

# REVENUE ACT OF 1934

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## REVENUE ACT OF 1934

### FULL TEXT OF LAW APPROVED MAY 10 1934

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### 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 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 taxable years beginning after Dec. 31 1933. Income, war-profits, and excess-profits taxes for taxable years beginning prior to Jan. 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 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 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) 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.

\$80 upon surtax net incomes of \$6,000; and upon surtax net incomes in excess of \$6,000 and not in excess of \$8,000, 5 per centum in addition 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.

\$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, 7 per centum in addition of such excess.

\$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, 8 per centum in addition of such excess.

\$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, 9 per centum in addition of such excess.

\$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, 11 per centum in addition of such excess.

\$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, 13 per centum in addition of such excess.

\$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, 15 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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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.

\$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, 52 per centum in addition of such excess.

\$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, 53 per centum in addition of such excess.

\$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, 54 per centum in addition of such excess.

\$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, 55 per centum in addition of such excess.

\$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, 56 per centum in addition of such excess.

\$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, 57 per centum in addition of such excess.

\$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, 58 per centum in addition of such excess.

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

(c) Tax on Personal Holding Companies.—For surtax on personal holding companies, see Section 351.

(d) Avoidance of Surtaxes by Incorporation.—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see Section 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 13½ 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 101.

(c) Tax on Personal Holding Companies.—For surtax on personal holding companies, see Section 351.

(d) Improper Accumulation of Surplus.—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see Section 102.

## 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 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 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, &c.—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 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.

(2) 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) obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations 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 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 Sept. 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 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 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 on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after Sept. 24 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this title.

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

(1) Federal income, war-profits, and excess-profits taxes;

(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);

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

(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.

(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.—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.—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.

(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 loss from the sale or other disposition of property.

(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 30 days before or after the date of the sale, the taxpayer has acquired substantially identical property, see Section 118.

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

(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.

(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.

(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).)

(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.

(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 contributions 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.)

(p) Dividends Received by Corporations.—In the case of a corporation, the amount received as dividends from a domestic corporation which is subject to taxation under this title. 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 beginning after Dec. 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.

#### 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;

(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 deductions 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 (l) and (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 non-deductibility of tax withheld on tax-free covenant bonds, see Section 143 (a) (3).

#### Sec. 25. Credits of Individual Against Net Income.

(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 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) "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, 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.

#### 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 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. Credit for Overpayments.

For credit against the tax of overpayment of taxes imposed by this title for other taxable years, see Section 322.

### 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. Instalment 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 instalment plan may return as income therefrom in any taxable year that proportion of the instalment 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 30% of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to Jan. 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 Instalment Basis.—If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the instalment 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 Instalment Obligations.—If an instalment 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 instalment 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 instalment 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 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 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 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 12 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 Dec. 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) 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 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.

(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.

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, 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.

#### 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, Md.

(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, Md.

#### 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.

(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 15th 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 15th day of the third month following the close of the fiscal year.

(b) Instalment Payments.—The taxpayer may elect to pay the tax in four equal instalments, in which case the first instalment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second instalment shall be paid on the 15th day of the third month, the third instalment on the 15th day of the sixth month, and the fourth instalment on the 15th day of the ninth month, after such date. If any instalment 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 instalment thereof, for a period not to exceed six months from the date prescribed for the payment of the tax or an instalment 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 instalment 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 non-resident 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.

#### 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 non-payment of tax or failure to file return therefor, see Supplement M.

(b) For criminal penalties for non-payment 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 1932 Act.

The taxes imposed by this title shall be in lieu of the corresponding taxes imposed by the Revenue Act of 1932.

#### Sec. 64. Short Title.

This title may be cited as the "Income Tax Act of 1934."

### SUBTITLE C—SUPPLEMENTAL PROVISIONS.

#### SUPPLEMENT A—RATES OF TAX.

[Supplementary to Subtitle B, Part I]

#### Sec. 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 co-operative 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 non-profitable 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 co-operative 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 hall, 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 co-operative 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 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 non-voting 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 non-members 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 non-members 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 non-voting 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) 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 shareholder 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. 102. Surtax on Corporations Improperly Accumulating Surplus.

(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 avoid surtax.

