.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), of \$1,000 or more in any taxable year, or, in the case of such payments made by the

United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) **RETURNS REGARDLESS OF AMOUNT OF PAYMENT.**—Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

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

(d) **OBLIGATIONS OF UNITED STATES.**—The provisions of this section shall not apply to the payment of interest on obligations of the United States.

SEC. 148. INFORMATION BY CORPORATIONS.

(a) **DIVIDEND PAYMENTS.**—Every corporation subject to the tax imposed by this title shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) **PROFITS OF TAXABLE YEAR DECLARED AS DIVIDENDS.**—There shall be included in the return of

appended thereto a statement of such facts as will enable the Commissioner to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during the taxable year for which the return is made, which have been distributed or ordered to be distributed, respectively, to its shareholders during such year.

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

(c) *ACCUMULATED GAINS AND PROFITS.*—When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of accumulated gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

(d) *COMPENSATION OF OFFICERS AND EMPLOYEES.*—Under regulations prescribed by the Commissioner with the approval of the Secretary, every corporation subject to taxation under this title shall, in its return, submit a list of the names of all officers and employees of such corporation and the respective amounts paid to them during the taxable year of the corporation by the corporation as salary, commission, bonus, or other compensation for personal services rendered, if the aggregate amount so paid to the individual is in excess of \$15,000. The Secretary of the Treasury shall submit an annual report to Congress compiled from the returns made containing the names of, and amounts paid to, each such officer and employee and the name of the paying corporation.

SEC. 149. RETURNS OF BROKERS.

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

SEC. 150. COLLECTION OF FOREIGN ITEMS.

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

Supplement E—Estates and Trusts**SEC. 161. IMPOSITION OF TAX.**

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

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with con-

tingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

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

SEC. 162. NET INCOME.

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

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23-~~(n)~~(o)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23-~~(n)~~(o), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable

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

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

SEC. 163. CREDITS AGAINST NET INCOME.

(a) CREDITS OF ESTATE OR TRUST.—For the purpose of the normal tax *and the surtax* the estate or trust shall be allowed the same personal exemption as is allowed to a single person under section ~~25(e)~~ 25(b)(1), and, if no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then in addition the same credits against net income for dividends and interest as are allowed by section 25(a) ~~and (b)~~.

(b) CREDITS OF BENEFICIARY.—If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits against net income, in

addition to the credits allowed to him under section 25, his proportionate share of such amounts of dividends and interest specified in section 25 (a) ~~and (b)~~ as are, under this Supplement, required to be included in computing his net income. Any remaining portion of such amounts specified in section 25 (a) ~~and (b)~~ shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

SEC. 164. DIFFERENT TAXABLE YEARS.

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

SEC. 165. EMPLOYEES' TRUSTS.

A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under section 161, but the amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of dividends and interest specified in section 25 (a) ~~and (b)~~.

SEC. 166. REVOCABLE TRUSTS.

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

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

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

SEC. 167. INCOME FOR BENEFIT OF GRANTOR.

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

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

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

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 ~~(a)~~ (c), relating to the so-called "charitable contribution" deduction);
then such part of the income of the trust shall be included in computing the net income of the grantor.

(b) As used in this section, the term "in the discretion of the grantor" means "in the discretion of the

grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question ”.

SEC. 168. CAPITAL NET GAINS AND LOSSES.

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

NOTE.—Section 218(a) of the National Industrial Recovery Act repealed section 169 of the 1932 act, effective as of January 1, 1933. Section 169 of the 1932 act read as follows:

SEC. 169. NET LOSSES.

The benefit of the special deduction for net losses allowed by section 117 shall be allowed to an estate or trust under regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 170 168. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

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

Supplement F—Partnerships

SEC. 181. PARTNERSHIP NOT TAXABLE.

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

SEC. 182. TAX OF PARTNERS.

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

NOTE.—Section 218(d) of the National Industrial Recovery Act added the last sentence of this subsection of the 1932 act. The amendment was made effective as of January 1, 1933.

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

(1) the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and

(2) the rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year.

In such cases the part of such income subject to the rates in effect for the most recent calendar year shall be added to the other income of the taxpayer subject to such rates and

the resulting amount shall be placed in the lower brackets of the rate schedule applicable to such year, and the part of such income subject to the rates in effect for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to such year.

SEC. 183. COMPUTATION OF PARTNERSHIP INCOME.

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

SEC. 184. CREDITS AGAINST NET INCOME.

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

SEC. 185. EARNED INCOME.

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

SEC. 186. CAPITAL NET GAINS AND LOSSES.

In the case of the members of a partnership the proper part of each share of the net income which consists, respectively, of ordinary net income, capital net gain, or capital net loss, shall be determined under the rules and regulations to be prescribed by the Commissioner with the

approval of the Secretary, and shall be separately shown in the return of the partnership and shall be taxed to the member as provided in this Supplement, but at the rates and in the manner provided in section 101(a) and (b), relating to capital net gains and losses.

NOTE.—Section 218(a) of the National Industrial Recovery Act repealed section 187 of the 1932 act, effective as of January 1, 1938. Section 187 of the 1932 act read as follows:

SEC. 187. NET LOSSES.

The benefit of the special deduction for net losses allowed by section 117 shall be allowed to the members of a partnership under regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 188 186. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

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

SEC. 189 187. PARTNERSHIP RETURNS.

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

SEC. 188. DIFFERENT TAXABLE YEARS OF PARTNER AND PARTNERSHIP.

(a) *GENERAL RULE.*—If the taxable year of a partner is different from that of the partnership, the distributive share of the net income of the partnership to be included in computing the net income of the partner for his taxable

year shall be based upon the net income of the partnership for any taxable year of the partnership (whether beginning on, before, or after January 1, 1934) ending within the taxable year of the partner.

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

Supplement G—Insurance Companies

SEC. 201. TAX ON LIFE INSURANCE COMPANIES.

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

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

(1) In the case of a domestic life insurance company, $13\frac{3}{4}$ per centum of its ~~net income~~ *the amount of its net income in excess of the credit provided in subsection (c) of this section;*

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

(c) *For the purpose only of the tax imposed by this section there shall be allowed as a credit against net income (or, in the case of a foreign life insurance company, against net income from sources within the United States) the amount received as interest upon obligations of the United States or of corporations organized under Act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25(a)(2) or (3). In the case of a foreign life insurance company the credit shall not exceed an amount which bears the same ratio to the amount otherwise allowed as a credit as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States is of the reserve funds held by it at the end of the taxable year upon all business transacted.*

SEC. 202. GROSS INCOME OF LIFE INSURANCE COMPANIES.

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

(b) The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

SEC. 203. NET INCOME OF LIFE INSURANCE COMPANIES.

(a) **GENERAL RULE.**—In the case of a life insurance company the term "net income" means the gross income less—

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

(2) **RESERVE FUNDS.**—An amount equal to 4 per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of $3\frac{3}{4}$ per centum shall be substituted for 4 per centum. Life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, shall be allowed, in addition to the above, a deduction of $3\frac{3}{4}$ per centum of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

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

(4) **RESERVE FOR DIVIDENDS.**—An amount equal to 2 per centum of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period

of not less than five years from the date of the policy contract;

(5) **INVESTMENT EXPENSES.**—Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 per centum of the book value of the mean of the invested assets held at the beginning and end of the taxable year;

(6) **REAL ESTATE EXPENSES.**—Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

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

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

(b) **RENTAL VALUE OF REAL ESTATE.**—The deduction under subsection (a) (6) or (7) of this section on

account of any real estate owned and occupied in whole or in part by a life insurance company, shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

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

SEC. 204. INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.

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

(1) In the case of such a domestic insurance company, $13\frac{3}{4}$ per centum of ~~its net income~~ *the amount of its net income in excess of the credit provided in subsection (f) of this section;*

(2) In the case of such a foreign insurance company, $13\frac{3}{4}$ per centum of ~~its net income from sources within the United States~~ *the amount of its net income from sources within the United States in excess of the credit provided in subsection (f) of this section.*

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

(1) **GROSS INCOME.**—"Gross income" means the sum of (A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, and (B) gain during the taxable year from the sale or other disposition of property, and (C) all other items constituting gross income under section 22;

(2) **NET INCOME.**—"Net income" means the gross income as defined in paragraph (1) of this subsection less the deductions allowed by subsection (c) of this section;

(3) **INVESTMENT INCOME.**—"Investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

To all interest, dividends and rents received during the taxable year, add interest, dividends and rents due and accrued at the end of the taxable year, and deduct all interest, dividends and rents due and accrued at the end of the preceding taxable year;

(4) **UNDERWRITING INCOME.**—"Underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

(5) **PREMIUMS EARNED.**—"Premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

(6) **LOSSES INCURRED.**—"Losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

(7) **EXPENSES INCURRED.**—"Expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined in this paragraph all expenses incurred which are not allowed as deductions by subsection (c) of this section.

(c) **DEDUCTIONS ALLOWED.**—In computing the net income of an insurance company subject to the tax imposed by this section there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 23 (a) ;

(2) All interest as provided in section 23 (b) ;

(3) Taxes as provided in section 23 (c) ;

(4) Losses incurred as defined in subsection (b) (6) of this section;

(5) *Losses Subject to the limitation contained in section 117(d), losses sustained during the taxable year from the sale or other disposition of property;*

(6) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

(7) The amount received as dividends from corporations as provided in section 23 (p) ;

(8) The amount of interest earned during the taxable year which under section 22 (b) (4) is ~~exempt from the taxes imposed by this title, and the amount of interest allowed as a credit under section 26 excluded from gross income~~;

(9) A reasonable allowance for the exhaustion, wear and tear of property, as provided in section 23-(k)-(l).

(d) DEDUCTIONS OF FOREIGN CORPORATIONS.—In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in Supplement I.

(e) DOUBLE DEDUCTIONS.—Nothing in this section shall be construed to permit the same item to be twice deducted.

(f) *For the purpose only of the tax imposed by this section there shall be allowed as a credit against net income (or, in the case of a foreign corporation, against net income from sources within the United States) the amount received as interest upon obligations of the United States or of corporations organized under Act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25(a) (2) or (3).*

NOTE.—Section 218(a) of the National Industrial Recovery Act repealed section 205 of the 1932 act, effective as of January 1, 1933. Section 205 of the 1932 act read as follows:

SEC. 205. NET LOSSES.

The benefit of the special deduction for net losses allowed by section 117 shall be allowed to insurance companies subject to the tax imposed by section 201 or 204, under regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 206 205. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

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

a domestic insurance company subject to the tax imposed by section 201 or 204, to the extent provided in the case of a domestic corporation in section 131, and in such cases "net income" as used in that section means the net income as defined in this Supplement.

SEC. 207 206. COMPUTATION OF GROSS INCOME.

The gross income of insurance companies subject to the tax imposed by section 201 or 204 shall not be determined in the manner provided in section 119.

SEC. 208 207. MUTUAL INSURANCE COMPANIES OTHER THAN LIFE.

(a) **APPLICATION OF TITLE.**—Mutual insurance companies, other than life insurance companies, shall be taxable in the same manner as other corporations, except as hereinafter provided in this section.

(b) **GROSS INCOME.**—Mutual marine-insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(c) **DEDUCTIONS.**—In addition to the deductions allowed to corporations by section 23 the following deductions to insurance companies shall also be allowed, unless otherwise allowed—

(1) **MUTUAL INSURANCE COMPANIES OTHER THAN LIFE INSURANCE.**—In the case of mutual insurance companies other than life insurance companies—

(A) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and

(B) the sums other than dividends paid within the taxable year on policy and annuity contracts.

(2) **MUTUAL MARINE INSURANCE COMPANIES.**—In the case of mutual marine insurance companies, in

addition to the deductions allowed in paragraph (1) of this subsection, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(3) **MUTUAL INSURANCE COMPANIES OTHER THAN LIFE AND MARINE.**—In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

Supplement H—Nonresident Alien Individuals

SEC. 211. NORMAL TAX.

(a) **GENERAL RULE.**—In the case of a nonresident alien individual who is not a resident of a contiguous country, the normal tax shall be 8 per centum of the amount of the net income in excess of the credits against net income allowed to such individual.

(b) **ALIENS RESIDENT IN CONTIGUOUS COUNTRIES.**—In the case of an alien individual resident in a contiguous country, the normal tax shall be an amount equal to the sum of the following:

(1) 4 per centum of the amount by which the part of the net income attributable to wages, salaries, professional fees, or other amounts received as compensation for personal services actually performed in the United States, exceeds the personal exemption and credit for dependents; but the amount taxable at such 4 per centum rate shall not exceed \$4,000; and

(2) 8 per centum of the amount of the net income in excess of the sum of (A) the amount taxed under para-

~~graph (1) of this subsection plus (B) the total credits against net income allowed to such individual.~~

~~(c) IN LIEU OF NORMAL TAX UNDER SECTION 11.—~~

~~The tax imposed by this section shall be in lieu of the normal tax imposed by section 11.~~

SEC. 212 211. GROSS INCOME.

(a) **GENERAL RULE.**—In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) **SHIPS UNDER FOREIGN FLAG.**—The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 213 212. DEDUCTIONS.

(a) **GENERAL RULE.**—In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) **LOSSES.**—

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this title.

(2) The deduction for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) CHARITABLE, ETC., CONTRIBUTIONS.—The so-called “charitable contribution” deduction allowed by section 23 ~~(n)~~ (o) shall be allowed whether or not connected with income from sources within the United States, but only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

SEC. ~~244~~ 213. CREDITS AGAINST NET INCOME.

In the case of a nonresident alien individual the personal exemption allowed by section ~~25(e)~~ 25(b)(1) of this title shall be only \$1,000. The credit for dependents allowed by section ~~25(d)~~ 25(b)(2) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country.

SEC. ~~245~~ 214. ALLOWANCE ~~OR~~ OF DEDUCTIONS AND CREDITS.

(a) RETURN TO CONTAIN INFORMATION.—A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) TAX WITHHELD AT SOURCE.—The benefit of the personal exemption and credit for dependents, ~~and of the reduced rate of tax provided for in section 211(b)~~, may, in the discretion of the Commissioner and under regulations

prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

SEC. 216 215. CREDITS AGAINST TAX.

A nonresident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 217 216. RETURNS.

In the case of a nonresident alien individual the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then on or before the fifteenth day of June.

SEC. 218 217. PAYMENT OF TAX.

(a) **TIME OF PAYMENT.**—In the case of a nonresident alien individual the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) **WITHHOLDING AT SOURCE.**—For withholding at source of tax on income of nonresident aliens, see section 143.

Supplement I—Foreign Corporations

SEC. 231. GROSS INCOME.

(a) **GENERAL RULE.**—In the case of a foreign corporation gross income includes only the gross income from sources within the United States.

(b) **SHIPS UNDER FOREIGN FLAG.**—The income of a foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented

under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

SEC. 232. DEDUCTIONS.

In the case of a foreign corporation the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 233. ALLOWANCE OF DEDUCTIONS AND CREDITS.

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this title only by filing or causing to be filed with the collector a true and accurate return of its total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

SEC. 234. CREDITS AGAINST TAX.

Foreign corporations shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 235. RETURNS.

In the case of a foreign corporation not having any office or place of business in the United States the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is

made on the basis of the calendar year then on or before the fifteenth day of June. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent.

SEC. 236. PAYMENT OF TAX.

(a) **TIME OF PAYMENT.**—In the case of a foreign corporation not having any office or place of business in the United States the total amount of tax imposed by this title shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) **WITHHOLDING AT SOURCE.**—For withholding at source of tax on income of foreign corporations, see section 143.

SEC. 237. FOREIGN INSURANCE COMPANIES.

For special provisions relating to foreign insurance companies, see Supplement G.

SEC. 238. AFFILIATION.

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

Supplement J—Possessions of the United States

SEC. 251. INCOME FROM SOURCES WITHIN POSSESSIONS OF UNITED STATES.

(a) **GENERAL RULE.**—In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

(1) If 80 per centum or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section), for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 per centum or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

(3) If, in case of such citizen, 50 per centum or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) AMOUNTS RECEIVED IN UNITED STATES.—Notwithstanding the provisions of subsection (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

(c) DEFINITION.—As used in this section the term “possession of the United States” does not include the Virgin Islands of the United States.

(d) DEDUCTIONS.—

(1) Citizens of the United States entitled to the benefits of this section shall have the same deductions as are allowed by Supplement H in the case of a non-resident alien individual.

(2) Domestic corporations entitled to the benefits of this section shall have the same deductions as are allowed by Supplement I in the case of a foreign corporation.

(e) CREDITS AGAINST NET INCOME.—A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only \$1,000 and shall

not be allowed the credit for dependents provided in section ~~25(d)~~ 25(b)(2).

(f) **ALLOWANCE OF DEDUCTIONS AND CREDITS.**—Citizens of the United States and domestic corporations entitled to the benefits of this section shall receive the benefit of the deductions and credits allowed to them in this title only by filing or causing to be filed with the collector a true and accurate return of their total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(g) **CREDITS AGAINST TAX.**—Persons entitled to the benefits of this section shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

(h) **AFFILIATION.**—A corporation entitled to the benefits of this section shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 252. CITIZENS OF POSSESSIONS OF UNITED STATES.

(a) Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

(b) Nothing in this section shall be construed to alter or amend the provisions of the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes," approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States.

Supplement K—China Trade Act Corporations

SEC. 261. CREDIT AGAINST NET INCOME.

(a) ALLOWANCE OF CREDIT.—For the purpose only of the tax imposed by section 13 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, in addition to the credit provided in section 26, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the amount by which the tax imposed by section 13 is diminished by reason of such credit exceed the amount of the special dividend certified under subsection (b) of this section.

(b) SPECIAL DIVIDEND.—Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par

value of the shares of stock of the corporation owned by each; except that if the corporation has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) **OWNERSHIP OF STOCK.**—For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

(d) **DEFINITION OF CHINA.**—As used in this section the term “China” shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 262. CREDITS AGAINST THE TAX.

A corporation organized under the China Trade Act, 1922, shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 263. AFFILIATION.

A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 264. INCOME OF SHAREHOLDERS.

For exclusion of dividends from gross income, see section 116.

Supplement L — Assessment and Collection of Deficiencies

SEC. 271. DEFINITION OF DEFICIENCY.

As used in this title in respect of a tax imposed by this title “deficiency” means—

(a) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the tax-

payer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

SEC. 272. PROCEDURE IN GENERAL.

(a) PETITION TO BOARD OF TAX APPEALS.—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60~~ 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ~~sixtieth~~ *ninetieth* day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

(1) Subsection (d) of this section, relating to waivers by the taxpayer;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 273, relating to jeopardy assessments;

(4) Section 274, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

NOTE.—For amendment to this subsection of 1932 act made by section 501 of 1934 act, see page 197.

(b) COLLECTION OF DEFICIENCY FOUND BY BOARD.—If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) FAILURE TO FILE PETITION.—If the taxpayer does not file a petition with the Board within the time prescribed in subsection (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) WAIVER OF RESTRICTIONS.—The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) INCREASE OF DEFICIENCY AFTER NOTICE MAILED.—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the

amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed—if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) **FURTHER DEFICIENCY LETTERS RESTRICTED.**—If the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subsection (a) of this section, and the taxpayer files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 273 (c), relating to the making of jeopardy assessments. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 322 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) **JURISDICTION OVER OTHER TAXABLE YEARS.**—The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or

not the tax for any other taxable year has been overpaid or underpaid.

(h) **FINAL DECISIONS OF BOARD.**—For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005 of the Revenue Act of 1926.

(i) **PRORATING OF DEFICIENCY TO INSTALLMENTS.**—If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

(j) **EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.**—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(k) **ADDRESS FOR NOTICE OF DEFICIENCY.**—In the absence of notice to the Commissioner under section 312 (a) of the existence of a fiduciary relationship, notice

of a deficiency in respect of a tax imposed by this title, if mailed to the taxpayer at his last known address, shall be sufficient for the purposes of this title even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 273. JEOPARDY ASSESSMENTS.

(a) **AUTHORITY FOR MAKING.**—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) **DEFICIENCY LETTERS.**—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 272 (a), then the Commissioner shall mail a notice under such subsection within sixty days after the making of the assessment.

(c) **AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.**—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 272 (f) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) **AMOUNT ASSESSABLE AFTER DECISION OF BOARD.**—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be

made only in respect of the deficiency determined by the Board in its decision.

(e) **EXPIRATION OF RIGHT TO ASSESS.**—A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

(f) **BOND TO STAY COLLECTION.**—When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 297.

(g) **SAME—FURTHER CONDITIONS.**—If the bond is given before the taxpayer has filed his petition with the Board under section 272 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) **WAIVER OF STAY.**—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board

determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(i) **COLLECTION OF UNPAID AMOUNTS.**—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 322, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) **CLAIMS IN ABATEMENT.**—No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

SEC. 274. BANKRUPTCY AND RECEIVERSHIPS.

