MEMORANDUM A-1

QUESTIONS AS TO THE EFFECT ON THE REVENUE

OF THE POINTS MADE IN MEMORANDUM A

Referring to Mr. Paul's accompanying memorandum marked "A", question arises as to how much additional tax will be derived from the suggestions made as follows:

1. The making of some appropriate provision to the end that the personal exemption and credit for dependents will be changed from its present form to a credit against tax, under which equal benefit would be given to taxpayers in the low brackets and taxpayers in the high brackets. This might be accomplished by an amendment to the statute limiting the present personal exemption and credit for dependents to a credit for normal tax purposes only.

2. The taxation of all stock dividends not presently subjected to income tax and particularly common stock dividends upon common stock, there being no other class of stock outstanding at the time of the declaration of the dividend.

3. The taxation of short-term and other trusts of a character exempted from tax to the grantor in such cases as the Meredith Wood case,[1] in which title to the trust property is transferred for a limited term to the trust, and the trust becomes a taxpayer in a lower bracket

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1. 37 BTA 1065, aff'd per curiam 104 F (2d) 1013 (CCA 2nd, 1939) cert. granted, Oct. 9, 1939.

than would be the grantor if he were charged with the income of the trust.

4 (a). The strengthening of Section 102 by a provision that the facts recited in Memorandum A, page 8, shall be regarded as constituting prima facie evidence of a purpose to avoid surtax upon shareholders.

(b). The strengthening of Section 102 by a provision that the word "existing" be inserted before the word "business" in subdivision (c) of Section 102 to prevent avoidance of the DeMille type described on pages 8 to 9 of Memorandum A.

(c). The lengthening of the statute of limitations as suggested in the same memorandum with respect to Section 102 cases.

5 (a). A provision to the effect that deductible religious, charitable, scientific, literary and educational and other contributions of the type deductible under Section 23 (o) be limited, when paid in the form of property, to the cost basis of the property to the donor or its value at the date of gift, whichever is lower.

(b). An alternative provision allowing no greater deduction than would be allowed if the donor sold the property and contributed the proceeds less the capital gains tax.

6 (a). An elimination of the deduction now contained in Section 23 (e) (3) applicable to losses arising from fire, storm, shipwreck or other casualty, or from theft.

(b). Treatment of such deduction as a capital loss instead of an ordinary loss.

7. A limitation of the allowance for the deduction of interest on non-business individual borrowings to a fixed amount of $500.

8 (a). An elimination of the deduction provided in Section 23 (b) of the Internal Revenue Code for interest paid or accrued on funded corporate indebtedness.

(b). A restriction of the reorganization provision so that it will not apply to recapitalizations having as their principal purpose the tax avoidance motive of substituting borrowed capital for an equity contribution by stockholders.

9. An elimination of the provision contained in Section 23 (k) for the deduction of non-business bad debts except bad debts when not exceeding $1,000 in the case of each debtor.

10. A limitation upon the allowance of deductible taxes as provided in Section 23 (d) in respect to property held for the taxpayer's own use to taxes on small homes not exceeding $10,000 in cost to the deducting owner, or value in the taxable year of deduction.

11. A provision to the effect that where the optional valuation privilege granted by Section 302 (j) of the estate tax statute is used, the basis for the property valued pursuant to this election shall be the same for the purposes of capital gains or losses as the value used in the estate tax return.

12. (a). A provision denying to husband and wife living together the privilege of filing joint returns.

(b). A provision generally adopting the British method of taxation of husband and wife as outlined in Memorandum A, assessing the joint income at surtax rates based upon the combined income of both husband and wife.

13. (a). An amendment of existing law along the lines suggested in item 13 of Memorandum A with particular respect to taxing the interest on all state or Federal bonds issued after the passage of a new Congressional amendment.

(b). An amendment of the existing law, as proposed by Senator Glass 20 years ago, which would measure the surtaxes applicable to non-tax-exempt income in relation to taxpayer's total income, including tax-exempt income.

14. (a). A flat increase in capital gain rates of 50% of the existing rates with a provision that capital gains shall not be recognized to the extent that the gains are reinvested within 12 months in risk-bearing equities in new enterprises.