(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 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) *Tax on Personal Holding Companies.*—For surtax on personal holding companies, see Section 351.

#### 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.

#### 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.*—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 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) *Instalment Sales.*—Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in instalments) the taxation of that portion of any instalment 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 hereinafter 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 Feb. 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 reorganization, 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 or 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) *Definition of Reorganization.*—As used in this Section and Section 113—

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock 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 another corporation; or of substantially all the properties of another corporation, 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 (D) a recapitalization, or (E) a mere change in identity, form, or place or 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 a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(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.

(i) *Foreign Corporations.*—In determining the extent to which gain shall be recognized in the case of any of the exchanges (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), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange 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 Dec. 31 1920.*—If the property was acquired by gift after Dec. 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 determine 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 Dec. 31 1920.*—If the property was acquired after Dec. 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 Jan. 1 1921.*—If the property was acquired by gift or transfer in trust on or before Dec. 31 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) *Property Transmitted at Death.*—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, after Feb. 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 Dec. 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 Dec. 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) Involuntary Conversion.—If the property was acquired, after Feb. 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.

(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 non-deductibility (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.

(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 Jan. 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 Feb. 28 1913, in any taxable year beginning prior to Jan. 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 Feb. 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.

(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, including 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 Feb. 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 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 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 Feb. 28 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 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 Feb. 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 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. 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 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 Feb. 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 Feb. 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), 10 per centum of the gain so recognized shall be taken into account in computing net income. In the case of amounts distributed (whether before Jan. 1 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of 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) Distribution 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 Feb. 28 1913, shall be treated as a taxable dividend.

(h) Distribution of Stock on Reorganization.—Effect on Future Distributions.—The distribution before Jan. 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.

(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.

(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.

(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, &c.—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 Sept. 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) 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, dividend and rents.

#### 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, &c.—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, &c.—For the purposes of this title, amounts received by the holder upon 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 thereof.

#### 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 determined 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 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 process 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 "exchanges"; 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 10 preceding taxable years the amount of the contributions or gifts described in Section 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(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 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.

#### 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 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 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 1932 insofar as not inconsistent with this Act) prescribed prior to the date on which such return is made; except that 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).

(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 non-voting stock which is limited and preferred as to dividends.

(e) Foreign Corporations.—A foreign corporation shall not be deemed to be affiliated with any other corporations 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 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) Allocations 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 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 Jan. 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) 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) 13¼ 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 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 Feb. 1 a signed notice in writing claiming the benefit of the credits provided in Section 25(b); nor in the case of a non-resident alien individual if so provided for in regulations prescribed by the Commissioner under Section 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 214) deduct and withhold from such annual or periodical gains, profits and income a tax equal to 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.

##### 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 13¼ 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 wilfully 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 wilfully fails to collect or truthfully account for and pay over such tax, and any person who wilfully attempts to 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 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 contingent 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, &c., contributions authorized by Section 23(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(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(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).

(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) 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) 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 Jan. 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).

#### Sec. 166. Revocable Trusts.

Where at any time the power to revert 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 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(o), 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. 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.

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.

#### 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.

#### 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) 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.

#### Sec. 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. 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 Jan. 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 Dec. 31 1933, the partnership net income for any taxable year of the partnership beginning before Jan. 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, 13¼ per centum of 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, 13¼ per centum of 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) (4) 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 3¼ 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 3¼ 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 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;

(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(1), for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence; and

(8) Interest.—All interest paid within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after Sept. 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, 13¾ per centum of 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, 13¾ per centum of 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, &c.—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) 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 excluded from gross income;

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

#### Sec. 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. 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. 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. 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. 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, &c., Contributions.—The so-called “charitable contribution” deduction allowed by Section 23 (e) 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. 213. Credits Against Net Income.

In the case of a nonresident alien individual the personal exemption allowed by Section 25 (b) (1) of this title shall be only \$1,000. The credit for dependents allowed by Section 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. 214. Allowance 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, 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. 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. 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. 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 nonresident 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 (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 taxpayer 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 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the 90th 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 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.

(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 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 18 months, and, in exceptional cases, for a further period not in excess of 12 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 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 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 or 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.