(a) **IMMEDIATE ASSESSMENT.**—Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. *In such cases the trustee in bankruptcy or receiver shall give*

notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

NOTE.—For amendment to this subsection of 1932 act made by section 505 of the 1934 act, see page 203.

(b) **UNPAID CLAIMS.**—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in section 272 (j) and section 296 in the case of a deficiency in a tax imposed by this title.

SEC. 275. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except as provided in section 276—

(a) **GENERAL RULE.**—The amount of income taxes imposed by this title shall be assessed within ~~two~~ *three* years after the return was filed, and no proceeding in

court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) **REQUEST FOR PROMPT ASSESSMENT.**—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within ~~one year~~ *eighteen months* after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of ~~two~~ *three* years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such ~~year~~ *18 months' period*; and

(2) The dissolution is in good faith begun before the expiration of such ~~year~~ *18 months' period*; and

(3) The dissolution is completed.

(c) **OMISSION FROM GROSS INCOME.**—*If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.*

(d) *For the purposes of subsections (a), (b), and (c) a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.*

(e) **CORPORATION AND SHAREHOLDER.**—If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within four years after the last date on which any such shareholder's return was filed.

SEC. 276. SAME—EXCEPTIONS.

(a) **FALSE RETURN OR NO RETURN.**—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) **WAIVERS.**—Where before the expiration of the time prescribed in section 275 for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) **COLLECTION AFTER ASSESSMENT.**—Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 277. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 275 or 276 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 272 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final) , and for sixty days thereafter.

Supplement M—Interest and Additions to the Tax

SEC. 291. FAILURE TO FILE RETURN.

In case of any failure to make and file a return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, 25 per centum of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to willful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 292. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 293. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) NEGLIGENCE.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of

the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 272 (i), relating to the prorating of a deficiency, and of section 292, relating to interest on deficiencies, shall not be applicable.

(b) **FRAUD.**—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 294. ADDITIONS TO THE TAX IN CASE OF NON-PAYMENT.

(a) **TAX SHOWN ON RETURN.**—

(1) **GENERAL RULE.**—Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

(2) **IF EXTENSION GRANTED.**—Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) **DEFICIENCY.**—Where a deficiency, or any interest or additional amounts assessed in connection therewith

under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272 (i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 1 per centum a month from such date until it is paid.

(c) **FIDUCIARIES.**—For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will, there shall be collected interest at the rate of 6 per centum per annum in lieu of the interest provided in subsections (a) and (b) of this section.

(d) **FILING OF JEOPARDY BOND.**—If a bond is filed, as provided in section 273, the provisions of subsections (b) and (c) of this section shall not apply to the amount covered by the bond.

SEC. 295. TIME EXTENDED FOR PAYMENT OF TAX SHOWN ON RETURN.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56 (c), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

SEC. 296. TIME EXTENDED FOR PAYMENT OF DEFICIENCY.

If the time for the payment of any part of a deficiency is extended, there shall be collected, as a part of the tax,

interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 273 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273 (i) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month (or, for any period the estate of the taxpayer is held by a fiduciary appointed by any court of competent jurisdiction or by will, at the rate of 6 per centum per annum) from the date of such notice and demand until it is paid.

SEC. 298. BANKRUPTCY AND RECEIVERSHIPS.

If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 274, is not paid in full within ten days from the date of notice and demand from the collector, then there shall be

collected as a part of such amount interest upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

SEC. 299. REMOVAL OF PROPERTY OR DEPARTURE FROM UNITED STATES.

For additions to tax in case of leaving the United States or concealing property in such manner as to hinder collection of the tax, see section 146.

Supplement N—Claims against Transferees and Fiduciaries

SEC. 311. TRANSFERRED ASSETS.

(a) **METHOD OF COLLECTION.**—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds) :

(1) **TRANSFEREES.**—The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this title.

(2) **FIDUCIARIES.**—The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) **PERIOD OF LIMITATION.**—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within three years after the expiration of the period of limitation for assessment against the taxpayer;—
except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively,—then the period of limitation for assessment of the liability of the transferee shall expire one year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary,—not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later.

(c) PERIOD FOR ASSESSMENT AGAINST TAXPAYER.—For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

(d) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 272 (a), be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceed-

ing in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

(e) **ADDRESS FOR NOTICE OF LIABILITY.**—In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) **DEFINITION OF "TRANSFEREE".**—As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) **FIDUCIARY OF TAXPAYER.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) **FIDUCIARY OF TRANSFEREE.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) **MANNER OF NOTICE.**—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

Supplement O—Overpayments

SEC. 321. OVERPAYMENT OF INSTALLMENT.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. REFUNDS AND CREDITS.

(a) **AUTHORIZATION.**—Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) **LIMITATION ON ALLOWANCE.**—

~~(1) **PERIOD OF LIMITATION.**—No such credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.~~

*(1) **PERIOD OF LIMITATION.**—Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed by the taxpayer or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.*

*(2) **LIMIT ON AMOUNT OF CREDIT OR REFUND.**—The amount of the credit or refund shall not exceed the portion of the tax paid during the ~~two~~ three years immediately preceding the filing of the claim, ~~or~~ or, if no*

claim was filed, then during the ~~two~~ *three* years immediately preceding the allowance of the credit or refund.

(c) EFFECT OF PETITION TO BOARD.—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 272 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than two within three years before the filing of the claim or the filing of the petition, whichever is earlier.*

NOTE.—For amendment to this subsection of 1932 act made by section 504 of the 1934 act, see page 201.

(e) **TAX WITHHELD AT SOURCE.**—For refund or credit in case of excessive withholding at the source, see section 143 (f).

TITLE 1A—ADDITIONAL INCOME TAXES

SEC. 351. SURTAX ON PERSONAL HOLDING COMPANIES.

(a) **IMPOSITION OF TAX.**—There shall be levied, collected, and paid, for each taxable year, upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

(1) 30 per centum of the amount thereof not in excess of \$100,000; plus

(2) 40 per centum of the amount thereof in excess of \$100,000.

(b) **DEFINITIONS.**—As used in this title—

(1) The term “personal holding company” means any corporation (other than a corporation exempt from taxation under section 101, and other than a bank or trust company incorporated under the laws of the United States or of any State or Territory, a substantial part of whose business is the receipt of deposits, and other than a life-insurance company or surety company) if—(A) at least 80 per centum of its gross income for the taxable year is derived from royalties, dividends, interest, annuities, and (except in the case of regular dealers in stock or securities) gains from the sale of stock or securities, and (B) at any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals. For the purpose of determining the ownership of stock in a personal holding company—(C) stock owned, directly or indirectly, by a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries; (D) an individual shall be considered as owning, to the exclusion of any other individual, the stock

owned, directly or indirectly, by his family, and this rule shall be applied in such manner as to produce the smallest possible number of individuals owning, directly or indirectly, more than 50 per centum in value of the outstanding stock; and (E) the family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(2) The term "undistributed adjusted net income" means the adjusted net income minus the sum of:

(A) 20 per centum of the excess of the adjusted net income over the amount of dividends received from personal holding companies which are allowable as a deduction for the purposes of the tax imposed by section 13 or 204;

(B) Amounts used or set aside to retire indebtedness incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness; and

(C) Dividends paid during the taxable year.

(3) The term "adjusted net income" means the net income computed without the allowance of the dividend deduction otherwise allowable, but minus the sum of:

(A) Federal income, war-profits, and excess-profits taxes paid or accrued, but not including the tax imposed by this section;

(B) Contributions or gifts, not otherwise allowed as a deduction, to or for the use of donees described in section 23(o) for the purposes therein specified; and

(C) Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117(d).

(4) The terms used in this section shall have the same meaning as when used in Title I.

(c) ADMINISTRATIVE PROVISIONS.—All provisions of law (including penalties) applicable in respect of the

taxes imposed by Title I of this Act, shall insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) PAYMENT OF SURTAX ON PRO RATA SHARES.—The tax imposed by this section shall not apply if all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the "adjusted net income" of the corporation for such year. Any amount so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his pro rata share, be exempt from tax in the amount of the share so included.

(e) IMPROPER ACCUMULATION OF SURPLUS.—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

TITLE II—ADDITIONAL ESTATE TAX (1932 Act)

SEC. 401. (1932 Act) IMPOSITION OF TAX.

(a) In addition to the estate tax imposed by section 301 (a) of the Revenue Act of 1926, there is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this Act, whether a resident or nonresident of the United States, a tax equal to the excess of—

(1) the amount of a tentative tax computed under subsection (b) of this section, over

(2) the amount of the tax imposed by section 301 (a) of the Revenue Act of 1926, computed without regard to the provisions of this title.

(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

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Upon net estates not in excess of \$10,000, 1 per centum.

\$100 upon net estates of \$10,000; and upon net estates in excess of \$10,000 and not in excess of \$20,000, 2 per centum in addition of such excess.

\$300 upon net estates of \$20,000; and upon net estates in excess of \$20,000 and not in excess of \$30,000, 3 per centum in addition of such excess.

\$600 upon net estates of \$30,000; and upon net estates in excess of \$30,000 and not in excess of \$40,000, 4 per centum in addition of such excess.

\$1,000 upon net estates of \$40,000; and upon net estates in excess of \$40,000 and not in excess of \$50,000, 5 per centum in addition of such excess.

\$1,500 upon net estates of \$50,000; and upon net estates in excess of \$50,000 and not in excess of \$100,000, 6 per centum in addition of such excess.

\$2,900 upon net estates of \$70,000; and upon net estates in excess of \$70,000 and not in excess of \$100,000, 9 per centum in addition of such excess.

~~\$5,000~~ \$5,600 upon net estates of \$100,000; and upon net estates in excess of \$100,000 and not in excess of \$200,000, 12 per centum in addition of such excess.

~~\$14,000~~ \$17,600 upon net estates of \$200,000; and upon net estates in excess of \$200,000 and not in excess of \$400,000, 16 per centum in addition of such excess.

~~\$36,000~~ \$49,600 upon net estates of \$400,000; and upon net estates in excess of \$400,000 and not in excess of \$600,000, 19 per centum in addition of such excess.

~~\$62,000~~ \$87,600 upon net estates of \$600,000; and upon net estates in excess of \$800,000 and not in excess of \$800,000, 22 per centum in addition of such excess.

~~\$92,000~~ \$131,600 upon net estates of \$800,000; and upon net estates in excess of \$800,000 and not in excess of \$1,000,000, 25 per centum in addition of such excess.

~~\$126,000~~ \$181,600 upon net estates of \$1,000,000; and upon net estates in excess of \$1,000,000 and not in

excess of \$1,500,000, ~~19~~ 28 per centum in addition of such excess.

~~\$221,000~~ \$321,600 upon net estates of \$1,500,000; and upon net estates in excess of \$1,500,000 and not in excess of \$2,000,000, ~~21~~ 31 per centum in addition of such excess.

~~\$326,000~~ \$476,600 upon net estates of \$2,000,000; and upon net estates in excess of \$2,000,000 and not in excess of \$2,500,000, ~~23~~ 34 per centum in addition of such excess.

~~\$441,000~~ \$646,600 upon net estates of \$2,500,000; and upon net estates in excess of \$2,500,000 and not in excess of \$3,000,000, ~~25~~ 37 per centum in addition of such excess.

~~\$566,000~~ \$831,600 upon net estates of \$3,000,000; and upon net estates in excess of \$3,000,000 and not in excess of \$3,500,000, ~~27~~ 40 per centum in addition of such excess.

~~\$701,000~~ \$1,031,600 upon net estates of \$3,500,000; and upon net estates in excess of \$3,500,000 and not in excess of \$4,000,000, ~~29~~ 43 per centum in addition of such excess.

~~\$846,000~~ \$1,246,600 upon net estates of \$4,000,000; and upon net estates in excess of \$4,000,000 and not in excess of \$4,500,000, ~~31~~ 46 per centum in addition of such excess.

~~\$1,001,000~~ \$1,476,600 upon net estates of \$4,500,000; and upon net estates in excess of \$4,500,000 and not in excess of \$5,000,000, ~~33~~ 48 per centum in addition of such excess.

~~\$1,166,000~~ \$1,716,600 upon net estates of \$5,000,000; and upon net estates in excess of \$5,000,000 and not in excess of \$6,000,000, ~~35~~ 50 per centum in addition of such excess.

~~\$1,516,000~~ \$2,216,600 upon net estates of \$6,000,000; and upon net estates in excess of \$6,000,000 and

not in excess of \$7,000,000, ~~37~~ 52 per centum in addition of such excess.

~~\$1,886,000~~ \$2,736,600 upon net estates of \$7,000,000; and upon net estates in excess of \$7,000,000 and not in excess of \$8,000,000, ~~39~~ 54 per centum in addition of such excess.

~~\$2,276,000~~ \$3,276,600 upon net estates of \$8,000,000; and upon net estates in excess of \$8,000,000 and not in excess of \$9,000,000, ~~41~~ 56 per centum in addition of such excess.

~~\$2,686,000~~ \$3,836,600 upon net estates of \$9,000,000; and upon net estates in excess of \$9,000,000 and not in excess of \$10,000,000, ~~43~~ 58 per centum in addition of such excess.

~~\$3,116,000~~ \$4,416,600 upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000, ~~45~~ 60 per centum in addition of such excess.

NOTE.—As amended by section 405, 1934 act. By section 405(b) amendment is effective only with respect to transfers of estates of decedents dying after date of enactment of 1934 act (May 10, 1934).

(c) For the purposes of this section the value of the net estate shall be determined as provided in Title III of the Revenue Act of 1926, as amended, except that in lieu of the exemption of \$100,000 provided in section 303 (a) (4) of such Act, the exemption shall be \$50,000.

NOTE.—For section 401 of 1934 act (relating to revocable trusts), see page 162.

SEC. 402. (1932 Act) CREDITS AGAINST TAX.

(a) The credit provided in section 301 (c) of the Revenue Act of 1926, as amended (80 per centum credit), shall not be allowed in respect of such additional tax.

(b) (1) If a tax has been paid under Title III of this Act on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this title, then there shall be credited against the

tax imposed by section 401 of this Act the amount of the tax paid under such Title III with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 401 of this Act as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under Title III of this Act with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 301 (b) of the Revenue Act of 1926, as amended by this Act.

(2) For the purposes of paragraph (1), the amount of tax paid for any year under Title III of this Act with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

NOTE.—For section 402 of 1934 act (relating to prior taxed property), see page 163.

SEC. 403. (1932 Act) ASSESSMENT, COLLECTION, AND PAYMENT OF TAX.

Except as provided in section 402, the tax imposed by section 401 of this Act shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 301 (a) of the Revenue Act of 1926, except that in the case of a ~~resident decedent~~ *citizen or resident of the United States* a return shall be required if the value of the gross estate at the time of the decedent's death exceeds \$50,000.

NOTE.—As amended by section 403 (f) of the 1934 act.

NOTE.—For section 403 of 1934 act (relating to citizenship and residence of decedents), see page 165.

TITLE II—AMENDMENTS TO ESTATE TAX (1934 Act)

SEC. 401. (1934 Act) REVOCABLE TRUSTS.

Section 302(d) of the Revenue Act of 1926 is amended to read as follows:

“(d)(1) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money’s worth.

“(2) For the purposes of this subdivision the power to alter, amend, or revoke shall be considered to exist on the date of the decedent’s death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent’s death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.

“(3) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent’s death, made within two years prior to his death without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of \$5,000, then, to the extent of such excess, such relinquish-

ment or relinquishments shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;"

NOTE.—Section 302(d) of the Revenue Act of 1926, as amended by the above, reads as follows:

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(d) (1) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(2) *For the purposes of this subdivision the power to alter, amend, or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.*

(3) The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death ~~but after the enactment of this Act~~ without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of \$5,000, then, to the extent of such excess, such relinquishment or relinquishments ~~shall be~~ *shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;*

NOTE.—For section 401 of 1932 act (relating to imposition of estate tax) see page 157.

SEC. 402. (1934 Act) PRIOR TAXED PROPERTY.

Paragraph (2) of subdivision (a) and paragraph (2) of subdivision (b) of section 303 of the Revenue Act of 1926, as amended, are amended by inserting before the period at the end of the second sentence of each such paragraph a comma and the following: "and only if in deter-

mining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor".

NOTE.—Section 303(a)(2) and 303(b)(2) of the Revenue Act of 1926, as amended by the above, read as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) in the case of a resident, by deducting from the value of the gross estate—

* * * * *

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of, such donor, or the estate of such prior decedent, as the case may be and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, *and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor.* Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1), (3), and (4) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of the decedent's gross estate. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

* * * * *

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

* * * * *

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the

decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States States, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the United States. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

NOTE.—See also the amendments to the above provisions made by sec. 403 of the 1934 Act.

NOTE.—For sec. 402 of 1932 Act (relating to credits against estate tax), see page 160.

SEC. 403. (1934 Act) CITIZENSHIP AND RESIDENCE OF DECEDENTS.

(a) Section 303(a) of the Revenue Act of 1926, as amended, is amended by striking out "In the case of a resident" and inserting in lieu thereof "In the case of a citizen or resident of the United States".

NOTE.—Section 303(a) of the Revenue Act of 1926, as amended by the above, reads as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a *citizen or resident of the United States*, by deducting from the value of the gross estate—

(1) * * *

(b) Section 303(b) of such Act, as amended, is amended by striking out "In the case of a nonresident"

and inserting in lieu thereof "In the case of a nonresident not a citizen of the United States".

NOTE.—Section 303(b) of the Revenue Act of 1926, as amended by the above, reads as follows:

(b) In the case of a nonresident *not a citizen of the United States*, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) * * *

(c) Section 303(c) of such Act, as amended, is amended by striking out "in the case of a nonresident" and inserting in lieu thereof "in the case of a nonresident not a citizen of the United States".

NOTE.—Section 303(c) of the Revenue Act of 1926, as amended by the above, reads as follows:

(c) No deduction shall be allowed in the case of a nonresident *not a citizen of the United States* unless the executor includes in the return required to be filed under section 304 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

(d) Section 303(d) and (e) of such Act, as amended, are amended by striking out the phrase "nonresident decedent" wherever such phrase appears in such subdivisions and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

NOTE.—Section 303(d) and (e) of the Revenue Act of 1926, as amended by the above, reads as follows:

(d) For the purpose of this title, stock in a domestic corporation owned and held by a nonresident ~~decedent~~ *not a citizen of the United States* shall be deemed property within the United States, and any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of subdivision (c) or (d) of section 302, shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death. For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration "in money or money's worth."

(e) The amount receivable as insurance upon the life of a nonresident ~~decedent~~ *not a citizen of the United States*, and any moneys deposited with any person carrying on the banking business, by or for a nonresident ~~decedent~~ *not a citizen of the United States* who was not engaged in business in the United States at the time of his death, shall not, for the purpose of this title, be deemed property within the United States.

(e) Section 304(a) and (b) of such Act, as amended, are amended by striking out "nonresident" wherever such word appears and inserting in lieu thereof in each case "nonresident not a citizen of the United States".

NOTE.—Section 304(a) and (b) of the Revenue Act of 1926, as amended by the above, reads as follows:

SEC. 304. (a) The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident *not a citizen of the United States*, of that part of his gross estate situated in the United States; (2) the deductions allowed under section 303; (3) the value of the net estate of the decedent as defined in section 303; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(b) Return shall be made in all cases where the gross estate at the death of the decedent exceeds \$100,000, and in the case of the estate of every nonresident *not a citizen of the United States* any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

NOTE.—For section 403(f) of the 1934 act, see page 161.

NOTE.—For section 403 of 1932 act (relating to assessment, collection, and payment of estate tax), see page 161.

SEC. 404. (1934 Act) REAL ESTATE SITUATED OUTSIDE THE UNITED STATES.

So much of section 302 of the Revenue Act of 1926 as reads as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated" is amended to read as follows: "The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible,

wherever situated, except real property situated outside the United States”.

NOTE.—The amendment to section 302 of the Revenue Act of 1926 made by this section consists of the addition of a comma and the words “except real property situated outside the United States”.

NOTE.—For section 405 of 1934 act (relating to estate tax rates), see page 158.

SEC. 406. (1934 Act) NONDEDUCTIBILITY OF CERTAIN TRANSFERS.

Section 303(a) (3) and section 303(b) (3) of the Revenue Act of 1926, as amended, are amended by inserting after “individual”, wherever appearing therein, a comma and the following: “and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation”.