(b). An amendment of capital gains provisions so as to make capital gains taxable at the highest rate (not exceeding 50%, however) applicable to taxpayer's income, exclusive of capital gains, with a provision for a credit against the tax to the extent that the gains are reinvested within 12 months in risk bearing equities in new enterprises.

15. A provision revoking the exemption now granted by Section 115 (b) of the Internal Revenue Code to corporate distributions of earnings or profits or increase in value of property accrued prior to March 1, 1913.

16. A provision in the statute incorporating the general principles of G.C.M. 13, 796, CB XIII-2, p. 41, discussed under item 16 of Memorandum A.

17. A provision discountenancing the doctrine of the W. & K. Holding case, 32 BTA 830.

18. (a). A provision that the basis for gain or loss and depreciation and depletion shall be, in the case of property transmitted at death, the adjusted cost basis in the hands of the decedent, rather than the value at the date of death.

(b). A provision along the lines of Section 42 of the Internal Revenue Code generally to the effect that death shall constitute a closed transaction with respect to property transmitted by the decedent at death.

19. A provision limiting the exemption now accorded to domestic building and loan associations along the general lines indicated at page 28 of Memorandum A.

20. A provision limiting the exemption and deductions granted to mutual casualty and fire insurance companies along the lines indicated at page 29 of Memorandum A.

21. A provision limiting the deduction for payments made by employers to pension trusts to a fixed amount per annum of $5,000 for any one employee.

22. A provision eliminating the "bonus" deduction on account of discovery value and persentage depletion now allowed to mine owners and oil and gas well owners, to the general end that such taxpayers shall be limited to cost depletion, or depletion on the basis of value at March 1, 1913.

23. A modification for the existing regulations granting the option as to the expense deductions or capitalization of intangible drilling and development costs as outlined at page 33 of Memorandum A.

24. (a). The elimination of the exemption from capital gains tax on sales consummated within the United States now granted to non-resident aliens and foreign corporations having no office or place of business within the United States.

(b). A general provision placing foreign non-resident corporations upon a basis of taxation similar to that employed with respect to domestic corporations.

25. (a). A modification of the $40,000 general estate tax exemption (and also the $100,000 estate tax exemption granted by the 1926 Act) so that an equal benefit is derived from the exemption by both large and small estates.

(b). An elimination of the $40,000 general estate tax exemption (and the $100,000 estate exemption) in the case of estates exceeding $1,000,000 in net value excluding the exemption.

(c). A redevelopment of the estate tax structure so that the effect of the $40,000 general estate tax exemption (and the $100,000 exemption granted by the 1926 Act) is limited to a normal estate tax not exceeding 20%.

(d). A provision similar to that mentioned in (a), (b) and (c) above with respect to the insurance proceeds exemption of $40,000 on policies payable to named beneficiaries.

26. (a). A prospective provision generally to the effect that the proceeds of life insurance shall be subjected to estate tax to the extent that the decedent has paid premiums on the insurance or in their full amount where he possesses at the date of his death some incident of ownership over the policies.

(b). A provision as to cross-insurance policies along the lines suggested in Memorandum A, page 39, subjecting the proceeds of such policies to income tax at the regular rates, or to a special excise tax at a flat rate of 10%.

(c). A comparative statement showing the effect of this amendment generally as compared with an amendment modified on the basis of cash surrender value or ratio on the time basis, as described on page 39 of Memorandum A.

27. (a). A provision limiting the tax exempting effect now applicable in the case of special powers of appointment as indicated on page 43 of Memorandum A with an exception that special powers made thereunder can be exercised free from estate tax only among the children of the donor or donee and where the property in default of appointment is to be distributed among that class.

(b). A provision imposing a succession or inheritance tax on the value of remainders under a will, to be imposed at the death of the life tenant at rates equal to the existing estate tax rates.

28. A provision subjecting reverter interests to estate tax taxation where the decedent retains any valuable interest in his property by which he postpones final disposition thereof until his death, such as the interest involved in the St. Louis case mentioned on page 43.

29. A provision that gifts by persons over 60 years of age shall be subject to an irrebuttable presumption that they were made in contemplation of death.

30. A provision precluding the estate tax deductibility of uncollectible claims.

31. A provision limiting the $4,000 gift tax exemption to gifts to members of the donor's immediate family.