(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 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 18 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 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 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 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 or 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 instalments, from the date prescribed for the payment of the first instalment) 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 instalment thereof, or any part of such amount or instalment, 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 instalment 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 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 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. If any part of a deficiency prorated to any unpaid instalment under section 272(i) is not paid in full on or before the date prescribed for the payment of such instalment, 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 instalment 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 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 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 (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 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. 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 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 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) 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.—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 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 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 within three years before the filing of the claim or the filing of the petition, whichever is earlier.

(e) Tax Withheld at Source.—For refund or credit in case of excessive withholding at the source, see section 143(f).

## TITLE IA.—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 Jan. 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.—AMENDMENTS TO ESTATE TAX.

## Sec. 401. 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 relinquishment or relinquishments shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title."

## Sec. 402. 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 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."

## Sec. 403. 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."

(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."

(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."

(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."

(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."

(f) Section 403 of the Revenue Act of 1932 is amended by striking out "resident decedent" and inserting in lieu thereof "citizen or resident of the United States."

## Sec. 404. 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."

## Sec. 405. Estate Tax Rates.

(a) Section 401 (b) of the Revenue Act of 1932 is amended to read as follows:

"(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:

"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 \$70,000, 7 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.

"\$5,600 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.

"\$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.

"\$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.

"\$87,600 upon net estates of \$600,000; and upon net estates in excess of \$600,000 and not in excess of \$800,000, 22 per centum in addition of such excess.

"\$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.

"\$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, 28 per centum in addition of such excess.

"\$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, 31 per centum in addition of such excess.

"\$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, 34 per centum in addition of such excess.

"\$846,600 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, 37 per centum in addition of such excess.

"\$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, 40 per centum in addition of such excess.

"\$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, 43 per centum in addition of such excess.

"\$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, 46 per centum in addition of such excess.

"\$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, 48 per centum in addition of such excess.

"\$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, 50 per centum in addition of such excess.

"\$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, 52 per centum in addition of such excess.

"\$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, 54 per centum in addition of such excess.

"\$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, 56 per centum in addition of such excess.

"\$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, 58 per centum in addition of such excess.

"\$4,416,600 upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000, 60 per centum in addition of such excess."

(b) The amendment made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

#### Sec. 406. 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."

### TITLE III.—AMENDMENTS TO PRIOR ACTS AND MISCELLANEOUS.

#### Sec. 501. 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.

#### Sec. 502. 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.

#### Sec. 503. 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."

#### Sec. 504. 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."

(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."

(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."

(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."

(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.

#### Sec. 505. 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 ap-

pointment 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."

(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.

#### Sec. 506. Retroactivity of Regulations, Rulings, &c.

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."

#### Sec. 507. 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.

#### Sec. 508. Sale of Personal Property Under Distraint.

Section 3192 of the Revised Statutes is amended to read as follows:

"Sec. 3192. 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."

#### Sec. 509. 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 so to be 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."

#### Sec. 510. Jeopardy Assessments.

Section 1105 of the Revenue Act of 1932 is amended to read as follows:

##### "Sec. 1105. Jeopardy Assessment.

"(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."

#### Sec. 511. Gifts of Property Subject to Power.

Subsection (c) of Section 501 of the Revenue Act of 1932 (relating to the inapplicability of gift tax in the case of the transfer of property in trust subject to the power of the donor to revest title in himself) is repealed.

#### Sec. 512. 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.

#### Sec. 513. 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.

#### Sec. 514. 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 Jan. 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.

#### 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."

#### Sec. 516. 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."

#### Sec. 517. Nondeductibility of Certain Gifts.

(a) Section 505(a) (2) (B) and Section 505(b) (2) of the Revenue Act of 1932 are amended by inserting after "individual" a comma and the following: "and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation."

(b) Section 505(b) (3) of the Revenue Act of 1932 is amended by inserting after "animals" a comma and the following: "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation."

#### Sec. 518. 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."

(b) The amendment made by subsection (a) shall be applicable in the case of payments made after June 6 1932.

#### Sec. 519. 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."

(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 decisions rendered prior thereto.

#### Sec. 520. Gift Tax Rates.

(a) The gift-tax schedule set forth in section 502 of the Revenue Act of 1932 is amended to read as follows:

"Upon net gifts 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, 1½ 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, 2¼ 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, 3¾ 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 \$70,000, 5¼ 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, 6¾ per centum in addition of such excess.