NOTE.—Section 303(a) of the Revenue Act of 1926, as amended by the above, reads as follows:

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

* * * * *

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation*, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this

paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and

Section 303(b) (3) of the Revenue Act of 1926, as amended by the above, reads as follows:

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

* * * * *

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation*, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

NOTE.—See also the amendments made by section 403 of the 1934 act to the above provisions of the 1926 act, as amended.

TITLE III—GIFT TAX (1932 Act)

SEC. 501. (1932 Act) IMPOSITION OF TAX.

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States. The tax shall not apply to a transfer made on or before the date of the enactment of this Act.

(c) The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

NOTE.—This subsection repealed by section 511 of 1934 act.

NOTE.—For section 501 of 1934 act (relating to period of petition to board under prior acts), see page 197.

SEC. 502. (1932 Act) COMPUTATION OF TAX.

The tax for each calendar year shall be an amount equal to the excess of—

(1) a tax, computed in accordance with the Rate Schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) a tax, computed in accordance with the Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

GIFT TAX RATE SCHEDULE

Upon net gifts not in excess of \$10,000, three-fourths of 1 per centum.

\$75 upon net gifts of \$10,000; and upon net gifts in excess of \$10,000 and not in excess of \$20,000, $1\frac{1}{2}$ per centum in addition of such excess.

\$225 upon net gifts of \$20,000; and upon net gifts in excess of \$20,000 and not in excess of \$30,000, $2\frac{1}{4}$ per centum in addition of such excess.

\$450 upon net gifts of \$30,000; and upon net gifts in excess of \$30,000 and not in excess of \$40,000, 3 per centum in addition of such excess.

\$750 upon net gifts of \$40,000; and upon net gifts in excess of \$40,000 and not in excess of \$50,000, $3\frac{3}{4}$ per centum in addition of such excess.

\$1,125 upon net gifts of \$50,000; and upon net gifts in excess of \$50,000 and not in excess of ~~\$100,000~~ \$70,000, $5\frac{1}{2}$ per centum in addition of such excess.

\$2,175 upon net gifts of \$70,000; and upon net gifts in excess of \$70,000 and not in excess of \$100,000, $6\frac{3}{4}$ per centum in addition of such excess.

~~\$3,625~~ \$4,200 upon net gifts of \$100,000; and upon net gifts in excess of \$100,000 and not in excess of \$200,000, $6\frac{1}{2}$ 9 per centum in addition of such excess.

~~\$10,125~~ \$13,200 upon net gifts of \$200,000; and upon net gifts in excess of \$200,000 and not in excess of \$400,000, 8 12 per centum in addition of such excess.

~~\$26,125~~ \$37,200 upon net gifts of \$400,000; and upon net gifts in excess of \$400,000 and not in excess of \$600,000, $9\frac{1}{2}$ $14\frac{1}{4}$ per centum in addition of such excess.

~~\$45,125~~ \$65,700 upon net gifts of \$600,000; and upon net gifts in excess of \$600,000 and not in excess of \$800,000, $11\frac{1}{2}$ $16\frac{1}{2}$ per centum in addition of such excess.

~~\$67,125~~ \$98,700 upon net gifts of \$800,000; and upon net gifts in excess of \$800,000 and not in excess of \$1,000,000, $12\frac{1}{2}$ $18\frac{3}{4}$ per centum in addition of such excess.

~~\$92,125~~ \$136,200 upon net gifts of \$1,000,000; and upon net gifts in excess of \$1,000,000 and not in excess of \$1,500,000, 14 21 per centum in addition of such excess.

~~\$162,125~~ ~~\$241,200~~ upon net gifts of \$1,500,000; and upon net gifts in excess of \$1,500,000 and not in excess of \$2,000,000, ~~15½~~ ~~23¼~~ per centum in addition of such excess.

~~\$239,625~~ ~~\$357,450~~ upon net gifts of \$2,000,000; and upon net gifts in excess of \$2,000,000 and not in excess of \$2,500,000, ~~17~~ ~~25½~~ per centum in addition of such excess.

~~\$324,625~~ ~~\$484,950~~ upon net gifts of \$2,500,000; and upon net gifts in excess of \$2,500,000 and not in excess of \$3,000,000, ~~18½~~ ~~27¾~~ per centum in addition of such excess.

~~\$417,125~~ ~~\$623,700~~ upon net gifts of \$3,000,000; and upon net gifts in excess of \$3,000,000 and not in excess of \$3,500,000, ~~20~~ ~~30~~ per centum in addition of such excess.

~~\$517,125~~ ~~\$773,700~~ upon net gifts of \$3,500,000; and upon net gifts in excess of \$3,500,000 and not in excess of \$4,000,000, ~~21½~~ ~~32¼~~ per centum in addition of such excess.

~~\$624,625~~ ~~\$934,950~~ upon net gifts of \$4,000,000; and upon net gifts in excess of \$4,000,000 and not in excess of \$4,500,000, ~~23~~ ~~34½~~ per centum in addition of such excess.

~~\$739,625~~ ~~\$1,107,450~~ upon net gifts of \$4,500,000; and upon net gifts in excess of \$4,500,000 and not in excess of \$5,000,000, ~~24½~~ ~~36~~ per centum in addition of such excess.

~~\$862,125~~ ~~\$1,287,450~~ upon net gifts of \$5,000,000; and upon net gifts in excess of \$5,000,000 and not in excess of \$6,000,000, ~~26~~ ~~37½~~ per centum in addition of such excess.

~~\$1,122,125~~ ~~\$1,662,450~~ upon net gifts of \$6,000,000; and upon net gifts in excess of \$6,000,000 and not in excess of \$7,000,000, ~~27½~~ ~~39~~ per centum in addition of such excess.

~~\$1,397,125~~ ~~\$2,052,450~~ upon net gifts of \$7,000,000; and upon net gifts in excess of \$7,000,000 and not in

excess of \$8,000,000, ~~29~~ $40\frac{1}{2}$ per centum in addition of such excess.

~~\$1,687,125~~ \$2,457,450 upon net gifts of \$8,000,000; and upon net gifts in excess of \$8,000,000 and not in excess of \$9,000,000, ~~30~~ 42 per centum in addition of such excess.

~~\$1,992,125~~ \$2,877,450 upon net gifts of \$9,000,000; and upon net gifts in excess of \$9,000,000 and not in excess of \$10,000,000, ~~32~~ $43\frac{1}{2}$ per centum in addition of such excess.

~~\$2,312,125~~ \$3,312,450 upon net gifts of \$10,000,000; and upon net gifts in excess of \$10,000,000, ~~33~~ 45 per centum in addition of such excess.

NOTE.—As amended by section 520(a) of the 1934 act. Section 520(b) of the 1934 act reads as follows:

(b) *The amendment made by subsection (a) of this section shall be applied in computing the tax for the calendar year 1935 and each calendar year thereafter (but not the tax for the calendar year 1934 or a previous calendar year), and such amendment shall be applied in all computations in respect of the calendar year 1934 and previous calendar years for the purpose of computing the tax for the calendar year 1935 or any calendar year thereafter.*

NOTE.—For section 502 of 1934 act (relating to recovery of amounts erroneously refunded), see page 199.

SEC. 503. (1932 Act) TRANSFER FOR LESS THAN ADEQUATE AND FULL CONSIDERATION.

Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this title, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

NOTE.—For section 503 of 1934 act (relating to statute of limitations on suits for refund), see page 200.

SEC. 504. (1932 Act) NET GIFTS.

(a) GENERAL DEFINITION.—The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 505.

(b) **GIFTS LESS THAN \$5,000.**—In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year, the first \$5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

NOTE.—For section 504 of 1934 act (relating to overpayments found by board), see page 201.

SEC. 505. (1932 Act) DEDUCTIONS.

In computing net gifts for any calendar year there shall be allowed as deductions:

(a) **RESIDENTS.**—In the case of a citizen or resident—

(1) **SPECIFIC EXEMPTION.**—An exemption of \$50,000, less the aggregate of the amounts claimed and allowed as specific exemption for preceding calendar years.

(2) **CHARITABLE, ETC., GIFTS.**—The amount of all gifts made during such year to or for the use of—

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

(B) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;*

NOTE.—Amendment made by section 517(a) of 1934 act.

(C) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes,

including the encouragement of art and the prevention of cruelty to children or animals;

(D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(E) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924.

(b) **NONRESIDENTS.**—In the case of a nonresident not a citizen of the United States, the amount of all gifts made during such year to or for the use of—

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

(2) a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, *and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation*; no part of the net earnings of which inures to the benefit of any private shareholder or individual;

NOTE.—Amendment made by section 517(a) of 1934 act.

(3) a trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, *no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation*; but only if such gifts are to be used within the United States exclusively for such purposes;

NOTE.—Amendment made by section 517(b) of 1934 act.

(4) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used within the United States exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(5) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(6) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924.

(c) The deductions provided in subsection (a) (2) or (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions are applied.

NOTE.—For section 505 of 1934 act (relating to bankruptcy and receiverships), see page 203.

SEC. 506. (1932 Act) GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

NOTE.—For section 506 of 1934 act (relating to retroactivity of regulations, etc.), see page 205.

SEC. 507. (1932 Act) RETURNS.

(a) **REQUIREMENT.**—Any individual who within the calendar year 1932 or any calendar year thereafter makes any transfers by gift (except those which under section 504 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under section 504 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 505; (3) the net gifts for each of

the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law.

(b) **TIME AND PLACE FOR FILING.**—The return shall be filed on or before the 15th day of March following the close of the calendar year with the collector for the district in which is located the legal residence of the donor, or if he has no legal residence in the United States, then (unless the Commissioner designates another district) with the collector at Baltimore, Maryland.

NOTE.—For section 507 of 1934 act (relating to examination of books and witnesses), see page 205.

SEC. 508. (1932 Act) RECORDS AND SPECIAL RETURNS.

(a) **BY DONOR.**—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

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

NOTE.—For section 508 of 1934 act (relating to sale of personal property under distraint), see page 206.

SEC. 509. (1932 Act) PAYMENT OF TAX.

(a) **TIME OF PAYMENT.**—The tax imposed by this title shall be paid by the donor on or before the 15th day of March following the close of the calendar year.

(b) **EXTENSION OF TIME FOR PAYMENT.**—At the request of the donor, the Commissioner may extend the time for payment of the amount determined as the tax by the donor, for a period not to exceed six months from the date prescribed for the payment of the tax. In such case

the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) **VOLUNTARY ADVANCE PAYMENT.**—A tax imposed by this title, may be paid, at the election of the donor, prior to the date prescribed for its payment.

(d) **FRACTIONAL PARTS OF CENT.**—In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) **RECEIPTS.**—The collector to whom any payment of any gift tax is made shall, upon request, grant to the person making such payment a receipt therefor.

NOTE.—For section 509 of 1934 act (relating to discharge of liens), see page 207.

SEC. 510. (1932 Act) LIEN FOR TAX.

The tax imposed by this title shall be a lien upon all gifts made during the calendar year, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all of the property from the lien herein imposed.

NOTE.—For section 510 of 1934 act (relating to jeopardy assessments), see page 287.

SEC. 511. (1932 Act) EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

NOTE.—For section 511 of 1934 act (relating to gifts of property subject to power), see page 170.

SEC. 512. (1932 Act) DEFINITION OF DEFICIENCY.

As used in this title in respect of the tax imposed by this title the term “deficiency” means—

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

NOTE.—For section 512 of 1934 act (relating to general counsel for the Treasury), see page 208.

SEC. 513. (1932 Act) ASSESSMENT AND COLLECTION OF DEFICIENCIES.

(a) **PETITION TO BOARD OF TAX APPEALS.**—If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the donor

by registered mail. Within ~~60~~ 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ~~sixtieth~~ *ninetieth* day), the donor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the donor, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection see—

(1) Subsection (d) of this section, relating to waivers by the donor;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 514, relating to jeopardy assessments;

(4) Section 516, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

NOTE.—As amended by section 501 of 1934 act. Amendment effective only with respect to notices mailed after date of enactment of 1934 act (May 10, 1934).

(b) COLLECTION OF DEFICIENCY FOUND BY BOARD.—If the donor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the col-

lector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) **FAILURE TO FILE PETITION.**—If the donor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency, notice of which has been mailed to the donor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) **WAIVER OF RESTRICTIONS.**—The donor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) **INCREASE OF DEFICIENCY AFTER NOTICE MAILED.**—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) **FURTHER DEFICIENCY LETTERS RESTRICTED.**—If the Commissioner has mailed to the donor notice of a deficiency as provided in subsection (a) of this section, and the donor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same calendar year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 514(c), relating to the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax

has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 528 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the donor shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) **JURISDICTION OVER OTHER CALENDAR YEARS.**—The Board in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other calendar year has been overpaid or underpaid.

(h) **FINAL DECISIONS OF BOARD.**—For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005 of the Revenue Act of 1926.

(i) **EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.**—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the donor the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the donor to furnish a bond

in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(j) **ADDRESS FOR NOTICE OF DEFICIENCY.**—In the absence of notice to the Commissioner under section 527 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this title, if mailed to the donor at his last known address, shall be sufficient for the purposes of this title even if such donor is deceased, or is under a legal disability.

NOTE.—For section 513 of 1934 act (relating to assistants in the Treasury), see page 209.

SEC. 514. (1932 Act) JEOPARDY ASSESSMENTS.

(a) **AUTHORITY FOR MAKING.**—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) **DEFICIENCY LETTERS.**—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 513 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) **AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.**—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 513 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before

the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) **AMOUNT ASSESSABLE AFTER DECISION OF BOARD.**—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) **EXPIRATION OF RIGHT TO ASSESS.**—A jeopardy assessment may not be made after the decision of the Board has become final or after the donor has filed a petition for review of the decision of the Board.

(f) **BOND TO STAY COLLECTION.**—When a jeopardy assessment has been made the donor, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 523 or 524 (b) (4).

(g) **SAME—FURTHER CONDITIONS.**—If the bond is given before the donor has filed his petition with the Board under section 513 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) **WAIVER OF STAY.**—Upon the filing of the bond the collection of so much of the amount assessed as is cov-

ered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the donor, be proportionately reduced.

(i) **COLLECTION OF UNPAID AMOUNTS.**—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded as provided in section 528, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

NOTE.—For section 514 of 1934 act (relating to illegally produced petroleum), see page 210.

SEC. 515. (1932 Act) CLAIMS IN ABATEMENT.

No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this title.

NOTE.—For section 515 of 1934 act (relating to postal rates), see page 284.

SEC. 516. (1932 Act) BANKRUPTCY AND RECEIVERSHIPS.

(a) **IMMEDIATE ASSESSMENT.**—Upon the adjudication of bankruptcy of any donor in any bankruptcy pro-

ceeding or the appointment of a receiver for any donor in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such donor shall, despite the restrictions imposed by section 513 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) UNPAID CLAIMS.—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the donor upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in sections 513 (i), 521 (b), and 524 (b) (3) in the case of a deficiency in a tax imposed by this title.

NOTE.—For section 516 of 1934 act (relating to commissioner as party to suit), see page 211.

SEC. 517. (1932 Act) PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

(a) GENERAL RULE.—Except as provided in subsection (b), the amount of taxes imposed by this title shall be

assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) EXCEPTIONS—

(1) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(2) COLLECTION AFTER ASSESSMENT.—Where the assessment of any tax imposed by this title has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor.

NOTE.—For section 517 of 1934 act (relating to nondeductibility of certain gifts), see pages 174 and 175.

SEC. 518. (1932 Act) SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 517 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 513 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

NOTE.—For section 518 of 1934 act (relating to liability of fiduciary), see page 212.

SEC. 519. (1932 Act) ADDITIONS TO THE TAX IN CASE OF FAILURE TO FILE RETURN.

In case of any failure to make and file a return required by this title, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, 25 per centum of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to willful neglect no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

NOTE.—For section 519 of 1934 act (relating to venue for appeals from board), see page 213.

SEC. 520. (1932 Act) ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) **NEGLIGENCE.**—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 522, relating to interest on deficiencies, shall not be applicable.

(b) **FRAUD.**—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

NOTE.—For section 520 of 1934 act (relating to gift tax rates), see page 170.

SEC. 521. (1932 Act) INTEREST ON EXTENDED PAYMENTS.

(a) **TAX SHOWN ON RETURN.**—If the time for payment of the amount determined as the tax by the donor is extended under the authority of section 509 (b), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

(b) **DEFICIENCY.**—In case an extension for the payment of a deficiency is granted, as provided in section 513 (i), there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

SEC. 522. (1932 Act) INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under section 513 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 523. (1932 Act) INTEREST ON JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 514 (f) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 514 (i), or, in the case of the

amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 522.

SEC. 524. (1932 Act) ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) TAX SHOWN ON RETURN—

(1) **PAYMENT NOT EXTENDED.**—Where the amount determined by the donor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the due date until it is paid.

(2) **PAYMENT EXTENDED.**—Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 521 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) DEFICIENCY—

(1) **PAYMENT NOT EXTENDED.**—Where a deficiency, or any interest assessed in connection therewith under section 522, or any addition to the tax provided for in section 3176 of the Revised Statutes, is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(2) **FILING OF JEOPARDY BOND.**—If a bond is filed, as provided in section 514, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) **PAYMENT EXTENDED.**—If the part of the deficiency the time for payment of which is extended as provided in section 513 (i) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(4) **JEOPARDY ASSESSMENT—PAYMENT STAYED BY BOND.**—If the amount included in the notice and demand from the collector under section 514 (i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

(5) **INTEREST IN CASE OF BANKRUPTCY AND RECEIVERSHIPS.**—If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 516, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

SEC. 525. (1932 Act) PENALTIES.

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more

than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

SEC. 526. (1932 Act) TRANSFERRED ASSETS.

(a) **METHOD OF COLLECTION.**—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds) :

(1) **TRANSFEREES.**—The liability, at law or in equity, of a transferee of property of a donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title.

(2) **FIDUCIARIES.**—The liability of a fiduciary under section 3467 of the Revised Statutes [U. S. C., title 31, sec. 192] in respect of the payment of any such tax from the estate of the donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) **PERIOD OF LIMITATION.**—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in paragraph (1),—then within one year after return of execution in such proceeding.

(c) **PERIOD FOR ASSESSMENT AGAINST DONOR.**—For the purposes of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

(d) **SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.**—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 513 (a) to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) **PROHIBITION OF SUITS TO RESTRAIN ENFORCEMENT OF LIABILITY OF TRANSFEREE OR FIDUCIARY.**—No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes [U. S. C., title 31, sec. 192] in respect of any such tax.

(f) **DEFINITION OF "TRANSFEREE".**—As used in this section, the term "transferee" includes donee, heir, legatee, devisee, and distributee.

(g) **ADDRESS FOR NOTICE OF LIABILITY.**—In the absence of notice to the Commissioner under section 527 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this title, if mailed to the person subject to

the liability at his last known address, shall be sufficient for the purposes of this title even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 527. (1932 Act) NOTICE OF FIDUCIARY RELATIONSHIP.

(a) **FIDUCIARY OF DONOR.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the donor in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated.

(b) **FIDUCIARY OF TRANSFEREE.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 526, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) **MANNER OF NOTICE.**—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 528. (1932 Act) REFUNDS AND CREDITS.

(a) **AUTHORIZATION.**—Where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) **LIMITATION ON ALLOWANCE—**

(1) **PERIOD OF LIMITATION.**—No such credit or refund shall be allowed or made after three years from

the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) **LIMIT ON AMOUNT OF CREDIT OR REFUND.**—

The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) **EFFECT OF PETITION TO BOARD.**—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 513 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the calendar year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) **OVERPAYMENT FOUND BY BOARD.**—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has

become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than within* three years before the filing of the claim or the filing of the petition, whichever is earlier.

NOTE.—As amended by section 504(b) of 1934 act. The amendment has no effect on any proceeding before the Board on any petition if any hearing by the Board thereon has been held prior to 30 days after the date of the enactment of the 1934 act (May 10, 1934).

SEC. 529. (1932 Act) LAWS MADE APPLICABLE.

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

SEC. 530. (1932 Act) RULES AND REGULATIONS.

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

SEC. 531. (1932 Act) DEFINITIONS.

For the purposes of this title—

(a) **CALENDAR YEAR.**—The term “calendar year” includes only the calendar year 1932 and succeeding calendar years, and, in the case of the calendar year 1932, includes only the portion of such year after the date of the enactment of this Act.

(b) **PROPERTY WITHIN UNITED STATES.**—Stock in a domestic corporation owned and held by a nonresident shall be deemed property situated within the United States.

SEC. 532. (1932 Act) SHORT TITLE.

This title may be cited as the "Gift Tax Act of 1932".

