

MEMORANDUM B-1

QUESTIONS AS TO THE EFFECT ON THE REVENUE
OF THE POINTS MADE IN MEMORANDUM B

Referring to Mr. Paul's accompanying memorandum marked "B", question arises as to how much loss of revenue will result from the suggestions made as follows:

1 (a). A provision requiring affiliated corporations (defining those terms as they were defined in the income tax acts immediately prior to 1934) to file consolidated returns, the rates of taxation to remain unchanged.

(b). A provision granting permission to file consolidated returns (1) upon condition that under a consolidated return there should be added an additional rate of 1% to the tax generally provided with respect to corporations, and (2) without such a 1% differential.

2 A provision modifying the present taxation on 15% of the amount received as intercorporate dividends in the following respects:

(a). An elimination of this tax where the dividends were received from a subsidiary company the formation of which was necessary to carry on business activities in a particular state.

(b). Eliminating the tax completely where the corporation has reasonably invested surplus in another corporation without acquiring a controlling interest.

(c). Raising the tax (by imposing it upon 25% instead of 15% of the dividends received) in the case of complicated corporate structures involving a sub-subsidiary.

3 (a). A provision amending Section 820 added by the Revenue Act of 1938 and giving the Commissioner discretion to allow adjustments back to 1932 for worthless stock or bad debts where there has been a determination resulting in a double disallowance of such a deduction.

(b). A provision eliminating from the statute (retroactively to 1932) the requirement that bad debts ascertained to be worthless during the taxable year must be charged off on the books of the taxpayer.

4 A provision amending Section 117 of the Internal Revenue Code to provide that neither a mortgage foreclosure nor any conveyance in lieu of a foreclosure should be regarded as a sale or exchange within the meaning of Section 117 and that the loss of either party upon such transactions should be ordinary, rather than capital, losses.

5 (a). A provision which would prospectively amend the income tax statute by rejecting the Supreme Court cases of Gould v. Gould and Douglas v. Willcuts and which would impose income tax upon a divorced wife with respect to amounts hereafter received by way of alimony or trust payments in lieu of alimony, allowing the husband to deduct such amounts from his gross income.

(b). A provision which would subject to existing gift tax rates the creation by a husband of an alimony trust which completely discharged the husband's obligation of support towards his divorced wife.

6 A provision amending the Chandler Act to provide that the cost basis of assets in the hands of a corporation reorganized under Section 77 B should be reduced only by the amount of the debt cancellation which would have constituted taxable income except for the statutory exemption in the same Act.

7 A provision that the earnings or profits of corporations available for dividend distribution shall not be affected by any increase or decrease in the value of assets, or on account of a tax-free reorganization, which are not recognized for income tax purposes.

8 A provision retroactively reducing the undistributed profits tax in the case of corporations which were unable to make legal distribution of dividends under local law because of capital deficits, to a flat tax of 5%.

9 (a). A provision removing the 65% or 75% tax on the undistributed income of personal holding companies where the company has no earnings or profits available for the distribution of a dividend.

(b). A provision imposing the personal holding company surtax upon taxable income without regard to the existence of earnings

or profits, but extending the consent dividends credit provided in Section 28 to permit shareholders to consent to the taxation of undistributed income even though such amounts would not have been taxed to them as a dividend if actually distributed.

10. A procedural provision requiring all tax suits or proceedings to be instituted against the United States rather than the Collector or Commissioner and conferring upon the Board of Tax Appeals and the courts a broad discretion in tax cases to disregard the principle of res judicata, where the facts or the law as announced by the courts is changed in the subsequent year.

11. A provision allowing the \$400 credit for dependents to be claimed with respect to children of the taxpayer until the children reach the age of 21, instead of 18.

12. A provision allowing a maximum deduction of \$100 for medical or dental expenses per year paid on behalf of the taxpayer or any of his dependents.

13. A provision once more granting the \$4,000 gift tax exclusion to gifts in trust, but with a limitation that only one such exclusion should be recognized in any year with respect to gifts in trust for the same beneficiary.

14. A provision amending the gift tax law to the effect that conveyances by way of tenancies of the entirety of the type

involved in Lilly v. Smith should not be subjected to gift tax where the same property will later be taxed for estate tax purposes.

15. A provision reducing the interest on deficiencies and refunds to 4%, rather than 6%.