"\$4,200 upon net gifts of \$100,000; and upon net gifts in excess of \$100,000 and not in excess of \$200,000, 9 per centum in addition of such excess.

"\$13,200 upon net gifts of \$200,000; and upon net gifts in excess of \$200,000 and not in excess of \$400,000, 12 per centum in addition of such excess.

"\$37,200 upon net gifts of \$400,000; and upon net gifts in excess of \$400,000 and not in excess of \$600,000, 14¼ per centum in addition of such excess.

"\$65,700 upon net gifts of \$600,000; and upon net gifts in excess of \$600,000 and not in excess of \$800,000, 16¼ per centum in addition of such excess.

"\$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, 18¼ per centum in addition of such excess.

"\$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, 21 per centum in addition of such excess.

"\$211,200 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, 23¼ per centum in addition of such excess.

"\$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, 25¼ per centum in addition of such excess.

"\$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, 27¼ per centum in addition of such excess.

"\$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, 30 per centum in addition of such excess.

"\$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, 32¼ per centum in addition of such excess.

"\$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, 34¼ per centum in addition of such excess.

"\$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, 36 per centum in addition of such excess.

"\$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, 37¼ per centum in addition of such excess.

"\$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, 39 per centum in addition of such excess.

"\$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, 40¼ per centum in addition of such excess.

"\$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, 42 per centum in addition of such excess.

"\$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, 43¼ per centum in addition of such excess.

"\$3,312,450 upon net gifts of \$10,000,000; and upon net gifts in excess of \$10,000,000, 45 per centum in addition of such excess."

(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.

## TITLE IV.—EXCISE TAXES.

### 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. 602. Tax on Certain Oils.

Section 601(c) of the Revenue Act of 1932 is amended by adding at the end thereof a new paragraph as follows:

"(S) 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)."

### Sec. 602½. Processing Tax on Certain Oils.

(a) There is hereby imposed upon the first domestic processing of coconut oil, sesame oil, palm oil, palm kernal 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 preceding 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 Gov-

a So in original.

ernment 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 prescribe, 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 Jan. 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.

#### Sec. 603. Taxes on Lubricating Oil and Gasoline.

(a) Section 601(c) (1) of the Revenue Act of 1932, as amended, is amended by adding after the first sentence thereof the following: "Every person liable for tax under this paragraph shall register and file bond as provided in Section 617, as amended."

(b) Sections 617(a) and (b) of the Revenue Act of 1932, as amended, are amended to read as follows:

"(a) There is hereby imposed on gasoline sold by the 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.

"(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."

(c) Effective on the thirtieth day after the enactment of this Act, section 617(c) (2) of the Revenue Act of 1932, as amended, is further amended to read as follows:

"(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."

(d) Section 617 of the Revenue Act of 1932, as amended, is amended by adding at the end thereof the following subsections:

"(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 subsection, 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 100 words or fraction thereof in the copy or copies requested."

#### Sec. 604. 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 purpose 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.

#### Sec. 605. 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.

#### Sec. 606. Termination of Bank Check Tax.

Section 751, as amended, of the Revenue Act of 1932 is amended by striking out "July 1 1935" and inserting in lieu thereof "January 1 1935."

#### Sec. 607. 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.

#### 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.

#### Sec. 609. Tax on Jewelry, &c.

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.

#### Sec. 610. 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 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."

#### Sec. 611. Tax on Matches.

Effective on the day following the date of enactment of this Act, section 612 of the Revenue Act of 1932 (relating to the tax on matches), is amended by adding before the period at the end thereof a comma and the following: "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."

#### Sec. 612. 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".

#### 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.

#### 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.

### TITLE V.—CAPITAL STOCK AND EXCESS-PROFITS TAXES.

#### Sec. 701. 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 60 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 approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

#### Sec. 702. 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 12½ 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.

#### Sec. 703. 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.—GENERAL PROVISIONS.

#### Sec. 801. 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.

#### Sec. 802. Separability Clause.

If the 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.

#### Sec. 803. Effective Date of Act.

Except as otherwise provided, this Act shall take effect upon its enactment.

Approved, May 10, 1934, 11.40 a.m.