TITLE III (1934 Act)—AMENDMENTS TO PRIOR ACTS AND MISCELLANEOUS**SEC. 501. (1934 Act) PERIOD FOR PETITION TO BOARD UNDER PRIOR ACTS.**

Section 274(a) of the Revenue Act of 1926, section 308(a) of the Revenue Act of 1926, section 513(a) of the Revenue Act of 1932, and section 272(a) of the Revenue Act of 1928 and the Revenue Act of 1932 (relating to the period during which a taxpayer may petition the Board of Tax Appeals for redetermination of a deficiency), are amended by striking out "60 days" and inserting in lieu thereof "90 days"; by striking out "not counting Sunday as the sixtieth day" and inserting in lieu thereof "not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day"; and by striking out "60-day" and inserting in lieu thereof "90-day". The amendments made by this section shall apply only in respect of notices mailed after 30 days after the date of the enactment of this Act.

NOTE.—Section 274(a) of the Revenue Act of 1926, section 308(a) of the Revenue Act of 1926, section 513(a) of the Revenue Act of 1932, and section 272(a) of the Revenue Act of 1928 and the Revenue Act of 1932, as amended by the above, read as follows:

Sec. 274. (a) If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ *90 days* after such notice is mailed (~~not counting Sunday as the sixtieth day~~ *not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day*), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 279, 282, or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ *90-day* period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of

section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(Revenue Act of 1926) SEC. 308. (a) If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within ~~60 days~~ 90 days after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 312 or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For comparative print of section 513(a) of 1932 act (relating to assessment and collection of deficiencies in gift tax), see page 179.

(Revenue Act of 1928) SEC. 272. PROCEDURE IN GENERAL.

(a) **Petition to Board of Tax Appeals.**—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ 90 days after such notice is mailed (~~not counting Sunday as the sixtieth day not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day~~), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

- (1) Subsection (d) of this section, relating to waivers by the taxpayer;
- (2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
- (3) Section 273, relating to jeopardy assessments;
- (4) Section 274, relating to bankruptcy and receiverships; and
- (5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(Revenue Act of 1932) SEC. 272. PROCEDURE IN GENERAL.

(a) **PETITION TO BOARD OF TAX APPEALS.**—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ~~60 days~~ *90 days* after such notice is mailed (~~not counting Sunday as the sixtieth day~~ *not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day*), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ~~60-day~~ *90-day* period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

For exceptions to the restrictions imposed by this subsection, see—

(1) Subsection (d) of this section, relating to waivers by the taxpayer;

(2) Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;

(3) Section 273, relating to jeopardy assessments;

(4) Section 274, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

Note.—For section 501 of 1932 act (relating to imposition of gift tax), see page 169.

SEC. 502. (1934 Act) RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

(a) Section 610 of the Revenue Act of 1928 is amended by adding at the end thereof a new subsection to read as follows:

“(c) Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.”

(b) The amendment made by subsection (a) of this section shall not apply to any suit which was barred on the date of the enactment of this Act.

NOTE.—Section 610 of the Revenue Act of 1928, with the addition of the new subsection, reads as follows:

SEC. 610. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

(a) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 608, after the enactment of this Act, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

(b) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered as erroneous under section 608) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund or before May 1, 1928, whichever date is later.

(c) *Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.*

NOTE.—For section 502 of 1932 act (relating to computation of gift tax), see page 170.

SEC. 503. (1934 Act) STATUTE OF LIMITATIONS ON SUITS FOR REFUND.

Section 608(b)(2) of the Revenue Act of 1928 is amended by adding at the end thereof a new sentence to read as follows: "If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement."

NOTE.—Section 608 of the Revenue Act of 1928, with the addition of the new sentence, reads as follows:

SEC. 608. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST TAXPAYER.

A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts. *If such*

agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

NOTE.—For section 503 of 1932 act (relating to certain transfers), see page 173.

SEC. 504. (1934 Act) OVERPAYMENTS FOUND BY THE BOARD OF TAX APPEALS.

(a) The last sentence of section 322(d) of the Revenue Act of 1932 and of the Revenue Act of 1928 are amended to read as follows: "No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within two years before the filing of the claim or the filing of the petition, whichever is earlier."

NOTE.—Section 322(d) of the Revenue Act of 1932 and of the Revenue Act of 1928, as amended by the above, read as follows:

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than within* two years before the filing of the claim or the filing of the petition, whichever is earlier.

(b) The last sentence of section 528(d) of the Revenue Act of 1932 is amended to read as follows: "No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier."

NOTE.—Section 528(d) of the Revenue Act of 1932, as amended by the above, reads as follows:

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax *unless the Board determines as part of its decision that it was paid more than within* three years before the filing of the claim or the filing of the petition, whichever is earlier.

(c) *The last sentence of section 284(e) of the Revenue Act of 1926, as amended, is amended to read as follows: "Unless the Board determines as part of its decision that the claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within four years (or, in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier."*

NOTE.—Section 284(e) of the Revenue Act of 1926, as amended by the above, reads as follows:

(e) If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer as provided in subdivision (a). ~~Unless claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier.~~ *Unless the Board determines as part of its decision that the claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within four years (or, in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier.*

(d) *The last sentence of section 319(c) of the Revenue Act of 1926, as amended, is amended to read as follows: "No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that it was paid within four years (or in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier."*

NOTE.—Section 319(c) of the Revenue Act of 1926, as amended by the above, reads as follows:

(c) If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3220 of the

Revised Statutes, as amended. No such refund shall be made of any portion of the tax paid ~~more than~~ *unless the Board determines as part of its decision that it was paid within four years (or, in or in the case of a tax imposed by this title, more than within three years) before the filing of the claim or the filing of the petition, whichever is earlier*

(e) The amendments made by subsections (a), (b), (c), and (d) of this section shall have no effect in the case of any proceeding before the Board on a petition if any hearing by the Board thereon has been held prior to 30 days after the date of the enactment of this Act.

NOTE.—For section 504 of 1932 act (relating to net gifts), see page 173.

SEC. 505. (1934 Act) *BANKRUPTCY AND RECEIVERSHIPS.*

(a) Section 274(a) of the Revenue Act of 1932 and the Revenue Act of 1928 and section 282(a) of the Revenue Act of 1926 are amended by inserting after the first sentence thereof the following:

“In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years.”

NOTE.—Section 274(a) of the Revenue Act of 1932 and the Revenue Act of 1928, with the above insertion, read as follows:

(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the restrictions imposed by section 272(a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running

of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

Section 282(a) of the Revenue Act of 1926, with the above insertion, reads as follows:

SEC. 282. (a) Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the provisions of subdivision (a) of section 274, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. *In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years.* Claim for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) The amendments made by subsection (a) shall not apply in any case in which the adjudication has occurred, or the receiver has been appointed, prior to the date of the enactment of this Act.

NOTE.—For section 505 of 1932 act (relating to gift-tax deductions), see page 174.

SEC. 506. (1934 Act) RETROACTIVITY OF REGULATIONS, RULINGS, ETC.

Section 1108(a) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(a) The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect."

NOTE.—Section 1108(a) of the Revenue Act of 1926, as amended, which is amended by this section, reads as follows:

SEC. 1108. (a) In case a regulation or Treasury decision relating to the internal-revenue laws is amended by a subsequent regulation or Treasury decision, made by the Secretary or by the Commissioner with the approval of the Secretary, such subsequent regulation or Treasury decision may, with the approval of the Secretary, be applied without retroactive effect.

NOTE.—For section 506 of 1932 act (relating to gifts made in property), see page 176.

SEC. 507. (1934 Act) EXAMINATION OF BOOKS AND WITNESSES.

The Commissioner, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon such liability, and may require the attendance of the transferor or transferee, or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter, with power to administer oaths to such person or persons.

NOTE.—For section 507 of 1932 act (relating to gift tax returns), see page 176.

**SEC. 508. (1934 Act) SALE OF PERSONAL PROPERTY UNDER
DISTRAINT.**

Section 3192 of the Revised Statutes is amended to read as follows:

“SEC. 3192. When any property advertised for sale under distraint, as aforesaid, is of a kind subject to tax, and the tax has not been paid, and the amount bid for such property is not equal to the amount of the tax, the collector may purchase the same in behalf of the United States for an amount not exceeding the said tax. All property so purchased may be sold by the collector, under such regulations as may be prescribed by the Commissioner of Internal Revenue. The Collector shall render to the Commissioner a distinct account of all charges incurred in such sales, and, in case of sale, shall pay into the Treasury the surplus, if any there be, after defraying all lawful charges and fees. When any personal property is advertised for sale under distraint as aforesaid, the officer making the seizure shall proceed to sell such property at a public auction, offering the same at a minimum price, including the expenses of making the levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the officer conducting the sale may declare the same to be purchased by him for the United States. The property so purchased may be sold by the collector within whose district the sale was made under such regulations as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. The collector shall render to the Commissioner a distinct account of all charges incurred in such sales, and, in case of resale, shall pay into the Treasury the proceeds as provided in section 3210 of the Revised Statutes, as amended.”

NOTE.—For section 508 of 1932 act (relating to records and special returns), see page 177.

SEC. 509. (1934 Act) DISCHARGE OF LIENS.

Section 3186(c) of the Revised Statutes, as amended, is amended by adding at the end thereof the following new paragraph:

"(4) May issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States."

NOTE.—Section 3186(c) of the Revised Statutes, as amended by the above, reads as follows:

(c) Subject to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the collector of internal revenue charged with an assessment in respect of any tax—

(1) May issue a certificate of release of the lien if the collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable;

(2) May issue a certificate of release of the lien if there is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations;

(3) May issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property.

(4) *May issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall*

give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States.

NOTE.—For section 509 of 1932 act (relating to payment of gift tax), see page 177.

NOTE.—For section 510 of 1934 act (relating to jeopardy assessments), see page 287.

NOTE.—For section 511 of 1934 act (relating to gifts of property subject to power), see page 170.

SEC. 512. (1934 Act) GENERAL COUNSEL FOR THE TREASURY.

(a) There is hereby created in the Department of the Treasury the office of General Counsel for the Department of the Treasury (hereinafter in this section referred to as the "General Counsel"). The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$10,000 per annum. The General Counsel shall be the chief law officer of the department, and shall perform such duties in respect of the legal activities thereof as may be prescribed by the Secretary or required by law. The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant General Counsel for the Bureau of Internal Revenue and to fix his compensation at a rate not in excess of \$10,000 per annum. The Secretary may appoint and fix the duties of such other Assistant General Counsel (not to exceed five) and such other officers and employees as he may deem necessary to assist the General Counsel in the performance of his duties. The Secretary may designate one of the Assistant General Counsel to act as the General Counsel during the absence of the General Counsel. The General Counsel, with the approval of the Secretary, is authorized to delegate to any Assistant General Counsel any authority, duty, or function which the General Counsel is authorized or required to exercise or perform. The Assistant General Counsel appointed by the Secretary may be appointed and compensated without regard to the provisions of the Classification Act of 1923, as amended, and the Civil Service laws and shall receive compensation at such rate (not in excess

of \$10,000 per annum) as may be fixed by the Secretary. The rate of compensation of any person appointed under the provisions of this subsection shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

(b) The offices of General Counsel for the Bureau of Internal Revenue, Assistant General Counsel for the Bureau of Internal Revenue, Solicitor of the Treasury, and Assistant Solicitor of the Treasury are hereby abolished. The powers, duties, and functions of such offices are hereby transferred to the General Counsel. This subsection shall take effect when the General Counsel first appointed under subsection (a) qualifies and takes office.

(c) Nothing in this section shall be construed to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by existing law.

NOTE.—For section 512 of 1932 act (relating to definition of gift tax deficiencies), see page 179.

SEC. 513. (1934 Act) ASSISTANTS IN THE TREASURY.

The Secretary of the Treasury is authorized (without regard to the Classification Act of 1923, as amended, and the Civil Service laws) to appoint and fix the compensation of five assistants at rates of compensation of not to exceed \$10,000 per annum, but the rates so fixed shall be subject to the reduction applicable to officers and employees of the Federal Government generally. The Secretary is authorized to delegate to such assistants any authority, duty, or function which he is authorized or required to exercise or perform. Whenever the President declares by Executive order that the emergency requiring the appointments under this section has ceased to exist, the persons appointed under this section shall cease to hold office under this section, and the power of the Secretary under this section shall terminate.

NOTE.—For section 513 of 1932 act (relating to assessment and collection of gift tax deficiencies), see page 179.

**SEC. 514. (1934 Act) PENALTIES AND AWARDS TO INFORMERS
WITH RESPECT TO ILLEGALLY PRODUCED
PETROLEUM.**

(a) Any person liable for tax on any income from illegally produced petroleum, who willfully fails to make return showing such income within the time prescribed by law or 30 days after the enactment of this Act, whichever expires later, shall, in addition to all other penalties prescribed by law, be liable to a civil penalty of \$500 plus \$50 for each day during which such failure continues.

(b) Any person not an officer or employee of the United States who furnishes to the Commissioner or any collector original information leading to the recovery from any other person of any penalty under this section may be awarded and paid by the Commissioner a compensation of one-half the penalty so recovered, as determined by the Commissioner.

(c) As used in this section, the term "income from illegally produced petroleum" means any income (not shown on a return made within the time prescribed by law or 30 days after the enactment of this Act, whichever expires later) arising out of any sale or purchase of crude petroleum withdrawn from the ground subsequent to January 1, 1932, in violation of any State or Federal law (not including withdrawal in violation of any code of fair competition approved under the National Industrial Recovery Act or illegal withdrawal the penalties for which have been mitigated or satisfied in pursuance of law prior to the enactment of this Act), or arising out of any fee derived from acting as agent for any seller or purchaser in connection with a sale or purchase of such petroleum or products thereof, or any amount illegally received by any person charged with the enforcement of law with respect to such petroleum or products thereof.

NOTE.—For section 514 of 1932 act (relating to jeopardy assessments), see page 183.

NOTE.—For section 515 of 1934 act (relating to postal rates), see page 284.

SEC. 516. (1934 Act) COMMISSIONER AS PARTY TO SUIT.

Section 907 of the Revenue Act of 1924, as amended, is amended by adding at the end thereof a new subdivision to read as follows:

"(g) When the incumbent of the office of Commissioner changes, no substitution of the name of his successor shall be required in proceedings pending after the date of the enactment of the Revenue Act of 1934 before any appellate court reviewing the action of the Board."

NOTE.—Section 907 of the Revenue Act of 1924, as amended by the above, reads as follows:

SEC. 907. (a) Notice and opportunity to be heard upon any proceeding instituted before the Board shall be given to the taxpayer and the Commissioner, and a report upon the proceeding and a decision thereon shall be made as quickly as practicable. The decision shall be made by a member in accordance with the report of the Board, and such decision so made shall, when entered, be the decision of the Board. If an opportunity to be heard upon the proceeding is given before a division of the Board, neither the taxpayer nor the Commissioner shall be entitled to notice and opportunity to be heard before the Board upon review, except upon a specific order of the chairman. Hearings before the Board and its divisions shall be open to the public, and the testimony, and, if the Board so requires, the argument shall be stenographically reported. The Board is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Board and to other persons and agencies. The proceedings of the Board and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, where no hearing has been held before the enactment of the Revenue Act of 1928, the burden of proof in respect of such issue shall be upon the Commissioner. The mailing by registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Board shall be held sufficient service of such pleading, decision, order, notice, or process.

(b) It shall be the duty of the Board and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Board shall report in writing all its findings of fact, opinions and memorandum opinions.

(c) All reports of the Board and all evidence received by the Board and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Board in any proceeding has become final the Board may, upon motion of the

taxpayer or the Commissioner, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Board or any division; or the Board may, on its own motion, make such other disposition thereof as it deems advisable.

(d) The Board shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Board therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

(e) The principal office of the Board shall be in the District of Columbia, but the Board or any of its divisions may sit at any place within the United States. The times and places of the meetings of the Board and of its divisions shall be prescribed by the chairman with a view to securing reasonable opportunity to taxpayers to appear before the Board or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

(f) The Secretary of the Treasury shall provide the Board with suitable rooms in courthouses or other buildings when necessary for hearings by the Board, or any division thereof, outside the District of Columbia.

(g) *When the incumbent of the office of Commissioner changes, no substitution of the name of his successor shall be required in proceedings pending after the date of the enactment of the Revenue Act of 1934 before any appellate court reviewing the action of the Board.*

NOTE.—For section 516 of 1932 act (relating to bankruptcy and receiverships), see page 185.

NOTE.—For section 517 of 1934 act (relating to nondeductibility of certain gifts), see pages 174 and 175.

SEC. 518. (1934 Act) *LIABILITY OF FIDUCIARY.*

(a) Section 3467 of the Revised Statutes (U.S.C., title 31, ch. 6, sec. 192) is amended to read as follows:

“SEC. 3467. Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.”

NOTE.—Section 3467 of the Revised Statutes, as amended by the above, reads as follows:

SEC. 3467. Every executor, administrator, or assignee, or other person, who ~~pays any~~ pays, in whole or in part, any debt due by the person or estate ~~from~~ for whom or for which he acts, before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

(b) *The amendment made by subsection (a) shall be applicable in the case of payments made after June 6, 1932.*

NOTE.—For section 518 of 1932 act (relating to suspension of running of statute), see page 187.

SEC. 519. (1934 Act) VENUE FOR APPEALS FROM BOARD OF TAX APPEALS.

(a) *Section 1002 of the Revenue Act of 1926 is amended to read as follows:*

“ VENUE

“ SEC. 1002. (a) Except as provided in subdivision (b), such decision may be reviewed by the Circuit Court of Appeals for the circuit in which is located the collector's office to which was made the return of the tax in respect of which the liability arises or, if no return was made, then by the Court of Appeals of the District of Columbia.

“(b) Notwithstanding the provisions of subsection (a), such decision may be reviewed by any Circuit Court of Appeals, or the Court of Appeals of the District of Columbia, which may be designated by the Commissioner and the taxpayer by stipulation in writing.”

NOTE.—Section 1002 of the Revenue Act of 1926, prior to its amendment by this section, read as follows:

SEC. 1002. Such decision may be reviewed—

(a) In the case of an individual, by the Circuit Court of Appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

(b) In the case of a person (other than an individual), except as provided in subdivision (c), by the Circuit Court of Appeals for the circuit in which is located the office of the collector to whom such person made the return, or in case such person made no return, then by the Court of Appeals of the District of Columbia.

(c) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

(d) In the case of an agreement between the Commissioner and the taxpayer, then by the Circuit Court of Appeals for the circuit, or the Court of Appeals of the District of Columbia, as stipulated in such agreement.

(b) Section 1002 of the Revenue Act of 1926, as amended by this section, shall be applicable to all decisions of the Board rendered on or after the date of the enactment of this Act, and such section, as in force prior to its amendment by this section, shall be applicable to such decisions rendered prior thereto, except that subdivision (b) thereof may be applied to any such decision rendered prior thereto.

NOTE.—For section 519 of 1932 act (relating to certain additions to gift tax), see page 188.

NOTE.—For section 520 of 1934 act (relating to gift tax rates), see page 171.

TITLE IV (1932 Act)—MANUFACTURERS' EXCISE TAXES

SEC. 601. (1932 Act) EXCISE TAXES ON CERTAIN ARTICLES.

(a) In addition to any other tax or duty imposed by law, there shall be imposed a tax as provided in subsection (c) on every article imported into the United States unless treaty provisions of the United States otherwise provide.

(b) The tax imposed under subsection (a) shall be levied, assessed, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such Act, except that—

(1) the value on which such tax shall be based shall be the sum of (A) the dutiable value (under section 503 of such Act) of the article, plus (B) the customs duties, if any, imposed thereon under any provision of law;

(2) for the purposes of section 489 of such Act (relating to additional duties in certain cases of undervaluation) such tax shall not be considered an ad valorem rate of duty or a duty based upon or regulated in any manner by the value of the article, and for the purposes of section 336 of such Act (the so-called flexible tariff provision) such tax shall not be considered a duty;

(3) such tax shall not be imposed upon any article imported prior to the date on which this title takes effect;

(4) no drawback of such tax (except tax paid upon the importation of an article described in subsection (c) (4), (5), (6), or (7)) shall be allowed under section 313 (a), (b), or (f) of the Tariff Act of 1930 or any provision of law allowing a drawback of customs duties on articles manufactured or produced with the use of duty-paid materials;

(5) such tax (except tax under subsection (c) (4) to (7), inclusive) shall be imposed in full notwithstanding any provision of law granting exemption from or reduction of duties to products of any possession of the United States; and for the purposes of taxes under subsection (c) (4) to (7), inclusive, the term "United States" includes Puerto Rico.

(c) There is hereby imposed upon the following articles sold in the United States by the manufacturer or producer, or imported into the United States, a tax at the rates hereinafter set forth, to be paid by the manufacturer, producer, or importer:

(1) Lubricating oils, 4 cents a gallon; but the tax on the articles described in this paragraph shall not apply with respect to the importation of such articles. *Every person liable for tax under this paragraph shall register and file bond as provided in section 617, as amended.* Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax shall be imposed under this section upon lubricating

oils sold to a manufacturer or producer of lubricating oils for resale by him, but for the purposes of this title such vendee shall be considered the manufacturer or producer of such lubricating oils.

NOTE.—The last sentence of the above paragraph was added by section 4(b) of the act extending the gasoline tax for one year, approved June 16, 1933. The amendment was made effective fifteen days after the date of the enactment of such act. The amendment shown in italics was added by section 603(a) of the 1934 act.

(2) Brewer's wort, 15 cents a gallon. Liquid malt, malt syrup, and malt extract, fluid, solid, or condensed, made from malted cereal grains in whole or in part, unless ~~sold to a baker~~ *sold to, or for resale to, a baker* for use in baking or ~~to a manufacturer or producer to,~~ *or for resale to, a manufacturer or producer* of malted milk, medicinal products, foods, cereal beverages, or textiles, for use in the manufacture or production of such products, 3 cents a pound. For the purposes of this paragraph liquid malt containing less than 15 per centum of solids by weight shall be taxable as brewer's wort.

NOTE.—The amendments to the above paragraph were made by the act entitled "An act to amend section 601(c)(2) of the Revenue Act of 1932", approved June 18, 1934.

(3) Grape concentrate, evaporated grape juice, and grape syrup (other than finished or fountain syrup), if containing more than 35 per centum of sugars by weight, 20 cents a gallon. No tax shall be imposed under this paragraph (A) upon any article which contains preservative sufficient to prevent fermentation when diluted, or (B) upon any article sold to a manufacturer or producer of food products or soft drinks for use in the manufacture or production of such products.

(4) Crude petroleum, $\frac{1}{2}$ cent per gallon; fuel oil derived from petroleum, gas oil derived from petroleum, and all liquid derivatives of crude petroleum, except lubricating oil and gasoline or other motor fuel, $\frac{1}{2}$ cent per gallon; gasoline or other motor fuel, $2\frac{1}{2}$ cents per gallon; lubricating oil, 4 cents per gallon; paraffin and

other petroleum wax products, 1 cent per pound. The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles.

(5) Coal of all sizes, grades, and classifications (except culm and duff), coke manufactured therefrom; and coal or coke briquettes, 10 cents per 100 pounds. The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles, and shall not be imposed upon any such article if during the preceding calendar year the exports of the articles described in this paragraph from the United States to the country from which such article is imported have been greater in quantity than the imports into the United States from such country of the articles described in this paragraph.

(6) Lumber, rough, or planed or dressed on one or more sides, except flooring made of maple (except Japanese maple), birch, and beech, \$3 per thousand feet, board measure; but the tax on the articles described in this paragraph shall apply only with respect to the importation of such articles.

(7) Copper-bearing ores and concentrates and articles provided for in paragraph 316, 380, 381, 387, 1620, 1634, 1657, 1658, or 1659 of the Tariff Act of 1930, 4 cents per pound on the copper contained therein: *Provided*, That no tax under this paragraph shall be imposed on copper in any of the foregoing which is lost in metallurgical processes: *Provided further*, That ores or concentrates usable as a flux or sulphur reagent in copper smelting and/or converting and having a copper content of not more than 15 per centum, when imported for fluxing purposes, shall be admitted free of said tax in an aggregate amount of not to exceed in any one year 15,000 tons of copper content. All articles dutiable under the Tariff Act of 1930, not provided for heretofore in this paragraph, in which copper (including copper in alloys) is the component material of chief value, 3 cents per pound.

All articles dutiable under the Tariff Act of 1930, not provided for heretofore in this paragraph, containing 4 per centum or more of copper by weight, 3 per centum ad valorem or $\frac{3}{4}$ of 1 cent per pound, whichever is the lower. The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles. The Secretary is authorized to prescribe all necessary regulations for the enforcement of the provisions of this paragraph.

(8) *Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine animal oil, and any combination or mixture containing a substantial quantity of any one or more of such oils, 3 cents per pound. The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles after the date of the enactment of the Revenue Act of 1934, and shall not be subject to the provisions of subsection (b)(4) of this section (prohibiting drawback) or section 629 (relating to expiration of taxes).*

NOTE.—New paragraph added by section 602 of the 1934 act.

NOTE.—For section 601 of 1934 act (relating to termination of soft drink tax), see page 229.

SEC. 602. (1932 Act) TAX ON TIRES AND INNER TUBES.

There is hereby imposed upon the following articles sold by the manufacturer, producer, or importer, a tax at the following rates:

(1) Tires wholly or in part of rubber, $2\frac{1}{4}$ cents a pound on total weight (exclusive of metal rims or rim bases), to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

(2) Inner tubes (for tires) wholly or in part of rubber, 4 cents a pound on total weight, to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

NOTE.—For section 602 of 1934 act (relating to tax on certain oils), see page 218.

NOTE.—For section 602 $\frac{1}{2}$ of 1934 act (relating to processing tax on certain oils), see page 241.

SEC. 603. (1932 Act) TAX ON TOILET PREPARATIONS, ETC.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes (except that the rate shall be 5 per centum), dentifrices (except that the rate shall be 5 per centum), tooth pastes (except that the rate shall be 5 per centum), aromatic cachous, toilet soaps (except that the rate shall be 5 per centum), toilet powders, and any similar substance, article, or preparation, by whatsoever name known or distinguished; any of the above which are used or applied or intended to be used or applied for toilet purposes.

NOTE.—For section 603 of 1934 act (relating to tax on lubricating oil and gasoline), see page 231.

SEC. 604. (1932 Act) TAX ON FURS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Articles made of fur on the hide or pelt or of which any such fur is the component material of chief value.

NOTE.—Section 608 of the 1934 act reads as follows:

SEC. 608. TAX ON FURS.

The tax imposed by section 604 of the Revenue Act of 1932 shall not apply to articles sold by the manufacturer, producer, or importer, after the date of the enactment of this Act, for less than \$75.

NOTE.—For section 604 of the 1934 act (relating to producers' petroleum tax), see page 244.

SEC. 605. (1932 Act) TAX ON JEWELRY, ETC.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: All articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semipre-

cious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments or silver-plated ware, or frames or mountings for spectacles or eyeglasses); watches; clocks; parts for watches or clocks sold for more than 9 cents each; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars. No tax shall be imposed under this section on any article used for religious purposes, or any article (other than watch parts or clock parts) sold for less than \$3.

NOTE.—Section 609 of the 1934 act reads as follows:

SEC. 609. TAX ON JEWELRY, ETC.

The tax imposed by section 605 of the Revenue Act of 1932, shall not apply to articles sold by the manufacturer, producer, or importer, after the date of the enactment of this Act, for less than \$25.

NOTE.—For section 605 of the 1934 act (relating to tax on refining petroleum), see page 246.

SEC. 606. (1932 Act) TAX ON AUTOMOBILES, ETC.

There is hereby imposed upon the following articles sold by the manufacturer, producer, or importer, a tax equivalent to the following percentages of the price for which so sold:

(a) Automobile truck chassis and automobile truck bodies (including in both cases parts or accessories therefor sold on or in connection therewith or with the sale thereof), 2 per centum. A sale of an automobile truck shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

(b) Other automobile chassis and bodies and motor cycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), except tractors, 3 per centum. A sale of an automobile shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

(c) Parts or accessories (other than tires and inner tubes) for any of the articles enumerated in subsection (a) or (b), 2 per centum. For the purposes of this subsection

and subsections (a) and (b), spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, any of the articles enumerated in subsection (a) or (b), shall be considered parts or accessories for such articles, whether or not primarily adapted for such use. This subsection shall not apply to chassis or bodies for automobile trucks or other automobiles. Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under this subsection shall not apply in the case of sales of parts or accessories by the manufacturer, producer, or importer to a manufacturer or producer of any of the articles enumerated in subsection (a) or (b). If any such parts or accessories are resold by such vendee otherwise than on or in connection with, or with the sale of, an article enumerated in subsection (a) or (b) and manufactured or produced by such vendee, then for the purposes of this section the vendee shall be considered the manufacturer or producer of the parts or accessories so resold.

(d) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under subsection (a) or (b) shall not apply in the case of sales of bodies by the manufacturer, producer, or importer to a manufacturer or producer of automobile trucks or other automobiles to be sold by such vendee. For the purposes of subsection (a) or (b) such vendee shall be considered the manufacturer or producer of such bodies.

(e) If tires or inner tubes on which tax has been imposed under this title are sold on or in connection with, or with the sale of, a chassis, body, or motor cycle, there shall (under regulations prescribed by the Commissioner, with the approval of the Secretary) be credited against the tax under this section an amount equal to, in the case of an automobile truck chassis or body, 2 per centum, and in the case of any other automobile chassis or body or motor cycle, 3 per centum—

(1) of the purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) if such tires or inner tubes were taxable under section 602 (relating to tax on tires and inner tubes) ; or

(2) if such tires or inner tubes were taxable under section 622 (relating to use by manufacturer, producer, or importer) then of the price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires or inner tubes are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Commissioner.

(f) (1) Where prior to August 1, 1935, any article subject to the tax imposed by this section or section 602, relating to tax on tires and inner tubes, has been sold by the manufacturer, producer, or importer, and is on such date held by a dealer and intended for sale, there shall be refunded to the manufacturer, producer, or importer the amount of the tax, or if the tax has not been paid, the tax shall be abated.

(2) As used in this subsection the term "dealer" includes a wholesaler, jobber, or distributor. For the purposes of this subsection, an article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the refund provided by this subsection—(A) may be applied as a credit against the tax shown by subsequent returns of the manufacturer, producer, or importer, and (B) may be made to the dealer instead of to the manufacturer, producer, or importer, if the manufacturer, producer, or importer waives any claim for the amount so to be refunded.

(4) When the refund, credit, or abatement provided for in this subsection has been allowed to the manufacturer, producer, or importer, he shall remit to the dealer to whom was sold the article in respect of which the refund, credit, or abatement was allowed, so much of that amount of the tax corresponding to the refund, credit, or abatement, as was included in or added to the price paid or agreed to be paid by the dealer. Upon the failure of the manufacturer, producer, or importer to make such remission he shall be liable to the dealer for damages in the amount of three times the amount thereof, and the court shall include in any judgment in favor of the dealer in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

NOTE.—For section 606 of the 1934 act (relating to termination of check tax), see page 263.

SEC. 607. (1932 Act) TAX ON RADIO RECEIVING SETS, ETC.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 5 per centum of the price for which so sold: Chassis, cabinets, tubes, reproducing units, power packs, and phonograph mechanisms, suitable for use in connection with or as part of radio receiving sets or combination radio and phonograph sets (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), and records for phonographs. A sale of any two or more of the above articles shall, for the purpose of this section, be considered a sale of each separately.

NOTE.—For section 607 of 1934 act (relating to enforcement of liability for taxes collected), see page 247.

SEC. 608. (1932 Act) TAX ON MECHANICAL REFRIGERATORS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 5 per centum of the price for which so sold:

(a) Household type refrigerators (for single or multiple cabinet installations) operated with electricity, gas, kerosene, or other means (including parts or accessories therefor sold on or in connection therewith or with the sale thereof).

(b) Cabinets, compressors, condensers, expansion units, absorbers, and controls (hereinafter referred to as "refrigerator components") for, or suitable for use as part of or with, any of the articles enumerated in subsection (a) (including in each case parts or accessories for such refrigerator components sold on or in connection therewith or with the sale thereof) except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus. Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under this subsection shall not apply in the case of sales of any such refrigerator components by the manufacturer, producer, or importer to a manufacturer or producer of refrigerators or refrigerating or cooling apparatus. If any such refrigerator components are resold by such vendee otherwise than on or in connection with, or with the sale of, complete refrigerators or refrigerating or cooling apparatus, manufactured or produced by such vendee, then for the purposes of this section the vendee shall be considered the manufacturer or producer of the refrigerator components so resold.

NOTE.—For section 608 of 1934 act (relating to tax on furs), see page 219.

SEC. 609. (1932 Act) TAX ON SPORTING GOODS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax

equivalent to 10 per centum of the price for which so sold: Tennis rackets, tennis racket frames and strings, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and uniforms, basket ball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games); and all similar articles commonly or commercially known as sporting goods.

NOTE.—For section 609 of 1934 act (relating to tax on jewelry, etc.), see page 220.

SEC. 610. (1932 Act) TAX ON FIREARMS, SHELLS, AND CARTRIDGES.

There is hereby imposed upon firearms, shells, and cartridges, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold. The tax imposed by this section shall not apply (1) to articles sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, or (2) to pistols and revolvers.

NOTE.—For section 610 of 1934 act (relating to tax on cigarettes), see page 248.

SEC. 611. (1932 Act) TAX ON CAMERAS.

There is hereby imposed upon cameras (except aerial cameras), weighing not more than 100 pounds, and lenses for such cameras, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold.

NOTE.—For section 611 of 1934 act (relating to tax on matches), see the next section.

SEC. 612. (1932 Act) TAX ON MATCHES.

There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 2 cents per 1,000 matches, except that in the case of paper matches in books the tax shall be $\frac{1}{2}$ of 1 cent per 1,000 matches, *and except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5 cents per one thousand matches.*

NOTE.—The amendment to this section was made by section 611 of 1934 act and was made effective on May 11, 1934.

NOTE.—For section 612 of 1934 act (relating to tax on certain futures), see page 259.

SEC. 613. (1932 Act) TAX ON CANDY.

There is hereby imposed upon candy, sold by the manufacturer, producer, or importer, a tax equivalent to 2 per centum of the price for which so sold.

NOTE.—Section 614 of 1934 act reads as follows:

SEC. 614. TERMINATION OF TAX ON CANDY.

The tax imposed by section 613 of the Revenue Act of 1932 shall not apply to candy sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

NOTE.—For section 613 of 1934 act (relating to termination of boat tax), see page 265.

SEC. 614. (1932 Act) TAX ON CHEWING GUM.

There is hereby imposed upon chewing gum or substitutes therefor, sold by the manufacturer, producer, or importer, a tax equivalent to 2 per centum of the price for which so sold.

NOTE.—For section 614 of 1934 Act (relating to termination of candy tax), see preceding section.

SEC. 615. (1932 Act) TAX ON SOFT DRINKS.

(a) There is hereby imposed—

(1) Upon all beverages derived wholly or in part from cereals or substitutes therefor, containing less than

one-half of 1 per centum of alcohol by volume, sold by the manufacturer, producer, or importer, a tax of $1\frac{1}{4}$ cents per gallon.

(2) Upon unfermented grape juice, in natural or concentrated form (whether or not sugar has been added), containing 35 per centum or less of sugars by weight, sold by the manufacturer, producer, or importer, a tax of 5 cents per gallon.

(3) Upon all unfermented fruit juices (except grape juice), in natural or slightly concentrated form, or such fruit juices to which sugar has been added (as distinguished from finished or fountain syrups), intended for consumption as beverages with the addition of water or water and sugar, and upon all imitations of any such fruit juices, and upon all carbonated beverages, commonly known as soft drinks (except those described in paragraph (1)), manufactured, compounded, or mixed by the use of concentrate, essence, or extract, instead of a finished or fountain syrup, sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

(4) Upon all still drinks (except grape juice), containing less than one-half of 1 per centum of alcohol by volume, intended for consumption as beverages in the form in which sold (except natural or artificial mineral and table waters and imitations thereof, and pure apple cider), sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

(5) Upon all natural or artificial mineral waters or table waters, whether carbonated or not, and all imitations thereof, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over $12\frac{1}{2}$ cents per gallon, a tax of 2 cents per gallon.

(6) Upon all finished or fountain syrups of the kinds used in manufacturing, compounding, or mixing drinks commonly known as soft drinks, sold by the manufacturer, producer, or importer, a tax of 6 cents per gallon; except that in the case of any such syrups intended to

be used in the manufacture of carbonated beverages sold in bottles or other closed containers the rate shall be 5 cents per gallon. Where any person conducting a soda fountain, ice cream parlor, or other similar place of business manufactures any syrups of the kinds described in this paragraph, there shall be levied, assessed, collected, and paid on each gallon manufactured and used in the preparation of soft drinks a tax of 6 cents per gallon; and where any person manufacturing carbonated beverages manufactures and uses any such syrups in the manufacture of carbonated beverages sold in bottles or other closed containers there shall be levied, assessed, collected, and paid on each gallon of such syrups a tax of 5 cents per gallon. The taxes imposed by this paragraph shall not apply to finished or fountain syrups sold for use in the manufacture of a beverage subject to tax under paragraph (1) or (4), nor to any article enumerated in section 601 (c) (3).

(7) Upon all carbonic acid gas sold by the manufacturer, producer, or importer, or by a dealer in such gas, to a manufacturer of any carbonated beverages, or to any person conducting a soda fountain, ice cream parlor, or other similar place of business, and upon all carbonic acid gas used by the manufacturer, producer, or importer thereof in the preparation of soft drinks, a tax of 4 cents per pound.

(b) Each manufacturer, producer, or importer of any of the articles enumerated in subsection (a) and each person who sells carbonic acid gas to a manufacturer of carbonated beverages or to a person conducting a soda fountain, ice cream parlor, or other similar place of business, shall make monthly returns under oath in duplicate and pay the tax imposed in respect of the articles enumerated in subsection (a) to the collector for the district in which is located his principal place of business, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such

times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time the tax became due until paid.

(c) Each person required to pay any tax imposed by subsection (a) shall procure and keep posted a certificate of registry in accordance with regulations to be prescribed by the Commissioner, with the approval of the Secretary. Any person who fails to register or keep posted any certificate of registry in accordance with such regulations shall be subject to a penalty of not more than \$1,000 for each such offense.

NOTE.—Section 601 of the 1934 act reads as follows:

SEC. 601. TERMINATION OF SOFT DRINK TAX.

No tax shall be imposed under section 615 of the Revenue Act of 1932 on the sale or use of any article if such sale or use takes place after the date of the enactment of this Act.

SEC. 616. TAX ON ELECTRICAL ENERGY FOR DOMESTIC OR COMMERCIAL CONSUMPTION.

(a) There is hereby imposed upon electrical energy sold for domestic or commercial consumption and not for resale a tax equivalent to 3 per centum of the price for which so sold, to be paid by the vendor under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe. The sale of electrical energy to an owner or lessee of a building, who purchases such electrical energy for resale to the tenants therein, shall for the purposes of this section be considered as a sale for consumption and not for resale, but the resale to the tenant shall not be considered a sale for consumption.

(b) The provisions of sections 619, 622, and 625 shall not be applicable with respect to the tax imposed by this section.

(c) No tax shall be imposed under this section upon electrical energy sold to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia. None of the provisions of this section shall apply to publicly owned electric and power plants. The right to exemption under this subsection shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

NOTE.—Section 6(a) of the act extending the gasoline tax for one year, approved June 16, 1933, substituted this section for section 616 of the 1932 act. The section was made effective September 1, 1933. Section 616 of the 1932 act, prior to its amendment, read as follows:

SEC. 616. TAX ON ELECTRICAL ENERGY.

(a) There is hereby imposed a tax equivalent to 3 per centum of the amount paid on or after the fifteenth day after the date of the enactment of this Act, for electrical energy for domestic or commercial consumption furnished after such date and before July 1, 1934, to be paid by the person paying for such electrical energy and to be collected by the vendor.

(b) Each vendor receiving any payments specified in subsection (a) shall collect the amount of the tax imposed by such subsection from the person making such payments, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay the taxes so collected, to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe. The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than 90 days. The provisions of sections 771 to 774, inclusive, shall, in lieu of the provisions of sections 619 to 629, inclusive, be applicable in respect of the tax imposed by this section.

(c) No tax shall be imposed under this section upon any payment received for electrical energy furnished to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia. The right to exemption under this subsection shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe.

Subsection (b) of section 6 of the act extending the gasoline tax reads as follows:

(b) Despite the provisions of this section the tax imposed under section 616 of the Revenue Act of 1932 before its amendment by this section on electrical energy furnished before September 1, 1933, shall be imposed, collected, and paid in the same manner and shall be subject to the same provisions of law (including penalties) as if this section had not been enacted.

SEC. 617. (1932 Act) TAX ON GASOLINE.

(a) There is hereby imposed on gasoline sold by the ~~importer thereof or by a producer of gasoline producer or importer thereof, or by any producer of gasoline~~, a tax of 1 cent a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline.

NOTE.—As amended by section 603(b) of 1934 act. Under sections 211(a) and 217(b) of the National Industrial Recovery Act the rate of tax was temporarily 1½ cents a gallon.

(b) If a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this title be considered a sale. *Any person to whom gasoline is sold tax-free under this section on or after the effective date of the Revenue Act of 1932 shall be considered the producer of such gasoline.*

NOTE.—New sentence added by section 603(b) of 1934 act.

(c) As used in this section—

(1) the term “producer” includes a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer.

~~(2) the term “gasoline” means gasoline, benzol, and any other liquid the chief use of which is as a fuel for the propulsion of motor vehicles, motor boats, or aeroplanes. As used in this paragraph the term “benzol” does not include benzol sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel.~~

NOTE.—Section 211(b) of the National Industrial Recovery Act added the last sentence of this paragraph to 1932 act.

(2) the term gasoline means (A) all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline), benzol, benzene, or naphtha, regardless of their classifications or

uses; and (B) any other liquid of a kind prepared, advertised, offered for sale or sold for use as, or used as, a fuel for the propulsion of motor vehicles, motor boats, or airplanes; except that it does not include any of the foregoing (other than products commonly or commercially known or sold as gasoline) sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel, and does not include kerosene, gas oil, or fuel oil.

NOTE.—As amended by section 603(c) of 1934 act. The amendment was effective on the thirtieth day after the enactment of that act.

(d) Every person subject to tax under this section or section 601(c)(1) shall, before the thirtieth day after the date of the enactment of the Revenue Act of 1934 (or in the case of a person commencing business after such day before incurring any liability for tax under such sections) register with the collector for the district in which is located his principal place of business (or, if he has no principal place of business in the United States, with the collector at Baltimore, Maryland) and shall give a bond, to be approved by such collector, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the United States of any tax under such sections; that he shall render truly and completely all returns, statements, and inventories required by law or regulations in pursuance thereof and shall pay all taxes due under such sections; and that he shall comply with all requirements of law and regulations in pursuance thereof with respect to tax under such sections. Such bond shall be in such sum as the collector may require in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, but not less than \$2,000. The collector may from time to time require new or additional bond in accordance with this subsection. Every person who fails to register or give bond as required by this sub-

section, or who in connection with any purchase of gasoline or lubricating oil falsely represents himself to be registered and bonded as provided by this subsection, or who willfully makes any false statement in an application for registration under this subsection, shall upon conviction thereof be fined not more than \$5,000 or imprisoned not more than five years, or both, together with the costs of prosecution. If the Commissioner finds that any manufacturer or producer has at any time evaded any Federal tax on gasoline or lubricating oil, he may revoke the registration of such manufacturer or producer, and no sale to, or for resale to, such manufacturer or producer thereafter shall be tax-free under section 601(c)(1), this section, or section 620, as amended, but such manufacturer or producer shall not be relieved of the requirement of giving bond under this subsection.

(e) Under regulations prescribed by the Commissioner with the approval of the Secretary, records required to be kept with respect to taxes under section 601(c)(1), as amended, or this section, and returns, reports, and statements with respect to such taxes filed with the Commissioner or a collector, shall be open to inspection by such officers of any State or Territory or political subdivision thereof or the District of Columbia as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils. The Commissioner and each collector shall furnish to any of such officers, upon written request, certified copies of any such statements, reports, or returns filed in his office upon the payment of a fee of \$1 for each one hundred words or fraction thereof in the copy or copies requested.

NOTE.—Subsections (d) and (e) added by section 603(d) of 1934 act.

SEC. 618. (1932 Act) DEFINITION OF SALE.

For the purposes of this title, the lease of an article shall be considered the sale of such article.

SEC. 619. (1932 Act) SALE PRICE.

(a) In determining, for the purposes of this title, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this title, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Commissioner, in accordance with the regulations.

(b) If an article is—

- (1) sold at retail;
- (2) sold on consignment; or
- (3) sold (otherwise than through an arm's-length transaction) at less than the fair market price;

the tax under this title shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Commissioner.

(c) In the case of (1) a lease, (2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments, or (3) a conditional sale, there shall be paid upon each payment with respect to the article that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment.

SEC. 620. TAX-FREE SALES.

Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax under this title shall be imposed with respect to the sale of any article—

(1) for use by the vendee as material in the manufacture or production of, or as a component part of, an article enumerated in this title;

(2) for resale by the vendee for such use by his vendee, if such article is in due course so resold;

(3) for resale by the vendee to a State or political subdivision thereof for use in the exercise of an essential governmental function, if such article is in due course so resold.

For the purposes of this title the manufacturer or producer to whom an article is sold under paragraph (1) or resold under paragraph (2) shall be considered the manufacturer or producer of such article. The provisions of paragraphs (1) and (2) shall not apply with respect to tires or inner tubes or articles enumerated in section 604, relating to the tax on furs.

NOTE.—Section 4(a) of the act extending the gasoline tax for one year, approved June 16, 1933, substituted this section for section 620 of the 1932 act. The section was made effective 15 days after the date of the enactment of the extending act. Section 620 of the 1932 act, prior to its amendment, read as follows:

SEC. 620. SALE OF ARTICLES FOR FURTHER MANUFACTURE.

Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax under this title shall be imposed upon any article (other than a tire or inner tube, or an article taxable under section 604, relating to the tax on furs) sold for use as material in the manufacture or production of, or for use as a component part of, an article to be manufactured or produced by the vendee which will be taxable under this title or sold free of tax by virtue of this section. If the vendee resells an article sold to him free of tax under this section, then for the purposes of this title he shall be considered the manufacturer or producer of such article.

SEC. 621. (1932 Act) CREDITS AND REFUNDS.

(a) A credit against tax under this title, or a refund, may be allowed or made—

(1) to a manufacturer or producer, in the amount of any tax under this title which has been paid with respect to the sale of any article (other than a tire or inner tube) purchased by him and used by him as material in the manufacture or production of, or as a component

part of, an article with respect to which tax under this title has been paid, or which has been sold free of tax by virtue of section 620, relating to sales of articles for further manufacture.

(2) to any person who has paid tax under this title with respect to an article, when the price on which the tax was based is readjusted by reason of return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance; in the amount of that part of the tax proportionate to the part of the price which is refunded or credited.

(3) to a manufacturer, producer, or importer in the amount of tax paid by him under this title with respect to the sale of any article to a dealer, if the manufacturer, producer, or importer has in his possession such evidence as the regulations may prescribe that (A) such article has after the date this paragraph takes effect been delivered by the dealer to a State or political subdivision thereof for use in the exercise of an essential governmental function and (B) the manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the dealer or has obtained the consent of the dealer to the allowance of the credit or refund.

NOTE.—The above paragraph was added by section 4(b) of the act extending the gasoline tax for 1 year, approved June 16, 1933. The amendment was made effective 15 days after the date of the enactment of that act.

(b) Credit or refund under subsection (a) shall be allowed or made only upon compliance with regulations prescribed by the Commissioner with the approval of the Secretary.

(c) In no case shall interest be allowed with respect to any amount of tax under this title credited or refunded.

(d) No overpayment of tax under this title shall be credited or refunded (otherwise than under subsection (a)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Commissioner with the

approval of the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has repaid the amount of the tax to the ultimate purchaser of the article, or unless he files with the Commissioner written consent of such ultimate purchaser to the allowance of the credit or refund.

SEC. 622. (1932 Act) USE BY MANUFACTURER, PRODUCER, OR IMPORTER.

If—

(1) any person manufactures, produces, or imports an article (other than a tire or inner tube) and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by him which will be taxable under this title or sold free of tax by virtue of section 620, relating to sale of articles for further manufacture) ; or

(2) any person manufactures, produces, or imports a tire or inner tube and sells it on or in connection with, or with the sale of, an article taxable under section 606 (a) or (b), relating to the tax on automobiles, or uses it;

he shall be liable for tax under this title in the same manner as if such article was sold by him, and the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Commissioner.

SEC. 623. (1932 Act) SALES BY OTHERS THAN MANUFACTURER, PRODUCER, OR IMPORTER.

In case any person acquires from the manufacturer, producer, or importer of an article, by operation of law or as a result of any transaction not taxable under this title,

the right to sell such article, the sale of such article by such person shall be taxable under this title as if made by the manufacturer, producer, or importer, and such person shall be liable for the tax.

SEC. 624. (1932 Act) EXEMPTION OF ARTICLES MANUFACTURED OR PRODUCED BY INDIANS.

No tax shall be imposed under this title on any article of native Indian handicraft manufactured or produced by Indians on Indian reservations, or in Indian schools, or by Indians under the jurisdiction of the United States Government in Alaska.

SEC. 625. (1932 Act) CONTRACTS PRIOR TO MAY 1, 1932.

(a) If (1) any person has, prior to May 1, 1932, made a bona fide contract for the sale, after the tax takes effect, of any article in respect of the sale of which a tax is imposed under this title, or in respect of which a tax is imposed under this subsection, and (2) such contract does not permit the adding to the amount to be paid under such contract, of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall, in lieu of the vendor, pay so much of the tax as is not so permitted to be added to the contract price. If a contract of the character above described was made with the United States or with any person other than a dealer, no tax shall be collected under this title.

(b) The taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated, and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 702. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner, who shall cause collection of such taxes to be made from the vendee.

SEC. 626. (1932 Act) RETURN AND PAYMENT OF MANUFACTURERS' TAXES.

(a) Every person liable for any tax imposed by this title other than taxes on importation (except tax under section 615, relating to tax on soft drinks) shall make monthly returns under oath in duplicate and pay the taxes imposed by this title to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

SEC. 627. (1932 Act) APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, in so far as applicable and not inconsistent with this Act, be applicable in respect of the taxes imposed by this title.

SEC. 628. (1932 Act) RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title in so far as it relates to the taxes on articles sold by the manufacturer, producer, or importer. The Secretary shall prescribe and publish all

needful rules and regulations for the enforcement of this title in so far as it relates to the taxes which under the provisions of section 601 (b) are to be levied, assessed, collected, and paid in the same manner as duties imposed by the Tariff Act of 1930.

SEC. 629. (1932 Act) EFFECTIVE DATE.

This title shall take effect on the fifteenth day after the date of the enactment of this Act, except that section 628, relating to rules and regulations, and this section, shall take effect on the date of the enactment of this Act. No sale or importation after June 30, 1935 (or after July 31, 1935, in the case of articles taxable under section 606, relating to the tax on automobiles, etc., or section 602, relating to the tax on tires and inner tubes), shall be taxable under this title.

NOTE.—Section 1 of the act extending the gasoline tax for 1 year, approved June 16, 1933, struck out of this section of the 1932 act the comma following the word “tubes” and the phrase “or after June 30, 1933, in the case of articles taxable under section 617, relating to the tax on gasoline”.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor.

SEC. 630. EXEMPTION FROM TAX OF CERTAIN SUPPLIES FOR VESSELS.

Under regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this title shall be imposed upon any article sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. Articles manufactured or produced with the use of articles upon the importation of which tax has been paid under this title,

if laden for use as supplies on such vessels, shall be held to be exported for the purposes of section 601 (b).

NOTE.—Section 5 of the act extending the gasoline tax for 1 year, approved June 16, 1933, added the above section to the 1932 act. The section was made effective 15 days after the date of the enactment of the extending act.

TITLE IV (1934 Act)—EXCISE TAXES

NOTE.—For section 601 of 1934 act (relating to termination of soft drink tax), see page 229.

NOTE.—For section 602 of 1934 act (relating to tax on certain oils), see page 218.

SEC. 602½. (1934 Act) PROCESSING TAX ON CERTAIN OILS.

(a) *There is hereby imposed upon the first domestic processing of coconut oil, sesame oil, palm oil, palm kernel oil, or sunflower oil, or of any combination or mixture containing a substantial quantity of any one or more of such oils with respect to any of which oils there has been no previous first domestic processing, a tax of 3 cents per pound, to be paid by the processor. There is hereby imposed (in addition to the tax imposed by the preceeding sentence) a tax of 2 cents per pound, to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic processing, except that the tax imposed by this sentence shall not apply when it is established, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, that such coconut oil (whether or not contained in such a combination or mixture), (A) is wholly the production of the Philippine Islands or any other possession of the United States, or (B) was produced wholly from materials the growth or production of the Philippine Islands or any other possession of the United States, or (C) was brought into the United States on or before the 30th day after the date of the enactment of this Act or produced from*

materials brought into the United States on or before the 30th day after the date of enactment of this Act, or (D) was purchased under a bona fide contract entered into prior to April 26, 1934, or produced from materials purchased under a bona fide contract entered into prior to April 26, 1934. All taxes collected under this section with respect to coconut oil wholly of Philippine production or produced from materials wholly of Philippine growth or production, shall be held as a separate fund and paid to the Treasury of the Philippine Islands, but if at any time the Philippine Government provides by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine Treasury shall be made under this subsection. For the purposes of this section the term "first domestic processing" means the first use in the United States, in the manufacture or production of an article intended for sale, of the article with respect to which the tax is imposed, but does not include the use of palm oil in the manufacture of tin plate.

(b) Each processor required to pay the tax imposed by this section shall make monthly returns under oath in duplicate and pay the tax to the collector of internal revenue for the district in which is located his principal place of business, or if he has no principal place of business in the United States, then to the collector of internal revenue at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum per month from the time the tax became due until paid.

(c) Subject to such rules and regulations as the Commissioner, with the approval of the Secretary, may pre-

scribe, any person who has sold to a State, or a political subdivision thereof, for use in the exercise of an essential governmental function any article containing any such oil, combination, or mixture, upon the processing of which a tax has been paid under this section shall be entitled to a credit or refund of the tax paid with respect to the quantity of such oil, combination, or mixture contained in such article.

(d) Upon the exportation to any foreign country or to a possession of the United States of any article wholly or in chief value of an article with respect to the processing of which a tax has been paid under this section, the exporter thereof shall be entitled to a refund of the amount of such tax. Upon the giving of bond satisfactory to the Secretary for faithful observance of the provisions of this section requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any article with respect to which a tax is imposed by this section.

(e) If (1) any person has, prior to January 26, 1934, made a bona fide contract for the sale on or after the effective date of this section of any article wholly or in chief value of an article with respect to which a tax is imposed by this section or of any article with respect to which a tax is imposed by this subsection, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract expressly prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price. Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be returned and paid to the United States by the vendor in the same manner as other taxes under this section. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner, who shall cause collection of such taxes to be made from the vendee.

(f) *All provisions of law (including penalties) applicable in respect of taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as applicable and not inconsistent with this section, be applicable in respect of the taxes imposed by this section.*

(g) *All collections except as provided in subsection (a) under this section shall, notwithstanding any other provisions of law, be covered into the general fund of the Treasury of the United States.*

NOTE.—For section 603 of 1934 act (relating to tax on lubricating oil and gasoline), see page 231.

SEC. 604. (1934 Act) PRODUCERS' TAX ON CRUDE PETROLEUM.

(a) *There is hereby imposed on crude petroleum sold by the producer thereof, a tax of one-tenth of 1 cent per barrel of 42 gallons, to be paid by the producer. Under regulations prescribed by the Commissioner, with the approval of the Secretary, such tax shall not apply to crude petroleum produced from any well which is not capable of producing more than 5 barrels per day.*

(b) *Every person purchasing crude petroleum from the producer thereof, and taking delivery thereof at the premises where produced, shall collect the tax imposed by subsection (a) from the producer. Every such purchaser, and every producer liable for any tax under this section not so collected from him, shall make monthly returns under oath and pay such taxes to the collector for the district in which are located the premises where such crude petroleum was produced. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.*

(c) *Every purchaser required to collect any tax under this section shall make such collection by deducting and withholding the amount of such tax from any payments made by such purchaser to the producer. Every such purchaser is hereby indemnified against the claims and demands of such producer for the amount of any payments made in accordance with the provisions of this section.*

(d) *The Commissioner, with the approval of the Secretary, may require such bond or other security from any person subject to any provision of this section as he deems necessary for the protection of the revenue and to assure compliance with this section and other provisions of law applicable with respect to the tax imposed by this section, and may prescribe the form and conditions thereof, provide for the approval of the sureties thereon (without regard to any general provision of law), fix the amount and penalty thereof (whether for the payment of liquidated damages or of a penal sum), and authorize the cancellation of any such bond, in the event of a breach of any condition thereof, upon the payment of such lesser amount as he may deem sufficient. Any person willfully failing to comply with any such requirement shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than six months, or both.*

(e) *In addition to records and reports otherwise required by law or regulation, every working interest operator of a well producing crude petroleum or otherwise taking crude petroleum from the earth or waters thereof (whether or not the producer as defined in this section) shall keep such records and make such reports with respect to production and disposition of crude petroleum, at such time and in such manner, as the regulations shall prescribe. Records, reports, and returns required under this section or any provision of law applicable with respect to tax under this section shall, wherever held, be open to inspection at all reasonable hours by any duly authorized representative of the Commissioner or any agency of the United States or any State having supervisory or regulatory powers over the production of crude petroleum.*

(f) *For the purposes of this section—*

(1) *the refining of crude petroleum on the premises where produced, the removal of crude petroleum therefrom, or any transfer or other disposition of crude petroleum shall be considered a sale.*

(2) the term "producer" means the person owning crude petroleum or having any interest in or title to crude petroleum at the time of its production.

(3) the term "working interest operator" means the person having the management and operation of a well.

(4) the amount of crude petroleum produced shall be determined with allowance for any reasonable and bona fide deduction for basic sediment and water agreed upon by the producer and the purchaser for the purpose of determining the amount sold.

(g) The provisions of section 623 and sections 771 to 774, inclusive, of the Revenue Act of 1932 shall be applicable with respect to the tax imposed by this section.

(h) This section shall take effect on the thirtieth day after the date of its enactment.

NOTE.—For section 604 of 1932 act (relating to tax on furs), see page 219.

SEC. 605. (1934 Act) TAX ON REFINING OF CRUDE PETROLEUM.

(a) There is hereby imposed (1) on crude petroleum refined or processed in the United States, a tax of one-tenth of one cent per barrel of forty-two gallons, to be paid by the refiner or processor, and (2) on gasoline produced or recovered in the United States from natural gas a tax of one-tenth of one cent per barrel of forty-two gallons, to be paid by the person producing or recovering such gasoline.

(b) Every person liable for tax under this section shall make monthly returns under oath in triplicate for each plant or refinery, and pay such taxes to the collector for the district in which such plant or refinery is located. Such returns shall contain such information and be made at such times and in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. If the tax is not paid when due there shall be added as part of the tax interest at the rate of one per centum a month from the time when

the tax becomes due until paid. Every refiner or processor shall (in addition to records otherwise required by law or regulation) keep such records as shall be prescribed by regulations under this section showing daily receipts, stocks, and disposals of crude petroleum and the names and addresses of the persons from whom received. Every person handling, transporting, storing, or dealing in any manner in crude petroleum shall keep such records and make such returns with respect to transactions in crude petroleum as shall be required by regulations under this section. Returns and records required under this section shall be open to inspection at all reasonable hours by any duly authorized representative of the Commissioner or any agency of the United States or any State having supervisory or regulatory powers over the production of crude petroleum.

(c) As used in this section, the term "gasoline" means gasoline as defined in section 617 of the Revenue Act of 1932, as amended.

(d) The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he deems necessary for the enforcement of this section.

(e) All provisions of law (including penalties) applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as applicable and not inconsistent with this section, be applicable with respect to the taxes imposed by this section.

(f) This section shall take effect on the thirtieth day after the date of the enactment of this Act.

NOTE.—For section 605 of 1932 act (relating to tax on jewelry, etc.), see page 219.

NOTE.—For section 606 of 1934 act (relating to termination of check tax), see page 263.

SEC. 607. (1934 Act) ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax

so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

NOTE.—For section 607 of 1932 act (relating to tax on receiving sets, etc.), see page 223.

NOTE.—For section 608 of 1934 act (relating to tax on furs), see page 219.

NOTE.—For section 609 of 1934 act (relating to tax on jewelry, etc.), see page 220.

SEC. 610. (1934 Act) TAX ON CIGARETTES.

Effective on the day following the date of the enactment of this Act, the last two paragraphs of section 400(a) of the Revenue Act of 1926 are amended to read as follows:

“On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$3 per thousand;

“Weighing more than three pounds per thousand, \$7.20 per thousand; except that if more than $6\frac{1}{2}$ inches in length they shall be taxable at the rate provided in the preceding paragraph, counting each $2\frac{3}{4}$ inches (or fraction thereof) of the length of each as one cigarette.”

NOTE.—Section 400(a) of the Revenue Act of 1926, as amended by the above, reads as follows:

SEC. 400. (a) Upon cigars and cigarettes manufactured in or imported into the United States, which on or after the expiration of 30 days after the enactment of this Act are sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by section 400 of the Revenue Act of 1924, the following taxes, to be paid by the manufacturer or importer thereof—

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 75 cents per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, \$2 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, \$3 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, \$5 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, \$10.50 per thousand;

If manufactured or imported to retail at more than 20 cents each, \$13.50 per thousand;

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$3 per thousand;

Weighting more than three pounds per thousand, \$7.20 per thousand; ~~thousand; except that if more than 6½ inches in length they shall be taxable at the rate provided in the preceding paragraph, counting each 2¼ inches (or fraction thereof) of the length of each as one cigarette.~~

NOTE.—For section 610 of 1932 act (relating to tax on firearms, etc.), see page 225.

NOTE.—For section 611 of 1934 act (relating to tax on matches), see page 226.

NOTE.—For section 612 of 1934 act (relating to tax on certain futures), see page 259.

NOTE.—For section 613 of 1934 act (relating to termination of boat tax), see page 265.

NOTE.—For section 614 of 1934 act (relating to termination of candy tax), see page 226.

TITLE V (1932 Act)—MISCELLANEOUS TAXES

Part I—Tax on Telegraph, Telephone, Radio, and Cable Facilities

SEC. 701. (1932 Act) IMPOSITION.

(a) On and after the fifteenth day after the date of the enactment of this Act, there shall be imposed—

(1) in the case of each telegraph, telephone, cable, or radio dispatch, message, or conversation, which originates on or after such date and before July 1, 1935, within the United States, a tax at the following rates:

(A) Telephone conversations for which the charge is 50 cents or more and less than \$1, 10 cents; for which the charge is \$1 or more and less than \$2, 15 cents; for which the charge is \$2 or more, 20 cents;

(B) telegraph dispatches and messages, 5 per centum of the amount charged therefor; and

(C) cable and radio dispatches and messages, 10 cents;

but only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

(2) a tax equivalent to 5 per centum of the amount paid on or after the fifteenth day after the date of the enactment of this Act to any telegraph or telephone company for any leased wire or talking circuit special service furnished on or after such date and before July 1, 1935. This paragraph shall not apply to the amount paid for so much of such service as is utilized in the conduct, by a common carrier or telephone or telegraph company or radio broadcasting station or net work, of its business as such.

(b) No tax shall be imposed under this section upon any payment received for services or facilities furnished to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia, nor upon any payment received from any person for services or facilities utilized in the collection of news for the public press or in the dissemination of news through the public press, if the charge for such services or facilities is billed in writing to such person. The right to exemption under this subsection shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor.

NOTE.—For section 701 of 1934 act (relating to capital stock tax), see page 266.

SEC. 702. (1932 Act) RETURNS AND PAYMENT OF TAX.

(a) The taxes imposed by section 701 shall be paid by the person paying for the services or facilities.

(b) Each person receiving any payments specified in section 701 shall collect the amount of the tax imposed by such section from the person making such payments, and shall on or before the last day of each month make

a return, under oath, for the preceding month, and pay the taxes so collected, to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe. The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than 90 days.

NOTE.—For section 702 of 1934 act (relating to excess-profits tax), see page 269.

Part II—Admissions Tax

SEC. 711. (1932 Act) ADMISSIONS TAX.

(a) Paragraph (1) of section 500 (a) of the Revenue Act of 1926, as amended, is amended to read as follows:

“(1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in case the amount paid for admission is less than 41 cents, no tax shall be imposed. In the case of persons (except bona fide employees, municipal officers on official business, and children under 12 years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscribed for a single admission is less than 41 cents;”

(b) Paragraph (2) of section 500 (a) of the Revenue Act of 1926, as amended, is amended to read as follows:

“(2) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 10 per centum of the amount of such excess; such tax to be returned and paid, in the manner and subject to the interest provided in section 502, by the person selling such tickets;”

(c) Section 500 of the Revenue Act of 1926, as amended, is amended by adding at the end thereof the following subdivision:

“(e) The exemption from tax provided by subdivision (b) (1) (A) shall not be allowed in the case of admissions to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions. The exemption from tax provided by subdivision (b) (1) shall not be allowed in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States).”

(d) Subsections (a) and (c) shall take effect on the fifteenth day after the date of the enactment of this Act.

(e) Effective July 1, 1935, section 500 (a) (1) of the Revenue Act of 1926, as amended by subsection (a) of this section, is amended by striking out “less than 41 cents” wherever appearing in such paragraph, and inserting in lieu thereof “\$3 or less”.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor.

Part III—Stamp Taxes

SEC. 721. (1932 Act) STAMP TAX ON ISSUES OF BONDS, ETC.

(a) Subdivision 1 of Schedule A of Title VIII of the Revenue Act of 1926 is amended by striking out "5 cents" and inserting in lieu thereof "10 cents", and by inserting at the end thereof a new sentence to read as follows: "The tax under this subdivision shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 per centum of the cash amount to which entitled upon maturity of the instrument."

(b) Subsection (a) shall take effect on the 15th day after the date of the enactment of this Act.

(c) Effective July 1, 1935, such subdivision 1, as amended by subsection (a) of this section, is amended by striking out "10 cents" and inserting in lieu thereof "5 cents".

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

SEC. 722. (1932 Act) STAMP TAX ON ISSUES OF STOCK, ETC.

(a) Subdivision 2 of Schedule A of Title VIII of the Revenue Act of 1926 is amended to read as follows:

"2. Capital stock (and similar interests), issue: On each original issue, whether on organization or reorganization, of shares or certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subdivision or subdivision 1 (whether or not such investment trust or similar organi-

zation constitutes a corporation within the meaning of this Act), on each \$100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 10 cents: *Provided*, That where such shares or certificates are issued without par or face value, the tax shall be 10 cents per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of \$100 per share, in which case the tax shall be 10 cents on each \$100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than \$100 per share, in which case the tax shall be 2 cents on each \$20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued).

“The stamps representing the tax imposed by this subdivision shall be attached to the stock books or corresponding records of the organization and not to the certificates issued.”

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

(c) Effective July 1, 1935, such subdivision 2, as amended by subsection (a) of this section, is amended by striking out “10 cents” wherever appearing in such subdivision and inserting in lieu thereof “5 cents”, and by striking out “2 cents” and inserting in lieu thereof “1 cent”.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor.

SEC. 723. (1932 Act) STAMP TAX ON TRANSFER OF STOCKS, ETC.

(a) Subdivision 3 of Schedule A of Title VIII of the Revenue Act of 1926 is amended to read as follows:

“3. Capital stock (and similar interests), sales or transfers: On all sales, or agreements to sell, or memo-

ransa of sales or deliveries of, or transfers of legal title to any of the shares or certificates mentioned or described in subdivision 2, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each \$100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued), 4 cents, and where such shares or certificates are without par or face value, the tax shall be 4 cents on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share, as the case may be) : *Provided*, That in case the selling price, if any, is \$20 or more per share the above rate shall be 5 cents instead of 4 cents: *Provided further*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited nor upon the return of stock loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers

shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, share, interest or right, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both."

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

(c) Effective July 1, 1935, such subdivision 3, as amended by subsection (a) of this section, is amended by striking out "4 cents" wherever appearing in such subdivision and inserting in lieu thereof "2 cents", and by striking out the following: "in case the selling price, if any, is \$20 or more per share the above rate shall be 5 cents instead of 4 cents: *Provided further*, That".

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

SEC. 724. (1932 Act) STAMP TAX ON TRANSFER OF BONDS, ETC.

(a) Schedule A of Title VIII of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"9. Bonds, etc., sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in subdivision 1 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each \$100 of face value or fraction thereof, 4 cents: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: *Provided further*, That the tax shall not be imposed on deliveries or transfers of bonds in connection with a reorganization (as defined in section 112 of the Revenue Act of 1932) if any of the gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such instruments continue to be held by such nominee for the same purpose for which they would be

held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both."

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

(c) Subdivision 9 of Schedule A of Title VIII of the Revenue Act of 1926, added to such schedule by subsection (a) of this section, is repealed effective July 1, 1935.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

SEC. 725. (1932 Act) STAMP TAX ON CONVEYANCES.

Schedule A of Title VIII of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"8. Conveyances: Deed, instrument, or writing, delivered on or after the 15th day after the date of the enact-

ment of the Revenue Act of 1932 and before July 1, 1935 (unless deposited in escrow before April 1, 1932), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof, 50 cents. This subdivision shall not apply to any instrument or writing given to secure a debt."

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

SEC. 726. (1932 Act) STAMP TAX ON SALES OF PRODUCE FOR FUTURE DELIVERY.

(a) Subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926 is amended by striking out "1 cent" wherever appearing in such subdivision, and inserting in lieu thereof "5 cents".

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

(c) Effective July 1, 1935, such subdivision 4, as amended by subsection (a) of this section, is amended by striking out "~~5 cents~~ 3 cents" wherever appearing in such subdivision and inserting in lieu thereof "1 cent".

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor.

SEC. 612. (1934 Act) STAMP TAX ON SALES OF PRODUCE FOR FUTURE DELIVERY.

(a) *Effective on the day following the enactment of this Act subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926, as amended, is amended by striking out "5 cents" wherever appearing in such subdivision, and inserting in lieu thereof "3 cents".*

(b) Section 726(c) of the Revenue Act of 1932 is amended by striking out "5 cents" and inserting in lieu thereof "3 cents".

NOTE.—Subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926, as amended by the above, reads as follows:

4. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each \$100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, ~~5 cents 3 cents~~, and for each additional \$100 or fractional part thereof in excess of \$100, ~~5 cents 3 cents~~: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

This subdivision shall not affect but shall be in addition to the provisions of the "United States cotton futures Act," approved August 11, 1916, as amended, and "The Future Trading Act," approved August 24, 1921.

Part IV—Tax on Transportation of Oil by Pipe Line

SEC. 731. (1932 Act) TAX ON TRANSPORTATION OF OIL BY PIPE LINE.

(a) There is hereby imposed upon all transportation of crude petroleum and liquid products thereof by pipe line originating on or after the fifteenth day after the date of the enactment of this Act and before July 1, 1935—

(1) A tax equivalent to 4 per centum of the amount paid on or after the fifteenth day after the date of the enactment of this Act for such transportation, to be paid by the person furnishing such transportation.

(2) In case no charge for transportation is made, either by reason of ownership of the commodity transported or for any other reason, a tax equivalent to 4 per centum of the fair charge for such transportation, to be paid by the person furnishing such transportation.

(3) If (other than in the case of an arm's length transaction) the payment for transportation is less than the fair charge therefor, a tax equivalent to 4 per centum of such fair charge, to be paid by the person furnishing such transportation.

(b) For the purposes of this section, the fair charge for transportation shall be computed—

(1) from actual bona fide rates or tariffs, or

(2) if no such rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or

(3) if no such rates or tariffs exist, then on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

(c) Every person liable for the tax imposed under subsection (a) shall make monthly returns under oath in duplicate and pay such taxes to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United

States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor.

Part V—Tax on Leases of Safe Deposit Boxes

SEC. 741. (1932 Act) TAX ON LEASES OF SAFE DEPOSIT BOXES.

(a) There is hereby imposed a tax equivalent to 10 per centum of the amount collected on or after the fifteenth day after the date of the enactment of this Act, for the use after such date of any safe deposit box, such tax to be paid by the person paying for the use of the safe deposit box.

(b) For the purposes of this section any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, used for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable personal property, shall be regarded as a safe deposit box.

(c) Every person making any collections specified in subsection (a) shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay the tax imposed by subsection (a), to the collector for the district in which is located his principal place of business, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

Part VI—Tax on Checks, Etc.

SEC. 751. (1932 Act) TAX ON CHECKS, ETC.

(a) There is hereby imposed a tax of 2 cents upon each of the following instruments, presented for payment on or after the 15th day after the date of the enactment of this Act and before ~~July 1, 1935~~ *January 1, 1935*: Checks, drafts, or orders for the payment of money, drawn upon any bank, banker, or trust company; such tax to be paid by the maker or drawer.

(b) Every person paying any of the instruments mentioned in subsection (a) as drawee of such instrument shall collect the amount of the tax imposed under such subsection by charging such amount against any deposits to the credit of the maker or drawer of such instrument, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay such taxes to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information and be made in such a manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe. Every person required to collect any tax under this section is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date “1934” appearing in this section of the 1932 act and substituted “1935” therefor. Section 606 of the 1934 act further amended the section by striking out “July 1, 1935” and inserting in lieu thereof “January 1, 1935”.

Part VII—Tax on Boats

SEC. 761. (1932 Act) TAX ON USE OF BOATS.

(a) On and after July 1, 1932, and on July 1, 1933, and on July 1, 1934, and also at the time of the original purchase of a new yacht or other boat by a user, if on any

other date than July 1 and before July 1, 1935, there is hereby imposed upon the use of yachts; pleasure boats, power boats, sailing boats, and motor boats with fixed or outboard engines, not used exclusively for trade, fishing, or national defense, a tax at the following rates:

- (1) Length over 28 feet and not over 50 feet, \$10.
- (2) Length over 50 feet and not over 100 feet, \$40.
- (3) Length over 100 feet and not over 150 feet, \$100.
- (4) Length over 150 feet and not over 200 feet, \$150.
- (5) Length over 200 feet, \$200.

NOTE.—Section 212 of the National Industrial Recovery Act struck out the date "1934" appearing in this section of the 1932 act and substituted "1935" therefor, and added a comma and the words "and on July 1, 1934" following "July 1, 1933."

(b) In the case of any of the foregoing if foreign built and not owned on January 1, 1926, by a citizen of the United States or by a domestic partnership or corporation, the tax under this section shall be twice the amount of the tax provided in subsection (a).

(c) In determining the length of any of the foregoing, the measurement of over-all length shall govern.

(d) In the case of a tax imposed at the time of the original purchase of a new yacht or boat on any other date than July 1, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months (including the month of sale) remaining prior to the following July 1.

(e) This section shall not apply to any yacht or other boat which is used without profit by any benevolent, charitable, or religious organization, exclusively for furnishing aid, comfort, or relief to seamen.

(f) The taxes imposed by this section shall be collected and paid in such manner as the Commissioner, with the approval of the Secretary, shall by regulations prescribe.

(g) All provisions of law (including penalties) applicable in respect of the taxes imposed by section 702 of the Revenue Act of 1926 shall, in so far as applicable and

not inconsistent with this Act, be applicable in respect of the taxes imposed by this section.

NOTE.—Section 613 of the 1934 act reads as follows:

SEC. 613. TERMINATION OF TAX ON USE OF BOATS.

Section 761 of the Revenue Act of 1932, as amended, shall not apply to the use of any boat after June 30, 1934.

Part VIII—Administrative Provisions

SEC. 771. (1932 Act) PAYMENT OF TAXES.

The taxes imposed by Parts I, IV, V, and VI of this title shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time the tax became due until paid.

SEC. 772. (1932 Act) REFUNDS AND CREDITS.

(a) Credit or refund of any overpayment of tax imposed by Part I, V, or VI of this title may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) Any person entitled to refund of tax under Part I, IV, V, or VI of this title paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) Any person making a refund of any payment on which tax under Part I or V has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 773. (1932 Act) REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of Parts I, IV, V, and VI of this title.

SEC. 774. (1932 Act) APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 500 of the Revenue Act of 1926, shall, in so far as applicable and not inconsistent with this Act, be applicable in respect of the taxes imposed by Parts I, IV, V, and VI of this title.

TITLE V (1934 Act)—CAPITAL STOCK AND EXCESS-PROFITS TAXES**SEC. 701. (1934 Act) CAPITAL STOCK TAX.**

(a) *For each year ending June 30, beginning with the year ending June 30, 1934, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of \$1 for each \$1,000 of the adjusted declared value of its capital stock.*

(b) *For each year ending June 30, beginning with the year ending June 30, 1934, there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent of \$1 for each \$1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.*

(c) *The taxes imposed by this section shall not apply—*

- (1) to any corporation enumerated in section 101;*
- (2) to any insurance company subject to the tax imposed by section 201, 204, or 207;*
- (3) to any domestic corporation in respect of the year ending June 30, 1934, if it did not carry on or*

do business during a part of the period from the date of the enactment of this Act to June 30, 1934, both dates inclusive; or

(4) to any foreign corporation in respect of the year ending June 30, 1934, if it did not carry on or do business in the United States during a part of the period from the date of the enactment of this Act to June 30, 1934, both dates inclusive.

(d) Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(f) For the first year ending June 30 in respect of which a tax is imposed by this section upon any corporation, the adjusted declared value shall be the value, as declared by the corporation in its first return under this section (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section (or as of the date of organization in the case of a corporation having no income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section). For any subsequent year ending June 30, the adjusted declared value in the case of a domestic corporation shall be the original declared value plus (1) the cash and fair market value of property paid in for stock or shares, (2) paid in surplus and contributions to capital, (3) its net income, (4) the excess of its income wholly exempt from the taxes imposed by Title I over the amount disallowed as a deduction by section 24(a) (5) of such title, and (5) the amount of the dividend deduction allowable for income tax purposes, and minus (A) the value of property distributed in liquidation to shareholders, (B) distributions of earnings or profits, and (C) the excess of the deductions allowable for income tax purposes over its gross income; adjustment being made for each income-tax taxable year included in the period from the date as of which the original declared value was declared to the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year. For any subsequent year ending June 30, the adjusted declared value in the case of a foreign corporation shall be the original declared value adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the ap-

proval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

NOTE.—For section 701 of 1932 act (relating to tax on telegraph, etc., facilities), see page 249.

SEC. 702. (1934 Act) EXCESS-PROFITS TAX.

(a) *There is hereby imposed upon the net income of every corporation, for each income-tax taxable year ending after the close of the first year in respect of which it is taxable under section 701, an excess-profits tax equivalent to 5 per centum of such portion of its net income for such income-tax taxable year as is in excess of $12\frac{1}{2}$ per centum of the adjusted declared value of its capital stock (or in the case of a foreign corporation the adjusted declared value of capital employed in the transaction of its business in the United States) as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year) determined as provided in section 701. If the income-tax taxable year in respect of which the tax under this section is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months. For the purposes of this section the net income shall be the same as the net income for income tax purposes for the year in respect of which the tax under this section is imposed.*

(b) *All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.*

NOTE.—For section 702 of 1932 act (relating to returns and payment of facilities tax), see page 250.

SEC. 703. (1934 Act) CAPITAL STOCK TAX AND EXCESS-PROFITS TAX IMPOSED BY NATIONAL INDUSTRIAL RECOVERY ACT.

Sections 217(d) and (e) of the National Industrial Recovery Act are amended to read as follows:

“(d) The capital-stock tax imposed by section 215 shall not apply to any taxpayer in respect of any year except the year ending June 30, 1933.

“(e) The excess-profits tax imposed by section 216 shall not apply to any taxpayer in respect of any taxable year ending after June 30, 1934.”

TITLE VI (1932 Act) — ESTATE TAX AMENDMENTS

SEC. 801. (1932 Act) CREDIT OF GIFT TAX ON ESTATE TAX.

Section 301 of the Revenue Act of 1926 is amended by inserting after subdivision (a) a new subdivision to read as follows:

“(b) (1) If a tax has been paid under Title III of the Revenue Act of 1932 on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this title, then there shall be credited against the tax imposed by subdivision (a) of this section the amount of the tax paid under such Title III with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by subdivision (a) of this section as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate.

“(2) For the purposes of paragraph (1), the amount of tax paid for any year under Title III of the Revenue Act

of 1932 with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year."

NOTE.—For section 801 of 1934 act (definitions), see page 291.

SEC. 802. (1932 Act) 80 PER CENTUM CREDIT.

(a) Section 301 (b) of the Revenue Act of 1926 is amended to read as follows:

"(c) The tax imposed by subdivision (a) of this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by subdivision (a) (after deducting from such tax the credits provided by subdivision (b)), and shall include only such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 304, except that—

"(1) If a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 308, then within such four-year period or before the expiration of 60 days after the decision of the Board becomes final.

"(2) If, under subdivision (b) of section 305 or subdivision (i) of section 308, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four-year period or before the date of the expiration of the period of the extension.

Refund based on the credit may (despite the provisions of section 319) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest, except that where the overpayment was

made prior to the enactment of the Revenue Act of 1932; then interest shall be allowed and paid on the amount refunded at the rate of 6 per centum per annum from the date of the overpayment to the date of such enactment."

(b) If any return required by section 304 of the Revenue Act of 1926 was filed more than three years before the enactment of this Act (except in cases where a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 308) the credit for estate, inheritance, legacy, or succession taxes shall be determined as if this section had not been enacted.

NOTE.—For section 802 of 1934 act (separability clause), see page 292.

SEC. 803. (1932 Act) FUTURE INTERESTS.

(a) Section 302 (c) of the Revenue Act of 1926, as amended by the Joint Resolution of March 3, 1931, is amended to read as follows:

"(c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, or of which he has at any time made a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such consideration, shall, unless shown to the contrary, be deemed to

have been made in contemplation of death within the meaning of this title."

(b) Section 302 (f) of the Revenue Act of 1926 is amended to read as follows:

"(f) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of or intended to take effect in possession or enjoyment at or after his death, or (3) by deed under which he has retained for his life or any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and "

(c) The first sentence of section 315 (b) of the Revenue Act of 1926 is amended to read as follows:

"(b) If (1) except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death, or makes a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom, or (2) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the

decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax."

NOTE.—For section 803 of 1934 act (effective date of act), see page 292.

SEC. 804. (1932 Act) RELINQUISHMENT OF DOWER, ETC., AS CONSIDERATION.

Section 303 (d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'."

SEC. 805. (1932 Act) DEDUCTIONS.

Section 303 (a) (1) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(1) Such amounts—

"(A) for funeral expenses,

"(B) for administration expenses,

"(C) for claims against the estate,

"(D) for unpaid mortgages upon, or any indebtedness in respect to, property where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, and

"(E) reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent,

as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or

property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth. There shall also be deducted losses incurred during the settlement of estates arising from fires, storms, shipwrecks, or other casualties, or from theft, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of the return such losses have not been claimed as a deduction for income tax purposes in an income tax return."

SEC. 806. (1932 Act) PRIOR TAXED PROPERTY.

(a) Section 303 (a) (2) of the Revenue Act of 1926 is amended to read as follows:

"(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate. Where a deduction was

allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1), (3), and (4) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of the decedent's gross estate. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction."

NOTE.—For amendment to above quoted provision of 1926 act made by section 402 of 1934 act, see page 163.

(b) Section 303 (b) (2) of the Revenue Act of 1926 is amended to read as follows:

"(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1932, or an estate tax imposed under this or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States.

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this subdivision as the amount otherwise deductible under this paragraph bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the United States. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction."

NOTE.—For amendment to above quoted provision of 1926 act made by section 402 of 1934 act, see page 163.

SEC. 807. (1932 Act) DEDUCTION OF BEQUESTS, ETC., TO CHARITY.

Sections 303 (a) (3) and 303 (b) (3) of the Revenue Act of 1926 are amended by inserting after the first sentence of each a new sentence to read as follows:

"If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes."

SEC. 808. (1932 Act) EXTENSION OF TIME FOR PAYMENT.

(a) Section 305 (b) of the Revenue Act of 1926 is amended to read as follows:

“(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed eight years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount in respect of which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.”

(b) Section 308 (i) of the Revenue Act of 1926 is amended to read as follows:

“(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of four years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension, and there shall be collected, as a part of the tax, interest on the part

of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period."

SEC. 809. (1932 Act) LIEN FOR TAXES.

(a) Section 315 (a) of the Revenue Act of 1926, as amended, is amended by adding at the end thereof a new sentence to read as follows:

"If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all property of such estate from the lien herein imposed."

(b) Section 613 (b) of the Revenue Act of 1928 (relating to liens for estate taxes) is repealed.

SEC. 810. (1932 Act) REFUNDS.

(a) Section 319 (b) of the Revenue Act of 1926 is amended to read as follows:

"(b) All claims for the refunding of the tax imposed by this title alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax. The amount of the refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the refund."

(b) The last sentence of section 319 (c) of the Revenue Act of 1926 is amended to read as follows:

“No such refund shall be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier.”

NOTE.—For amendment to above quoted provision of 1926 act made by section 504(d) of 1934 act, see page 202.

(c) Title III of the Revenue Act of 1924 is amended by inserting after section 318 a new section to read as follows:

“SEC. 318½. The amount of any refund of the tax imposed by Part I of this title shall not exceed the portion of the tax paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.”

(d) Section 319 (b) of the Revenue Act of 1926, as amended by this Act, and section 318½ of the Revenue Act of 1924, as added by this Act, shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

SEC. 811. (1932 Act) FUTURE INTERESTS—EXTENSION OF TIME FOR PAYMENT OF TAX.

(a) Section 305 of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

“(e) Where there is included in the value of the gross estate the value of a reversionary or remainder interest in property, the payment of the part of the tax imposed by this title attributable to such interest may, at the election of the executor, be postponed until six months after the termination of the precedent interest or interests in the property, and the amount the payment of which is so postponed shall then be payable, together with interest

thereon at the rate of 4 per centum per annum from eighteen months after the date of the decedent's death until such amount is paid. The postponement of payment of such amount shall be under such regulations as the Commissioner with the approval of the Secretary may prescribe, and shall be upon condition that the executor, or any other person liable for the tax, shall furnish a bond in such an amount, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment within six months after the termination of such precedent interest or interests of the amount the payment of which is so postponed, together with interest thereon, as above provided. Such part of any estate, inheritance, legacy, or succession taxes allowable as a credit against the tax imposed by this title as is attributable to such reversionary or remainder interest may be allowed as a credit against the tax attributable to such interest, subject to the percentage limitation contained in section 301 (c), if such part is paid, and credit therefor claimed, at any time prior to the expiration of 60 days after the termination of the precedent interest or interests in the property."

(b) The amendment to section 305 of the Revenue Act of 1926 made by subsection (a) of this section, shall not apply, in the case of estates of decedents dying prior to the date of the enactment of this Act, to that part of any payment of Federal estate taxes made prior to such date which is attributable to a reversionary or remainder interest in property.

TITLE VII (1932 Act)—TAX ON TRANSFERS TO AVOID INCOME TAX

SEC. 901. (1932 Act) IMPOSITION OF TAX.

There shall be imposed upon the transfer of stock or securities by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a for-

oreign trust, or to a foreign partnership, an excise tax equal to 25 per centum of the excess of (1) the value of the stock or securities so transferred over (2) its adjusted basis in the hands of the transferor as determined under section 113 of this Act.

SEC. 902. (1932 Act) NONTAXABLE TRANSFERS.

The tax imposed by section 901 shall not apply—

(a) if the transferee is an organization exempt from income tax under section 103 of this Act; or

(b) if prior to the transfer it has been established to the satisfaction of the Commissioner that such transfer is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

SEC. 903. (1932 Act) DEFINITION OF "FOREIGN TRUST".

A trust shall be considered a foreign trust within the meaning of this title if, assuming a subsequent sale by the trustee, outside the United States and for cash, of the property so transferred, the profit, if any, from such sale would not be included in the gross income of the trust under Title I of this Act.

SEC. 904. (1932 Act) PAYMENT AND COLLECTION.

(a) The tax imposed by section 901 shall, without assessment or notice and demand, be due and payable by the transferor at the time of the transfer, and shall be assessed, collected, and paid under regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Under regulations prescribed by the Commissioner with the approval of the Secretary the tax may be abated, remitted, or refunded if after the transfer it has been established to the satisfaction of the Commissioner that such transfer was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(c) All administrative, special, or stamp provisions of law, including penalties and including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title.

TITLE VIII (1932 Act)—POSTAL RATES

SEC. 1001. (1932 Act) POSTAL RATES.

(a) On and after the thirtieth day after the date of the enactment of this Act and until July 1, ~~1934~~ 1935, the rate of postage on all mail matter of the first class (except postal cards and private mailing or post cards, and except other first class matter on which the rate of postage under existing law is 1 cent for each ounce or fraction thereof) shall be 1 cent for each ounce or fraction thereof in addition to the rate provided by existing law: *Provided*, That such additional rate shall not apply on or after July 1, 1933, to first-class matter mailed for local delivery.

NOTE.—The proviso in this subsection was inserted by section 3(a) of the act extending the gasoline tax for 1 year, approved June 16, 1933.

(b) On and after July 1, 1932, and until July 1, ~~1934~~ 1935, on the advertising portion of any publication entered as second-class matter subject to the zone rates of postage under existing law, the rates per pound or fraction thereof for delivery within the eight postal zones established for fourth-class matter shall be as follows:

For the first and second zones, 2 cents.

For the third zone, 3 cents.

For the fourth zone, 5 cents.

For the fifth zone, 6 cents.

For the sixth zone, 7 cents.

For the seventh zone, 9 cents.

For the eighth zone, and between the Philippine Islands and any portion of the United States, including the District of Columbia and the several Territories and possessions, 10 cents.

(c) Only 85 per centum of the gross postal receipts during the period the increased rate of postage provided in subsection (a) remains in force shall be counted for the purpose of determining the class of the post office or

the compensation or allowances of postmasters or of postal employees of post offices of the first, second, and third classes, except that in the case of such post offices as have city or village letter carrier service 90 per centum of the gross postal receipts shall be counted for such purpose. For the purpose of determining the commissions (as distinguished from the compensation and the allowances based thereon) of postmasters of the fourth class, only 85 per centum of the applicable cancellations, collections, and receipts during such period shall be counted.

NOTE.—The matter following the word “classes” in the first sentence of this subsection was inserted by section 3(b) of the act extending the gasoline tax for 1 year, approved June 16, 1933. The amendment was made effective July 1, 1933.

NOTE.—The amendments to this section striking out “1934” and inserting “1935” were made by section 515 of the 1934 act. Such section reads as follows:

SEC. 515. POSTAL RATES.

Section 1001(a), as amended, of the Revenue Act of 1932, and section 2 of the Act entitled “An Act to extend the gasoline tax for one year, to modify postage rates on mail matter, and for other purposes”, approved June 16, 1933, are amended by striking out “1934” wherever such date appears and inserting in lieu thereof “1935”.

Section 2, as amended, of the act extending the gasoline tax for one year reads as follows:

SEC. 2. The President is authorized during the period ending June 30, ~~1934~~ 1935, to proclaim such modifications of postage rates on mail matter (except that in the case of first-class matter the rate shall not be reduced to less than 2 cents an ounce or fraction thereof) as, after a survey by him, he may deem advisable by reason of increase in business, the interests of the public, or the needs of the Postal Service, and such modifications shall be in effect on and after such date as he shall proclaim and until July 1, ~~1934~~ 1935. In case a modification of the rate of postage on first-class matter is proclaimed, the President shall also make a corresponding modification in the percentages of gross postal receipts specified in section 1001 (c) of the Revenue Act of 1932 as amended by this Act, which percentages shall be in effect during the period such modification of the rate of postage on first-class matter is in effect. Nothing in this section shall be construed as giving the President authority to change the rate fixed by law on first-class matter mailed for local delivery, postal cards, and private mailing or post cards.

TITLE IX (1932 Act)—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 1101. (1932 Act) REVIEW OF DECISIONS OF BOARD OF TAX APPEALS.

(a) Section 1001 (a) of the Revenue Act of 1926 (relating to time for filing petition for review of decisions of the Board of Tax Appeals) is amended by striking out "within six months after the decision is rendered" and inserting in lieu thereof "within three months after the decision is rendered".

(b) The amendment made by subsection (a) of this section shall not apply in respect of decisions of the Board of Tax Appeals rendered on or before the date of the enactment of this Act.

SEC. 1102. (1932 Act) BOARD OF TAX APPEALS—FEES.

Section 1004 (b) of the Revenue Act of 1926 is amended to read as follows:

"(b) The Board is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof."

SEC. 1103. (1932 Act) LIMITATIONS ON SUITS BY TAX- PAYERS.

(a) Section 3226 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim

for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates."

(b) Suits or proceedings instituted before the date of the enactment of this Act shall not be affected by the amendment made by subsection (a) of this section to section 3226 of the Revised Statutes. In the case of suits or proceedings instituted on or after the date of the enactment of this Act where the part of the claim to which such suit or proceeding relates was disallowed before the date of the enactment of this Act, the statute of limitations shall be the same as provided by such section 3226 before its amendment by subsection (a) of this section.

SEC. 1104. (1932 Act) DATE OF ALLOWANCE OF REFUND OR CREDIT.

Where the Commissioner has (before or after the enactment of this Act) signed a schedule of overassessments in respect of any internal revenue tax imposed by this Act or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

SEC. 1105. (1932 Act) JEOPARDY ASSESSMENT.

~~(a) If the Commissioner finds that a person liable for tax (other than income tax) under any provision of the internal revenue laws designs quickly to depart from the~~

United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the Commissioner shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax, and such tax shall thereupon become immediately due and payable.

(b) If such person (1) is not in default in making any return or paying any tax under the internal-revenue laws, and (2) furnishes to the United States, under regulations to be prescribed by the Commissioner with the approval of the Secretary, security approved by the Commissioner that he will duly return and pay the tax to which the Commissioner's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at

the time at which, but for this section, such amount would be due.

NOTE.—Section 510 of the 1934 act amended this section of the 1932 act to read as shown above in italics.

SEC. 1106. (1932 Act) REFUNDS OF MISCELLANEOUS TAXES.

(a) Subsection (a) of section 3228 of the Revised Statutes, as amended, is amended by adding at the end thereof the following:

“The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.”

(b) The amendment made by subsection (a) of this section to section 3228 of the Revised Statutes shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

SEC. 1107. (1932 Act) ADJUSTMENTS OF CARRIERS' TAX LIABILITIES TO CONFORM TO RECAPTURE PAYMENTS.

The Interstate Commerce Commission shall, as soon as practicable after its order with respect to the amount recoverable from any carrier under the provisions of section 15a of the Interstate Commerce Act, as amended, for any year or portion thereof has become final, and such amount, if any, has been paid, certify to the Commissioner of Internal Revenue the amount so paid. If the amount so paid by such carrier differs from the amount allowed as so recoverable in computing the income or excess profits tax liabilities for any taxable period of such carrier, or of any corporation whose income or excess profits tax liability is affected, the Commissioner of Internal Revenue

shall determine any deficiency or overpayment attributable to such difference. Notwithstanding any other provision of law, (1) any such deficiency may be assessed within two years from the date of such certification, and, if so assessed, shall be paid upon notice and demand from the collector, and (2) any such overpayment may be credited or refunded within two years from the date of such certification, but not after unless, before the expiration of such period, a claim therefor is filed. This section shall not be held to affect the provisions of section 1106 (b) of the Revenue Act of 1926 or 606 of the Revenue Act of 1928.

**SEC. 1108. (1932 Act) LIMITATION ON PROSECUTIONS
FOR INTERNAL REVENUE OFFENSES.**

(a) The Act entitled "An Act to limit the time within which prosecutions may be instituted against persons charged with violating internal revenue laws," approved July 5, 1884, as amended, and as reenacted by section 1110 of the Revenue Act of 1926, is amended to read as follows:

"That no person shall be prosecuted, tried, or punished, for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, except that the period of limitation shall be six years—

"(1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner,

"(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, and

"(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a

false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document).

“For offenses arising under section 37 of the Criminal Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitation shall also be six years. The time during which the person committing any of the offenses above mentioned is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings. Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district.”

(b) The amendment made by subsection (a) of this section shall apply to offenses whenever committed; except that it shall not apply to offenses the prosecution of which was barred before the date of the enactment of this Act.

SEC. 1109. (1932 Act) SPECIAL DISBURSING AGENTS OF TREASURY.

The Secretary of the Treasury is authorized to designate agents in charge of divisions of internal revenue agents to act as special disbursing agents of the Treasury for the payment of all salaries and expenses of such divisions, on giving good and sufficient bond in such form and with such security as the Secretary of the Treasury may approve, notwithstanding section 3144, Revised Statutes, as amended.

SEC. 1110. (1932 Act) REFUND OF TAXES FOR TAXABLE YEAR 1918.

Section 284 (h) of the Revenue Act of 1926 is amended to read as follows:

"(h) Except as provided in subdivision (d) this section shall not (1) bar from allowance a claim for credit or refund filed prior to the enactment of this Act which but for such enactment would have been allowable, or (2) bar from allowance a claim in respect of a tax for the taxable year 1918, 1919, or 1920 if such claim is filed before the expiration of five years after the date the return was due."

SEC. 1111. (1932 Act) DEFINITIONS.

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(4) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

(8) The term "stock" includes the share in an association, joint-stock company, or insurance company.

(9) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(10) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(11) The term "Secretary" means the Secretary of the Treasury.

(12) The term "Commissioner" means the Commissioner of Internal Revenue.

(13) The term "collector" means collector of internal revenue.

(14) The term "taxpayer" means any person subject to a tax imposed by this Act.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

NOTE.—This section is identical with section 801 of the 1934 act.

SEC. 1112. (1932 Act) SEPARABILITY CLAUSE.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

NOTE.—This section is identical with section 802 of the 1934 act.

SEC. 1113. EFFECTIVE DATE OF ACT.

Except as otherwise provided, this Act shall take effect upon its enactment.

NOTE.—This section is identical with section 803 of the 1934 act.

1932 Act approved June 6, 1932, 5 p.m.

1934 Act approved May 10, 1934, 11:40 a.m.

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[**NOTE.**—Dates in parentheses signify specific act—if no date is given, corresponding material in the two acts is found on the same page. Where no specific tax is referred to following an item in the index, the provision is applicable generally or applicable to the income tax; in all other cases, the particular tax to which the item is applicable is specified.]

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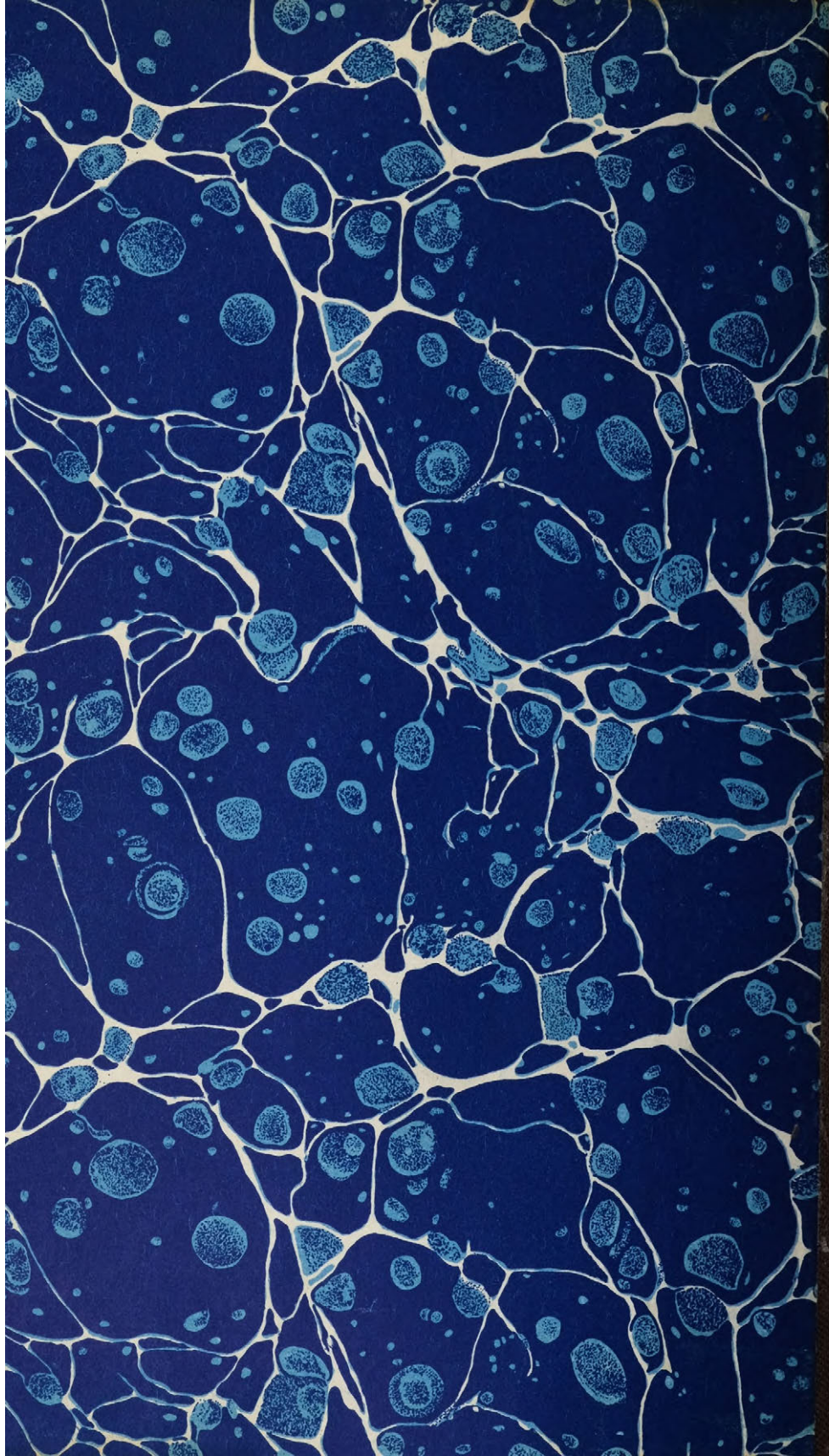
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